

PENNSYLVANIA BULLETIN

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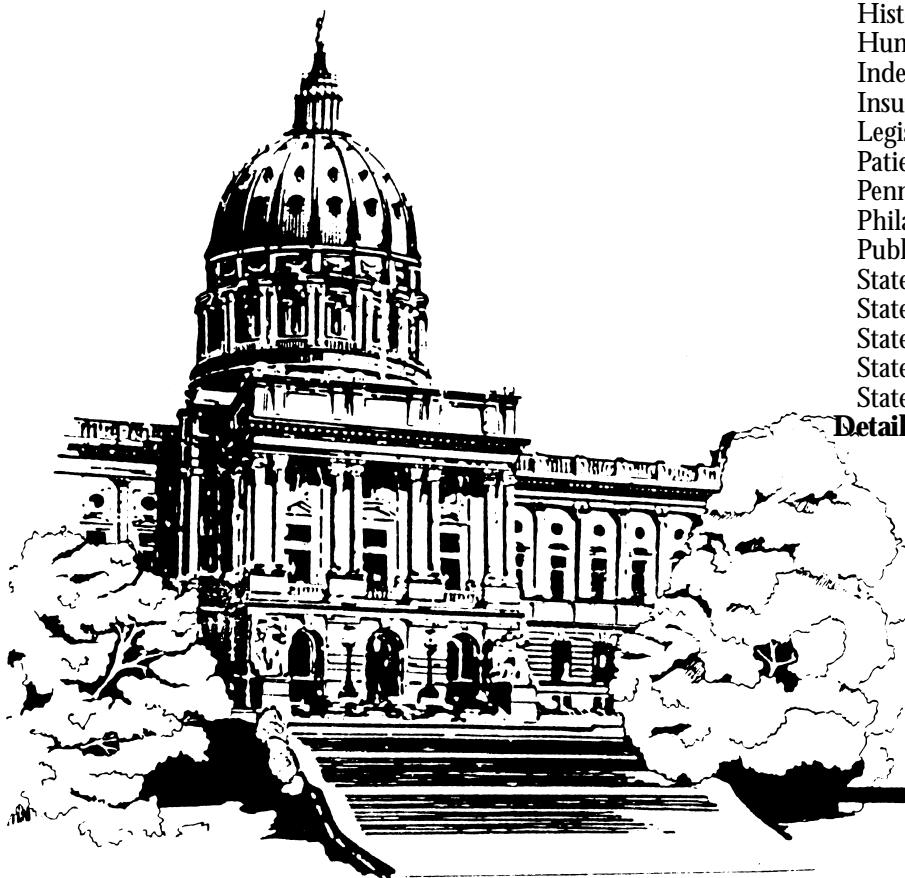
Saturday, May 21, 2005 • Harrisburg, Pa.

Pages 2985—3132

Agencies in this issue:

The Courts
Department of Agriculture
Department of Banking
Department of Corrections
Department of Environmental Protection
Department of General Services
Department of Health
Department of Revenue
Department of Transportation
Historical and Museum Commission
Human Relations Commission
Independent Regulatory Review Commission
Insurance Department
Legislative Reference Bureau
Patient Safety Authority
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Public School Employees' Retirement Board
State Board of Cosmetology
State Board of Medicine
State Board of Osteopathic Medicine
State Employees' Retirement Board
State Ethics Commission

Detailed list of contents appears inside.



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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 366, May 2005

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CONTENTS

THE COURTS

LOCAL COURT RULES

Adams County

- Local Orphans' Court rules; administrative order
no. 11 of 2005 2995
- Local rules of civil procedure; administrative order
no. 9 of 2005 3004
- Local rules of judicial administration; administrative
order no. 10 of 2005 3014

Carbon County

- Charges of indirect criminal contempt for violation
of protection from abuse orders; no. 61 MI 05..... 3018

RULES OF CRIMINAL PROCEDURE

- Order amending rule 1910.13-2 and revising the
comment to Rule 1901.7; no. 429 civil procedural
rules; doc. no. 5..... 2994

EXECUTIVE AGENCIES

DEPARTMENT OF AGRICULTURE

Notices

- Dog control facilities; increase in payment..... 3059
- Interstate/international quarantine order; vesicular
stomatitis 3059
- Pennsylvania agricultural product promotion match-
ing grant program 2005-2006 application
period..... 3059

DEPARTMENT OF BANKING

Notices

- Action on applications 3060
- Maximum lawful rate of interest for residential
mortgages for the month of June 2005 3061

DEPARTMENT OF CORRECTIONS

Statements of Policy

- Guidelines for the implementation of State interme-
diate punishment 3053

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

- Applications, actions and special notices..... 3061
- Acceptance of applications for new or innovative
water/wastewater technology grants through the
growing greener program..... 3105
- Availability of technical guidance 3105
- Oil and Gas Technical Advisory Board meeting 3106
- Small Systems Technical Assistance Center Advi-
sory Board meeting change..... 3106

DEPARTMENT OF GENERAL SERVICES

Notices

- State contracts information..... 3128

DEPARTMENT OF HEALTH

Notices

Applications for exception:

- Canonsburg General Hospital 3106
- Gettysburg Hospital 3106
- UPMC Presbyterian Shadyside 3107
- Emergency medical services operating fund funding
priorities 3107
- Health Policy Board meeting 3110
- Pennsylvania Cancer Control, Prevention and Re-
search Advisory Board meeting 3110
- Requests for exception; long-term care nursing facil-
ities..... 3110
- Requests for exception to 28 Pa. Code § 551.21(d)(2)
to perform ambulatory surgical procedures in-
cluded on the list of Medicare approved ASC
procedures 3111

DEPARTMENT OF REVENUE

Notices

- Pennsylvania 9s in a Line '05 Instant lottery game . 3111
- Pennsylvania Struck By Luck Bingo instant lottery
game..... 3112

DEPARTMENT OF TRANSPORTATION

Rules and Regulations

- School buses and school vehicles..... 3039

HISTORICAL AND MUSEUM COMMISSION

Notices

- National Register nominations to be reviewed by
the Historic Preservation Board 3114

HUMAN RELATIONS COMMISSION

Notices

- Public hearing opinions 3114

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

- Notice of filing of final rulemakings..... 3115

INSURANCE DEPARTMENT

Notices

- Application for increase in underwriting authority of
a domestic stock casualty insurance company
(2 documents)3115, 3116
- Pennsylvania Professional Liability Joint Under-
writing; rate filing 3116
- Per diem charges for financial examinations; notice
2005-05 3116
- Per diem charges for market conduct examinations;
notice 2005-06..... 3116

LEGISLATIVE REFERENCE BUREAU

Notices

- Documents filed but not published..... 3117

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

PATIENT SAFETY AUTHORITY

Notice

Public meeting 3117

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rules and Regulations

Updating and revising existing filing requirements relating to water and wastewater public utilities 3024

Notices

Service of notice of motor carrier applications..... 3117

Telecommunications (5 documents).....3118, 3119

Telecommunications services..... 3119

Water and wastewater service 3120

Water service (2 documents)..... 3120

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for bids 3120

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Notices

Hearings scheduled (2 documents) 3121

STATE BOARD OF COSMETOLOGY

Notices

Bureau of Professional and Occupational Affairs v.

Brian K. Bender; doc. no. 1344-45-02..... 3121

Brenda J. Hamed; doc. no. 32944-45-01 3121

Fatoumata Sidibeh d/b/a Fatima African Hair

Braiding; doc. no. 1766-45-04 3122

STATE BOARD OF MEDICINE

Rules and Regulations

Medical disciplinary process and procedures 3019

STATE BOARD OF OSTEOPATHIC MEDICINE

Rules and Regulations

Continuing medical education 3021

STATE EMPLOYEES' RETIREMENT BOARD

Notices

Right-to-Know Law policy 3122

STATE ETHICS COMMISSION

Notices

Public meeting 3126

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.

**SUBSCRIPTION INFORMATION: (717) 766-0211
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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.

4 Pa. Code (Administration)		15	353
Adopted Rules		16	3019
6	348	25	3021
65	1663	33	2880, 2899
243	2275	35 (with correction)	1567, 2630
249	2275	42	2750
Statements of Policy		Proposed Rules	
1	358, 2116	7	2400
9	20, 1223, 1584, 1775, 2315, 2414, 2753	11	1573
114	1669	13	1208
7 Pa. Code (Agriculture)		25	2639
Proposed Rules		47	2640
130b	2101	48	2640
145	1772	49	2640
22 Pa. Code (Education)		15	2404
Adopted Rules		16	1210
73	1982	18	1210
215	2276	19	2408
25 Pa. Code (Environmental Protection)		21	1213
Adopted Rules		27	1219
86	1663	35	2411
93 (with correction)	1197, 1762, 1885	37	258
121	2278	39	2402
401	2628	41	1582
Proposed Rules		47	1221
252	519	48	1221
1021	2107	49	1221
Statements of Policy		52 Pa. Code (Public Utilities)	
16	1223, 1890	Adopted Rules	
28 Pa. Code (Health and Safety)		53	3024
Adopted Rules		57	1886
18	14	59	1886
31 Pa. Code (Insurance)		63	2289
Adopted Rules		Proposed Rules	
89	2729	54	1421
37 Pa. Code (Law)		57	1421
Adopted Rules		101	740
42	254	55 Pa. Code (Public Welfare)	
91	2279	Adopted Rules	
93	2279	297	1567
94	2279	299	1567
Statements of Policy		2600 (with correction)	2499, 2752
97	3053	2620 (with correction)	2499, 2752
40 Pa. Code (Liquor)		58 Pa. Code (Recreation)	
Proposed Rules		Adopted Rules	
5	2112	65	2391
11	2112	111	2392
13	2112	141 (with correction)	353, 2304, 2393
17	2112	143	354
49 Pa. Code (Professional and Vocational Standards)		147	355, 356, 357, 2305, 2306
Adopted Rules		Proposed Rulemaking	
1	1763	61	2395
13	1667	65	2395, 2633, 2634
		69	2395
		75	2395
		111	2394
		135	2310, 2311
		139	1766, 2312

141 2313
 143 1765, 2313
 147 1771

Draft Temporary Regulations

401 2569
 403 2569
 407 2569
 421 2569
 423 2569
 427 2569
 431 2569
 433 2569
 435 2569
 451 2569
 461 2569
 471 2569
 481 2569
 491 2569
 495 2569
 497 2569
 499 2569

Statements of Policy

Adopted
 57 2416

Proposed
 57 2417

61 Pa. Code (Revenue)

Adopted Rules
 32 256

64 Pa. Code (Securities)

Adopted Rules
 203 2307
 303 2307
 304 2307
 404 2307

67 Pa. Code (Transportation)

Adopted Rules
 171 3039

Proposed Rules

491 2309

70 Pa. Code (Weights, Measures and Standards)

Proposed Rules
 2 2631
 10 2631
 110 2631

204 Pa. Code (Judicial System General Provisions)

Adopted Rules
 29 2095
 71 1970, 2208, 2854
 81 496, 497, 1972, 2386
 82 349
 83 1972, 2208
 85 1656
 87 1656
 89 1656
 91 1656
 93 1656
 99 2722
 303 (with correction) 1508, 2599

Proposed Rules

303 198

210 Pa. Code (Appellate Procedures)

Adopted Rules
 63 2854
 67 1880

Proposed Rules

3 2602

225 Pa. Code (Rules of Evidence)

Adopted Rules
 I 2209
 VIII 8

Proposed Rules

VI 1330

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 200 500
 1000 349, 1416
 1900 2994
 1910 2994
 2250 501

Proposed Rules

100 2602
 200 9
 1300 734, 2604
 3000 2603

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules
 1 1331, 2210, 2855
 2 2210
 4 2210
 5 2210
 6 2868
 7 2855
 9 2855

Proposed Rules

1 1556
 2 2861
 4 2863
 5 1558, 2865
 6 2967
 10 1416

237 Pa. Code (Juvenile Rules)

Adopted Rules
 1 2214
 2 2214
 3 2214
 4 2214
 5 2214
 6 2214
 8 2214

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules
 200 10
 300 10
 500 10

Proposed Rules

200 2258
 300 2258
 500 2258

Proposed Rules

100 1974
200 1560
400 245

249 Pa. Code (Philadelphia Rules)

Unclassified 1334, 1880, 1975, 1977, 2096, 2272, 2605

252 Pa. Code (Allegheny County Rules)

Unclassified 1881, 2273

255 Pa. Code (Local Court Rules)

Unclassified 12, 246, 247, 350, 501, 505, 647, 654, 736,
1190, 1196, 1334, 1417, 1419, 1561, 1566,
1759, 1882, 1883, 1978, 1979, 2097, 2099,
2390, 2618, 2722, 2727, 2870, 2871, 2874, 2875,
2995, 3004, 3014, 3018

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900 AND 1910]

Order Amending Rule 1910.13-2 and Revising the Comment to Rule 1901.7; No. 429 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 9th day of May, 2005, Pennsylvania Rule of Civil Procedure 1910.13-2 and the Explanatory Comment to Pennsylvania Rule of Civil Procedure 1901.7 are amended as follows.

To the extent that prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and immediate promulgation is required in the interest of justice and efficient administration.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901.7. Decision. Post-trial relief.

* * * * *

Explanatory Note

* * * * *

Jurisdiction is also conferred on the [**District Justices**] **magisterial district judges** over the weekend if and when a judge of the court of common pleas is not available, but any temporary order of a [**District Justice**] **magisterial district judge** expires at the resumption of business of the common pleas court at the beginning of the week or within **seventy-two (72) hours**, whichever occurs first. The [**District Justice**] **magisterial district judge** is required immediately to certify his or her order to the common pleas court and the certification under the Act has the effect of commencing a proceeding in the common pleas court and invoking the other provisions of the Act.

* * * * *

[**Because of the need for prompt implementation of the Act the Committee has addressed itself only to the minimum procedural provisions necessary to make the Act effective pending further study particularly its relationship to the Child Protection Act of 1975, 11 P. S. 2201, et seq., and other problems.**

These minimal provisional Rules include, in Rule 1901, the identification of the proceedings and definitions.

Rule 1902 provides for the commencement of the action by petition or by the filing of a certified order of a District Justice.

Rule 1903 provides for service of process in the same manner as in an action in equity.

Rule 1904 eliminates any defense pleadings. All matters are automatically at issue.

Rule 1905 provides that the decision and exceptions shall be governed by Rule 1038 which regulates trial in assumpsit without a jury

Because the exigency of the situation did not permit the Committee to follow its usual practice of submitting a Recommendation to the bench and bar for comments and suggestions prior to submission to the court, comments from the bench and bar after the rules are used in actual practice are invited.]

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1901.7’s Explanatory Comment—1977 reflect the change in title, make the comment gender-neutral and delete outdated material.

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.13-2. Form of Request for Bench Warrant and Supporting Affidavit. Form of Bench Warrant.

(a) Request for a bench warrant pursuant to Rule 1910.13-1 shall be in substantially the following form and shall be attached to the Bench Warrant form set forth in subdivision (b) of this rule:

[CAPTION]

REQUEST FOR BENCH WARRANT AND SUPPORTING AFFIDAVIT

1. _____ did not appear for a conference and/or hearing in the Court of Common Pleas of _____ County on the ____ day of _____, [**19**]**20** __, which was scheduled by an order of court compelling this person’s appearance, a copy of which is attached to this request.

* * * * *

5. I recommend that bail in this matter be set as follows:

- No bail.
- Bail to be set in the amount of _____.
- Bail to be determined by the [**district justice**] **magisterial district judge**.

Note: The following information should be supplied where the [**district justice**] **magisterial district judge** is given discretion in setting bail.

* * * * *

(b) The Bench Warrant entered by a court pursuant to Rule 1910.13-1 shall be in substantially the following form, and shall be attached to the Request for Bench Warrant form set forth in subdivision (a) of this rule:

[CAPTION]

BENCH WARRANT

AND NOW, this __ day of _____, [**199**]**20** __, the Sheriff of _____ County, or any constable, or

police officer, or other law enforcement officer is hereby ordered to take _____, residing at _____, into custody for appearance before this Court.

* * * * *

Bail in this matter shall be set as follows:

- No bail.
 Bail to be set in the amount of _____.
 Bail to be determined by the [**district justice**]
magisterial district judge.

Official Note: Standards for setting bail are set forth in Rule of Criminal Procedure 525.

BY THE COURT: _____
 JUDGE

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1910.13-2 reflect the change in title.

[Pa.B. Doc. No. 05-983. Filed for public inspection May 20, 2005, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Local Orphans’ Court Rules; Administrative Order No. 11 of 2005

Order of Court

And Now, this 6th day of May, 2005, all existing local Orphans’ Court Rules are repealed and replaced by the following rules.

These rules shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court’s name, address and computer file number, shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Orphans’ Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court’s web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

RULES OF ORPHANS’ COURT DIVISION

Rule 1. Local Rules

The local rule of the Orphans’ Court Division of the Adams County Court of Common Pleas shall be known as Adams County Orphans’ Court Rules and may be cited as either Adams C.O.C.R. (number), or Local O.C. Rule (number). These rules should be read in conformity with Supreme Court Orphans’ Court Rules. Except as otherwise provided in these rules, or by Supreme Court Rules, local Rules of Civil Procedure shall apply to proceedings in the Orphans’ Court Division of this Court.

Comment: These rules should be read in conformity with not only state, but also local, rules. For example, Adams County Rules of Judicial Administration No. 13.0 governs procedure in cases involving extended hearings. In light of extensive rule changes in the area of appearances and withdrawals of counsel, no need exists for special rules applicable to the Orphans’ Court Division.

CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3. Definitions

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

A. “*Auditor*” and “*master*,” are generally used interchangeably, without regard to technical distinctions, in these rules. The terms may be similarly used in orders, unless the scope of duties or context indicates otherwise. Notwithstanding technical differences between the two terms, an auditor shall have all the powers and duties of a master, and vice versa, unless the order of appointment or scope of duties make this inappropriate.

B. “*Exception*” means a formal disagreement with an appraisal, with a report of an auditor or master, or with an adjudication, opinion, or decree of the Court. The term includes “objection,” and the two terms may be used interchangeably.

C. “*Objection*” is included in the definition of “exception.”

D. “*Code*” means the “Probate, Estates and Fiduciaries Code,” 20 Pa.C.S.A. § 101 et seq.

E. “*Master*” may be used interchangeably with “auditor,” subject to the discussion relating to the definition of “auditor.”

Comment: The distinction between objection and exception is too esoteric to be of significance and is potentially confusing, since many people use the terms interchangeably. The prior rule’s requirement that objections and exceptions be in writing conflicts with other rules allowing oral objections in certain instances. The terms, “auditor” and “master”, are used interchangeably to avoid disputes about the authority or scope of duties of a person designated as one or the other.

PLEADING AND PRACTICE

Rule 3.4. Form of Petition

A. A proposed order or decree, bearing the caption of the case, shall be attached to the face of the petition.

B. Copies of documents essential to proper relief shall be attached to the petition as exhibits.

Rule 3.6. Depositions Etc.

Any party seeking a special order relating to depositions, discovery, production of documents and/or perpetuation of testimony shall give all interested parties, or their

counsel, at least ten days advance notice before presenting the request. Otherwise, the party shall proceed in accordance with Rules of Civil procedure.

COMPUTATION OF TIME

Rule 4. Reserved

NOTICE

Rule 5.1. Legal Periodical and Advertisement

Whenever publication in a legal periodical is required by Act of Assembly or by Rule or Order of Court, see Adams County Rule of Judicial Administration No. 11.

When advertisement is directed in these rules, unless otherwise provided, it shall be in accordance with publication requirements of Supreme Court Rule 5.1(c).

Comment: Attention is invited to the requirement in Supreme Court Rule 5.1(c) that publications occur once a week for three consecutive weeks, as contrasted with once under Pa.R.C.P. 430. Attention is also invited to the provisions of 20 Pa.C.S.A. § 745(b), which establish specific requirements for advertising accounts.

Rule 5.2. Method; Person under Incapacity

A. *When No Fiduciary.* Whenever notice is to be given to a person who is not sui juris for whom there is no guardian, trustee, or committee, notice shall be given by serving it upon him/her, if he/she is over (14) years of age, and, in all cases, upon the following persons:

- (1) his/her next of kin; and/or
- (2) his/her spouse; and/or
- (3) the person with whom he/she resides or by whom he/she is maintained; and/or
- (4) the superintendent or other official of the institution having custody of him/her; and/or
- (5) in such manner as the Court, by Special Order, may direct.

B. *Presumed Decedents and Unascertained Persons.* Whenever notice is to be given to an absentee, a presumed decedent, or to an unknown or unascertained person, it shall be given in the manner provided by Act of Assembly or, in absence thereof, in such manner as the Court, by Special Order, shall direct.

Rule 5.4. Return of Notice—Requirements

A. Return of service shall in all cases show the date and manner of service and be attached to a copy of the notice served.

B. Return of service by registered or certified mail shall also have attached the return receipt, or a photocopy thereof, or an adequate explanation of the failure to so attach.

C. *Registered or Certified Mail.* Return of notice by registered or certified mail shall state the date and place of mailing and shall include the return receipt, or photocopy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, he/she shall so state in the return. When the address of the person to be served by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

D. Return of notice by publication shall consist of proofs of publication, together with affidavits of publication by the publisher or his/her agent.

ACCOUNTS AND DISTRIBUTION

Rule 6.1. Form—Local Requirements

A. Accounts will be typed on 8 1/2" by 11" paper fastened together at the top and numbered consecutively at the bottom.

B. All accounts shall begin with a caption which shall set forth the nature of the account, the name and capacity of the fiduciary, and the name of the estate.

C. The first account of a personal representative shall contain, immediately following the caption, the date of death of the decedent and the dates when letters of the estate were advertised in each of the publications for that purpose. A copy of each of the proofs of publication shall be attached to the account.

D. Principal of personal estate and principal of converted real estate shall be stated separately.

E. Every account filed with the Register or Clerk shall be signed by each accountant, unless special leave of Court is obtained, and shall be verified by at least one accountant.

F. If the account incorporates by reference the contents of the inventory, a true and correct copy of the inventory shall be attached for review by the Court; said true and correct copy of the inventory need not be filed of record in the Office of the Clerk of Courts.

Comment: Present Supreme Court Rule 6.1 gives an accountant an option as to which form is followed. Thus, this rule should be properly captioned "local" rather than "additional" requirements, as was previously done.

Rule 6.3. Notice to Parties in Interest

A. *Notice*—No account presented by the Register or by the Clerk of the Orphans' Court shall be confirmed, nor any decree of distribution made, unless it be made to appear by the certificate of the accountant or his/her attorney, that written notice of the time of presentation of the account and proposed statement of distribution and the character thereof has been given for at least twenty-eight (28) days prior to the date fixed to every unpaid creditor who has given written notice of his/her claim to the accountant and to every other person of whom the accountant has notice or knowledge who claims an interest in the estate as beneficiary or next of kin. Acceptance of such notice may be in writing by the party in interest or by his/her attorney.

B. *Presentation of Account Objections*—All accounts shall be presented for confirmation at a regular confirmation date and must be filed not later than forty (40) days prior thereto. Although written objections are not required, if objections are made in open court at the time of presentation, the Court may require that the objector file a written objection within ten days. The Court may also require the objector to state, in writing, the specific grounds upon which objections are based. Failure to comply within ten (10) days, or such other time set by the Court, may be considered a withdrawal of any objection made only orally.

Rule 6.9. Statement of Proposed Distribution

A. *Filing*—Accounts and any accompanying statements of proposed distribution filed in the office of the Register of Wills shall be marked "filed," a notation of the date of said filing made on the decedent's index of the estate, and then transmitted to the Clerk of the Orphans' Court on the next succeeding business day for audit and confirmation by the Court after proper advertising.

The statement of proposed distribution shall be filed at the same time and in the same office with the account it accompanies.

B. Form—A statement of proposed distribution shall be on a paper separate from the account which it accompanies. It shall contain the names of the persons to whom it is proposed to award the balance for distribution, the amount or share awarded to each and a brief statement of the nature and reasons for the proposed awards, and a copy of the will, if any.

C. Signature—All statements of proposed distribution shall be signed by each accountant unless special leave of Court is obtained, and all statements of fact therein shall be verified by at least one (1) accountant.

D. No Proposed Statement—A fiduciary who, upon the filing of an account which reveals a balance for distribution, is unable for any reason to file therewith a statement of proposed distribution in accordance with the requirements of the Pennsylvania Supreme Court Orphans' Court Rules, shall in lieu thereof, file with the account a statement of the reasons why distribution cannot be proposed which shall conclude with a request for the appointment of an auditor to make distribution.

E. Advertisement—The Clerk shall give notice by advertisement of the time when statements of proposed distribution filed with him/her and with the Register will be presented to the Court for approval. The notice shall be given in conjunction with the notice of the account which it accompanies.

F. Distribution To Minor Without Guardian—If distribution is to be made to a minor for whom no guardian has been appointed, the accountant may request distribution in accordance with either subsection 5101 or 5103 of the Code. If distribution is requested in accordance with 5103, there shall be a statement that the distribution will not exceed the amount to which accounts are insured and the following wording:

"As to the interest of the minor(s) above named, it is proposed that his/her (their) share(s) be deposited in a separate savings account in the _____ Bank at _____, Pennsylvania, with the following notation: (Name of Minor) and _____ his/her mother-father-person having custody—not to be withdrawn until the minor, _____, becomes of age or in compliance with an Order of the Orphans' Court Division of the Adams County Court of Common Pleas during his/her minority."

G. Real Estate—Where real estate is distributed, the real estate in the statement of proposed distribution shall be described by metes and bounds when such description is available.

Rule 6.10(a) Objections to Accounts and Statements of Proposed Distribution

A. Objections—Objections to accounts and/or to statements of proposed distribution shall be governed by Local O.C. Rules 6.3 and 7.1 et seq. A copy of objections shall be served on the accountant or his/her attorney.

B. Disposition—

1. Objections by the Register of Wills to deductions in an account or in the statement of proposed distribution shall be considered solely to determine the clear taxable value of the estate. Objections to the amount of such deduction will be disposed of by the Court after hearing and/or argument, but the account may be confirmed and

distribution awarded subject to sufficient funds being withheld to pay inheritance tax.

2. Any party in interest or the accountant may seek adjudication of a dispute concerning deductions disallowed by the Register prior to filing an account. Issues may be resolved after hearing by the Court, an auditor may be appointed, in the discretion of the judge assigned the case.

C. Request for Hearing—Objections filed by anyone other than the Register of Wills may be determined after determination of facts and/or argument. Any party may request that a judge conduct a hearing to determine disputed facts, or that the matter may be referred to an auditor. Notwithstanding a request for a hearing by the Court, an auditor may be appointed, in the discretion of the judge assigned the case.

Rule 6.11. Confirmation of Accounts

If no objections are filed to either the account or the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree confirming the account absolutely and directing distribution in accordance with the statement.

EXCEPTIONS OR OBJECTIONS OTHER THAN THOSE MADE IN OPEN COURT

Rule 7.1. General Rule

A. Exceptions or objections other than those made in open court, when the case is being considered by the court, shall be in writing and copies thereof shall be served on all interested parties or their attorneys.

B. All exceptions shall be filed with the Clerk. The Clerk shall transmit exceptions to an auditor's decision for initial consideration and ruling.

C. The grounds of each exception must be clearly set forth.

D. Exceptions shall be heard by a judge who shall sustain or dismiss them in whole or in part or enter any appropriate order.

AUDITORS AND MASTERS

Article I. Rule 8.1—Notice of Hearing and Hearing Procedure

A. The Clerk shall provide a certificate of appointment to auditors and masters expeditiously after appointment. Auditors and masters shall schedule hearings without undue delay, and give notice thereof in accordance with Supreme Court Rule 5.1.

B. Auditors and masters shall call for appearances at the beginning of each hearing. Persons failing to enter a formal appearance shall not be entitled to notice of any further proceedings, or the completion and filing of the report, unless such rights are specially granted by the auditor.

C. Procedure followed shall be in accordance with good order, but may be less formal than court proceedings. Auditors shall initially determine what claims have been presented for resolution. In addition to claims to which specific objection has previously been made, interested parties or counsel may orally object to claims to which prior general objection has been made. Claims to which no objection has been made shall be allowed without further proof. Any claimant surprised by objection may request and be given an opportunity to support the claim.

D. Hearings, continuances and adjournments, shall generally be in accordance with practice and procedures

governing proceedings by masters in divorce cases. After the closing of the evidence has been announced and noted, any party may submit requests for findings of fact and conclusions of law within time limits set by the auditor or master.

Rule 8.2. Filing of Report

Reports of auditors and masters shall be filed with the Clerk.

Rule 8.3. Form of Report

In addition to requirements in Supreme Court Rules 8.3. and 8.4, reports shall contain an appendix which shall:

1. Recite the person's commission,
2. Contain notices given, with a description of how delivered or given,
3. Contain written waivers of notice,
4. Contain exceptions to the report and requests for findings submitted by counsel,
5. Contain exhibits, unless they accompany the report. Accounts and documents filed independently with the Court or belonging to its archives, and original documents reserved by the owner or custodian thereof, shall not be incorporated in the appendix. Copies, however, may be,
6. Recite the chronological summary of proceedings before the auditor,
7. Contain a bill of costs as taxed by the auditor, in the manner in which bills of costs are taxed in the Prothonotary's office.

Rule 8.4. Reserved

Rule 8.5. Reserved

Rule 8.6. Notice of Filing Report

A. Upon the completion of the reports, the auditor shall lodge it in the Clerk's office for inspection purposes only. The report shall not be filed by the Clerk, but shall be made available for inspection. Auditors shall give notice in writing to all parties or attorneys entitled to notice that:

1. the report is available for examination in the Clerk's office, and
2. exceptions thereto must be filed with the Clerk within ten (10) days.

B. If exceptions are filed, the Clerk shall return the report and exceptions to the auditor or master. If no exceptions are filed, the Clerk shall mark the report as filed, and transmit it to the Court for entry of an order.

C. Service of notice shall be sufficient if mailed first class mail, addressed to the person entitled to receive it.

Rule 8.7. Confirmation of Report

A. *Exceptions*—Other than in unusual circumstances and by leave of court, no exceptions shall be permitted after the ten-day period established by Local O.C. Rule 8.6.

B. *Reserved.*

C. *Disposition of Exceptions. Filing*—The auditor or master shall expeditiously rule upon and dispose of exceptions. Rulings, modifications and amendments shall then be filed, and the Clerk will mark the report, with rulings, modifications and amendments as filed. The Clerk shall then transmit the report, rulings, amendments and modifications to the Court for entry of a decree

nisi. The auditor or master shall provide notice of filing to interested parties or counsel, and advise them that objections or exceptions to the decree nisi, or request for resubmission to the auditor or master, must be made within ten (10) days.

D. *Decree*—The decree nisi shall be confirmed absolute, unless prior exceptions are renewed, new exceptions are filed, or a request is made for resubmission to the auditor or master, within ten (10) days. Any party may at any time after the ten-day period list exceptions or requests for argument.

OFFICIAL EXAMINERS

Rule 9. Reserved

REGISTER OF WILLS

Rule 10.1. Reserved

Rule 10.2. Appeal from the Register of Wills

Appeals from judicial acts or proceedings of the Register of Wills, and the practice and procedure with respect thereto shall be governed by rules of civil procedure. However, the order directing that a rule issue shall also direct the Register to certify the record to the Court. The petition shall include the following information:

- (a) the nature of the proceedings before the Register;
- (b) the basis for the certification, requested certification or appeal; and
- (c) the names of all parties in interest, including those not a party to the record.

Comment: Uniformity is served by making appeals subject to the procedure utilized with petitions and rules. Since the new rule applies to all appeals, no need exists for references to special appeals, such as from imposition of inheritance tax. State Rule 11.1 and 11.2, regarding jury trials, do not require supplementing.

SPECIAL PETITIONS

Rule 12.1. Family Exemption

A. *Content of Petition*—In addition to the requirements of the Supreme Court Orphans' Court Rules, a petition for the family exemption also shall set forth in separate paragraphs and in substantially the following order:

- (1) the name, residence and date of death of decedent;
- (2) the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent at the date of his/her death;
- (3) if petitioner is the surviving spouse, the date and place of the marriage; and, if a common law marriage is asserted, all averments of facts necessary to establish the validity of the marriage;
- (4) whether the decedent died testate or intestate; whether, where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;
- (5) the location, description, and valuation of property claimed; and
- (6) that ten (10) days prior notice of the filing of the petition has been given to the personal representative, or when no letters have been granted, to the parties adversely affected, with a copy of such notice attached as an exhibit.

B. *Appraisal*—No appraisal shall be required when the exemption is claimed from cash, bank savings and loan

deposits, listed securities and well-known local securities. When the exemption is claimed from other items of personalty, the petitioner shall attach a sworn appraisal of one qualified, disinterested person. The Court may accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles.

Where the exemption is claimed in personalty, no notice or advertisement of the appraisal shall be required unless directed by the Court on special order.

C. Exemption From Real Estate—If the petition requests the exemption from real estate, the practice and procedure shall be as provided in Supreme Court Rule 12.2(b) unless all parties in interest agree in writing to a valuation at which it is to be awarded.

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

E. When Petition Filed—When the procedure is by petition, questions as to the appraisement or allowance, or both, may be raised only by objection made in open court at the time fixed for presentation of the petition.

F. Higher Bid—Objections which relate only to the amount of the appraisement will be dismissed unless a definite and bona fide higher bid for the property is made, or facts appear warranting consideration by the Court.

Rule 12.2. Allowance to Surviving Spouse of Intestate

A. Content of Petition—In addition to the requirements of the Supreme Court Orphans' Court Rules, a petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

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

(2) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and

(3) that ten (10) days prior written notice of the intended presentation of the petition has been given to the personal representative or, if no personal representative has been appointed, to those interested as next of kin; and, if there be no next of kin, to the Attorney General, with a copy of such notice attached as an exhibit; and

(4) shall have attached thereto a copy of the inventory and appraisement.

B. Filing of Appraisal—Appraisers appointed pursuant to Supreme Court Rule 12.2(a)(3) shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed.

C. Notice of Appraisal—Upon filing of the appraisal, the Clerk shall give notice thereof to the personal representative, and to the next of kin; and, if there is neither personal representative nor next of kin, to the Attorney General. Notice to the Attorney General shall contain a copy of the petition and the appraisal. All notices shall state that:

1. Confirmation of the appraisal and an award of the property to the surviving spouse will be considered by the

Court at a stated open court date that is at least ten (10) days later than the date notice is given.

2. The person to whom notice is given shall have the right to appear at the stated time and object.

3. If no objections are made, the property shall be awarded to the surviving spouse at the appraised value.

If the address or whereabouts of any of the next of kin is unknown, notice of the filing of such appraisement shall be given in accordance with Supreme Court Rule 5.1.

Comment: No authority exists for reducing advertisement below that required in state rule 5.1, other than by special order of court.

Rule 12.3. Extension of Time For Filing of Surviving Spouse's Election

The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension in open Court to all persons adversely affected thereby who do not join in the prayer of the petition.

If no objection is made, the Court may enter an appropriate decree upon the filing of a verified return of notice.

Rule 12.4. Appointment and Discharge of Fiduciaries

In every case where a guardian ad litem or trustee ad litem is appointed, the estate shall be liable for the compensation of the guardian ad litem or trustee ad litem in an amount to be set by the Court upon receipt by the Court of a written report of said guardian ad litem or trustee ad litem prior to the final hearing in the particular case.

Rule 12.5. Appointment of a Guardian for the Estate or Person of a Minor

A. Reserved.

B. Reserved.

C. Consent of Guardian—The petition shall have attached thereto the consent of the guardian to act as such.

1. The consent of an individual guardian shall also contain the following statements:

a. his/her business and domicile;

b. that he/she is a citizen of the United States, able to speak, read, and write the English language;

c. that he/she is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary; that he/she has no interest adverse to the minor; and,

d. if the minor and proposed guardian reside in the same household, whether it is the intention of the guardian to apply for an allowance for the support or education of the minor during minority.

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

D. Reserved.

E. Minor Over the Age of Fourteen—If the minor is over the age of fourteen (14) years, he/she shall appear in person at the presentation of the petition for the appoint-

ment of a guardian unless the petition contains his/her written joinder in the request for the designation of the given guardian.

F. Small Estates to Minors

1. Any petition to have the estate of a minor awarded without the appointment of a guardian or the entity of security shall contain, inter alia, the following:

a. A statement that the net value of the entire real and personal estate of the minor does not exceed the statutory limitations; and

b. The name of bank or insured savings and loan association in Adams County as a suggested depository.

2. The Court may require that said fund be deposited in an interest bearing deposit in said bank or be invested in said insured savings and loan association in the name of the minor and in the name of the natural guardian of the minor, subject to the express restriction, to be noted on the records of the depository, that no withdrawals shall be made therefrom during minority without Order of Court, with a further requirement that evidence of the deposit or investment marked to indicate the restriction, be promptly exhibited to the Court.

3. When the Court authorizes the parent or other person maintaining the minor to execute a receipt, deed, mortgage, or other instrument affecting property, real or personal, of the minor it shall be conditioned on the deposit of the proceeds in an account restricted as in 2 above.

G. Allowance from Minor's Estate—When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

1. The manner of the guardian's appointment and qualification and the dates thereof;

2. The age and residence of the minor, whether his/her parents are living, the name of the person with whom he/she resides, the name and age of his/her spouse and children, if any;

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

4. Circumstances of the minor, whether employed or attending school; if the minor's parent(s), or other persons(s) charged with the duty of supporting him/her is/are living, the financial condition and income of such person and why he/she is/are not discharging his/her duty to support the minor; and, whether there is adequate provision for the support and education of the minor;

5. Date and amount of any previous allowance by the Court; and,

6. The financial requirements of the minor and his/her family unit, in detail, and the circumstances making such allowance necessary.

Rule 12.6. Appointment of a Trustee

A. Exhibit—The following exhibits shall be attached to the petition:

1. A copy of the trust instrument; and,

2. A written consent of the proposed trustee to act as such.

Rule 12.7(a). Discharge of a Fiduciary And Surety

A. Additional Provisions

1. The petition shall contain the averment that all parties interested in the estate as distributees have signed releases or aver a satisfactory explanation of the

failure to procure releases. If such releases are not obtained, notice of intended presentation of petition for discharge shall be advertised once in a newspaper of general circulation published in Adams County and in the Adams County Legal Journal at least ten (10) days prior to the time specified in the notice for asking the order of final discharge.

2. In the case of minor's estate not exceeding the statutory limit (currently \$25,000.00) where the account accompanies the petition, the petition shall aver that there are no unpaid creditors and the former minor has consented to the petition, or aver a satisfactory explanation of the failure of the minor to consent.

B. Discharge Under § 3531—A petition for discharge of a personal representative and/or his/her surety under § 3531 of the Probate, Estates and Fiduciaries Code (20 Pa.C.S.A.) shall conform as far as practicable to the requirements of a petition under Rule 12.5(f) (Small Estate).

Rule 12.8. Reserved

Rule 12.9. Public Sale of Real Property

A. Content of Petition—Additional Requirements

(1) *Personal Representative*.—A petition by a personal representative to sell real property at public sale under § 3353 of the Code shall also set forth in separate paragraphs;

a. the name, residence, and date of death of the decedent; whether he/she died testate or intestate; and the date of the grant of letters;

b. that the personal representative is not otherwise authorized to sell by the Act; or, is not authorized or is denied the power to do so by the will; or, that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

c. whether an inventory and appraisal have been filed; the total value of the property shown therein; and, the value at which the real property to be sold was included therein;

d. if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

e. the names and relationships of all parties in interest; a brief description of their respective interest; whether any of them are minors, incompetents or deceased, and, if so, the names and the record of the appointment of their fiduciaries;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

h. A copy of the will, deed, or decree by which the fiduciary was appointed shall be attached to a petition by a personal representative, trustee, or guardian, to sell real property at public sale.

(2) *Payment of Debts*.—A petition by a personal representative to sell real property at public sale for payment of debts, under § 3353 of the Code, shall also set forth in separate paragraphs;

a. the information required to be set forth under subparagraph 1, as far as appropriate;

b. a statement that the personal estate and the rents of real property are insufficient for payment of debts;

c. a statement of all real property owned by decedent, wherever situated, which has come to petitioner's knowledge;

d. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment;

e. that the trustee is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons; and,

f. sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

g. If the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

(3) *Guardian*.—A petition by a guardian to sell real property at public sale, under § 3353 of the Code, shall also set forth in separate paragraphs:

a. the age of minor;

b. the names of his/her next of kin and the notice given them of the presentation of the petition;

c. how title was acquired, stating the date and place of probate of the will or recording of the deed;

d. a recital of the provisions of the will or deed relating to the real property to be sold;

e. that the guardian is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value, and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the proposed sale will be for the best interests of the minor.

B. Method—Pursuant to Court Order.

Notice of the public sale of real property shall be given:

(a) by advertisement in approved form;

(b) by handbills, one of which shall be posted at a conspicuous place on the real property to be sold and at least three (3) of which shall be posted in three (3) public places in the vicinity of such real property; and

(c) by personal notice or registered or certified mail to all known parties in interest, of the time and place of the proposed sale, at least ten (10) days prior thereto.

C. Notice—Confirmation.

(1) *Notice*. After the allowance of a petition for public sale, notice in approved form shall be given in the manner provided by Rule 12.9(b) above.

(2) *Return of Public Sale*. Return of public sale of real property for the purpose of approval or confirmation by the Court shall be in the form of an affidavit, which shall set forth:

(a) the notice given as provided by Rule 12.9(b) above;

(b) the price obtained; and,

(c) the name and address of the purchaser and an averment that he/she was the highest bidder.

(3) *Confirmation*. If no objection is filed, the Court may enter a decree confirming the sale upon submission of the return of sale.

Rule 12.10. Private Sale of Real Property or Options

A. Content of Petition—Additional Requirements. A petition by a personal representative, trustee, or guardian to sell real property at private sale shall also conform as closely as practicable to the requirements of those rules with regard to a petition to sell real property at public sale by the same fiduciary.

B. Exhibits.

(1) *Personal Representative. Trustee. Guardian.*

The following exhibits shall be attached to the petition by a personal representative, trustee, or guardian, to sell real property at private sale:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed;

(b) consents to the sale signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not join or consent, except in a petition to sell at private sale for the payment of debts;

(c) a copy of the agreement of sale;

(d) affidavits, in approved form, to two competent persons approved by the Court; and

(e) if the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

C. Payment of Debts—Notice—Confirmation.

1. *Notice*. A petition for private sale of real property to pay the debts of a decedent shall be presented in open court and a date fixed for hearing. Notice of such hearing shall be given in the manner provided by Supreme Court Rule 5.6.

2. *Confirmation*. If no exception is filed, the Court may enter a decree confirming the sale at the hearing. If a substantially higher offer is received at the hearing, the Court will make such order as it deems advisable under the circumstances.

D. Higher Offer.

Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition of the fiduciary for leave to make such private sale is presented to the Court, or at any hearing fixed thereon, whereupon the Court will make such order as it deems advisable under the circumstances.

E. Security.

The Court, in the decree approving or confirming the sale, will fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

F. Petition to Fix or Waive Additional Security—Personal Representative.

1. *Form of Petition*. In a sale, whether public or private, of real estate by a personal representative without benefit of an order directing or authorizing such sale, where he/she was required to give bond as such personal representative, he/she shall present his/her petition to the

Court before the proceeds of the sale are paid to him/her by the purchaser, setting forth:

- a. the death of the decedent;
- b. the date of the grant of letters to the petitioner;
- c. the amount of bond or bonds filed by him/her and the date of such filing and the name or names of his/her surety;
- d. the total valuation of the personal estate as shown in the inventory and appraisal, if any; the total proceeds of any real estate sold previously;
- e. a short description of the real property sold, the name of the purchaser, and the amount of the consideration to be paid; and
- f. a prayer for an order fixing the amount of additional bond except for cause shown shall be the same as on the original bond.

2. *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

C. Purchase by Personal Representative.

Petitions for approval of private sales of real estate to personal representatives shall be accompanied by an appropriate order. If all parties in interest join in the petition, the order may be in final form. Otherwise, it shall set a time for consideration, which will be a Business and Orphans' Court day at least thirty (30) days later than dates on which notice is given. The petitioner shall promptly serve a copy of the petition and order on parties who have not joined. The order shall recite that leave will be granted unless objections are made on or prior to the time set for consideration.

The petition shall identify any party in interest who is not *sui juris* and request the appointment of a guardian ad litem.

Rule 12.11. Mortgage, Lease or Exchange of Real Property

A. Petition—Additional Requirements.

1. *Contents of Petition.* A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of these rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed mortgage loan; and, shall set forth sufficient facts to enable the Court to determine whether the proposed mortgage should be approved.

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

- (a) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (b) consents to the mortgage signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent.

3. *Security.* The amount of the security or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the proposed mortgage.

4. The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange or to grant an option for the pledge, lease, or exchange of property, under the Code, shall be

governed by the appropriate provisions of these Rules governing the private sale or mortgage by such fiduciary.

Rules 12.12 to 12.15. Reserved

Rule 12.16. Settlement of Small Estates (§ 3102 of the Code)

A. Content of Petition—A petition under § 3102 of the Code for the settlement of a small estate shall be set forth in substantially the following order:

1. name, date of death, and residence of the decedent at time of death;
2. the name and address of the petitioner, his/her relationship to the decedent and whether or not he/she formed a part of decedent's household at the date of his/her death;
3. if petitioner is the surviving spouse, the date and place of the marriage;
4. whether decedent died testate or intestate; whether, where, when and to whom letters were granted, and the amount of bond given by the personal representative;
5. the names, relationships, and a brief description of the interest of all persons entitled to share in the decedent's estate under the will or intestate laws, stating which are minors, incompetents, or deceased, with the names of their fiduciaries, and whether any of them has received or retained any property of the decedent by payment of wages or pension under § 3103 of the Code, or otherwise;

6. the person entitled to the family exemption, and the facts on which the claim is based;

7. an itemized statement of the property of the decedent and its value together with a sworn or verified appraisal of one qualified, disinterested person appraising items other than cash, bank and savings and loan deposits, listed securities, and well-known local securities. The Court will accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles;

8. the disbursements made prior to the filing of the petition; the date and name of the person to whom paid and, the nature and amount of each payment;

9. the names of all unpaid claimants of whom the petitioner has notice or knowledge, the nature and amount of each claim, and whether such claims as admitted;

10. that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register; the amount of any inheritance tax assessed; and, the date of payment thereof;

11. that ten (10) days written notice of intention to present the petition has been given to every unpaid beneficiary, heir, or claimant who has not joined in the petition, or to the Attorney General, if the decedent heirs are unknown; and,

12. a prayer for distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative and the release of his/her surety, if letters have been granted and advertised.

Rules 13.1 to 13.3. Reserved

GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.1. Guardianship

A. Guardians—Except in the case of an adult child living with his/her natural parent(s), preference in ap-

pointments shall normally be given to banking institutions and suitable persons who do not, reside with the alleged incapacitated person, are not related to the person and who reside or have a regular place of business in Adams County.

B. *Estate—Consent of Proposed Guardian* - The written consent of the proposed guardian to act as guardian shall be attached to the petition.

C. *Estate—Proof of Service*—Proof of service shall be presented at the hearing. The affidavit of service shall, in all cases, recite that the petition and citation and notice were read and explained to the alleged incapacitated person.

D. *Sale of Personal Property*—Court approval for sale of personal property shall not be required.

Rule 14.3 to 14.5. Reserved

Rule 15. Adoptions

Rule 15.1. Investigations

A. Adams County Children and Youth Services is designated as the agency to perform investigations required by the Court in accordance with the Adoption Act.

B. Fees for investigations by the agency shall be periodically set by the administrative order. Until changed, the fee shall be \$75.00. Fees for obtaining child abuse clearances and criminal histories shall be in addition to the investigation fee.

C. Petitioners and/or persons filing notices of intention to adopt shall, unless excused from an investigation, pay the investigation fee within two (2) weeks of filing a petition or notice of intention to adopt, whichever is filed first.

D. Petitioners shall, within the two (2) week period, provide the agency with a description of petitioners' home and detailed directions to it.

E. Persons who are otherwise subject to investigation and who request a waiver thereof shall include, with the application for waiver, either:

1. an affidavit setting forth in detail that person's criminal history and all indicated reports of child abuse that are known to the person, or

2. original or certified copies of the person's criminal history and child abuse clearance forms.

F. Upon receipt of the material described in (e), the Clerk shall promptly provide the agency with copies thereof.

Rule 15.2. Voluntary Relinquishment to Agency

The caption for all pleadings and the docket entry shall carry the given name of the child.

Rule 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child

A. The caption for all pleadings and docket entry shall carry the given name of the child.

B. In addition to other information required by Supreme Court Rule 15.3, the petition shall describe any agreement between petitioner and natural parents regarding fees, costs, payments, or future rights of visitation and/or custody.

Rule 15.4. Involuntary Termination of Parental Rights

A. The caption for all pleadings and the docket entry shall carry the given name of the child.

B. Information required by Local Rule 15.3 (3) shall be provided.

Rule 15.5. Adoption

A. *Petition.*

1. The caption for all pleadings and the docket entry regarding an adoption shall be in the name to be taken by the proposed adoptee. Where there was a prior relinquishment or termination proceeding known to the adopting parents, there shall be a reference thereto by number and year in the petition for adoption.

2. The petition shall contain the information required by Supreme Court Rule 15.3(b).

B. *Adult—Change of Name.* An adult to be adopted who desires to assume the surname of adopting parent or parents shall advertise such desire in accordance with Pa.R.C.P. 430(b)(1).

C. *Intermediary.* When a report is filed by an intermediary and the prior relinquishment or termination proceeding is not known to the adopting parents, the report of the intermediary shall refer to the prior relinquishment or termination proceeding by number and year. Where the prior relinquishment or termination proceeding is not referred to in the Adoption Petition or in the report of the intermediary, but is known to the clerk, the Clerk shall place a memorandum in the adoption packet showing the reference to the prior relinquishment or termination proceeding.

Rule 15.6. Notice—Method and Time

A. If personal service is not obtainable and the registered or certified mail is returned undelivered, then:

1. Notice shall be sent by regular mail to the last known address of the parent and an affidavit of mailing shall be filed of record.

2. Further notice by publication shall be given in accordance with Supreme Court Rule 5.1(c).

3. The notice by publication shall appear in substantially the following form:

IN THE COURT OF COMMON PLEAS, ADAMS
COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA ORPHANS'
COURT DIVISION

NOTICE

TO: (Party to Whom Notice is Given)

You are hereby notified that a Petition for (Adoption/Involuntary Termination of Parental Rights to Child) has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for _____ at ____ o'clock, __ .M., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the (Adoption/Involuntary Termination of Your Parental Rights) with respect to your child.

You should contact your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get help.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, Pennsylvania 17325
Telephone Number: 717-337-9846, or 1-888-337-9846

(d) Proof of notice by publication shall be presented to the Court at the time of the hearing.

Rule 15.7. Impounding—Docket Entries—Reports—Privacy

The docket maintained by the Clerk shall carry only the name and date of each paper filed and shall also carry the date in reference to final action, which entry shall consist of a notation either that the decree was entered or that the petition was dismissed. Adoptions shall be indexed on an annual basis rather than to a term and number. An alphabetical index will be maintained for the convenience of the Clerk.

Rule 16. Abortion Control Act Proceedings**Rule 16.1 through 16.5 Reserved****Rule 16.6 Dockets. Docket Maintenance**

In addition to the requirements of Supreme Court Rule 16.6, all docket entries shall be referenced under an "AC" number, with the appropriate year, and not under an "OC" number.

Rule 16.7 through 16.12 Reserved**MISCELLANEOUS LOCAL RULES****Rule 18. Notices Required by the Clerk**

The Clerk of the Orphans' Court shall give the Register of Wills written notice of the appointment of masters and auditors, the filing of their reports, the filing of the surviving spouses' elections to take against or under the will of any decedent and of any other Orders of the Court awarding the family exemption, awarding the allowance to the surviving spouse of an intestate or settling a small estate.

[Pa.B. Doc. No. 05-984. Filed for public inspection May 20, 2005, 9:00 a.m.]

ADAMS COUNTY**Local Rules of Civil Procedure; Administrative Order No. 9 of 2005****Order of Court**

And Now, this 6th day of May, 2005, all existing local rules of Civil Procedure are repealed and replaced by the following rules.

Local Rules of Civil Procedure 205.2(a) and (b); 206.1(a); 206.4(c); 208.2(c), (d) and (e); 208.3(a), (b) and (c); 210; 1028(c); 1034(a) and 1035.2(a) shall become effective upon publication of the web site of the Administrative Office of Pennsylvania Courts. All other local Rules of Civil Procedure shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court's name, address and computer file number, shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court's web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

**ADAMS COUNTY COURT OF COMMON PLEAS
RULES OF CIVIL PROCEDURE****Rule 51. Title and Citation of Rules. Scope.**

All civil procedural rules adopted by the Adams County Court of Common Pleas shall be known as the Adams County Rules of Civil Procedure and may be cited as "Adams C.Civ.R. No. ____." These rules shall be read in conformity with the Pennsylvania Rules of Civil Procedure and shall apply to all civil actions, including appeals, brought before the Adams County Court of Common Pleas.

BUSINESS OF COURTS**Rule 205.2(a). Filing Legal Papers with the Prothonotary.***A. Physical Characteristics of Filed Papers*

Legal papers submitted to the Prothonotary shall comply with the following requirements of Adams County Rule of Judicial Administration No. 3.0(A).

B. Caption

The caption shall conform to Pa.R.C.P. No. 1018.

Note: Upon the filing of any paper, it is the duty of the Prothonotary to immediately docket the paper. Counsel may choose to hand carry the paper to the Court Administrator's Office if Court action is required, or may leave the paper with the Prothonotary for daily transmission to the Court.

Rule 205.2(b). Cover Sheet. (Reserved)**Rule 206.1(a). Petitions. Definition.***A. Additional Petitions*

In addition to the definition set forth in Pa.R.C.P. No. 206.1(a)(1), the following documents are defined as petitions:

1. An application to withdraw an appearance as attorney of record pursuant to Pa.R.C.P. No. 1012(c) and Adams C.Civ.R. No. 1012.
2. An application for a change of venue pursuant to Pa.R.C.P. No. 1006.
3. An application to intervene pursuant to Pa.R.C.P. No. 2328.
4. An application for name change pursuant to 54 Pa.C.S.A. § 701, et seq.
5. Preliminary objections filed pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6).
6. An application pursuant to Pa.R.C.P. No. 2952(9).
7. A petition filed under Adams C.Civ.R. No. 251.

Note: Applications pursuant to Pa.R.C.P. No. 2039 (approval relating to compromise of minor's settlement), Pa.R.C.P. 2064 (relating to compromise of incapacitated person) and Pa.R.C.P. 2206 (relating to wrongful death settlement) are governed by Adams C. Civ. R. 2039, 2064 and 2206.

Rule 206.4(c). Petition. Rule to Show Cause.

A. The procedure set forth in Pa.R.C.P. No. 206.6 is adopted and a rule to show cause shall issue following petition as a matter of course pursuant to that Rule with the exception that no rule will issue for a petition under Adams C.Civ.R. No. 206.1(a)(4). Petitions under Adams C.Civ.R. No. 206.1(a)(4) will be scheduled for hearing by the Civil Business Judge designated by the President Judge.

B. *Form Order.* The petitioner shall attach to all petitions, except those filed under Adams C.Civ.R. No. 206.1(a)(4), a proposed Order in the following form:

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY

(Caption)

ORDER

AND NOW, this ____ day of _____, 200 ____, upon consideration of the within petition, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within twenty days of service upon the respondent;

(3) The petition shall be decided under Pa.R.C.P. No. 206.7;

(4) An evidentiary hearing on disputed facts, if necessary, and argument shall be held on _____, 200 ____, at _____, in Courtroom ____ of the Adams County Courthouse;

(5) The petitioner shall file a brief in support of the petition within thirty (30) days of the date of this Order. Any party opposing the petition shall file a responsive brief within seven (7) days of service of the petitioner's brief.

The filing of briefs is not necessary.

(6) Notice of the entry of this order shall be provided to all parties by the petitioner.

[In cases where a stay of execution has been requested]

(7) The request for a stay of execution shall be heard by the Court on _____, 200 ____, at _____, in Courtroom ____ of the Adams County Courthouse.

BY THE COURT,

J.

C. The Court, in its discretion, may determine that there are extraordinary circumstances justifying immediate relief or modification of the form of the Order or time period set forth therein. Any party to a petition may move the Court to modify the procedures set forth in the rule to show cause.

D. The Court may decide a request for a stay of execution by telephone or other conference with the parties or their counsel rather than the alternative set forth in the form of the Order.

E. All petitions filed with the Prothonotary's Office shall be docketed and immediately forwarded by the Prothonotary to the Court Administrator's Office who, thereafter, shall forward the petition to the Civil Business Judge designated by the President Judge. Alternatively,

petitions, once filed and docketed, may be hand delivered as set forth in the note to Adams C.Civ.R. No. 205.2(a).

F. *Service.* A petition shall be served upon all of the parties to the action contemporaneously with the filing of the petition with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the petition. The Court may excuse prior service in the case of an emergency petition.

Rule 208.1. Motion. Definition. Scope.

A. All applications to the Court for an Order in any civil action or proceeding shall be considered a motion and shall comply with all rules set forth in the Pennsylvania Rules of Civil Procedure and Adams County Local Civil Rules regarding motion practice unless specifically excluded by subparagraph B.

B. Local rules relating to motion practice shall not apply to the following matters:

(i) Petitions as defined by Pa.R.C.P. No. 206.1 and Adams C.Civ.R. No. 206.1(a);

(ii) Preliminary objections which shall be governed by Adams C.Civ.R. No. 1028(c);

(iii) Motions for judgment on the pleadings which shall be governed by Adams C.Civ.R. No. 1034(a);

(iv) Motions for summary judgment which shall be governed by Adams C.Civ.R. No. 1035.2(a);

(v) Motions relating to the conduct of a trial including, but not limited to, motions for non-suit, motions relating to jury selection, and motions to exclude expert testimony pursuant to Pa.R.C.P. No. 207.1;

(vi) Affidavits pursuant to Pa.R.C.P. No. 1066 (relating to actions to quiet title) which shall be governed by Pa.R.C.P. No. 1066 and Adams C.Civ.R. No. 1066;

(vii) Motions in limine which shall be governed by the Court's Order following pre-trial conference;

(viii) Applications pursuant to Pa.R.C.P. No. 2039 (approval relating to compromise of minor's settlement), Pa.R.C.P. 2064 (relating to compromise of incapacitated person) and Pa.R.C.P. 2206 (relating to wrongful death settlement) which shall be governed by Adams C.Civ.R. Nos. 2039, 2064 and 2206;

(ix) Any application excluded from the definition of motion by Pa.R.C.P. No. 208.1;

(x) Discovery motions shall be governed by Adams C.Civ.R. No. 208.3(c);

(xi) Motions for the appointment of arbitrators which shall be governed by Adams C.Civ.R. Nos. 1301(a) through 1303(b).

(xii) Motions filed in professional liability actions pursuant to Pa.R.C.P. No. 1042.1 et. seq. shall be governed by Adams C.Civ.R. No. 1042.1.

Rule 208.2(c). Motion. Form. Content.

All motions shall identify the applicable procedural rule, statute or other legal authority.

Rule 208.2(d). Motion. Certification. Stipulation.

(A) All motions must include a certification by counsel for the petitioner, or the petitioner, that the motion is uncontested by all affected counsel and unrepresented parties or, in the alternative, that concurrence of all affected counsel and unrepresented parties has been sought or has been unable to be obtained. All uncontested motions shall include a proposed Order on the first page of the motion.

(B) *Stipulated applications for relief.* If the parties agree to the relief sought, the application for a Court Order shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties and a proposed Order.

Rule 208.2(e). Motion. Discovery Certification.

Every motion relating to discovery shall contain a certification by counsel, or the party, that the moving party has conferred or attempted to confer with all interested parties in order to resolve the matter without Court action and, after reasonable effort, has been unable to resolve the issue.

Rule 208.3(a). Motion. Simplified Procedure.

The following "motions" shall be considered by the court without written responses or briefs:

- (1) Requests for Alternative Service pursuant to Pa.R.C.P. Rule 430;
- (2) Requests to Proceed Informa Pauperis (Pa.R.C.P. Rule 240);
- (3) Any motion certified as uncontested pursuant to Adams C.Civ.R. 208.2(d).

The foregoing motions, after filing with the Prothonotary, shall be presented to the Court Administrator. The Court Administrator shall promptly deliver the motion to the Civil Business Judge for review and determination.

Rule 208.3(b). Motion. Procedures.

(A) In addition to the requirements contained in Pa.R.C.P. No. 208.2, the moving party shall file a supporting brief concurrently with the filing of a motion. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

(B) *Response.* Within twenty (20) days after service of the moving party's motion and brief, any party opposing the motion may file a written response; however, a response is not required.

(C) *Responsive brief.* Within twenty (20) days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief, together with any opposing affidavits, depositions, transcripts or other documents. Any party who fails to file a responsive brief shall be deemed not to oppose the motion.

(D) *Reply brief.* The moving party may file a brief in reply to a responsive brief within five (5) business days after service of a responsive brief.

(E) *Argument.* Motions shall be considered on briefs by the Court without argument unless a party files a request for oral argument by praecipe. Such request shall be filed by the moving party concurrent with the filing of the motion. Requests by any opposing party shall be filed within the time period in which a response may be filed pursuant to subparagraph (B) of this Rule. Oral argument shall be held at such time and place as the Judge shall direct. A praecipe for argument not filed within the time period set forth hereinabove shall be considered by the Court as an agreement between the attorneys that the matter be submitted to the Court on briefs.

(F) Upon the filing of a motion and a supporting brief, the Prothonotary shall expeditiously transmit the file to the Court Administrator's Office who thereafter will forward the file to the Civil Business Judge designated by the President Judge. Thereafter, upon the filing of a response, a responsive brief or any other documents affecting the matter, the Prothonotary shall immediately

docket the same and expeditiously transmit the documents to the Judge in possession of the file.

(G) *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

Rule 208.3(c). Discovery Motion.

(A) Failure to answer written interrogatories. A motion seeking to compel an opposing party to answer written interrogatories shall include:

- (1) All content set forth in Pa.R.C.P. No. 208.2(a);
- (2) A concise statement concerning the date of service of the interrogatories on the opposing party;
- (3) A description of all reasonable efforts used to resolve or to obtain answers to the interrogatories;
- (4) A certification that the interrogatories have not been answered in the time period required by the Pennsylvania Rules of Civil Procedure; and
- (5) A proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY

(Caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the Motion to Compel Answers to Interrogatories, it is hereby Ordered that the (Plaintiff/Defendant) shall file answers to the (Defendant/Plaintiff)'s interrogatories within twenty (20) days of the date of this Order. Failure to comply with the time period set forth in this Order may result in the imposition of sanctions including the preclusion of evidence and the imposition of attorney fees.

BY THE COURT:

J.

(B) Other discovery motions. All discovery motions, other than those set forth in subparagraph (A) above, shall include the following:

- (1) All information contained in subparagraph (A) above;
- (2) Where applicable, a copy of the discovery request and response, if any, in dispute;
- (3) A proposed Order substantially in the form set forth in Adams C.Civ.R. No. 206.4(c).

All discovery motions other than those set forth in subparagraph (A) above shall result in the issuance of a rule pursuant to Adams C.Civ.R. No. 206.4(c) and shall proceed as a matter of course pursuant to Adams C.Civ.R. No. 206.4(c).

Rule 210. Form of Briefs.

(A) Briefs shall contain complete and accurate citations of all authorities.

(B) The brief of the moving party shall contain all relevant facts, a procedural history, the questions involved, the argument and a conclusion.

(C) The brief in opposition shall contain an argument and a conclusion. It is not necessary that a counterstatement of the case or the question involved be included; however, if the brief in opposition does not include a counterstatement of the case or the question involved, the statement of the moving party shall be deemed adopted.

(D) Briefs shall be submitted on 8 1/2" by 11" paper and shall be double spaced except as stylistically necessary when quoting resources or authority.

(E) Any brief more than fifteen (15) pages shall contain a table of contents and a table of citations.

(F) A party shall file a brief with the Prothonotary who shall immediately docket the same and expeditiously forward the brief to the appropriate Judge.

Rule 212. Pre-Trial Procedure.

(A) *Procedure.* When an action is at issue and discovery has been substantially completed, any party may, by praecipe filed with the Prothonotary, request a pre-trial conference. The praecipe shall state whether the case is to be tried before a jury or by bench trial.

(B) *Bench Trial.* The Prothonotary shall refer bench trial listings to the Civil Business Judge designated by the President Judge. The judge to whom the case is referred shall then schedule a pre-trial conference at a time convenient to the Court, counsel and/or the parties. A pretrial memorandum shall be filed within the time period and in substantially the form set forth in Adams C.Civ.R. No. 212.2.

(C) *Jury Trial.* The Prothonotary shall maintain a schedule for pre-trial conferences for cases to be tried by a jury. Conferences will be scheduled to begin on the hour during Pre-Trial Conference Days listed on the annual Court Calendar. The party requesting the conference shall state the time and date preferred for the conference; however, the Prothonotary shall retain scheduling authority. Conferences shall not be scheduled prior to 9:00 a.m., at noon, or after 3:00 p.m. except by special order of court. The Prothonotary shall notify all counsel and pro se parties of the time and date of the conference. The notice shall advise the parties of the requirement to comply with Adams C.Civ.R. No. 202.2. All pre-trial conferences shall be held by the Judge designated by the President Judge.

(D) Unless excused by the Court in advance, the attorney or party who intends to try the case shall attend the pre-trial conference. In the absence of excuse, the Court may require the attending attorney or party to try the case. If an attorney or party fails to appear for the pre-trial conference, the Court may proceed in his/her absence and enter binding rulings regarding any matter, including the admissibility of evidence.

(E) The conference Judge may sua sponte, or on the motion of any party, dispense with the need for a pre-trial conference, or in the alternative, authorize that a pre-trial conference be conducted telephonically. In the event that a party or counsel is granted permission to participate telephonically, the parties shall be responsible for making all the arrangements for telephonic participation and shall pay all costs related thereto. A party participating in a telephonic conference is not relieved from compliance with Adams C.Civ.R. No. 212.2.

(F) Although it is not necessary for the parties represented by counsel to appear, counsel must appear with authority to bind the client. Parties, or their authorized representatives, must be available by telephone during the pre-trial conference.

(G) At the conclusion of the pre-trial conference, the assigned Judge shall issue an Order setting forth the date of bench trials, or in the event of a jury trial, setting the case for a specific term. The Court Order shall designate a date certain upon which the case will be called to determine trial readiness. The parties may answer the call formally by appearance, or informally by telephone or correspondence to the Court Administrator's Office prior to the call date. Failure to answer the call may result in the case being stricken from the trial list. The Order shall also set forth when appropriate any other action taken at the pre-trial conference including the scheduling of all matters to be completed before trial.

Rule 212.1. Notice of Earliest Trial Date.

Trials by jury may be scheduled during any civil trial term so designated on the Court calendar provided that the earliest date on which the case may be tried is during the first civil trial term which follows the pre-trial conference held pursuant to Adams C.Civ.R. No. 212.2 by at least thirty (30) days. This rule may be waived by agreement of the parties with the permission of the Court.

Rule 212.2. Pre-Trial Statement.

At least five (5) days prior to the pre-trial conference held pursuant to Adams C.Civ.R. No. 212.3, each party shall submit a pre-trial statement which shall contain the following:

- (1) A brief narrative statement of the case;
- (2) The names and addresses of all persons who may be called as witnesses by the party filing the statement identifying each as a "fact witness, expert witness or damages witness." A reference which does not state the name of the witness shall be permitted when the witness is described by title or representative capacity;
- (3) A list of all exhibits which the party intends to use at trial;
- (4) A statement of the issues involved;
- (5) A statement of damages claimed;
- (6) A statement of proposed amendments to pleadings, if any;
- (7) A statement of suggested stipulations of law or facts;
- (8) Any special requests. For example, a request for a view or a request relating to matters of discovery;
- (9) Estimated duration of trial;
- (10) A copy of any written reports, or answers to written interrogatories consistent with Pa.R.C.P. No. 4003.5, containing the opinion and basis for the opinion of any person who may be called as an expert witness; and
- (11) The amount of settlement demands or offers.

A party which fails to provide a pre-trial statement as required by this Rule may be sanctioned as permitted by Pa.R.C.P. No. 212.2(c).

Rule 227.1. Post-Trial Motion.

A. *Procedure.* Upon the filing of a post-trial motion by any party, the Prothonotary shall immediately docket the motion and expeditiously forward it to the trial Judge. All post-trial motions shall be accompanied, where appropriate, by a proposed Order for a transcription of the record. Thereafter, the trial Judge shall enter an Order addressing the transcription of the record and a briefing schedule.

B. *Service.* A party filing a post-trial motion shall serve a copy of the motion on the trial Judge and every other party to the action on the same business day which the motion is filed.

Rule 236. Notice of Order or Judgment.

When the Prothonotary is required by general or local rule to give notice to any party of any hearing, order, judgment or other matter, it shall be the duty of the moving party to furnish the Prothonotary with sufficient copies of such documents. If the document is to be mailed, the moving party shall also furnish the postage, pre-paid envelope with the name and address of the recipient set forth thereon. The Prothonotary shall note the date that the notice was sent on the file copy. If sufficient copies are not provided, the Prothonotary shall make sufficient copies and charge the moving party a fee of \$1.00 per copy for the cost thereof. Additionally, the Prothonotary may assess postage fees against any moving party who fails to furnish a pre-paid envelope as required by this rule.

Rule 251. Money Paid into Court.

Except for appeals from District Justices pursuant to Pa.R.C.P.D.J. No. 1008 (see Adams County Rule of Judicial Administration 10.0), any party wishing to pay money into the Court shall, by petition, in conformance with Adams C.Civ.R. No. 206.4(c), request leave to do so. The Prothonotary shall open and maintain accounts for deposit of funds paid into Court. Disbursements from the accounts shall be made only pursuant to Court Order. The Prothonotary shall be entitled to an administrative fee of \$25.00 from the account for handling the account.

Rule 252. Accounts.

When an account is required in a civil action, the account shall proceed in accordance with the Adams County Local Orphans Court Rules except that the filing shall be with the Prothonotary.

SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS

Rule 430. Legal Publication.

Note: See Adams County Rule of Judicial Administration No. 11.

ACTIONS

Rule 1018.1. Notice to Defend.

A. The following is designated to be named in the Notice to Defend as the organization from which information can be obtained:

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone: (717) 337-9846

B. The Court Administrator, upon receiving oral or written inquiry as a result of the endorsement on any pleading, shall furnish the name and telephone number of an appropriate member of the Legal Aid Committee of the Adams County Bar Association or immediately forward to the inquiring party a prepared list of the names, addresses, and telephone numbers of all the resident members of the Bar of Adams County, or both. The Court Administrator shall include on such list Mid-Penn Legal Services, Inc., 432 South Washington Street, Gettysburg, PA 17325; Telephone number (717) 334-7623.

C. Copies of a Spanish translation of the Notice to Defend shall be made available by the Court Administrator upon request.

Rule 1028(c). Preliminary Objections.

A. Preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(2), (3), or (4).

1. *Brief.* A party filing preliminary objections pursuant to this subparagraph shall file a supporting brief within ten (10) days of the date of the filing of the preliminary objections. If a supporting brief is not filed within ten (10) days of the filing of the preliminary objections, the preliminary objections shall be deemed withdrawn and, upon praecipe, the Court shall enter an Order directing the objector to file an appropriate pleading.

2. *Responsive brief.* If a supporting brief is filed by the petitioner, the respondent shall file a responsive brief within twenty (20) days after service of the supporting brief. Any party who fails to file a responsive brief shall be deemed not to oppose the objections. Upon praecipe, the Court will enter an Order granting the preliminary objections except that no civil action or proceeding shall be dismissed with prejudice for failure to comply.

3. *Oral argument.* Preliminary objections shall be decided on briefs alone unless the Court orders oral argument. If a party desires oral argument, then, in the case of the party filing the preliminary objections, a written request for oral argument must be filed with the preliminary objections. If a responding party desires oral argument, a written request for oral argument shall be filed with the Court within ten (10) days after service of the preliminary objections. Oral argument shall be held at such time and place as the Judge shall direct.

4. *Procedure.* Upon the filing of preliminary objections pursuant to this subparagraph, the Prothonotary shall immediately docket the preliminary objections and expeditiously transmit the file to an appropriate Judge. Referrals to Judges for disposition of preliminary objections shall be made on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to an appropriate referral, the case shall be transmitted to the Court Administrator for assignment. Once the preliminary objections are assigned to a Judge, any further filings, including praecipes shall expeditiously be transmitted by the Prothonotary to the Judge in possession of the file.

B. Preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6).

1. Any party filing preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6) shall attach a Notice to Plead to the preliminary objections. Such objections thereafter shall be governed by Adams C.Civ.R. Nos. 206.1(a) and 206.4(c).

C. *Service.* All preliminary objections shall be served upon all of the parties to the action contemporaneously with the filing of the preliminary objections with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the preliminary objections. The Court may excuse prior service in the case of emergency preliminary objections.

Rule 1034(a). Motion for Judgment on the Pleadings. Brief.

A. A party filing a motion for judgment on the pleadings shall file the motion, a proposed Order in the form set forth in subparagraph D. below and a supporting brief

concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn upon praecipe of an opposing party.

B. *Procedure.* Upon the filing of a motion for judgment on the pleadings and a supporting brief, the Prothonotary shall expeditiously transmit the file to an appropriate Judge. Generally, motions for judgment on the pleadings shall go to the Judge having previous involvement in the matter. Other referrals shall be transmitted on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to the appropriate referral, the case shall be transmitted to the Court Administrator for assignment.

C. *Response.* Responsive brief. Reply brief. Argument. Except as set forth hereinabove, procedures concerning the filing of a response, a responsive brief, reply brief and argument shall proceed as provided in Adams C.Civ.R. No. 208.3(b).

D. *Proposed Order.* All motions for judgment on the pleadings shall be accompanied by a proposed Order in substantially the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the attached Motion for Judgment on the Pleadings, it is hereby Ordered that argument on the Motion:

shall not be held, and the matter shall be decided upon briefs.

shall be held on _____, 200 __, at _____, in Courtroom No. ____ of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA, 17325.

Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT:

J.

E. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

Rule 1035.2(a). Motion for Summary Judgment.

A. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

B. *Procedure.* Upon the filing of a motion for summary judgment, the Prothonotary shall expeditiously transmit the file to an appropriate Judge. Generally, motions for summary judgment shall go to the Judge having previous involvement in the matter. Other referrals shall be transmitted on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to the appropriate referral, the case shall be transmitted to the Court Administrator for assignment.

C. *Response.* The adverse party must file a response within thirty (30) days after service of the motion pursuant to Pa.R.C.P. No. 1035.3.

D. *Brief.* The moving party shall file a supporting brief within twenty (20) days after the service of the response by the adverse party. If a brief is not filed within the time period set forth herein, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

E. *Responsive brief.* Within fifteen (15) days of service of the moving party's brief, any party opposing the motion shall file a responsive brief, together with any portions of the record which support opposition to the motion. Previous filings in the matter need not be attached. In the event that a party fails to timely file a responsive brief, the Judge may:

1. Refuse to allow oral argument by the offending party; or
2. Order oral argument to be continued; or
3. Grant the requested relief except that no civil action or proceeding shall be dismissed with prejudice for failure to comply; or
4. Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

F. *Argument.* Motions for summary judgment shall be considered on briefs by the Court without argument unless a party files a request for oral argument by praecipe. Such request shall be filed by the moving party concurrent with the filing of the motion. Requests for oral argument by any opposing party shall be filed within the time period in which a response must be filed pursuant to subparagraph C. of this rule. Oral argument shall be held at such time and place as the Judge shall direct.

G. *Proposed order.* All motions for summary judgment shall be accompanied by a proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the attached Motion for Summary Judgment, it is hereby Ordered that argument on the Motion:

shall not be held, and the matter shall be decided upon briefs.

shall be held on _____, 200 __, at _____, in Courtroom No. ____ of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA, 17325.

Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT:

J.

H. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

PROFESSIONAL LIABILITY ACTIONS**Rule 1042.1. Professional Liability. Motions.**

All applications or motions filed in professional liability actions pursuant to Pa.R.C.P. 1042.1, et. seq. shall, upon filing, be expeditiously forwarded to the Civil Business Judge designated by the President Judge. That Judge shall then direct such procedure or order such relief as is deemed appropriate.

Comment: For purposes of this rule, applications or motions shall include, but not be limited to, preliminary objections pursuant to Pa.R.C.P. 1042.2(b), a motion to extend the time for filing a certificate of merit, a motion for sanctions, a motion for conference, mediation, or scheduling order, and a motion compelling production of an expert report. Motions for post-trial relief shall be forwarded to the judge assigned to the trial of the case.

ACTION TO QUIET TITLE**Rule 1066. Quiet Title. Order.**

All affidavits filed pursuant to Pa.R.C.P. No. 1066 shall be accompanied by a proposed Order containing the requested relief as authorized by Pa.R.C.P. No. 1066.

COMPULSORY ARBITRATION**Rule 1301(a). Compulsory Arbitration.**

All civil cases within the jurisdictional limits prescribed in Section 7361 of the Judicial Code (42 Pa.C.S. § 7361) shall be subject to arbitration pursuant to Adams C.Civ.R. 1302 et. seq.

Rule 1301(b). Arbitration by Agreement.

Cases may be referred to arbitration if the parties or their counsel agree. If the case is not at issue, or where no pleadings have been filed of record, the agreement to refer shall state the issues to be considered by the board of arbitrators and shall contain all stipulations of facts reached by the parties. The agreement shall be filed of record. The case shall be subject to Adams C.Civ.R. No. 1302, et. seq.

Rule 1302(a). List of Arbitrators. Appointment to Board.

The President Judge shall appoint attorneys to serve as arbitrators and as chairpersons of the boards of arbitrators. The Court Administrator shall maintain a list of attorneys so appointed and shall assign the attorneys to serve from those lists.

Rule 1302(b). Motion for Appointment. Service. Conflicts.

A. Any party to a case, after the pleadings are closed or an agreement to arbitrate has been filed, may request the appointment of a board of arbitrators by written motion. Included in the motion shall be the names of all attorneys who, to the movant's knowledge, may have a conflicting interest in the case. The motion shall have a proposed Order attached to the front of the motion that shall provide spaces for the names of the board members to be inserted when appointed by the Court. The motion shall be accompanied by two copies of the pleadings filed by the moving party, or by two copies of the agreement to refer the case to arbitration.

B. The party moving for the appointment of a board of arbitrators shall serve a copy of the motion on all other parties, or their counsel, before the motion is filed with the Prothonotary. Proof of service shall be filed with the motion.

C. *Notification of conflicts.* Upon receipt of a motion for the appointment of a board of arbitrators, the parties or their counsel shall notify the Court Administrator of the names of all the attorneys who may have a conflicting interest in the case.

Rule 1302(c). Selection and Appointment of the Board.

After a motion for the appointment of a board of arbitrators has been received by the Court, the Court Administrator shall select three eligible attorneys to serve on the board and present an Order for appointment to the President Judge or the Judge to whom the case is assigned. Unless otherwise indicated, the person named first in the Order appointing the board shall be the chair.

Rule 1302(d). Copies of Pleadings and Distribution of Pleadings.

Upon receipt of the Order appointing a board of arbitrators, the other parties shall promptly provide to the Prothonotary's office two copies of all pleadings that they have filed in the case. The chair of the board of arbitrators shall receive the original file. The copies of the pleadings shall be distributed to the other members of the board by the Prothonotary.

Note: See Adams County Rule of Judicial Administration No. 5.0 about removing papers from the Prothonotary's office.

Rule 1302(e). Arbitrators' Fees.

A. Fees paid to the arbitrators for their services shall be set by Administrative Order of the Court.

B. In the event that a case is settled, withdrawn or terminated after the board of arbitrators has been sworn but before the case is scheduled for hearing, the board shall not be required to file a report and award. The board members shall be entitled, however, to one-half of the arbitration fees and the Prothonotary shall certify the settlement, withdrawal or termination of the case to the County Treasurer so that the said fees may be paid.

Rule 1303. Hearing.

A. *Schedule.* The chair of the board shall set the time, date and place of the arbitration hearing. A copy of the notice of the hearing shall be provided to the Court Administrator.

B. *Continuance.* A continuance of the scheduled hearing may be granted by the chair. The party requesting the continuance shall have the duty to coordinate a new time, date and place for a hearing with the arbitrators and with the other parties or their counsel. The party requesting the continuance shall also prepare notices of the rescheduled hearing with postage pre-paid envelopes and deliver them to the chair for signature and delivery. Nothing in this rule shall prohibit a party from seeking a continuance from the Court if it is refused by the chair.

C. When the board is convened for hearing, and if one or more parties is not present, any party who is present may request the Court Administrator to arrange a hearing before a Judge. The Court Administrator will attempt to schedule a hearing before a Judge on the same date as scheduled for hearing before the board. Upon consent of all parties present and the Judge before whom the hearing is scheduled, a Judge shall hear the case and enter a decision.

EQUITABLE RELIEF**Rule 1531. Special Relief. Injunctions.**

All motions for special relief, including motions pursuant to Pa.R.C.P. Nos. 1530 and 1531, shall be filed with

the Prothonotary's office and immediately forwarded by the Prothonotary to the Court Administrator's office who, thereafter, shall forward the motion to the Civil Business Judge designated by the President Judge. Alternatively, applications for special relief, when filed, may be hand delivered as set forth in the note to Adams C.Civ.R. No. 205.2(a). Upon presentation of a motion for special relief, the Civil Business Judge will advise the parties on how to proceed. All motions for special relief shall be served on the opposing party prior to the filing of the motion with the Prothonotary and a Certificate of Service shall be attached to the motion. Prior service of the motion is not required where a party is able to establish to the satisfaction of the Court that immediate and irreparable injury will be sustained before notice can be given to the opposing party.

ACTION PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901. Commencement and Referral

The Prothonotary and any Magisterial District Judge shall provide written and oral referrals to any person desiring to file a pro se petition under the Protection From Abuse Act, 23 Pa.C.S. § 6101 et. seq. to Legal Services, Inc. and Survivors, Inc. at their Adams County offices, and the Adams County Bar Association referral service. They shall also maintain sample forms and written instructions, in both Spanish and English, and give clerical assistance in completing forms.

The Prothonotary shall accept petitions without requiring the prepayment of filing fees and transmit copies to the Court Administrator for presentment to a judge for the entry of an order. Upon request by plaintiff, the Court may direct that the petition be served upon defendant by the Sheriff.

In the event an emergency petition is to be filed during a business day when the courthouse is open but a Judge is unavailable as contemplated under 23 Pa.C.S.A. Section 6110(a)(1)(iii), such emergency petition shall be filed with the Magisterial District Judge in the district where the petitioner is residing either temporarily or permanently.

Rule 1902. Hearing after Relief by Magisterial District Judge

Whenever relief is granted by a Magisterial District Judge, the Magisterial District Judge issuing the order shall contact the Court Administrator as soon as possible. The Court will, thereafter, schedule a preliminary hearing and continue the temporary order in effect pending a plenary hearing. Preliminary hearings before the Court will be conducted at 1:00 p.m. on the next Business Court Day following the granting of temporary relief by the Magisterial District Judge. The Magisterial District Judge issuing the order shall provide both parties a notice in the form set forth in Adams C.Civ.R. 1906.

The District Justice issuing the temporary order will forward all papers for filing in the Prothonotary's office so that the papers will be available to the Court at the hearing before the Court.

Rule 1903. Petition for Temporary Relief

Petitions for temporary relief may be presented to the Court without the necessity of scheduling an ex parte hearing if the petition is accompanied by an affidavit verifying the averments in the petition and the relief temporarily sought does not include eviction, or transfer of custody of minor children from defendant to plaintiff.

Where eviction or custody transfer is requested, an ex parte hearing shall be scheduled.

Rule 1904. Plenary Hearing

Unless the parties agree otherwise, plenary hearings shall be scheduled within ten (10) days after the filing of the petition.

Rule 1905. Contempt Hearing

A. *Arrest.* When the Court is available, a defendant arrested for contempt shall be produced without unnecessary delay before a judge for arraignment. If arrest occurs when the Court is unavailable, the defendant shall be arraigned before the on-call Magisterial District Judge. Upon request, defendant shall be provided with an application form for the appointment of a lawyer. Unless scheduled by a court order for a different time, contempt hearings shall be scheduled for 1:00 p.m. on the first business day of the week, at least seven (7) and no more than ten (10) days after the defendant's arrest. Bail shall be set by the Magisterial District Judge, and defendant given an opportunity to post bail. The bail may be subject to special conditions such as cessation of abuse. If the defendant is not released on bail, he or she shall be produced before a judge at the first available opportunity following arrest. The Magisterial District Judge shall also, when applicable, follow the procedure outlined in Pa.R.C.P. Rule 1901. At arraignment, the Magisterial District Judge shall advise the defendant of the following:

1. A description of the alleged contemptuous acts;
2. That those acts violate a specific Order of Court;
3. Defendant is subject because of the alleged contempt to a prison sentence of six (6) months and a fine of One Thousand Dollars (\$1,000.00);
4. A hearing will be held by a judge on a specified court business day at 1:00 p.m.
5. Defendant is entitled to be represented by a lawyer in the contempt proceeding and that, if defendant qualifies, a lawyer will be appointed to represent him or her free of charge. The defendant shall be notified that he or she must apply for the appointment of a free counsel, and the Magisterial District Judge shall provide an application form upon request;

B. *Petition and Rule:* Plaintiff will first enter the petition in the Prothonotary's office and then present it to the Court Administrator for the scheduling of a hearing. Except in unusual circumstances, hearings will be scheduled in the same manner as in arrest cases. If a specific time is requested, the Court Administrator will select a time, which will afford speedy relief and afford defendant time to prepare a defense. No answer shall be required by defendant.

C. *Criminal Complaint:* Contempt proceedings may be commenced by the filing of a criminal complaint before a Magisterial District Judge. Service shall be accomplished as in other criminal proceedings, by a constable, or police officer. If neither is available, the complaint shall be served by the Sheriff. Procedures will be the same as are followed in other protection from abuse proceedings begun before a Magisterial District Judge.

Rule 1906. Form of Notice

NOTICE

A Petition Under the Protection from Abuse Act has been filed against you as set forth in the attached Complaint. A temporary order has been entered against

you. This order will remain in effect until 1:00 p.m. on _____, 20____, when it will be considered in a Courtroom that will be designated on that date, in the Adams County Courthouse, Gettysburg, Pennsylvania. At that time, the temporary order may be continued, modified, or terminated. If the order against you is continued or modified, a full hearing on the merits will be scheduled. You may appear and either object or consent to an order against you being continued in effect until a full hearing on the merits. You may, but are not required to, appear and consent to the entry of an order for a longer period of time. Any order entered after a full hearing may remain in force for one (1) year. The Court may proceed in your absence to take testimony and enter an order granting relief to the Petitioner. You are entitled to be represented by an attorney at these hearings. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Adams County Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone Number: (717) 337-9846 or 1-888-337-9846

Magisterial District Judge

ACTIONS FOR SUPPORT

Rule 1910.10. Procedure

All support proceedings shall be conducted in accordance with Pa.R.C.P. 1910.11.

Rule 1910.11. Notice

The notice required by 23 Pa.C.S.A. § 4303 shall be as follows:

To: Obligor

The law requires the Domestic Relations Office to periodically provide approved consumer reporting agencies with your name and the amount of overdue arrearages that you owe. According to our records, you owe \$ _____, and this amount will be reported unless you contest the accuracy of the information within the next twenty days by filing a written objection with this office. Your objection should specifically state the amount of money that you dispute is owed.

Upon timely receipt of an objection, this office will schedule a conference to resolve the dispute.

Dated _____ Domestic Relations Officer

Rules 1912 to 1914. Reserved

Comment: In light of comprehensive state rules, it is felt that local rules are unnecessary and might potentially become confusing. Following conference, procedures in Rule 1910.21-4 shall be followed, but no local rule is needed to indicate this.

ACTIONS FOR CUSTODY, PARTIAL CUSTODY, AND VISITATION OF MINOR CHILDREN

Rule 1915.1. Custody

In all custody cases, a preliminary conference will be held, at a time set by the Court, prior to the actual hearing on the custody matter. All parties and their counsel will be required to attend the preliminary conference. Children will not be required to attend unless either party requests their presence, and the court approves such request.

Counsel should appear at the conference prepared to schedule a hearing. Calendars, or familiarity therewith,

will be required. If a party has filed preliminary objections to the complaint or petition that has caused the scheduling of the conference, the Court will establish at the conference a schedule and procedure on a case-by-case basis for disposing of such objections as the circumstances of the case warrant. The procedure so established shall be in lieu of the procedure in Adams C.Civ.R. 1028(c).

At the preliminary conference, the parties or their counsel shall provide the Court with a written memorandum, containing at least the following:

- (a) names of witnesses;
- (b) a statement of the potential issues;
- (c) information of the possibility of an amicable settlement without a hearing;
- (d) an estimate of the time a hearing would require;
- (e) any requests that either party might have;
- (f) the de facto custody schedule that the parties have been following for the most recent 6 months (or for such shorter period, if applicable); and
- (g) any other information which would help the Court and parties resolve the case.

Rule 1916. Home Studies and Investigations

Adams County Children and Youth Services is designated as the agency authorized to conduct home studies within Adams County. Home studies may be ordered subject to the following:

1. Fees shall be periodically established by administrative order. Until changed, the fee will be seventy-five (\$75.00) dollars.

2. Requests for home studies, or the right to request a home study in the future, shall be submitted at the preliminary conference. The request may be included in the conference memorandum.

3. Payment of the home study fee shall be made, and a detailed written description of and directions to the house shall be provided to the agency:

- (a) within two weeks of the court order authorizing the study, and
- (b) at least 60 days prior to a scheduled hearing.

ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE

Rule 1920(a). Uncontested Divorce

A party may file a praecipe directing the Prothonotary to forward all papers to the Court for review and for entry of a final decree when all costs have been paid or excused and when all requirements of law and the Rules of Civil Procedure have been fulfilled. If any agreement is to be incorporated within the decree, the party shall state whether or not it is to be merged within the decree. If the defendant files the praecipe, he or she shall state by what authority he or she acts.

Rule 1920(b). Alimony

Claims for alimony pendente lite raised in a divorce complaint or by a subsequent pleading in a divorce action shall be referred to the Domestic Relations Section for a conference upon the written motion of a party, or upon the request of a party at a conference for support. Unless otherwise directed by the Court, an award of alimony pendente lite shall be effective from the date of the motion, or of the request. The procedure for alimony pendente lite shall be in accordance with Pa.R.C.P. 1910.11.

Rule 1920(c). Motion to Appoint Master

When a case is at issue and all discovery relating to issues to be submitted has been completed, a party may move for the appointment of a master. The motion shall under Pa.R.C.P. 1920.74, in item (7) list the names of local attorneys who may be interested in the case, or contain a statement that no local attorneys are known to be interested.

Rule 1920(d). Master's List and Compensation

The Court Administrator shall maintain a list of all attorneys primarily practicing in Adams County and who have not been excused from serving as masters in divorce or annulment. Any attorney may request the President Judge to excuse him or her from such service. Upon motion, the Court will appoint a master from the list to hear the issues set forth in the motion. The master shall be compensated at an hourly rate that will be periodically set by set by administrative order. Until changed, the hourly rate shall be \$50.00 per hour. No motion shall be considered unless there has been deposited with the Prothonotary the sum of \$500.00 for the purpose of guaranteeing payment of the master's fee as well as stenographer's. The master may request that additional deposits be made, if the case becomes protracted.

Rule 1920(e). Withdrawal of Issues

Upon motion of any party, the Court may withdraw issues from the master, whether or not the master has acted upon those issues.

Rule 1920(f). Payment

A. Upon notice to the parties, the master may request an order directing the Prothonotary to disburse fees, and when a master's report has not been filed within sixty (60) days of the hearing date, the stenographer may request payment by filing the bill with the Prothonotary. If no exceptions to the sums are filed within ten (10) days, the Prothonotary shall disburse funds as requested.

B. The master's report shall state the total amount of master's and stenographic fees being charged, and any amount that remains unpaid. If no exceptions or objections to the amounts are filed within the period for filing exceptions, the Prothonotary shall expeditiously pay the balance of fees requested in the report.

C. If any party excepts or objects to fees, the Prothonotary shall not disburse any money or refund until the Court rules on the exceptions.

Rule 1920(g). Fees

Under appropriate circumstances, the Court may:

- (1) excuse a moving party from depositing all or part of fees, and/or
- (2) direct the non moving party to pay all or part of the fees, and/or
- (3) direct that the County pay all or part of the fees.

Rule 1920(h). Fees as Costs

Master's fees and stenographer's fees shall be considered costs of the case. In the event that master or the Court assesses costs against a party to the action, the costs shall be paid in full or a sufficient amount to cover the costs and shall be deposited with the Prothonotary within thirty (30) days of the date of the court order. If the payment or the deposit is not made within the thirty (30) day period, in addition to other remedies, the Court may direct the master to liquidate sufficient marital property to pay all sums due and owing.

Rule 1920(i). Notice

The master shall give at least ten (10) days written notice of the time and place for taking testimony to the attorneys of record, or to the parties, in the manner prescribed by Pa.R.C.P. 1920.51.

Rule 1920(j). Hearings and Amendments

Subject to the directions of the Court, the master shall have the usual powers of the Court, with regard to the detention of witnesses for examination and the general course of the proceedings before him/her. The master shall also have the authority and power to rule on objections to the admissibility of evidence and to permit amendments to the complaint in order to have the pleadings consistent with the testimony given. However, no amendment shall be permitted which changes the grounds of the divorce alleged. In cases where amendments to the complaint have been granted, the notice of the filing of the master's report shall contain a brief summary of the amendments allowed.

Rule 1920(k). Revocation

The appointment of a master may be revoked by the Court sua sponte, or upon motion of either party for cause shown, or upon the motion of the master on the grounds that no hearing has been held within ninety (90) days after the date of his/her appointment.

Rule 1920(l). Exceptions

Exceptions to the master's report, or any motions or reasons for a new trial in relation to the verdict of any jury, where applicable, which either party shall desire to make, shall be filed with the Prothonotary, and a copy thereof served at the same time upon the opposite party of his/her attorney of record. If no exceptions have been filed to the master's report within ten (10) days, and all costs have been paid, the Prothonotary shall submit such report and all the papers in the case, including his/her certificate stating that all costs have been paid to the Court for final decree.

Rule 1920(m). Delinquent Report

A. If a master fails to file a report and recommendation within the period established by Pennsylvania Rules of Civil Procedure, the master shall report such failure to the Court, explain reasons for the failure and state when the report shall be filed.

B. The Court may terminate a master's appointment, reduce or deny the master's compensation, or order such other relief as may be appropriate, where: a master has violated this rule, or has failed to comply with the time limits of the Pennsylvania Rules of Civil Procedure, without adequate explanation. Such relief may be ordered by the Court sua sponte, or upon application of any party.

Rule 1920(n). Counseling

If either party requests counseling under § 3302 of the Divorce Code, the party making such request shall deposit fifteen dollars (\$15.00), with the Prothonotary at the time of filing the request to cover the cost of the counselor's report, unless the court shall order otherwise.

The party requesting counseling shall provide the appointed counselor with a copy of the Court Order directing such counseling.

Rule 1921. Procedure Relating to Masters' Hearing

Subject to the Court's power to withdraw issues from the master, procedures shall be as prescribed by Pa.R.C.P. 1920.55-2.

**ACTIONS BY REAL PARTIES IN INTEREST
MINORS AS PARTIES**

Rule 2039. Compromise, Settlement, Discontinuance and Distribution.

A. *Contents of the petition.* A petition for leave to compromise, settle or discontinue an action in which a minor is a party or an action for wrongful death in which a minor is interested shall set forth:

1. The facts of the case.
2. The damages sustained.
3. All expenses incurred or to be incurred, including counsel fees.
4. Any other relevant information.

B. The Court may require a hearing to determine whether the proposed compromise, settlement or discontinuance should be approved.

C. Appearance at hearing. Necessary parties and witnesses shall appear at the hearing unless excused for cause shown.

D. *Proposed Order.* All petitions pursuant to this rule shall be accompanied by alternative proposed Orders consisting of a proposed Order containing the suggested relief and a proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 ____, the Court shall consider the attached motion at a hearing to be held on _____, 200 ____, at _____, in a Courtroom to be designated.

BY THE COURT:

J.

Rule 2064. Compromise, Settlement, Discontinuance and Distribution.

A petition for leave to compromise, settle or discontinue an action in which an incapacitated person is a party shall be governed by Adams C.Civ.R. No. 2039.

ACTIONS IN WRONGFUL DEATH

Rule 2205. Wrongful Death. Notice.

In addition to the formal notice authorized by Pa.R.C.P. No. 2205, a plaintiff in a wrongful death action may give notice to a person entitled to recover damages in the action by any means of service, other than ordinary mail, authorized by general rule.

Rule 2206. Settlement, Compromise, Discontinuance and Judgment.

A petition filed pursuant to Pa.R.C.P. No. 2206 shall be governed by Adams C.Civ.R. No. 2039.

SHERIFF'S INTERPLEADER

Rule 3252. Writ of Execution.

The office identified in Adams C.Civil R. No. 1018.1 is designated as the office to be named in a writ of execution notice.

[Pa.B. Doc. No. 05-985. Filed for public inspection May 20, 2005, 9:00 a.m.]

ADAMS COUNTY

Local Rules of Judicial Administration; Administrative Order No. 10 of 2005

Order of Court

And Now, this 6th day of May, 2005, all existing local rules of Judicial Administration are repealed and replaced by the following rules.

These rules shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court's name, address and computer file number, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court's web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

**ADAMS COUNTY COURT OF COMMON PLEAS
RULES OF JUDICIAL ADMINISTRATION**

Rule 1.0 Applicability.

The Rules adopted under this chapter shall apply to all offices in the Adams County Court System unless the context indicates otherwise. Offices in the Court system shall include the offices of Magisterial District Judges, the Clerk of Courts, Orphans' Court Division, Criminal and Miscellaneous Sections, and the Prothonotary. In some instances, these rules will also apply to the Sheriff, Register of Wills and Recorder of Deeds.

Local rules are intended to supplement state rules and shall be read in context with those rules.

Local rules may be cited:

Adams C.R.J.A. (number)—Rules of Judicial Administration

Adams C.Civ.R. (number)—Rules of Civil Procedure

Adams C.Crim.R. (number)—Rules of Criminal Procedure
Adams C.Juv.R. (number)—Rules of Orphans' Court Procedure

They may also be cited as Local (R.J.A., Civ., Crim., Juv., O.C.) Rule (number).

Rule 2.0 Court Calendar.

The Court shall promulgate a court calendar annually. There shall be included therein no less than twelve (12) weeks set aside for criminal jury trials and no less than seven (7) weeks set aside for civil jury trials. The Prothonotary and Clerk shall prepare a list, and provide each judge with a copy thereof, of cases scheduled for hearing, trial, argument or other action at least five days prior to a specified calendar day. Other than summary appeals, the hearing list shall reflect matters listed for hearing at least ten (10) days prior to hearing date. The list may be supplemented by order or with approval of a judge.

Rule 3.0 Papers Filed.

For purposes of this rule, papers include pleadings, motions, petitions and orders. Nothing in this rule shall be construed contrary to any state rule.

A. *Size and Color*

Papers filed in the Court system shall be eight and one-half inches by eleven inches (8 1/2 × 11) in size. Papers shall be on white or off-white stock. Exhibits to papers may be of a different color if the original does not permit compliance with this Rule.

B. *Characters*

Papers should be written in ink, printed, typewritten, photocopies, mimeographed or otherwise mechanically reproduced.

C. *Caption*

The caption should include the name and division of the Court, identifying case number, the names of the parties, and the title of the proceeding.

D. *Orders*

Papers requiring an order shall have a proposed order attached as the first page and shall be first filed in either the Office of the Clerk of Courts or the Office of the Prothonotary. Normally, papers should then be presented to the Court Administrator for paper routing. They may also be presented to the appropriate judge in chambers, or filed in open court.

E. *Prior Action*

If a paper refers to prior action taken by the Court, the paper shall identify the date the action was taken and the judge taking such action and shall have attached as an exhibit a copy of the order directing the action.

Rule 4.0 Bulletin Board.

Both the Prothonotary and Clerk of Courts shall maintain in public view a bulletin board for the purpose of posting required notices.

Rule 5.0 Records.

The Prothonotary, Clerk of Courts, Recorder of Deeds and Register of Wills shall be responsible for the safe-keeping of records in their respective offices. No person other than an office employee, judge, attorney admitted to practice in Pennsylvania, or persons designated by a judge or attorney may have unsupervised access to records. Attorneys may authorize not more than two employees per law office to have unsupervised access. The

designation must be written and filed in the appropriate office. Attorneys and designated employees must sign an acknowledgement that they understand this rule and will do nothing to damage or compromise the integrity of records.

Officers may authorize temporary removal of records for purposes of examination and study. Only persons qualifying for unsupervised access shall be accorded this privilege. Records must be returned to the appropriate office within one (1) hour of demand by the Officer. Officers shall require receipts and must be informed precisely where the records may be located. Any person temporarily removing the records shall authorize the Officer to seize and regain possession of the records without process or notice, wherever they may be held. Other than in cases involving masters, auditors or other court appointed persons, records may not be removed longer than fifteen (15) days. Failure to return any paper within fifteen (15) days may immediately result in the cancellation of the privilege of unsupervised access for the entire law office concerned, until such time as the Office restores the privilege.

Rule 6.0. Correction of Public Records.

Neither the Prothonotary, the Register of Wills, the Clerk of Courts, the Recorder of Deeds, nor the Sheriff shall erase any matter erroneously entered in any official or public record, such as an entry book, docket, mortgage or deed, or will book. Any erroneous entry shall be struck there from in red ink in such manner as to leave the stricken matter legible, and the correct entry inserted. Upon the making of any such correction the Officer making the same shall note the date of such making. In the event that any such Officer shall inadvertently omit to make an entry and subsequently another entry shall be made, the omitted entry may be placed upon the record but it shall not be inserted between two other entries unless the Officer shall note on the record that it was so made, together with the date thereof.

Rule 7.0 Photographs and Broadcasting.

No pictures or photographs shall be taken immediately preceding or during sessions of this Court or recesses between sessions, in any of the courtrooms or at any place in the courthouse within forty (40) feet of the entrance of such courtroom unless specially allowed by the President Judge.

No Court proceeding shall be broadcast or televised, nor shall any Court proceeding be mechanically or electronically recorded, except by the official court reporter unless specifically allowed by the President Judge.

No pictures or photographs of any party to a civil or criminal action, juror, or witness shall be taken in the law library or in any office or other room of the Courthouse, except with the knowledge and consent of the person or persons photographed.

Rule 8.0 Guardian Ad Litem.

Any interested party may move, in the case wherein facts are of record, or may petition, in cases wherein facts are not of record, for the appointment of a guardian ad litem for any party in interest, not sui juris by reason of infancy or otherwise. The fee for the guardian ad litem shall be set by the judge to whom the case is assigned, and shall be paid in the first instance by the moving or petitioning party. Thereafter, the judge may make such order as may be appropriate, including assessing the fees as costs in the case.

Rule 9.0 Termination of Inactive Cases. (Pa.R.J.A. 1901—Pa.R.C.P. 230.2)

A. The Clerk of Courts, the Prothonotary, and each District Justice shall annually review cases pending in his/her respective office on or before the first day in July. The Officer shall compile a list of cases in which there has been no docket activity for a period of two (2) years or more. The Officer shall, at least sixty (60) days prior to September 15, give notice to the parties and counsel either (a) in person, (b) by regular mail, addressed to the last address of record, or (c) by publication when notice by mail cannot be given or has been returned undelivered, that after that date the case will be considered by the Court for dismissal. The notice shall comply with the provisions of Pa. Rules of Judicial Administration 1901 and Pa. Rule of Civil Procedure 230.2.

B. If no statement of intention to proceed is made, the Court will summarily dismiss the case any time after September 15th or 60 days after service of the notice, whichever is later. If a statement of intention to proceed is made, the Court may either schedule a hearing or continue the case on active status for a period of one (1) year.

C. Magisterial District Judges shall have the same powers and duties as the Court. Either party shall have the right to appeal to the Court from any decision as in other cases in which judgment is entered by a Magisterial District Judge.

D. Officers involved in this rule shall certify to the Court that proper notice has been given pursuant to this rule.

E. Notice by publication shall be published once in a newspaper of general circulation in the Adams County area or once in the *Adams County Legal Journal*.

Rule 10.0 Money Paid into Court.

A. Any party wishing to pay money into Court shall request leave to do so by petition, in conformance with Adams County Civil Rule 206.4(c).

B. The Prothonotary and Clerk shall open and maintain accounts for the deposit of funds paid into Court, pursuant to court order. Accounts and depositories shall be approved by the Court. Disbursements or distributions shall be made pursuant to court order. An administrative fee of twenty-five (\$25.00) dollars shall be paid from the fund to the Officer for handling the funds.

C. When money is paid to the Prothonotary pursuant to Pa.R.C.P.D.J. No. 1008, the payee shall state in writing whether or not the Prothonotary is authorized to periodically release sums to a landlord without application by the landlord. If authority is granted, the tenant shall state the amount that may be periodically disbursed. Until authority is cancelled by the tenant, those sums may be periodically released without further Order of Court.

Rule 11.0 Legal Journal.

The *Adams County Legal Journal* is designated for the publication of Court or other legal notices as required by the various statutes, law, rules, order or decrees of the Court in the Commonwealth of Pennsylvania.

Rule 12.0 Law Library.

The President Judge shall appoint a chairman and committee to operate and maintain the Adams County Law Library. Committee members shall be selected from members of the Adams County Bar Association and shall serve at the pleasure of the President Judge. The commit-

tee may deal directly with the Adams County Commissioners in budgetary matters. The committee shall file annually a report and accounting with the court. Upon approval, the report shall be filed of record in the Prothonotary's office.

The Adams County Law Library shall be a facility open to the general public and used as a research facility by the Court, county officials, and county attorneys, in accordance with law, subject to rules promulgated by the committee and approved by the Court. Until changed, the following shall apply:

(1) The library is open to the public during hours of 8:00 A.M. to 4:30 P.M., Monday through Friday. The law library will remain closed during those times when the Courthouse is closed.

(2) The Adams County Law Library is intended primarily for a reference library. No books may be taken out by members of the general public. Limited borrowing privileges are as follows:

(a) All books must be returned within three (3) days from the date that they are signed out, in a register provided and located at the desk in the law library. Violation of this provision shall subject the violator to the following penalties:

(i) Books held beyond thirty (30) days—library privileges to be revoked and the offender to be reported to the Adams County Court.

(ii) After thirty (30) days, the offender will be billed for the replacement cost of the volume or volumes held.

(b) The following books are for reference only and may not be taken out of the law library: *Purdons Statutes*, *Pennsylvania Law Encyclopedia*, *United States Code Annotated*, *U. S. Code Service*, all Slip Opinions, Court Rules, Dictionaries, Directories, *Shepard Citations*, *Pennsylvania Code*, *Pennsylvania Bulletin*, and all other books maintained on shelves that are marked indicating that the contents may not be removed.

(3) For all materials which are in circulation and borrowed from the library, authorized individuals shall sign the register and indicate the volume number and title, the borrower's name (judge, attorney, or county official), address or department and the date that the volume was removed. Every item taken from the library must be signed out. When the item is returned to the library, the register must be signed to indicate the date that the item was returned. The item should be reshelfed when it is returned to the library.

(4) In furtherance of a desire to maintain the Adams County Law Library as a complete County Reference Law Library, the following publications are to be provided for the law library:

(a) All published slip opinions authored by the Adams County Court shall be delivered to the Adams County Law Library which shall hereinafter act as a depository for said Opinions.

(b) All ordinances of municipalities and townships, including Zoning Ordinances, shall be made available to the Adams County Law Library.

(5) These rules shall be posted in a conspicuous place in the Adams County Law Library.

(6) The photocopier in the law library is for the convenience of all persons authorized to use the law library. Use is restricted to making reasonable numbers of copies of library material. The Committee may subject the copier's use to conditions and restrictions by posting same by or on the copier and may revoke any person's usage privileges. The copy machine should be turned off after use.

Rule 13.0 Extended Hearing.

An extended hearing is defined as one requiring two or more hours. Parties requesting hearings, whether by order or praecipe, shall certify whether the hearing can reasonably be expected to become an extended hearing. The Court will then schedule the matter for conference or hearing as deemed appropriate by the Court.

Rule 14.0 Appeals to Court.

A. Appeals From Government Agencies

1. Whenever an appeal is filed from the final order of a governmental agency pursuant to provisions of 42 Pa.C.S.A. § 933, the appeal shall have attached thereto a copy of said final order.

2. The Prothonotary shall forward the file to the Court on the thirty-first (31st) day following the filing of said appeal. The Court shall then schedule a conference, hearing or argument, or take such other action as may be deemed necessary or appropriate.

B. Land Use Appeal

1. Whenever an appeal is filed pursuant to provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, et seq., the Prothonotary shall forward the file to the Court on the thirty-first (31st) day following the filing of said appeal. The Court shall then schedule a conference or hearing or take such other action as may be deemed necessary or appropriate.

C. License Suspension Appeal

1. All appeals from governmental action suspending or revoking licenses, rights or privileges, shall have attached thereto a copy of the suspension or revocation order.

2. Hearings for such appeals shall be held on a regularly scheduled Civil Business Court day.

D. Tax Sale Appeal

1. All tax sale appeals shall be docketed in a manner which identifies the appeal by the tax sale number. Once the appeal is filed, a separate file for that appeal shall be maintained by the Prothonotary.

Comment: Generally, all tax sales for a given year are collectively docketed as filing year-S-file number. Appeals shall be filed to the same docket number but shall also note the sale number. An example would be 04-S-235 (Sale No. 36).

E. Truancy Appeal

1. All appeals filed by a parent, guardian, or person in parental relation from a summary conviction under 24 P.S. § 13-1333 for violation of the compulsory school attendance law shall be heard on a regularly scheduled Criminal Business Court day.

Rule 15.0 Sale of Impounded Unclaimed Vehicles.

A. The Sheriff of Adams County shall, on a periodic basis, conduct sales of impounded unclaimed vehicles in conformity with 75 Pa.C.S.A. § 6310(b). The following process shall be observed for the sale of said vehicles:

1. Immediately upon impoundment of an unclaimed vehicle, the impounding law enforcement agency shall give notice to the owner of said vehicle and any lienholders in accordance with 75 Pa.C.S.A. 6309(c). Notice shall be substantially in the form stated in part B. hereof.

2. Each municipality shall be responsible for storage of its impounded unclaimed vehicles until the time of sale.

3. The Sheriff of Adams County shall notify all Adams County municipalities of the date set for the sale of impounded unclaimed vehicle in the county.

4. Upon Notice of the setting of the sale date, the local law enforcement offices shall provide the Sheriff of Adams County with the following:

(i) A list of all impounded unclaimed vehicles.

(ii) Proof of Notice to the owner of each impounded/unclaimed vehicle in accordance with sub-section B. of this rule.

(iii) Such fees as are requested by the Adams County Sheriff.

5. Upon receipt of Proof of Notice from the municipalities, Sheriff shall serve further Notice upon the owners of the vehicles subject to the sale in conformity with 75 Pa.C.S.A. 6309(c). The Sheriff shall serve Notice by publication when Notice by mail cannot be given or has been returned undelivered. Notice by publication must be given for three (3) consecutive weeks in the Adams County Legal Journal and in one local newspaper of general circulation.

6. On the date established for sale of vehicles, the Sheriff shall conduct said sale in accordance with normal personal property sale procedures.

7. Following the sale of vehicles, the Sheriff shall distribute proceeds of the sale to the individual municipalities involved.

B. Each individual municipality involved shall provide notice, in substantially the following form, to the owner of each automobile at the last known address of said owner via regular mail and certified mail, restricted delivery. Each individual municipality shall provide Proof of Notice, in substantially the following form, to the Sheriff for each vehicle that is to be sold.

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY, PENNSYLVANIA

[caption]

NOTICE OF SALE OF IMPOUNDED UNCLAIMED
VEHICLE

You, _____ [name], are the owner of record of the following vehicle: [make, model, VIN number]. This vehicle has been impounded and designated as unclaimed by the Sheriff of Adams County. This vehicle is set to be sold on _____, 20____ at the following location: _____ [address].

IF YOU WISH TO SECURE YOUR RIGHTS IN THIS VEHICLE, YOU MAY RECOVER THE VEHICLE ON THE ABOVE-REFERENCED DATE AT THE LOCATION GIVEN. IN ORDER TO RECOVER YOUR VEHICLE, YOU WILL BE RESPONSIBLE FOR SHERIFF'S ADMINISTRATIVE COSTS IN ASSOCIATION WITH THIS SALE. IF YOU WISH TO SEEK FURTHER LEGAL ADVICE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COUNTY REFERRAL OFFICER
Adams County Courthouse
Gettysburg, PA 17325
(717) 337-9846

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY, PENNSYLVANIA

[caption]

PROOF OF NOTICE OF IMPOUNDED UNCLAIMED
VEHICLE

I, _____ [name], a representative of _____ [municipality], state that the following vehicle has been impounded and remains unclaimed in the above-referenced municipality. Notice has been provided to owner at his/her last known address via regular mail and certified mail (restricted delivery) that this vehicle will be sold at the sale on _____ [date of sale]. Proof of Notice is attached. The vehicle is described as follows:

Vehicle: _____ [make, model, VIN number]

Owner of Record: _____ [name]

Last known address of owner: _____

Date of abandonment: _____

[representative of municipality]

Rule 16.0 Petitions for Board of View.

A. Content of Petition

1. Petitions filed for the appointment of a board of view shall cite therein the statutory authority under which the board is being sought.

2. The petition shall identify persons having an interest in the appointment of the board, persons who will be legally impacted by the decision of such board, and any attorney who has a real or potential conflict of interest in the matter.

B. Delivery to the Court

1. Upon the filing of the petition with the Prothonotary, the petitioner(s) shall have the petition forwarded to the Court Administrator for processing.

C. The Board

1. Boards of view shall generally be comprised of three (3) persons.

2. The chairperson of the Board shall be an attorney licensed to practice in the Commonwealth of Pennsylvania whose principal office is located in Adams County.

3. Boards of View shall be compensated at a rate established from time to time by the Court.

4. The Court may revoke the appointment of the Board or any member thereof for whatever cause that the Court deems is appropriate.

D. Report

1. The report of a Board of View shall be in writing and submitted to the Court within sixty (60) days of appointment of the Board. If the report cannot be completed and submitted within that period of time, the Chairperson shall file a preliminary report to the Court explaining the reason(s) for the delay and setting forth the expected time needed to complete the report.

[Pa.B. Doc. No. 05-986. Filed for public inspection May 20, 2005, 9:00 a.m.]

CARBON COUNTY

Charges of Indirect Criminal Contempt for Violation of Protection From Abuse Orders; No. 61 MI 05

Administrative Order No. 11-2005

And Now, this 5th day of May, 2005, pursuant to 23 Pa.C.S.A. Section 6114, it is hereby

Ordered and Decreed, that effective immediately, all charges of Indirect Criminal Contempt for violation of Protection From Abuse Orders *Shall Be Forwarded* to the Clerk of Courts Office for case management and disposition.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

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

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of this Administrative Order in the Clerk of Court's Office.

By the Court

ROGER N. NANOVIC,
President Judge

[Pa.B. Doc. No. 05-987. Filed for public inspection May 20, 2005, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

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

Medical Disciplinary Process and Procedures

The State Board of Medicine (Board) amends § 16.51 (relating to hearing examiners) and adds §§ 16.55—16.58 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*

Sections 8 and 9 of the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.8 and 422.9) authorize the Board to promulgate regulations addressing procedures to be followed in proceedings before it consistent with the requirements of section 9 of the act.

C. *Background and Purpose*

The final-form rulemaking codifies the process and procedures that are currently followed in disciplinary matters before the Board. These procedures are derived from sections 901—905 of the Health Care Services Malpractice Act (formerly 40 P. S. §§ 1301.901—1301.905). On March 20, 2002, the Governor signed into law the Medical Care Availability and Reduction of Error (MCARE) Act (MCARE Act) (40 P. S. §§ 1303.101—1303.910). Section 5104 of the MCARE Act repealed sections 901—905 of the Health Care Services Malpractice Act. It is not clear what, if any, impact the repealer provisions have on the procedures followed by the Board. Because the Board's procedures have been effective, the Board has determined that codifying the process will maintain the status quo and avoid unnecessary and unintended confusion. The Board has also included language in § 16.55(c) (relating to complaint process) specifically provided for by the MCARE Act.

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

Proposed rulemaking was published at 34 Pa.B. 1963 (April 10, 2004). The Board entertained public comment for 30 days during which time the Board received comments from the Pennsylvania Academy of Family Physicians (Academy). Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a summary of the comments and the Board's response.

The Academy sought the specific statutory authority for the confidentiality provision of § 16.55(c). This language is specifically authorized by section 907 of the MCARE Act (40 P. S. § 1303.907). The Academy also questioned § 16.55(d) in regard to the prosecutor's ability, after failed settlement negotiations, to introduce other evidence to prove factual matters disclosed during negotiation. The Academy's position is that this practice impairs the

settlement and raises due process concerns. Respectfully, the Academy's position is mistaken. While statements made during the negotiation process are not admissible, it is common accepted practice to allow other evidence not disclosed during negotiations to be introduced.

The HPLC and IRRC raised similar questions regarding the proposed rulemaking. The HPLC and IRRC questioned whether § 16.58 (relating to appeal from the Board decision) could be interpreted as limiting a respondent's right of appeal. This was not the intent of the Board and the language creating the confusion has been deleted as suggested. IRRC also commented that § 16.55 could be clearer by simplifying the language to indicate that any person could file a complaint. The Board has clarified the language as suggested. Because of this change, the HPLC suggestion that a definition of "public officer" be added is moot. The HPLC also suggested that the language regarding the Board's sua sponte review of hearing examiner decisions in § 16.57 (relating to appeal from the hearing examiner's decision) could be clarified if the Board substituted the word "motion" for "notice." The document the Board issues when it reviews a matter is entitled "Notice of Review." The Board has adopted the suggestion.

E. *Description of Amendments*

Section 16.51 is amended to more accurately reflect that, consistent with the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506), attorneys, including hearing examiners, are assigned to agencies through the Office of General Counsel. The regulation also provides for the Board's current process that, absent an order of the Board otherwise, all matters would be heard by the Board's hearing examiner.

Section 16.55 is added to provide a description of the complaint process. Section 16.55(a) provides that a person may submit a written complaint to the complaints office. Section 16.55(b)—(d) describes the internal processing of complaints. Specifically, in keeping with the decision in *Lyness v. State Board of Medicine*, 605 A.2d 1204 (Pa. 1992), the Board prosecutor will cause to be conducted reasonable inquiry and will determine whether to initiate the filing of formal charges. Consistent with section 907 of the MCARE Act, § 16.55(c) reiterates that documents, materials or information obtained during the course of an investigation shall be confidential and privileged unless admitted as evidence during the course of a formal disciplinary proceeding. Section 16.55(d) provides for the Board prosecutor to enter negotiations to settle the case by consent agreement.

Section 16.56 (relating to formal hearings open to public) provides for formal hearings to be open to the public.

Section 16.57 provides for review of the hearing examiner's decision by the Board on the request of either party or on the Board's own motion. Section 16.57(b) provides that, unless otherwise ordered by the Board, neither the filing of an application for review nor the Board's own notice of intent to review would stay the hearing examiner's decision.

Section 16.58 provides for review of the Board's decision under 2 Pa.C.S. § 702 (relating to appeals).

F. *Fiscal Impact and Paperwork Requirements*

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivisions or the private sector.

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. 1963, 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 15, 2005, this 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*

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

J. *Findings*

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 1963.

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

K. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending § 16.51 and by adding §§ 16.55—16.58 to read as set forth in Annex A.

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

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

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

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

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2703 (April 30, 2005).)

Fiscal Note: Fiscal Note 16A-4918 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE

Subchapter E. MEDICAL DISCIPLINARY PROCESS AND PROCEDURES

HEARING EXAMINERS AND MEDICAL CONSULTANTS

§ 16.51. Hearing examiners.

Hearing examiners are appointed by the Governor's Office of General Counsel to hear matters before the Board. Unless otherwise ordered by the Board, disciplinary matters shall be heard by a hearing examiner.

§ 16.55. Complaint process.

(a) A person may submit a written complaint to the complaints office alleging a violation of the act or this chapter or Chapter 17 or 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), specifying the grounds therefore.

(b) The complaints office will assign a complaint to the prosecution and investigatory staff who, together with medical consultants as may be required, will make a determination that the complaint merits consideration. The Board prosecutor will cause to be conducted reasonable inquiry or investigation that is deemed necessary to determine the truth and validity of the allegations in the complaint. The Board prosecutor will provide reports to the Board at its regular meetings on the number, nature, procedure and handling of the complaints received.

(c) Upon review of the complaint, documentation, records and other materials obtained during the course of an investigation, the Board prosecutor will determine whether to initiate the filing of formal charges. The documents, materials or information obtained during the

course of an investigation shall be confidential and privileged unless admitted as evidence during the course of a formal disciplinary proceeding. A person who has investigated or has access to or custody of documents, materials or information which are confidential and privileged under this subsection will not be required to testify in any judicial or administrative proceeding without the written consent of the Board.

(d) The Board prosecutor may enter into negotiations at any stage of the complaint, investigation or hearing process to settle the case by consent agreement.

(1) Consent agreements must be approved as to form and legality by the Office of General Counsel and adopted by the Board.

(2) Until the Board approves a consent agreement, the terms of the agreement are confidential.

(3) Admissions made by a respondent during the course of negotiations may not be used against the respondent in any formal disciplinary proceeding if a consent agreement cannot be reached.

(4) Admissions made by a respondent in a consent agreement that is ultimately rejected by the Board may not be used against the respondent in any formal disciplinary proceeding.

(5) This subsection does not preclude the Board prosecutor from offering, at a formal disciplinary hearing, other evidence to prove factual matters disclosed during the negotiation process.

§ 16.56. Formal hearings open to public.

Formal disciplinary proceedings are open to the public. Members of the press may request in advance of the hearing permission from the presiding officer for the electronic recording of the proceedings. Upon the consideration of objections by the parties, the hearing examiner may permit the electronic recording of the proceeding by members of the press if the presiding officer determines that the recording will not interfere with the efficient conduct or impartiality and fairness of the proceedings.

§ 16.57. Appeal from the hearing examiner's decision.

(a) Unless otherwise ordered by the Board, the decision of the hearing examiner becomes final 20 days after its issuance.

(1) Upon application for review by any party or upon the Board's own motion, the Board will review the hearing examiner's decision.

(2) The Board will review the entire record and, if it deems it advisable, may hear additional testimony from persons already deposed or from new witnesses as well as arguments of counsel to make a Board decision.

(3) Additional testimony will be taken as soon as practicable.

(4) The Board will issue its final decision, along with its findings of fact and conclusions of law, which will be sent by mail to the parties involved.

(b) Unless otherwise ordered by the Board, neither the filing of an application for review nor the Board's own notice of intent to review will stay the hearing examiner's decision.

§ 16.58. Appeal from the Board decision.

The respondent may, within 30 days from the date of the decision of the Board, appeal to the Commonwealth Court under 2 Pa.C.S. § 702 (relating to appeals).

[Pa.B. Doc. No. 05-988. Filed for public inspection May 20, 2005, 9:00 a.m.]

**STATE BOARD OF OSTEOPATHIC MEDICINE
[49 PA. CODE CH. 25]
Continuing Medical Education**

The State Board of Osteopathic Medicine (Board) amends §§ 25.1 and 25.271 (relating to definitions; and requirements for renewal) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

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

Background and Purpose

The final-form rulemaking implements section 910 of the act, which requires completion of 100 credit hours of continuing education as a condition of biennial licensure renewal of physician licenses by the State Board of Medicine and the Board. Although the Board already required 100 credit hours of continuing medical education each biennium, the act imposed a requirement that the Board establish a minimum number of hours in the areas of patient safety and risk management.

Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 34 Pa.B. 563 (January 31, 2004). The Board received comments from the Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC) and the Pennsylvania Medical Society (PMS).

IRRC questioned whether the definition of "approved course" in § 25.1 would allow the Board to accept courses accredited by other organizations such as state medical associations or the American Medical Association. The Board has determined that these courses would be acceptable for all credits except for 20 credit hours which, under § 25.271(c)(1), must be completed in American Osteopathic Association (AOA) category 1-A activities. The AOA has four categories: 1-A (formal educational programs and osteopathic medical teaching); 1-B (activities such as publications, preceptoring, passing a recertification examination, participating in non-AOA accredited institution activities, participating in nonosteopathic continuing medical education programs, journal reading, faculty development programs and test construction committee work); 2-A (formal educational programs that are Accreditation Council for Continuing Medical Education (ACCME) accredited, American Academy of Family Physicians approved or programs sponsored by AOA accredited Category 1 continuing medical education sponsors that do not meet the faculty/hours requirement for Category 1-A credit); and 2-B (activities that include these experiences

as preparation and presentation of scientific exhibits at professional meetings, home study and reading medical journals). IRRC also suggested that the definition of "approved course" include credits not formally accredited by the ACCME and the AOA or that the Board amend § 25.271 to allow other credits for the remaining credit hours. The PMS also noted that the ACCME and the AOA do not accredit sponsors of Category 2 continuing medical education and that much Category 2 continuing medical education is self-directed and has no sponsor. The PMS suggested removing the word "approval" and substituting "medical educational activities" to correct the problem. The Board agreed with the PMS and has changed the term "approved course" to "approved activity." The Board has also defined "approved activity" to mean a continuing medical education activity accepted for AOA credit, ACCME credit or American Medical Association Physician's Recognition Award credit.

The Board, in the final-form rulemaking, also considered Governor Rendell's recommendation made as part of his March 2004 medical malpractice liability proposal that physicians should be required to complete 12 hours of continuing medical education pertaining to patient safety each biennium period. The Board has agreed with this recommendation and has amended the regulations to require 12 hours rather than 10 hours in patient safety and risk management.

IRRC and the HPLC questioned whether licensees would have received sufficient notice to complete continuing education by the deadline for license renewal. The Board has amended § 25.217(c) to require proof of completion of the continuing education credits for the 2006 renewal period. Because the Board currently requires 100 hours of continuing education credits for renewal of licenses, the 2006 biennial renewal date will apply specifically to the requirement that 12 hours of continuing education must be completed in the area of patient safety and risk management. IRRC also asked whether the credit hours in patient safety and risk management are required to be completed in Category 1 or Category 2 courses. The Board has amended § 25.271(c)(1) to clarify that the 12 credit hours may be in either Category 1 or Category 2 approved activities.

IRRC, the HPLC and the PMS asked whether the reference to "remaining 75 credit hours" in § 25.271(c)(1) is a typographical error and should instead read as the "remaining 70 credit hours." The Board agrees that "75" is incorrect and has substituted "the remaining credit hours" in its place because the patient safety hours may be either Category 1 (and go toward the 20 required Category 1 credits) or Category 2. Therefore, it is not clear exactly how many credit hours will be remaining.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will require the Board to alter its license renewal forms to include data regarding the physician's compliance with the continuing education requirements and will also require physicians to maintain their own records of continuing education credits, but otherwise, will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. 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 January 31, 2004, the Board submit-

ted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 563, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the 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 SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 14, 2005, and approved the final-form rulemaking.

Contact Person

Interested persons may obtain information regarding the final-form rulemaking by contacting to Beth Sender Michlovitz, Board Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, bmichlovit@state.pa.us.

Findings

The Board finds that:

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

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

(3) The final-form rulemaking is necessary and appropriate for administration and enforcement of the act.

(4) The amendments to the final-form rulemaking are necessary and appropriate for administration and enforcement of the act and do not enlarge the purpose of the proposed rulemaking published at 34 Pa.B. 563.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by amending §§ 25.1 and 25.271 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*.

THOMAS R. CZARNECKI, D.O.,

Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2703 (April 30, 2005).)

Fiscal Note: Fiscal Note 16A-5313 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 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter A. GENERAL PROVISIONS

§ 25.1 Definitions.

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

ACCME—The Accreditation Council on Continuing Medical Education.

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

AOA—The American Osteopathic Association.

Act—The Osteopathic Medical Practice Act (63 P. S. §§ 271.1—271.18).

Agreement of affiliation—A written document evidencing the agreement between an approved hospital and an urgent care center, emergency center, surgicenter, office of a private practitioner or other health care facility for the training of osteopathic interns, residents or fellows.

Approved activity—A continuing medical education activity accepted for AOA credit, ACCME credit or AMA PRA credit.

Approved graduate osteopathic medical training—An approved internship or an approved residency.

Approved internship—An osteopathic rotating internship program approved by the AOA and the Board.

Approved residency—A training program approved by the AOA and the Board leading toward certification in a specialty or subspecialty.

Board—State Board of Osteopathic Medicine.

Bureau—Bureau of Professional and Occupational Affairs of the Department of State of the Commonwealth.

Category 1 activities—Continuing medical education activities approved for AOA Category 1-A credit, AOA Category 1-B credit, ACCME Category 1 credit or AMA PRA Category 1 credit.

Category 2 activities—Continuing medical education activities approved for AOA Category 2 credit, ACCME Category 2 credit or AMA PRA Category 2 credit.

Emergency medical services personnel—Individuals who deliver emergency medical services and who are regulated by the Department of Health under the Emergency Medical Services Act (35 P. S. §§ 6921—6938).

FLEX—The uniform written examination of the Federation of State Medical Boards of the United States, Inc.

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

NBOME—The National Board of Osteopathic Medical Examiners.

National Board Examination—The uniform written examination of the NBOME.

Subchapter G. LICENSING, EDUCATION AND GRADUATE TRAINING

LICENSURE RENEWAL AND CONTINUING EDUCATION

§ 25.271 Requirements for renewal.

(a) A licensee shall biennially renew his license by completing a form obtained from the Board in advance of October 31 of every even-numbered year, and by paying the required fee. The application shall indicate the following:

(1) Other states where the applicant is licensed.

(2) Disciplinary action taken against the applicant by the licensing boards in other states.

(3) A verdict of guilty, guilty plea or plea of nolo contendere by the applicant to a felony, crime of moral turpitude or crime related to the practice of osteopathic medicine in this or another jurisdiction occurring within the 2 years immediately preceding renewal.

(b) A penalty fee as specified by § 25.231 (relating to schedule of fees) will be imposed on a licensee who continues to practice without having timely renewed his license. The licensee may also be subject to other criminal, civil or administrative penalties.

(c) Proof of completion of 100 credit hours of continuing medical education in the preceding biennial period will be required for licensure renewal for osteopathic physicians.

(1) Beginning with the licensure renewal period commencing November 1, 2006, at least 20 credit hours shall be completed in AOA category 1-A approved activities. At least 12 credit hours shall be completed in Category 1 or Category 2 approved activities in the area of patient safety and risk management. Approved activities in the area of patient safety and risk management may include topics such as improving medical records and recordkeeping, reducing medical errors, professional conduct and ethics, improving communications, preventative medicine and healthcare quality improvement. The remaining credit hours shall be completed in any Category 1 or Category 2 approved activities. Credit will not be granted for courses in office management or practice building.

(2) Physicians shall retain official documentation of attendance for 2 years after renewal, and shall certify completed activities on a form provided by the Board for that purpose, to be filed with the biennial renewal form. Official documentation proving attendance shall be produced, upon Board demand, pursuant to random audits of reported credit hours. Electronic submission of documentation is permissible to prove compliance with this subsection. Noncompliance may result in disciplinary proceedings under section 15(a)(6) of the act (63 P. S. § 271.15(a)(6)).

(3) The following exemptions apply for certain physicians:

(i) A physician applying for licensure in this Commonwealth for the first time shall be exempt from the continuing medical education requirement for the biennial renewal period following initial licensure.

(ii) A physician holding a current temporary training license shall be exempt from the continuing medical education requirement.

(iii) A retired physician who provides care only to immediate family members shall be exempt from the continuing medical education requirement.

(iv) A physician who is on inactive status shall be exempt from the continuing medical education requirement, except that a physician who is seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

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

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

(i) The Board may grant a hardship waiver of all or a part of the continuing medical education requirement in cases of serious illness, military service or other good cause provided that the public's safety and welfare will not be jeopardized by the granting of the waiver.

(ii) Requests for waiver must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why compliance is impossible.

(iii) Waiver requests will be evaluated by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.

[Pa.B. Doc. No. 05-989. Filed for public inspection May 20, 2005, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 53]

[L-00940096]

Updating and Revising Existing Filing Requirements Relating to Water and Wastewater Public Utilities

The Pennsylvania Public Utility Commission (Commission), on February 3, 2005, adopted a final rulemaking order to amend the regulations governing filing requirements for water and wastewater public utilities for general rate increase requests in excess of \$1 million.

Executive Summary

Section 53.53 requires a utility that is requesting a general increase in excess of \$1,000,000 to provide extensive information through the use of data requests in relation to the company's income, revenues, expenses, taxes, rate base, depreciation and rate of return. On October 24, 1994, the Commission issued an Advance Notice of Proposed Rulemaking to solicit comments from water and wastewater utility companies that will be the primary active participants in future rate cases of this nature for the purpose of providing input as to how these filing requirements may be modified to lessen the amount of information needed.

The proposed amendments significantly streamline filing requirements. The proposed amendments also lessen the regulatory burden on all jurisdictional water and wastewater public utilities that request a rate increase in excess of \$1,000,000.

On October 29, 2001, the Commission entered an order proposing to revise its existing tariff filing requirements relating to water and wastewater public utilities. This order was published at 33 Pa.B. 1106 (March 1, 2003). At

that time, the only entity to provide comments to the proposed regulations was the Independent Regulatory Review Commission (IRRC).

On September 26, 2004, the Commission entered a Tentative Final Rulemaking Order giving interested parties 20 days from the entry of the order to provide comments relating to this rulemaking. The Tentative Order further provided that if no comments were received, the Tentative Order was to become final and the regulations were to be submitted through the regulatory review process. If comments were received, the comments were to be reviewed by Staff.

Under the Commission's September 26, 2004, Order, the Office of Trial Staff (OTS), the Office of Small Business Advocate (OSBA) and the Office of Consumer Advocate (OCA) submitted comments to the proposed regulations. This Final Rulemaking Order addresses both the initial comments to the proposed regulations submitted by the IRRC, as well as those comments submitted by the OTS, the OSBA and the OCA in response to the September 26, 2004, Order.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 19, 2003, the Commission submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 1106 (April 3, 2004), to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 13, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 14, 2005, and approved the final-form rulemaking.

Public Meeting held
February 3, 2005

Commissioners Present: Wendell F. Holland, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli

Updating and Revising Existing Filing Requirements Relating to Water and Wastewater Public Utilities; Doc. No. L-00940096

Final Rulemaking Order

By the Commission:

On October 29, 2001, this Commission entered an order proposing to revise its existing tariff filing requirements relating to water and wastewater public utilities. These proposed regulations significantly streamline the filing requirements and lessen the regulatory burden of all jurisdictional water and wastewater utilities that request a rate increase in excess of \$1,000,000.

The October 29, 2001 Order was published March 1, 2003 at 33 Pa.B. 1106. The only entity to provide comments to the proposed regulations was the Independent Regulatory Review Commission (IRRC).

On September 26, 2004, this Commission entered a Tentative Final Rulemaking Order giving interested parties 20 days from the entry of the order to provide comments relating to this rulemaking. The Tentative Order further provided that if no comments were received, the Tentative Order was to become final and the regulations were to be submitted through the regulatory review process. If comments were received, such comments were to be reviewed by Staff.

Pursuant to this Commission's September 26, 2004 Order, the Office of Trial Staff (OTS), the Office of Small Business Advocate (OSBA), and the Office of Consumer Advocate (OCA) submitted comments to the proposed regulations. This Final Rulemaking Order addresses both the initial comments to the proposed regulations submitted by the IRRC as well as those comments submitted by the OTS, the OSBA, and the OCA in response to the September 26, 2004 Order.

IRRC Comments

The comments filed by IRRC do not address concerns relating to the sum and substance of the proposed regulations. Instead, they address primarily language and clarity issues.

IRRC's first comments express concern with regard to "Exhibit D" of the new regulations and the use of the term "test year." Specifically, IRRC was concerned that several different terms were used to reference time frames in Exhibit D. IRRC listed those instances where the term "test year" needed further clarification. In each instance noted by IRRC, with the exceptions of Data Requests VII.10 and VII.11, we have defined the term. Additionally, wherever the term "test year" is used, we have clarified it as either "future" or "historic." In Data Requests VII.10 and VII.11, we have further defined the term "test year" as the actual "Per Book" test year.

IRRC also stated in its comments that the Rulemaking contains terms that could be subject to misinterpretation. In particular, IRRC states that the term "significant" is not sufficiently defined so that the reader would know what is expected.

To address IRRC's concern, in each instance where the term "significant" appears, we have either provided specific parameters or eliminated the term "significant" altogether. In Section II.6, the term has been struck and language added requesting explanation for variances greater than 15%. In Section X.7 "significant" has been struck and language added requesting explanation for variances greater than 15% of the total current asset accounts listed on the balance sheet. In Section X.9, we have eliminated the reference to "significant" items and, instead, required a breakdown, by category, of accounts payable to associated companies. In Sections VI.1 and X.11 the word "significant" has been deleted. Though IRRC lists X.10 as one of the sections that requires clarity because of the term "significant," the word does not appear in this section.

IRRC also states that the term "major" needs clarification because it may be difficult to determine what distinguishes a "major" category from a minor one. We have deleted the term "major" in Sections III.8, III.9, III.12, IX.2a and IX.2b. In Section I.1 we have defined "major" as being any amount greater than 15%. In III.11 we have eliminated the term "by major components" and required that a schedule be submitted showing a breakdown by the expenditures associated with outside services employed, expenses, and miscellaneous general expenses associated with rate cases.

In its comments IRRC asserts that Section I., relating to Statement of Income, is not sufficiently clear. In particular, IRRC states that Data Request I.A.2 (now I.2), Columns 1 and 2 require a "book recorded statement" and that these requirements should specify "income statements" to be consistent with the other columns. To satisfy IRRC's concern about consistency, we have inserted the word "income" in Columns 1 and 2. For the purpose of clarification we have also changed the wording of Data Request I.A.2 (now I.2), so that that section now reads "Prepare an Income Statement..."

IRRC also expressed a concern that Data Request I.A.2. (now I.2), Column 5 includes the term "requested rates" whereas Data Request I.4.c contains the term "proposed rates." It was IRRC's position that one term should be used consistently. Pursuant to this comment, we deleted the word "requested" in Data Request I.A.2. (now I.2), Column 5 and inserted the word "proposed" so that the terms are consistent.

IRRC also commented that it was concerned with certain "clarity" issues relating to Operating Revenues (Section II). Specifically, IRRC stated that it was not clear what was meant by the term "customer forfeited discount" found in Section II.1.b. This term also appears in I.2.a. The account entry for "customer forfeited discount" is no longer utilized for ratemaking purposes because there are no longer such discounts in rate structures. Therefore, this term has been eliminated in both places.

With regard to Operating Revenues, IRRC was also concerned with the term "various" as it appears in Section II.3 where the regulation requires a utility to provide increases to customers at "various monthly uses." Pursuant to IRRC's comment, the term "various monthly uses" has been defined as "5,000 gallon consumption increments."

IRRC also commented that Data Request II.12 does not specify what rates should apply to the term "test year." As stated previously, we have inserted the term "historic" to define "test year." Also, the words "current rates" were added to this sentence to address IRRC's concern that the sentence should specify which current rates the PUC will require.

In relation to Operating Expense (Section III), IRRC's comments expressed a concern regarding clarity in Section III.3. IRRC stated that the term "sufficient supporting data" should specify what supporting data must be provided. In response to IRRC's comments, the phrase "such as explanation and breakdown of costs" was added to Section III.3.

IRRC also expressed a concern regarding Section III.7 because it appeared that there were some words missing in the second sentence of that section. To remedy this concern, this sentence has been restructured to avoid confusion.

Finally, IRRC stated that the phrase "regulatory commission expense" found in Section III.11 should be clarified or defined. In response to this comment we further defined "regulatory commission expense" by identifying rate case expense as a separate item within that category.

With regard to Section V, which addresses Rate Base, IRRC was concerned that the term "final completion data" found in Section V.3 is unclear and suggested that the Commission provide examples of what data is required. To address IRRC's concern we have eliminated the

term “final completion data” and, instead, stated the necessity that each project must be detailed and that this detail must include “a list of items needed to complete these projects (such as landscaping and fencing).”

IRRC’s comment on Section VI voiced a concern that this section was requesting virtually identical information to the information requested by Chapter 73 of 52 Pa. Code. Therefore, IRRC questioned whether a utility, that is required to file under Chapter 73, can incorporate its annual depreciation report, by reference, to comply with Section VI. To this end, we have added a statement in Section VI that states that if a question has been previously answered pursuant to 52 Pa. Code, Chapter 73, the utility should so note and that it is not necessary for the utility to answer previously answered questions.

IRRC also expressed a concern that VI.4 required a company to provide a comparison of the utility’s calculated depreciation reserve versus book reserve, by account, at the end of the test year. IRRC’s concern is that if a utility has been using a book reserve for ratemaking, there would be no purpose for a calculated depreciation reserve. In relation to this comment we have explained the information required by stating that the calculated depreciation reserve is for ratemaking purposes and that the book reserve, by account as of the end of the test year, must be compared, if they differ.

IRRC’s comments stated that with relation to Section VII (Rate of Return), Data Request VII.15.c requires companies to provide “all SEC 10Q reports issued within last year.” IRRC stated that the Commission should include a specific time period for these reports. Pursuant to IRRC’s comments, we have specified that those 10Q reports that must be provided should relate specifically to the latest 12 months.

IRRC was also concerned that Section VII.20 states that a response “should identify for each project issuance date ...” IRRC questioned whether any or all of those categories are optional and, if not, the Commission should replace the word “should” with the word “shall.” Section VII.20 has been changed so that the word “shall” now appears in this section.

With regard to Data Request VII.25, IRRC had two concerns. The first concern related to the method by which the Commission would treat documents in a confidential manner while the second concern questioned how a company could request confidentiality. In relation to both comments, IRRC stated that the regulation should include a cross-reference to the Commission’s confidentiality requirements.

To address IRRC’s concern, we have added language to the regulation stating that the information will be treated in a confidential manner if requested by the company in writing. We have also cross referenced 52 Pa. Code § 5.423, which sets forth PUC’s procedures for protective orders.

In reviewing Section VIII of Annex A, IRRC commented that Data Request VIII.2 should define the term “special rate contracts.” Pursuant to this comment, “special rate contracts” has been expressly defined in VIII.2 as any rate not contained in the tariff.

IRRC submitted three comments with relation to Section IX (Quality of Service). The first comment questioned whether the information required in Data Request IX.1 may already be in the PUC files under different venues and, if so, whether a utility could exercise 52 Pa. Code § 53.53(b) to fulfill these data requests. The information

requested in Data Request IX.1 is not specifically provided in any other venues. Therefore, these sections have remained unchanged.

The other two comments that were submitted by IRRC relating to Section IX related to citations in IX.1.a and IX.2. Regarding IX.1.a, IRRC stated that the Commission’s citation to 25 Pa. Code § 109.401 should read 25 Pa. Code § 109.407. IRRC also notes that in Data Request IX.2, 52 Pa. Code § 65.5(a) should read 52 Pa. Code § 65.6(a). Both citations have been corrected.

With regard to the title of Exhibit D, IRRC stated that the title “A. Water and Wastewater Utilities” appearing under the heading “I Statement of Income” is misplaced. This is because all of Exhibit D relates to water and wastewater utilities and, therefore, this title should be moved so that the regulation reads “Exhibit D—Water and Wastewater Utilities.” The Commission has reviewed this comment and changed the title of Exhibit D as suggested by IRRC.

IRRC also commented that, with regard to Section II, relating to Operating Revenues, Data Request II.6 requires an analysis of miscellaneous water revenues but is not clear as to what analysis could be done on miscellaneous water revenues. For the purposes of clarity, we have specified in Data Request II.6 that a detailed breakdown is to be provided of miscellaneous water revenues for the historic test year and the two years immediately preceding the historic test year.

In Section III, relating to Operating Expense, IRRC states that Data Request III.5.h requires “any deferred income and consultant fee.” IRRC queried whether the conjunction “or” should be used instead of “and.” After reviewing this comment, we have determined that the use of the word “and” is correct. However, to further clarify this section we have added the words “paid to both” to this section and have changed the phrase “officers or employees” to “officers and employees.”

IRRC also commented that the regulation should specify what information is required under Data Request III.9.c where the abbreviation “etc.” is used. We have further clarified III.9.c by eliminating “etc.” and inserting the words “rules and regulations.”

In Section IV of Exhibit D, relating to taxes, IRRC stated that Data Request IV.1 includes the phrase “PA Corporate Tax Report” and “PA Corporate Tax Settlement” while Data Request IV.15 contains the phrase “Pennsylvania Taxes.” According to IRRC, for consistency purposes, the term “Pennsylvania” should be used consistently throughout this section, as well as the rest of the regulation. To satisfy IRRC’s comment, we have spelled out “Pennsylvania” wherever it appears in this regulation.

With regard to Data Request IV.13, IRRC stated that it had four concerns. First, the word “thereunder” is repetitive and should be deleted; second, the closing sentence should not be in parenthesis; third, the phrase “so stated” should be replaced with “provide an explanation;” and, finally, the term “interrogatory” is inconsistent with § 53.53(a), which states the exhibits contain “data requests.”

After reviewing IRRC’s concerns with regarding to IV.13 we have made the changes suggested by IRRC in each of the four instances. Therefore, the word “thereunder” has been deleted; the closing sentence is no longer in parenthesis; the phrase “so stated” has been replaced with “provide an explanation;” and the term “interrogatory” has been replaced with the “data requests.”

In its comments IRRC stated that Data Requests V.2, 3, and 5 contain sentences and phrases in parentheses that are not needed and should be deleted. Additionally, IRRC noted that Data Request V.7(c), (d), and (e) contain the abbreviation "PA." To comply with IRRC's comments, we have eliminated the parentheses in V.2, 3, and 5. In regard to the abbreviation "PA," as stated *infra*, the word "Pennsylvania" has replaced all abbreviations.

Finally, regarding Rate Base, IRRC stated that the phrase "in providing water service" in Data Request V.15 appears to be incomplete since this regulation applies to water and wastewater and that the term "wastewater" should be added to this paragraph. To this end, we have inserted the word "wastewater" in V.15.

With regard to Section VII, relating to Rate of Return, IRRC expressed concern that Data Request VII.16 contains the phrase "month/quarter" and that it is not clear whether the "/" denotes the word "and" or the word "or." This concern has been addressed by our deleting the "/" and inserting the word "or."

IRRC also expressed concern that the term "and/or" is used in Data Requests VII.22 and 32 and that this construction should not be used and should be replaced with specific filing requirements. To address this concern we have deleted the "/or" in Data Request VII.22. Further, we have deleted the term "and/or" and inserted language that provides that in the appropriate instances, the company, its parent, or both, will supply financial data for the last five years.

In Section VIII.1, relating to Rate Structure and Cost of Service, IRRC stated that the term "approximately" is vague and that a definitive time frame should be included in the final form regulation. To comply with this suggestion, we have deleted the term "approximately" so that a definitive term of three years is set forth in VIII.1.

In addressing Section XI, relating to Other Data, IRRC questioned why the requirement for companies to submit balance sheets and income statements for each month were required in this section as opposed to elsewhere in the regulation, such as Section 1. The placement of this requirement was discussed by all parties concerned, including governmental agencies, associations and industry representatives. The result of those discussions and negotiations between the parties was a general consensus that the best placement of this requirement is in this section.

Lastly, in its comments IRRC listed a number of typographical and clerical issues that needed to be corrected. IRRC also expressed concern about acronyms that were used in Exhibit D but that were not defined. In each instance, we have reviewed the suggestion made by IRRC and made the necessary corrections. Therefore, all typographical and clerical errors have been corrected and all acronyms have been defined.

The following comments were filed to the Commission's Tentative Final Rulemaking Order and thus, some comments will refer to amendments shown in the tentative final order that were not present in the Proposed Rulemaking Order.

OTS Comments

In the OTS comments, two separate concerns were expressed. The first concern is that the various delineations of the terms "historic" and "future" in reference to test years included in the data requests are cumbersome and confusing. To this end the OTS, as well as the OCA,

supports the continued use of the term "test year" without qualifying whether the test year should be "historic" or "future."

To address these concerns, as well as the concerns of the IRRC (which supports the defining test years as "historic" or "future"), we have reviewed each reference to "historic" and "future" test years and determined whether it is appropriate to include either or both terms and, where relevant, have defined which test year data should be specified.

The OTS was also concerned with Exhibit D, Section I.1 that provides for a water/wastewater utility to supply a detailed explanation pertaining to the causes of variances between the historic test year and preceding test year that are greater than 15 percent. Both the OTS and the OCA prefer the use of the words "major" and "significant" in lieu of the 15 percent limitation. Both the OTS and the OCA assert that it is preferable to leave the decision concerning which data to include in the filing up to the discretion of the utility.

OCA Comments

As stated previously, the IRRC is concerned that the use of the terms "major" and "significant" does not provide sufficient clarification as to what is expected. So that this section provides some clarity, as well as to afford the utility some degree of discretion in terms of which variances need to be explained in their filings, we have added the words "limit the explanation to the differences of \$10,000 or greater" to the end of Section I.1. This provides a threshold for the utility to acknowledge and, at the same time, provides some degree of discretion as to when an explanation is needed.

The OCA also commented that, with regard to Section II.3 the phrase "various monthly uses" should be retained and the decision on the amount of data to be provided for each customer group should be left to the discretion of the utility. The OCA believes that the term "various monthly uses" is preferable to the 5000 gallon consumption increments. To the contrary, the IRRC recommended clarification of the term "various monthly uses."

So that the term "various monthly uses" is more precisely defined, we have retained the 5000 gallon consumption increments in Section II.3. Further, we have provided in II.3 that a copy of the proposed tariff or tariff supplement should be provided on a "red-line" basis to easily identify any changes. To require provision of this information on a red-line basis will simplify the process of identifying changes.

The OCA stated in its comments that the phrase "forfeited discounts" found in Sections II.1.b and II.2.a should not be stricken since this phrase is commonly understood in the industry. Additionally, the OCA states that this terminology is the terminology used in the National Association of Regulatory Commissioners Uniform System of Accounts that all water and wastewater utility must use.

This Commission now utilizes the term "penalty" and not "forfeited discounts." Discounts are no longer offered and the correct terminology as adopted by this Commission is "penalties."

The OCA states that Section II.12 should be changed so that the phrase "at current rates" should be deleted, as well as the word "historic." Additionally, the OCA would either eliminate the word "future" from the second sentence in Section II.12 or add the word "historic" to this sentence so that both historic and future test year data would be provided.

In reviewing the OCA's comments, we are of the opinion that historic test year data and the two prior years consumption data and billing data for the ten largest water customers at current rates is valuable information that should be reviewed in a rate filing. Therefore, the term "historic" should remain in the first sentence. We are also of the opinion that the OCA is correct and that the second sentence of II.12 should provide for historic, as well as future test year data and have added the words "historic and future" to this sentence.

The OCA states that in Section III.5.h words were inadvertently deleted and that the sentence should read "submit a schedule showing any deferred income and consultant fees to corporate officers and employees." After reviewing this section, the Commission has made this change.

The OCA states that in Section III.7 the phrase "if allocated from the parent company" should be deleted. According to the OCA, this would imply that utilities that are not part of a holding company system need not provide the explanation for calculating the monthly annual payments made pursuant to various leases.

After reviewing the OCA's comments, we are of the opinion that the phrase "if allocated from the parent company" should remain in the regulation but we have further clarified this section in a way that addresses the concerns stated in the comments. Specifically, we have inserted the words "provide the method of allocation" to Section III.7. Providing this method will allow parties to review these costs where allocated, and to determine to whom these costs were allocated.

The OCA's comments also address Section III.11 and its elimination of the phrase "regulatory commission" to modify the word "expenses" and state that the change limits the data requested to expenses relating to rate cases. The OCA states that the phrase "regulatory commission expense" encompasses not only the regulatory costs of the rate proceedings but also other types of proceedings such as tariff filings. The OCA also asserts that the phrase "by major components" should be reinserted into this section.

After reviewing the OCA's comments, we have changed Section III.11 so that companies are required to submit a schedule that will show expenses relating to rate cases separately from other expenses. This will address the OCA's concern since it will specifically define which expenses are related to rate cases expenses in addition to other regulatory expenses. With regard to reinserting the phrase "by major components" we, as well as the IRRRC, are of the opinion that this phrase is too vague and have not reinserted it.

The OCA states that in Section III.15 the word "historic" should be replaced by the word "future" or, in the alternative, deleted. Additionally, in Section III.20, the OCA states that the question mark "(?)" should be replaced by a period "(.)."

In addressing the OCA's concern relating to Section III.15, we have provided further clarification by stating at the end of that section that the company must "Provide any estimates for the future test year." In relation to the OCA's comments regarding Section III.20, we have replaced the question mark "(?)" with a period "(.)."

In its comments, the OCA states that the word "future" should be deleted from Section IV.4.a so that the requirement generates data from both the historic and future

test years. The OCA expresses the same concern in relation to Sections IV.7 and IV.12.

As stated previously, we have reviewed all "historic" and "future" test year references and, where appropriate, we have clarified the requirements. Specifically, with regard to Section IV.4.a, we have addressed the OCA's concern by adding a sentence at the end of IV.4.a. that reads "if based on the historic test year, justify." Similarly, we have addressed the OCA's concerns regarding Sections IV.7 and IV.12 by adding the words "historic and future" to both sections.

The OCA also expressed a concern with the term "data request," which was substituted for the term "interrogatory" in Section IV.13. According to the OCA, neither word is correct and the word "requirement" should be inserted.

After reviewing this comment, we have changed the wording by eliminating the word "data" and retaining the word "request." It is our opinion that this more accurately describes what is required.

In the OCA's comments, a concern is expressed regarding Section VII.16 in that the term "month and/or quarter" has been stricken in favor of "month or quarter." According to the OCA, large water utilities often submit monthly data and this data is critical to the rate of return analysis so that the utility should not have the option of providing only quarterly data. Therefore, the OCA submits that the requirement should read "for each month for the last two years." After reviewing this section, we are in agreement with the OCA. Therefore, we have eliminated "/or quarter" so that Section VII.16 now reads "... each month for the last two years."

In its comments, the OCA states that Section VII.32 should be changed so that a utility is not given the option of filing data for either the utility or the parent. According to the OCA, this requirement should apply to both the utility and the parent and should be changed to read "... supply financial data of the company and its parent, if any ..."

We agree that Section VII.32 should be restated. To this end, this Section will now read "... supply financial data of the company and its parent, if applicable ..."

Finally with regard to Section VIII.1, line 5, the OCA states that the insertion of the words "or wastewater" is not correct because there are no wastewater "users." The OCA recommends the substitution of the word "customers" for the word "users." Similarly, the OCA states that Section IX.2.a is not correct because water pressure is not an issue in wastewater systems.

After reviewing these comments, we have changed the wording in Section VIII.1, line 5, so that the word "customer" has replaced the word "users." Moreover, we have deleted the words "or wastewater" found in Section IX.2.a and substituted the words "transmission and" to address the OCA's comments.

OSBA Comments

The OSBA also filed comments to these proposed regulations. The OSBA's first comment states that Exhibit D Section VIII.1 implies that there could be more than the presently permitted 3-year lapse between the last required complete cost of service study and the future test year in the current filing. Additionally, the OSBA states that because the proposed regulations would drop the alternative requirement that a production-only cost of service study be filed, the filing of a complete cost of service study for major rate cases might end. As a consequence, the OSBA submits, if a utility were to

choose not to file a complete cost of service study, extensive discovery would be necessary to evaluate whether the utility is making progress in eliminating class subsidies and moving rates toward cost of service.

It is our opinion that the information required by Section VIII.1 will either be sufficient to obtain the information necessary to evaluate a company's rate structure position or major companies requesting an increase of \$1,000,000 or more will, in most cases, file a complete cost of service study since those companies also have an interest in moving rates toward cost of service. Furthermore, this matter was specifically addressed at the collaborative meetings between the interested parties. The OTS, the OSA and the OSBA were all present or invited to attend these meetings and Exhibit D Section VIII.1 is a result of that collaborative. Therefore, it is the Commission's position that Section VIII.1 should remain as proposed.

The OSBA also comments that the present Section 53.53, Exhibit A, IV(A)(1)(f) requires the filing of testimony and exhibits to explain the extent of shifting revenue burden between customer classes while the proposed regulations would drop this requirement. According to the OSBA, such testimony is adequately necessary in order for a utility to meet its burden of proof.

We agree with the OSBA's position in that submitting such testimony will, in all likelihood, be necessary in order for the utility to meet its burden of proof. In fact, the proposed regulations do not avoid the requirement of a utility submitting testimony and exhibits and, it is expected that large utilities such as the ones to which this regulation applies will continue to submit such testimony. If not, there will be a substantial risk that the burden of proof will not be met.

It should also be mentioned that much of the information about which the OSBA seems concerned is addressed in Section VIII.1.a-j. It is apparent that testimony on these issues and exhibits are a necessary part of the company's rate case. Therefore, we are of the opinion that the regulations, as proposed, address the OSBA's concern regarding this issue.

The OSBA's comments also state that Section II.3 does not require the filing of a company's current tariff but only the one that the company is proposing in its rate filing. According to the OSBA, relieving the utility of having to file a copy of the current tariff would shift the burden of retrieval to parties other than the company and, in the case of a utility that has multiple, non-continuous divisions, this burden could be unreasonable. The OSBA suggests that, as a compromise, a utility should be relieved of filing the current tariff but should be required to file the proposed tariff on a red-lined basis so that the changes could be readily identified.

After reviewing and considering the OSBA's comments relating to Section II.3, we are of the opinion that the OSBA's suggestion is a good one. Therefore, we have added to the end of Section II.3 the words "on a red-line basis, to easily identify any changes."

Section XI.5 requires the filing of a statement indicating unaccounted for water in the test year and the two prior years. In the current regulation, utilities are required to file a statement indicating unaccounted for water in the test year and the four prior years. The OSBA questions whether relaxing the filing requirement would be a significant benefit to the utility and whether it would simply increase the amount of discovery needed in cases involving utilities for which unaccounted for water has been a problem.

After reviewing the OSBA's comment relating to Section XI.5, we are of the opinion that Section XI.5 should remain as proposed. Unaccounted for water is calculated in annual reports and unaccounted for water schedules are now more detailed than they were when these regulations were originally written. Moreover, the calculations for unaccounted for water are rarely a problem as related to large water companies. Finally, this is an issue that was addressed at the collaborative meetings of all the parties herein and resolved through that method.

In the OSBA's comments, it is stated that proposed Section II.9 requires the filing of a statement showing the number of customers and water consumption by customer classification for the test year, two years prior to the historic test year, and two years after the historic test year. According to the OSBA, the requiring of the utility to file two years of projected data including the future test year would be more likely to increase the filing burden than to reduce it. The OSBA states that the current filing requirement under which a utility must file a statement showing the number of customers and water consumption by customer classification for the test year and four prior years should be retained.

Once again, this section, as the others mentioned herein, was drafted pursuant to collaborative meetings in which all the parties hereto were present or invited. After numerous meetings and discussions, the parties decided that Section II.9 is a fair and equitable resolution of data required to be filed.

The OSBA states in its comments that if a utility has customers being billed at a flat rate, it should continue to be required to provide a statement or feasibility study showing why the customers should not be metered pursuant to 52 Pa. Code § 65.7(d). The OSBA is apparently concerned that the elimination of Section 53.53(IV)(A)(2)(e) would affect a utility's requirement to provide such a statement.

After reviewing and considering the OSBA's comment regarding this matter, we are of the opinion that the retention of Section 53.53 IV, Exhibit A, (A)(2)(e) is not necessary, particularly for those companies that are of the size affected by the proposed regulations. When a problem may exist, 52 Pa. Code § 65.7(d) still may be applied.

Finally, the OSBA comments that Section II.4, as proposed, states that data must be filed "to support present and proposed rates by customer classification and tariff rate schedule." The OSBA states that this section is presumably intended to require proof of revenues and that the word "rates" should be deleted and replaced by the word "revenues."

We have considered the OSBA's comments in regard to this section and are of the opinion that the OSBA is correct. Therefore, we have changed the word "rates" to the word "revenues" in Section II.4.

Conclusion

Accordingly, under sections 501 and 503 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 503; 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 at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth's Attorneys Act, 71 P. S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P. S. § 745.5; and section 612 of The Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.251—7.235, we find that the regulations at 52 Pa. Code § 53.53 should be amended as set forth in Annex A; *Therefore,*

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 53, are amended by amending § 53.53 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

2. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for review by the designated standing committees of both the Houses of the General Assembly and for review and approval by IRRC.

6. A copy of this order and Annex A shall be served upon the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate and the National Association of Water Companies.

7. The final regulation in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2703 (April 30, 2005).)

Fiscal Note: Fiscal Note 57-223 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

INFORMATION FURNISHED WITH THE FILING OF RATE CHANGES

§ 53.53. Information to be furnished with proposed general rate increase filings in excess of \$1 million.

(a) When a public utility, other than a canal, turnpike, tunnel, bridge or wharf company, files a tariff or tariff supplement seeking a general rate increase within the meaning of 66 Pa.C.S. § 1308(d) (relating to voluntary changes in rates), and the general rate increase exceeds \$1 million in gross annual revenues, in addition to the data required by other provisions of this chapter, the tariff or tariff supplement shall be accompanied by responses to the data requests contained in the following exhibits which apply to the utility types indicated.

(1) Exhibit A—Utilities except communications, electric, water and wastewater utilities.

(2) Exhibit B—Communications utilities.

(3) Exhibit C—Electric utilities.

(4) Exhibit D—Water and wastewater utilities.

(b) In providing responses to these data requests, if the requested data have been previously filed with the Com-

mission, they may be incorporated by reference. Also, the term "historic test year" as used in these exhibits refers to the test year chosen by the utility to support its filing, that is, presumably future test year data would be supplied in most cases. "Historic test year," as referred to in Exhibit D, is defined as book figures for the base test year. The term "future test year," as used in Exhibit D, refers to the adjusted historic test year for known and measurable changes 12 months beyond the book figures for the base year, or the utility's final claimed supporting data.

(c) Initial utility direct testimony of a witness who shall testify in support of the utility's position shall be provided as part of the filing materials. The testimony of the filing utility shall include a complete explanation and justification of claims which depart from the unadjusted test year results of operations, including the methodology and rationale. The testimony shall be accompanied by supporting worksheets, if necessary, and shall refer to supporting exhibits to which the testimony relates. The explanation and documentation of the proposed adjustments shall enable a reasonably informed party to determine how the amount was calculated and to understand why the amount is being claimed.

Exhibit A

I. VALUATION

* * * * *

E. (Reserved)

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III. BALANCE SHEET AND OPERATING STATEMENT

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C. (Reserved)

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IV. RATE STRUCTURE

A. (Reserved)

* * * * *

Exhibit D

WATER AND WASTEWATER UTILITIES

I. STATEMENT OF INCOME

1. Provide comparative operating statements for the historic test year and the immediately preceding 12 months showing increases and decreases between the two periods. These statements should supply detailed explanation of the causes of the major (greater than 15%) variances between the historic test year and preceding year by detailed account number. Limit the explanation to differences of \$10,000 or greater.

2. Prepare an income statement for the various time frames of the rate proceeding including:

Col. 1—Book recorded income statement for the test year.

2—Adjustments to book recorded income statement to annualize and normalize under present rates.

3—Income statement under present rates after adjustments in Col. 2.

4—Adjustments to Col. 3 for revenue increase requested.

5—Income statement under proposed rates.

3. If a company has separate operating divisions, an income statement must be shown for each division, plus an income statement for the company as a whole.

4. Provide operating income claims under:
 - a. Present rates.
 - b. Pro forma present rates (annualized & normalized).
 - c. Proposed rates (annualized & normalized).
5. Provide rate of return on original cost under:
 - a. Present rates.
 - b. Pro forma present rates.
 - c. Proposed rates.

II. OPERATING REVENUES

1. Prepare a summary of operating revenues for the historic test year and the year preceding the historic test year, providing the following information:

- a. For each classification of customers:
 - (i) Number of customers as of year-end.
 - (ii) Gallons sold.
 - (iii) Revenues.
- b. Customers' penalties and miscellaneous water revenues.

2. Prepare a summary of operating revenues for the historic test year, providing the following information:

- a. For each classification of customers and for customers' penalties and miscellaneous water or wastewater revenues:
 - (i) Revenues.
 - (ii) Annualizing and normalizing adjustments to arrive at adjusted operating revenues for ratemaking.
 - (iii) Proposed increase in operating revenues.
 - (iv) Percent increase in operating revenues.
 - (v) Operating revenues under proposed rates.

3. Provide a schedule of present and proposed tariff rates showing dollar change and percent of change by block. Provide increases to customers at various monthly uses (each 5,000 gallon consumption increment) showing billings at existing and proposed rates. Provide also an explanation of any change in block structure and the reason therefore. Provide a copy of the proposed tariff or tariff supplement on a red line basis, to easily identify any changes.

4. Provide for the future test year a detailed customer consumption analysis and the application of rates to support present and proposed revenues by customer classification and tariff rate schedule.

5. Provide detailed computations of the determination of accrued revenues as of historic test year-end and year-end immediately preceding the historic test year, together with a detailed explanation of the procedures and methods used in developing accrued revenues.

6. Provide a detailed breakdown of miscellaneous water revenues for the historic test year and the two years immediately preceding the historic test year. For the historic test year, provide a monthly breakdown and an explanation of monthly variances greater than 15%.

7. Provide a monthly summary of customers added and lost by customer classification for the historic test year and the current year-to-date.

8. Provide for the historic test year and the current year-to-date, the number of customers and monthly consumption for each classification of customers.

9. Provide by customer classification for the historic test year and for the 2 prior years the number of customers and consumption, and projected number of customers and consumption for the 2 subsequent years.

10. Provide a breakdown of the number and size of private fire services according to the general water service class of customers.

a. Provide a listing of all public fire protection customers at historic test year-end and the pro forma billing of current rates for each customer.

11. Provide a detailed schedule of sales for resale revenues for the historic test year and 2 preceding years showing revenues and units sold by customer.

12. Provide for the historic test year and the 2 prior years consumption and billings for the ten largest customers at current rates. Provide the historic and future test year consumption priced at proposed rates.

13. Provide for the historic test year and the 2 prior years consumption and billings for the ten largest sales for resale customers if such sales are not included in sales to the ten largest customers requested in Part II.12.

III. OPERATING EXPENSE

1. Prepare a summary of operating expenses by operating expense account for the historic test year and the 2 years preceding the test year.

2. Prepare a summary of operating expenses for the historic test year providing annualizing and normalizing adjustments to arrive at adjusted future operating expenses for ratemaking, including supporting data.

3. List extraordinary property losses as a separate item, not included in operating expenses or depreciation and amortization. Sufficient supporting data must be provided, such as explanation and breakdown of costs.

4. Supply detailed calculations of normalization of rate case expense, including supporting data for outside services rendered. Provide the items comprising the rate case expense claim (include the actual billings or invoices in support of each kind of rate case expense) and the items comprising the actual expenses of the prior rate cases.

5. Submit detailed computation of adjustments to operating expenses for salary, wage and fringe benefit increases (union and nonunion merit, progression, promotion and general) granted during the historic test year and during the 12 months subsequent to the historic test year. Supply data for the historic test year showing:

a. Actual payroll expense (regular and overtime separately) by categories of operating expenses, i.e., maintenance, operating transmission, distribution, other.

b. Date, percentage increase and annual amount of each general payroll increase during the historic test year and future test year.

c. Dates and annual amounts of merit increases or management salary adjustments.

d. Total annual payroll increases in the historic and future test years.

e. Proof that the actual payroll plus the increases equal the payroll expense claimed in the supporting data by categories of expenses.

f. Detailed list of employee benefits and cost thereof for union and nonunion personnel. Specific benefits for executives and officers should be included, and costs thereof.

g. Support the annualized pension cost figures by providing the following:

(i) State whether these figures include any unfunded pension costs. Explain.

(ii) Provide latest actuarial study used for determining pension accrual rates.

h. Submit a schedule showing any deferred income and consultant fee, paid to both, corporate officers and employees in historic and future test years.

6. Supply an exhibit showing an analysis, by functional accounts, of the charges by affiliates (service corporations, etc.) for services rendered included in the operating expenses of the filing company for the historic and future test years and for the 12-month period ended prior to the historic test year:

a. Supply a copy of contracts, if applicable.

b. Explain the nature of the services provided.

c. Explain the basis on which charges are made.

d. If charges are allocated, identify allocation factors used.

e. Supply the components and amounts comprising the expense in this account.

f. Provide details of initial source of charge and reason thereof.

7. Describe costs relative to leasing equipment, computer rentals, and office space, including terms and conditions of the lease. Explain the method of calculating monthly or annual payments. If allocated from the parent company, provide the method of allocation.

8. Submit detailed calculations (or best estimates) of the cost resulting from storm damage.

9. Submit details of expenditures for advertising (national, institutional and local media). Provide a schedule of advertising expense by media categories for the historic test year and the prior two comparable years with respect to:

a. Public health and safety.

b. Conservation of energy.

c. Explanation of billing practices, rates, rules and regulations.

d. Provision of factual and objective data programs in educational institutions.

e. Other advertising programs.

f. Total advertising expense.

10. Prepare a detailed schedule for the historic test year showing types of social and service organization memberships paid for by the company and the cost thereof.

11. Submit a schedule showing a breakdown by the expenditures associated with outside services employed, regulatory commission expenses, showing expenses relating to rate cases separately, and miscellaneous general expenses, for the historic test year and prior 2 comparable years.

12. Submit details of information covering research and development expenditures, by project, within the company and note forecasted company programs.

13. Provide a detailed schedule of all charitable and civic contributions by recipient and amount for the historic test year.

14. Provide the two most recent actuarial studies for both pension expense and postretirement benefits other than pensions (OPEBs).

15. Identify the total pension expense under statement of accounting standards (SFAS 87) for the historic test year and the portion charged to operation and maintenance (O & M). Include an analysis showing the contribution to the pension plan and the amount deferred or expensed for each of the past 2 years and the historic test year. Also provide any estimates for the future year.

16. Provide an analysis of OPEBs showing the accrual amount under SFAS 106 and the pay-as-you-go expense.

17. Reconcile the historic and future test year SFAS No. 106 expense levels with the amount identified in the actuarial report.

18. Identify the actual or projected amounts contributed to SFAS No. 106 funds for the historic and future test years. Identify the actual or projected dates and amounts of the contributions.

19. Explain the funding options or plans which are being used for SFAS No. 106 costs. Identify the portion of costs which are eligible for tax preferred funding.

20. State whether the company is studying or anticipating any changes to its postretirement benefits offered to employees as a result of SFAS No. 106 or for other reasons. If yes, provide the study and explain the anticipated change.

21. State whether the historic test year expenses reflect any accruals for postemployment benefits under SFAS 112. If yes, provide complete details including supporting documentation, assumptions, and funding mechanisms.

22. Provide a copy of all incentive compensation and bonus plans and provide the level of related bonus payments included in the cost of service. Provide information for the preceding 2 years and any changes since the last rate case.

23. Provide the most recent insurance premiums for each type of insurance coverage, both employee benefit and those purchased for the company, reflected in the company's filing. If available, provide estimated premiums for the subsequent calendar year.

24. Provide the level of payments made to industry organizations included in the cost of service along with a description of each payee organization.

25. If the company has included any costs associated with canceled construction projects or obsolete inventory in requested rates, separately identify the items, provide the related amounts and explain the reason for the cancellation or obsolescence.

26. Explain how the company accounts for vacation pay for book and ratemaking purposes.

27. Indicate whether any employee positions have been eliminated since the commencement of the historic test year or are expected to be eliminated during the future test year.

28. Furnish the name of each supplier, gallonage and expense for water purchased as recorded in Water Purchased for Resale-Account 706 for the historic test year and two preceding years.

IV. TAXES

1. Provide a copy of the latest Pennsylvania Corporate Tax report and the latest Pennsylvania Corporate Tax settlement.

2. Submit details of calculations for taxes, other than income, where a company is assessed taxes for doing business in another state, or on its property located in another state.

3. Submit a schedule showing for the last 3 years the Income Tax refunds, plus interest, net of taxes, received from the Federal government due to prior years' claims.

4. Provide detailed computations showing the deferred income taxes derived by using accelerated tax depreciation applicable to post-1969 utility property that increases productive capacity, and accelerated depreciation rate (ADR) rates on property (separate between State and Federal; also, rate used). If based on the historic test year, justify.

a. State whether tax depreciation is based on all rate base items claimed as of the end of the future test year, and whether it is the annual tax depreciation at the end of the future test year.

b. Reconcile any difference between the deferred tax balance, as shown as a reduction to measures of value (rate base), and the deferred tax balance as shown on the balance sheet.

5. Submit a schedule showing a breakdown of accumulated investment tax credits, (3%, 4%, 7%, 10% and 11%), together with details of methods used to write-off the unamortized balances.

6. Submit a schedule showing the adjustments for taxable net income per book, including below-the-line items, and pro-forma under existing rates, together with an explanation of any difference between the adjustments. Indicate charitable donations and contributions in the tax calculation for ratemaking purposes.

7. Submit detailed calculations supporting historic and future taxable income before State and Federal Income Taxes where the income tax is subject to allocation due to operations in another state, or due to operation of other taxable utility or nonutility business, or by operating divisions or areas.

8. Furnish a breakdown of major items comprising prepaid and deferred Income Tax charges and other deferred income tax credits and reserves by accounting areas.

9. Explain the reason for the use of cost of removal of any retired plant figures in the Income Tax calculations.

10. State whether all tax savings due to accelerated depreciation on property installed prior to 1970 have been passed through to income. If not, explain.

11. Show any income tax loss/gain carryovers from previous years that may affect historic test year income taxes or future test year Income Taxes. Show loss or gain carryovers by years of origin and amounts remaining by years at the end of the historic test year.

12. Provide a detailed analysis of taxes accrued per books as of the historic and future test year date. Also supply the basis for the accrual and the amount of taxes accrued monthly.

13. Under Section 1552 of the Internal Revenue Code and Regulations at 1.1552-1 if applicable, a parent company, in filing a consolidated Income Tax return for the group, must choose one of four options by which it must

allocate total income tax liability of the group to the participating members to determine each member's tax liability to the Federal government. If this request is not applicable, provide an explanation.

a. State what option has been chosen by the group.

b. Provide, in summary form, the amount of tax liability that has been allocated to each of the participating members in the consolidated Income Tax return.

c. Provide a schedule, in summary form, of contributions, which were determined on the basis of separate tax return calculations, made by each of the participating members to the tax liability indicated in the consolidated group tax return. Provide total amounts of actual payments to the tax depository for the tax year, as computed on the basis of separate returns of members.

d. Provide annual Income Tax return for group, and if Income Tax return shows net operating loss, provide details of amount of net operating loss allocated to the income tax returns of each of the members of the consolidated group.

14. Provide a copy of the Corporate Federal Tax Returns and supporting schedules for the preceding 3 years and, if applicable, a copy of the calculation workpapers for the company's consolidated tax savings adjustment.

15. Provide a schedule of Federal and Pennsylvania taxes, other than Income Taxes, calculated on the basis of test year per book, pro forma at present rates, and pro forma at proposed rates, to include the following categories:

- a. Social Security.
- b. Unemployment.
- c. Capital Stock.
- d. Public Utility Realty.
- e. PUC assessment.
- f. Other property.
- g. Any other appropriate categories.

16. Submit a schedule showing a breakdown of the deferred Income Taxes by State and Federal per book, pro forma, existing rates, and under proposed rates.

17. With respect to determination of income taxes, Federal and State:

a. Show Income Tax results of the annualizing and normalizing adjustments to the historic test year before any rate increase.

b. Show Income Taxes for the annualized and normalized test year.

c. Show Income Tax effect of the rate increase requested.

d. Show Income Taxes for the normalized and annualized test year after application of the full rate increase.

18. State amount of debt interest utilized for Income Tax calculations, and details of debt interest computations, under each of the following rate case bases:

- a. Actual per book test year.
- b. Annualized historic test year-end.
- c. Proposed future test year-end.

V. RATE BASE

1. Provide a schedule showing the measures of value and the rates of return at the original cost in the current case. All claims made on this exhibit should be cross-referenced to appropriate exhibits.

2. If a claim is made for construction work in progress, include, in the form of an exhibit, the summary page from all work orders, amount expended at the end of the historic and future test year and anticipated in-service dates. Indicate if any of the construction work in progress will result in insurance recoveries, reimbursements, or retirements of existing facilities. Describe in exact detail the necessity of each project claimed if not detailed on the summary page from the work order. Include final completion dates and estimated total amounts to be spent on each project. This exhibit should be updated at the conclusion of these proceedings.

3. If a claim is made for nonrevenue producing construction work in progress, include, in the form of an exhibit, the summary page from all work orders, amount expended at the end of the historic and future test year and anticipated in-service dates. Indicate if any of the construction work in progress will result in insurance recoveries, reimbursements, or retirements of existing facilities. Describe in exact detail the necessity of each project claimed if not detailed on the summary page from the work order. Include a list of items needed to complete each project, such as landscaping and fencing, and estimated total amounts to be spent to complete each project. These exhibits should be updated at the conclusion of these proceedings.

4. If a claim is made for plant held for future use, supply the following:

- a. A brief description of the plant or land site and its original cost.
- b. Expected date of use for each item claimed.
- c. Explanation as to why it is necessary to acquire each item in advance of its date of use.
- d. Date when each item was acquired.
- e. Date when each item was placed in the plant held for future use account.

5. If fuel stocks comprise part of the cash working capital claim, provide an exhibit showing the actual book balances, noting quantity and price for the fuel inventories by type of fuel for the 13 months prior to the end of the historic test year by location, station, etc. Explain the method of determining the claim if other than that described above.

6. Explain in detail by statement or exhibit the appropriateness of claiming any additional items, not previously mentioned, in the measures of value.

7. Provide schedules and data in support of the following working capital items:

- a. Prepayments-list and identify all items.
- b. Federal Income Tax accrued or prepaid.
- c. Pennsylvania State Income Tax accrued or prepaid.
- d. Pennsylvania Capital Stock Tax accrued or prepaid.
- e. Pennsylvania Public Utility Realty Tax accrued or prepaid.
- f. Payroll taxes accrued or prepaid.
- g. Any adjustments related to the above items for ratemaking purposes.

8. Supply an exhibit supporting the claim for cash working capital requirement based on the lead-lag method.

a. Pro forma expenses and revenues are to be used in lieu of book data for computing lead-lag days.

9. Indicate if amortized expenses have been removed from the lead-lag study. If so, please provide documentation showing such removal. If not, provide a list of such amortization expenses included.

10. Identify the funds availability arrangements or terms which the company has with its banks with respect to deposits of customer checks. For example, does the company have same day or next day access to funds deposited?

11. In reference to materials and supplies:

a. What method of inventory valuation was used to develop the claim for materials and supplies?

b. Does the utility use a material and supply model to calculate needed material and supply levels?

c. If so, provide the model. Supply an illustrative example of how the monthly balances are derived.

d. Provide the actual monthly value for the inventory of materials and supplies for the past 12 months. Supply as of the end of the historic test year, a 13-month average, by month, for the material and supply account.

e. Provide the monthly level of materials and supplies for 3 years prior to the conclusion of the historic test year.

12. For each nonblanket or projected plant addition to cost the greater of \$100,000 or 0.5% of current rate base, included in the future test year, please provide:

a. Description of the project.

b. Original budgeted cost broken down by allowance for funds used during construction (AFUDC) and non-AFUDC components.

c. Current budgeted cost broken down by AFUDC and non-AFUDC components.

d. Reason for change in budgeted cost.

e. Original estimated date of completion and in service.

f. Current estimated date of completion and in service.

g. Reason for change in completion date.

h. Anticipated retirement related to the plant addition.

i. Starting date of project.

j. Amount expended to date.

k. Percent of project currently complete.

l. The depreciation rate applicable.

m. Identify which projects are due to a Pennsylvania Department of Environmental Protection (PA-DEP) or Federal Environmental Protection Agency (EPA) requirement.

13. Explain how the future test year plant balances were projected and provide supporting workpapers and documentation.

14. Are all of the assets used in the plant-in-service claim used exclusively by the water or wastewater utility? If not, provide the estimated percentage that each shared asset is used by other entities.

15. Is all plant included in rate base currently being used in providing water or wastewater service? If not, provide a schedule which presents those plant items

which are not, and indicate the corresponding amounts and account numbers. Further, provide a detailed narrative explaining the reason why such plant is not being used and the anticipated future disposition of the plant.

16. Provide all workpapers and supporting documentation showing the derivation of the projected balances of contributions in aid of construction, customer advances for construction and company service line and customer deposits for the future test year.

VI. DEPRECIATION

If any of the following questions under this section have been previously answered pursuant to 52 Pa. Code Chapter 73, please note in your response. It is not necessary to provide responses to questions previously answered.

1. Provide a description of the depreciation methods used to calculate annual depreciation amounts and depreciation reserves, together with a discussion of the factors which were considered in arriving at estimates of service life and dispersion by account. Supply a comprehensive statement of any changes made in method of depreciation. Provide dates of all field inspections and facilities visited.

2. Set forth, in exhibit form, charts depicting the original and estimated survivor curves and a tabular presentation of the original life table plotted on the chart for each account where the retirement rate method of analysis is utilized.

3. Provide the surviving original cost at historic test year-end by vintage by account and include applicable depreciation reserves and accruals. These calculations should be provided for plant in service as well as other categories of plant, including contributions in aid of construction and customers' advances for construction.

4. Provide a comparison of the calculated depreciation reserve used for ratemaking purposes v. the book reserve by account at the end of the test year, if they differ.

5. Supply a schedule by account and depreciable group showing the survivor curve and annual accrual rate estimated to be appropriate:

- a. For the purposes of this filing.
- b. For the purposes of the most recent rate increase filing prior to the current proceedings.

6. Provide an exhibit showing gross salvage, cost of removal, and net salvage for the 5 most recent calendar or fiscal years by account.

VII. RATE OF RETURN

1. Provide capitalization and capitalization ratios for the last 5-year period and projected through the next 2 years (with short-term debt and without short-term debt) for the company, parent and consolidated system.

a. Provide year-end interest coverages before and after taxes for the last 3 years and at the latest date, including indenture and Securities and Exchange Commission (SEC) bases, for the company, parent and consolidated system.

b. Provide year-end preferred stock dividend coverages for the last 3 years and at latest date, including charter and SEC bases.

2. Provide latest prospectus for the company and the parent.

3. Supply projected capital requirements and the sources of company, parent and consolidated system for the historic test year and each of 3 comparable future years.

4. Provide a schedule of debt and preferred stock of company, parent and consolidated system as of historic test year-end and latest date, detailing for each issue (if applicable):

- a. Date of issue.
- b. Date of maturity.
- c. Amount issued.
- d. Amount outstanding.
- e. Amount retired.
- f. Amount required.
- g. Gain on reacquisition.
- h. Coupon rate.
- i. Discount or premium at issuance.
- j. Issuance expenses.
- k. Net proceeds.
- l. Sinking fund requirements.
- m. Effective interest rate.
- n. Dividend rate.
- o. Effective cost rate.
- p. Total average weighted effective cost rate.

5. Supply financial data of company and/or parent for last 5 years:

- a. Earnings-price ratio (average).
- b. Earnings-book value ratio (per share basis) (average book value).
- c. Dividend yield (average).
- d. Earnings per share (dollar).
- e. Dividends per share (dollars).
- f. Average book value per share yearly.
- g. Average yearly market price per share (monthly high-low basis).
- h. Pre-tax funded debt interest coverage.
- i. Post-tax funded debt interest coverage.
- j. Market price-book value ratio.

6. Provide AFUDC charged by company at historic test year-end and latest date, explain method by which rate was calculated and provide workpaper showing derivation of the company's current AFUDC rate.

7. Set forth provisions of company's and parent's charter and indentures, if applicable, which describe coverage requirements, limits on proportions of types of capital outstanding, and restrictions on dividend payouts.

8. Attach copies of the summaries of the company's projected revenues, expenses and capital budgets for the next 2 years.

9. Describe long-term debt reacquisitions by company and parent as follows:

- a. Reacquisitions by issue by year.
- b. Total gain on reacquisitions by issue by year.
- c. Accounting of gain for income tax and book purposes.

10. Provide the following information concerning compensating bank balance requirements for actual per book test year:

- a. Name of each bank.
- b. Address of each bank.
- c. Type of accounts with each bank (checking, savings, escrow, other services, etc.).
- d. Average daily balance in each account.
- e. Amount and percentage requirements for compensating bank balances at each bank.
- f. Average daily compensating bank balance at each bank.
- g. Documents from each bank explaining compensating bank balance requirements.
- h. Interest earned on each type of account.

11. Provide the following information concerning bank notes payable for actual per book test year:

- a. Line of credit at each bank.
- b. Average daily balances of notes payable to each bank, by name of bank.
- c. Interest rate charged on each bank note (prime rate, formula).
- d. Purpose of each bank note, (for example, construction, fuel storage, working capital, debt retirement).
- e. Prospective future need for this type of financing.

12. Submit details on company or parent common stock offerings for the past 5 years to present, as follows:

- a. Date of prospectus.
- b. Date of offering.
- c. Record date.
- d. Offering period including dates and number of days.
- e. Amount and number of shares of offering.
- f. Offering ratio, if rights offering.
- g. Percent subscribed.
- h. Offering price.
- i. Gross proceeds per share.
- j. Expenses per share.
- k. Net proceeds per share in (12.) i and j.
- l. Market price per share.
 - (1) At record date.
 - (2) At offering date.
 - (3) One month after close of offering.
- m. Average market price during offering.
 - (1) Price per share.
 - (2) Rights per share-average value of rights.
- n. Latest reported earnings per share at time of offering.
- o. Latest reported dividends at time of offering.

13. Attach a chart explaining company's corporate relationship to its affiliates showing system structure.

14. If the utility plans to make a formal claim for a specified allowable rate of return, provide the following data in statement or exhibit form:

- a. Claimed capitalization and capitalization ratios with supporting data.
- b. Claimed cost of long-term debt with supporting data.
- c. Claimed cost of short-term debt with supporting data.
- d. Claimed cost of total debt with supporting data.
- e. Claimed cost of preferred stock with supporting data.
- f. Claimed cost of common equity with supporting data.

15. Supply copies of the following documents for the company and, if applicable, its parent:

- a. Most recent annual report to shareholders including any statistical supplements.
- b. Most recent SEC form 10K.
- c. All SEC form 10Q reports issued within the preceding 12 months of the date of submittal of the rate increase request.

16. Supply copies of the company's balance sheets for each month for the last 2 years.

17. Provide the bond rating history for the company and, if applicable, its parent from the major credit rating agencies for the last five years.

18. Provide copies of all bond rating reports relating to the company and, if applicable, its parent for the past 2 years.

19. Supply copies of all presentations by the company's and, if applicable, its parent's management and securities analysts during the past 2 years, including presentations of financial projections.

20. Provide a listing of all securities issuances for the company and, if applicable, its parent projected for the next 2 years. The response shall identify for each projected issuance the date, dollar amount, type of security, and effective cost rate.

21. Identify any plan by the company to refinance high cost long-term debt or preferred stock.

22. Provide copies of all securities analysts' reports relating to the company and its parent, or both, issued within the past 2 years.

23. If applicable, supply a listing of all common equity infusions from the parent to the company over the past 5 years. In each case, identify date and dollar amount.

24. If applicable, identify the company's common dividend payments to its parent for each of the last 5 years.

25. Provide the latest year-by-year financial projections for the company for the next 5 years. Also, please indicate the date these projections were prepared; whether approved by management; and whether the projections have been submitted to bond rating agencies. The information will be treated in a confidential manner, if requested by the company in writing, as set forth in 52 Pa. Code § 5.423.

26. Provide the company's 5-year construction budget.

27. Identify the company's and, if applicable, its parent's capital structure targets (percentages of capital types). Provide the complete basis for the capital structure targets.

28. For each month, of the most recent 24 months, supply the company's:

- a. Short-term debt balance.
- b. Short-term debt interest rate.
- c. Balance of construction work in progress.
- d. Balance of construction work in progress which is eligible for AFUDC accrual:

29. Fully identify all debt, other than instruments traded in public markets, owed to all shareholders, corporate officers, or members of the board of directors, its affiliates, parent company, or subsidiaries.

30. Provide a summary statement of all stock dividends, splits, or par value changes during the 2-year calendar period preceding the rate case filing.

31. If a claim of the filing utility is based on utilization of the capital structure or capital costs of the parent company and consolidated system, the reasons for this claim must be fully stated and supported.

32. To the extent not provided elsewhere, supply financial data of the company, and its parent, if applicable, for the last 5 years.

- a. Times interest earned ratio—pre- and posttax basis.
- b. Preferred stock dividend coverage ratio—posttax basis.
- c. Times fixed charges earned ratio—pre tax basis.
- d. Dividend payout ratio.
- e. AFUDC as a percent of earnings available for common equity.
- f. Construction work in progress as a percent of net utility plant.
- g. Effective income tax rate.
- h. Internal cash generations as a percent of total capital requirements.

VIII. RATE STRUCTURE AND COST OF SERVICE

1. Provide a complete, fully allocated, cost of service study if an interval of 3 years has passed between a previous cost of service study and the historic test year date of the current filing. The cost of service study shall provide the necessary data to determine if the water or wastewater rate structure is fair and equitable to all classifications of water or wastewater customers (including public and private fire protection customers) and reflects, as nearly as possible, the cost of providing the service. The study shall correspond to the test year proposed revenue requirements (future test year only, if used). Summaries of conclusions and all back-up calculations shall be made part of the submission of the cost of service study, and shall include the following:

a. A description of the allocation methods used. A comparison of the allocated cost of service by class with the present and proposed revenues. A cost of service schedule showing the rate of return produced by present and proposed rates by class of service.

b. Indicate if the method used for establishing the allocation factors in the cost of service study deviates from the previous study submitted in the last rate case. If yes, indicate which allocation factors were changed and discuss the reason for the changes.

c. Supply the average day, the maximum day and the maximum hour deliveries to the system adjusted for storage for the historic test year and 2 prior years. Also provide workpapers, analyses, comparative data or other documentation supporting the estimated maximum day and peak hour demands by customer class reflected in the company's cost of service study.

d. Explain thoroughly the methodology employed if the company distinguishes between transmission and distribution or collection mains in its allocation of costs.

e. Provide a detailed explanation of how storage is utilized to meet base, maximum day and maximum hour demands.

f. Provide workpapers, calculations and supporting documentation which develop the equivalent meters and equivalent service line weights reflected in the company's cost of service study.

g. Provide all workpapers and supporting documentation for the fire flow requirement and duration utilized in the cost of service study.

h. Provide a breakdown of the number and size of private fire services according to the general water service class of customer.

i. Provide a calculation of the company's base cost of water or wastewater per unit of consumption or usage.

j. Provide a detailed cost analysis that supports the company's customer charges, by meter size, showing all direct and indirect costs included.

2. Provide a listing of negotiated special rate contracts which includes a comparison of revenues under special rate contracts and under tariff rates. Provide the cost of service treatment of any deficiency in revenues resulting from the negotiated special rate contracts. Special rates are defined as rates not contained in the currently effective tariff.

IX. QUALITY OF SERVICE

1. Indicate whether the company is in violation of any provision of the Pennsylvania Safe Drinking Water Act (SDWA) or any rule, regulation or order, or any condition of any permit, variance or exemption granted by the Pennsylvania Department of Environmental Protection (PA-DEP), or its predecessor.

a. Provide information indicating whether the company is in compliance with SDWA provisions at 25 Pa. Code § 109.407 regarding general public notification requirements:

(i) Provide a copy of each public notification given in accordance with this section, since the last rate proceeding.

(ii) Provide a detailed explanation of all actions taken to remedy an acute violation, and to comply with the requirements prescribed by a variance or exemption.

(iii) State whether any fines or penalties were assessed by PA-DEP, and indicate the amounts paid by the company.

b. Provide the most recent copies of all annual consumer confidence reports issued pursuant to SDWA Amendments of 1996 since the last rate proceeding.

(i) Provide any annual consumer confidence reports which reflect violations of State and Federal safe drinking water requirements.

(ii) Explain how these violations were resolved.

2. Indicate whether the company is in compliance with 52 Pa. Code, § 65.6(a) regarding normal operating pressure standards, and with 52 Pa. Code, § 65.6(d) regarding pressure surveys at regular intervals.

a. Provide details on any water pressure problems, lasting longer than 5 days, which had occurred since the last rate proceeding in any part of the water transmission and distribution system.

b. Describe any action taken on a temporary basis, and the long term solutions developed to address any water pressure problems.

3. Provide support to demonstrate that water or wastewater service is being furnished on a continuous basis by supplying a summary of the company's records of each service interruption greater than 24 hours since the last rate proceeding.

4. Provide a discussion of the company's policy, or provide a copy of the policy if in written form, on tracking and responding to customer complaints.

a. Provide a summary report demonstrating the company's compliance with 52 Pa. Code, § 65.3 regarding the full and prompt investigation of service or facility complaints and the recordkeeping requirements of such complaints.

5. Indicate whether the company is in compliance with 52 Pa. Code, § 65.4(b) regarding complete and current mapping of the entire distribution or collection system.

6. Provide a summary report demonstrating the company's efforts in water conservation, since the last rate proceeding, pursuant to 52 Pa. Code, § 65.20.

7. Provide a discussion of the company's policy regarding meter requirements, replacements and testing. State if the company's procedures are in compliance with 52 Pa. Code, § 65.8(b).

a. Provide meter test records as required in 52 Pa. Code, § 65.8(c) for the 50 meters most recently removed from service.

b. Provide a discussion of the company's policy and history of compliance with 52 Pa. Code, § 65.9 regarding adjustment of bills for meter error within the last year.

X. BALANCE SHEET

1. Provide a comparative balance sheet for the historic test year-end and the preceding year-end.

2. Provide a detail of other physical property, investments in affiliated companies and other investments.

3. Provide the amounts and purpose of special cash accounts as of the historic test year-end.

4. Describe the nature and amounts of notes receivable, accounts receivable from associated companies, and any other receivables, other than customers' accounts, greater than 15% of the total. Limit the explanation to variances greater than \$10,000.

5. Provide the amount of accumulated reserve for uncollectible accounts, method and rate of accrual, amounts accrued and amounts written-off in each of the last 3 years.

6. Provide a list of prepayments and give an explanation of special prepayments.

7. Break down and explain in detail any significant items, greater than 15% of the total, in the current assets account listed on the balance sheet. Limit the explanation to variances greater than \$10,000.

8. Explain in detail, including the amount and purpose, the deferred asset accounts that currently operate to affect or will at a later date affect the operating account supplying:

a. Origin of these accounts.

b. Probable changes to this account in the near future.

c. Amortization of these accounts currently charged to operations or to be charged in the near future.

9. Explain the nature of accounts payable to associated companies. Provide a breakdown by category.

10. Provide breakdown and explanation of other deferred credits as to their origin and disposition policy, for example, amortization.

11. Provide an explanation and method of funding of any reserves, other than depreciation and bad debt appearing on historic balance sheet.

12. Provide an analysis of unappropriated retained earnings for the historic test year and 2 preceding years.

13. Describe the purpose of any advances made by the company to its parent corporation and describe all terms and conditions associated with such advances, including an estimate of future advances or repayments that are expected to occur.

XI. OTHER DATA

1. Provide the company's monthly balance sheets and income statements for each month of the historic and future test year.

2. Supply a copy of internal and independent audit reports of the historic test year and prior calendar year, noting any exceptions and recommendations and disposition thereof.

3. Provide all monthly or quarterly, or both, budget variance reports to management, or the board of directors, or both, submitted during the past year. Please provide the most recent detailed budget variance report which the company compiled, and update as additional reports are issued.

4. Provide a copy of the company's most recent operating and capital budgets.

5. Provide a schedule that shows the percentage of unaccounted for water for the test year and 2 prior years. Describe how this amount was determined and explain any steps taken to reduce unaccounted for water. Provide a similar analysis of infiltration for wastewater utilities.

6. Provide a corporate history (include the dates of original incorporation, subsequent mergers, or acquisitions, or both). Indicate all counties and cities and other governmental subdivisions to which service is provided, including service areas outside the state, and the total population in the area served.

[Pa.B. Doc. No. 05-990. Filed for public inspection May 20, 2005, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 171]

School Buses and School Vehicles

The Department of Transportation, under the authority in 75 Pa.C.S. §§ 4551, 4552, 4553 and 6103 and in accordance with section 6(d) of the Regulatory Review Act (71 P. S. § 745.6(d)) and section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), amends Chapter 171 (relating to school bus and school vehicle equipment standards) to read as set forth in Annex A.

Purpose of Chapter 171

Chapter 171 sets forth equipment and safety requirements for school buses as provided for in 75 Pa.C.S. § 4552 (relating to general requirements for school buses) and for other vehicles transporting school children as provided for in 75 Pa.C.S. § 4553 (relating to general requirements for other vehicles transporting school children).

Purpose of this Rulemaking

The purpose of this rulemaking is to clarify existing provisions of the regulations, reflect innovations adopted by school bus manufacturers and to address concerns raised by the State Police and the Pupil Transportation Advisory Committee (PTAC). The 40 members of the PTAC represent various groups and associations responsible for, or concerned with, pupil transportation.

Significant Provisions of this Rulemaking

In addition to the numerous clarifying amendments throughout the chapter, this rulemaking proposes the following significant changes:

Section 171.18(b) (relating to color) has been amended to permit the service door frame to be painted black and the mirror brackets to be stainless steel with a satin finish.

Section 171.20(a) (relating to electrical system) has been amended to eliminate the requirement for the chassis manufacturer to temporarily mount the battery to the chassis and has been amended to provide that the battery be mounted on a sliding tray. Section 171.20(c) has been amended to eliminate the requirement that for every school bus to be equipped with a readily accessible terminal strip or plug.

Section 171.36 (relating to tires and rims) has been amended to clarify that hub caps that cover the lug nuts are prohibited because they could conceal loose lug nuts, a loose axle or wheel bearing fasteners or oil leaks.

Section 171.50(b) (relating to doors and emergency exits) has been amended to provide that hasps may not be used. If a hasp were to be inadvertently left in the locked position during student transportation it would

render an emergency exit useless. Section 171.50(b)(5)(i) has been amended to prohibit a school bus that is equipped with tinted windows to place the emergency exit labeling on the tinted glass as the tinted glass would make the label difficult to read.

Section 171.54(a) (relating to heaters) has been amended to eliminate specific heater requirements and to provide for the broader requirement that evenly distributed heat be provided throughout the bus body and to require defrosting for the windshield, driver's side sash and the entrance door. Language has been added to § 171.54(b) detailing minimum requirements relating to auxiliary fuel-fired heating systems.

Section 171.55(c) (relating to identification) has been amended to allow the dealer insignia to be placed on the rear of the vehicle. Section 171.55(c) is also being amended to update the certification/identification number information from the Interstate Commerce Commission (ICC) number to the United States Department of Transportation identification number, since the ICC no longer exists.

Section 171.59(b) (relating to lamps and signals) has been amended to allow strobe lights and light emitting diodes to be used in both the 8-way light system and the stopping arm. Section 171.59(d) is being amended to allow the turn signal lamps to be of a shape other than round, as long as they are a minimum of 38 square inches. The rulemaking also requires that the flash rate be between 60—120 flashes per minute.

Section 171.59(f) has been deleted because the provision is duplicative of § 171.83 (relating to portable emergency warning devices).

Section 171.86 (relating to fire axe) has been added to prohibit this dangerous piece of equipment. There are a sufficient number of emergency exits required on every school bus.

Since 171.68(b) (relating to seat belts) has been amended to include both the Type A1 and A2 school buses to be equipped with an integral Type 2 seat belt assembly for the driver. Section 171.68(c) has been being added to require every school bus that is equipped with passenger seat belts to also have at least one web cutter securely mounted in the driver's compartment. This will assist the driver in evacuating the school bus in an emergency.

Section 171.69(5) (relating to seats and crash barriers) has been amended to require school buses that are equipped with an integrated child restraint seat to have a crash barrier or a seat back of similar size or higher in front of it.

Section 171.73 (relating to sun shield) has been amended to allow smaller, Type A1 and Type A2 school buses to be equipped with a manufacturer's standard sun shield. New language also allows Type A school buses to also have an interior adjustable transparent sun shield.

Section 171.76 (relating to ventilation) has been amended to eliminate the requirement for a static-type nonclosable exhaust vent to be installed in a low pressure area of the roof. New language states that the body must be equipped with a ventilation system.

Section 171.78 (relating to windows) has been amended to allow the edges of glass to either be banded or have a finished edge.

Section 171.85 (relating to video equipment) is being added to clarify that video equipment is permitted and may be installed at the discretion of the school district or school bus contractor.

Section 171.92 (relating to aisles) has been amended to clarify that school vehicles may not be equipped with more than two wheelchair positions. New language has also been added to state that each wheelchair seating position is counted as four designated seating positions, in conformity with 49 CFR 571.3(b) (relating to definitions).

Section 171.99 (relating to restraining devices) has been amended to clarify that specially equipped school vehicles that transport children must comply with 75 Pa.C.S. § 4581 (relating to restraint systems).

Sections 171.107 and 171.126 (relating to web cutter) are added to require specially equipped school buses and school vehicles to have a least one web cutter securely mounted in the driver's compartment. This will assist the driver when evacuating the specially equipped school bus or school vehicle.

Section 171.125 (relating to seating) has been amended to require school vehicle seats to be forward facing and must comply with 75 Pa.C.S. § 4581.

Persons and Entities Affected

This rulemaking affects persons and entities responsible for the transportation of school children. This includes all 501 school districts in this Commonwealth as well as any organization contracted with to provide pupil transportation. In addition, the State Police will be affected in the performance of school bus vehicle inspections.

Fiscal Impact

This rulemaking may impose a cost of approximately \$10 for the purchase of a web cutter. Similarly, marginal savings may be anticipated from the elimination of equipment requirements currently in the regulations.

Regulatory Review

Under section 5.1 of the Regulatory Review Act (71 P. S. § 745.5a), on May 10, 2005, the Department submitted a copy of this rulemaking to the Office of Attorney General, the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Transportation Committees for review. In addition to the rulemaking, the Committees were provided with a copy of the certification of the Governor that the rulemaking is required to meet an emergency threatening the public health, safety or welfare, as well as a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Sunset Date

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

Contact Person

The contact person for technical questions regarding this rulemaking is Chris Ann Miller, Manager, Special Driver Programs, Department of Transportation, Bureau of Driver Licensing, Riverfront Office Center, 1101 South Front Street, 3rd Floor, Harrisburg, PA 17104, (717) 787-6453.

Order

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 171, are amended by amending §§ 171.1, 171.2, 171.14, 171.18, 171.20, 171.21, 171.36, 171.37, 171.47, 171.50, 171.54, 171.55, 171.58, 171.59, 171.67—171.70, 171.73, 171.74a, 171.76, 171.78, 171.80, 171.81, 171.83, 171.91, 171.92, 171.94—171.97, 171.99, 171.102—171.105, 171.121, 171.125, 171.138 and 171.149, by adding §§ 171.85, 171.86, 171.107, 171.126 and 171.127 and by deleting § 171.64 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-400. No fiscal impact; (8) recommends adoption.

GOVERNOR'S OFFICE

Certification of Need for Emergency Regulation

Whereas, School districts in the Commonwealth and the school transportation providers with whom they contract are in constant need of replacing school buses and vehicles taken out of service because of age and need of repair; and

Whereas, innovations adopted by the school bus industry have been incorporated by school bus and vehicle manufacturers into school buses and vehicles now being marketed in Pennsylvania; and

Whereas, the innovations, in many instances, enhance the safety of the school buses and vehicles; and

Whereas, the innovations now included in new school buses and vehicles were not anticipated in current Department regulations; and

Whereas, without immediate amendment of the regulations, newly purchased school buses and vehicles cannot be certified for use by the school districts and school transportation providers who purchase them; and

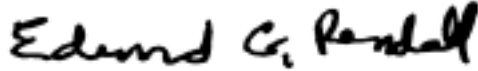
Whereas, some school districts and the school transportation providers with whom they contract will be unable to maintain a sufficient fleet of school buses and vehicles to provide adequate transportation for the school children of the Commonwealth; and

Whereas, the inability to replace vehicles taken out of service with vehicles certified for use under Department regulations poses a threat to the public safety and welfare of the school children of the Commonwealth.

Now Therefore, I do hereby certify that the regulatory amendments to 67 Pa. Code, Chapter 171, attached hereto as Annex A are required to meet the emergency conditions enumerated in the recitals above and to safeguard the public health, safety and welfare as described therein.

Further, I hereby authorize the Secretary of Transportation to publish these amendments in the *Pennsylvania Bulletin* as a Final Rulemaking consistent with the provisions of Section 6 of the Regulatory Review Act, as amended, 71 P. S. § 745.6(d).

Given under my hand and the Seal of the Governor, at the City of Harrisburg, on this 29th day of April in the year of our Lord two thousand and five, and of the Commonwealth the two hundred and twenty ninth.



Governor

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VII. VEHICLE CHARACTERISTICS

CHAPTER 171. SCHOOL BUS AND SCHOOL VEHICLES

Subchapter A. GENERAL PROVISIONS

§ 171.1. Applicability.

(a) *Scope.* This chapter applies to equipment and safety requirements for school buses as provided for in 75 Pa.C.S. § 4552 (relating to general requirements for school buses) and for other vehicles transporting school children as provided for in 75 Pa.C.S. § 4553 (relating to general requirements for other vehicles transporting school children).

(b) *Exemptions.* School buses manufactured or converted prior to September 14, 1996, must comply with the regulations in effect at the time they were manufactured or converted, except that Subchapter G (relating to operation standards for vehicles subject to this chapter) applies to vehicles subject to this chapter regardless of the date of manufacture or conversion.

(c) *FMVSS.* Vehicles manufactured as school buses are required to be in compliance with FMVSS as established by the National Highway Traffic Safety Administration (NHTSA) at 49 CFR 571 (relating to Federal Motor Vehicle Safety Standards).

(d) *Federal Motor Carrier Safety Regulations.* Vehicles manufactured as school buses and operating in interstate commerce are required to be in compliance with Federal Motor Carrier Safety Regulations as established by the Federal Highway Administration (FHWA) at 49 CFR Parts 393 and 396 (relating to parts and accessories necessary for safe operation; and inspection, repair and maintenance). See Appendix A.

§ 171.2. Definitions.

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

Bus—A motor vehicle designed to transport 16 or more passengers, including the driver; or a motor vehicle, other than a taxicab or limousine, designed to transport not more than 15 passengers, including the driver, and used for the transportation of persons for compensation. The term does not include a vehicle used in a ridesharing

arrangement, as defined in the act of December 14, 1982 (P. L. 1211, No. 279) (55 P. S. §§ 695.1—695.9), which provides for ridesharing arrangements and provides that certain laws are inapplicable to ridesharing arrangements, or a school bus.

Converted school bus—A vehicle not originally manufactured to be a school bus.

Convex mirror—A mirror having a curved reflective surface whose shape is the same as that of the exterior surface of a section of a sphere.

Department—The Department of Transportation of the Commonwealth.

Designated seating position—Under 49 CFR 571.3 (relating to definitions), a plain view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and vehicle design is of a type that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. A bench or split bench seat in a passenger car, truck or multipurpose passenger vehicle with a GVWR less than 10,000 pounds, having greater than 50 inches of hip room (measured in accordance with SAE Standard J1100(a)—See Appendix A) may not have less than three designated seating positions, unless the seat design or vehicle design is of a type that the center position cannot be used for seating.

FMVSS—Federal Motor Vehicle Safety Standards published in the *Code of Federal Regulations*.

Forward control—A configuration in which more than half of the engine length is rearward of the foremost point of the windshield base and the steering wheel hub is in the forward quarter of the vehicle length.

GVWR—*Gross vehicle weight rating*—The value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle.

Insignia—Any identification statement, symbol, figure, logo or distinguishing sign, name or mark.

Mass transit pupil transportation bus—A bus, other than a school bus, that is operated by an urban mass transportation system and used exclusively for the transportation of children to and from school and school-related activities, even if used for other transportation purposes at other times.

Multifunction school activity bus—A school bus used to transport students on field trips, athletic trips or other curricular or extracurricular activities, but not used for to-and-from school transportation.

Pupil Transportation Section—The Pupil Transportation Section of the Bureau of Driver Licensing of the Department.

SAE—The Society of Automotive Engineers.

School—An institution for the education or training of children, including but not limited to kindergartens, rehabilitation centers, day care centers, Head Start centers, group day care homes, family day care homes and summer camps.

School bus—A motor vehicle designed to carry 11 passengers or more, including the driver, and used for the transportation of preprimary, primary or secondary school students to or from public, private or parochial schools or events related to these schools or school-related activities. The types of school buses are as follows:

(i) *Type A school bus.* A school bus converted from or having a body constructed upon a van-type truck or front-section vehicle chassis, with a left side driver's door and the entrance doors behind the front wheels. This definition includes two classifications: Type A1, with a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 pounds; and Type A2, with a GVWR greater than 10,000 pounds.

(ii) *Type B school bus.* A school bus constructed utilizing a stripped chassis, with the entrance door behind the front wheels. This definition includes two classifications: Type B1, with a GVWR less than or equal to 10,000 pounds; and Type B2, with a GVWR greater than 10,000 pounds.

(iii) *Type C school bus.* A school bus constructed utilizing a chassis with a hood and front fender assembly without a left side driver's door and with the entrance door behind the front wheels.

(iv) *Type D school bus.* A school bus constructed utilizing a stripped chassis with the entrance door ahead of the front wheels.

School vehicle—A motor vehicle, except a motorcycle, designed for carrying no more than ten passengers, including the driver, and used for the transportation of preprimary, primary or secondary school students while registered by or under contract to a school district or private or parochial school. The term includes vehicles having chartered, group and party rights under the Pennsylvania Public Utility Commission and used for the transportation of school children.

Specially equipped school bus—A school bus used to transport children which, in addition to meeting the requirements for school buses as described in this chapter, contains special equipment as required in Subchapter D (relating to specially equipped school bus standards).

Stop signal arm—A device that can be extended outward from the side of the school bus to provide a signal to other motorists not to pass because the bus has stopped to load and discharge passengers.

Type 2 seat belt assembly—A combination of pelvic and upper torso restraints.

Unit magnification mirror—A plane or flat mirror with a reflective surface through which the angular height and width of the image of an object is equal to the angular height and width of the object when viewed directly at the same distance except for flaws that do not exceed normal manufacturing tolerances.

Upper torso restraint—A portion of a seatbelt assembly intended to restrain movement of the chest and shoulder regions.

Subchapter B. SCHOOL BUS CHASSIS STANDARDS

§ 171.14. Brakes.

(a) General rule.

(1) Unless otherwise provided for by this section, a school bus must be equipped with a chassis brake system which conforms with the provisions of FMVSS No. 105, No. 106 and No. 121, as applicable.

(2) The antilock brake system (ABS), provided in accordance with FMVSS No. 105 or No. 121, shall provide wheel speed sensors for each front wheel and for each wheel on at least one rear axle. The system shall provide antilock braking performance for each wheel equipped with sensors.

(3) Brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components.

(4) The brake lines, booster-assist lines and control cables shall be protected from excessive heat, vibration and corrosion and installed in a manner which prevents chafing.

(5) The parking brake system for either air or hydraulic service brake systems may be of a power assisted design. The power parking brake actuator shall be a push-pull device located on the instrument panel within seated reach of a 5th percentile female driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the "park" position.

(6) The power-operated parking brake system may be interlocked to the engine key switch so that once the parking brake has been set and the ignition switch turned to the "off" position, the parking brake cannot be released until the key switch is turned back to the "on" position.

(b) *Hydraulic brakes.* A bus using a hydraulic-assist brake shall be equipped with audible and visible warning signals that provide a continuous warning to the driver of a loss of fluid flow from the primary source and of a failure of the back-up pump system.

(c) *Air brakes.* A bus equipped with air brakes shall conform to the following:

(1) The air pressure supply system shall include a desiccant-type air dryer installed according to the manufacturers' recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The dashboard instrument panel of a bus equipped with an air brake system shall include an air pressure gauge of a type allowing the driver to comply with CDL pretrip inspection requirements.

(3) An air brake shall have both a visible and audible warning device whenever the air pressure falls below the level where warnings are required under FMVSS No. 121.

§ 171.18. Color.

(a) *General rule.* A school bus chassis, including wheels and bumpers, shall be black. A school bus hood, cowl and fender shall be National School Bus Yellow. See Appendix B.

(b) *Exceptions.* Exceptions to subsection (a) are as follows:

(1) Wheel rims shall be of a trim used by the rim manufacturer.

(2) School bus hoods may be nonreflective National School Bus Yellow—See Appendix A—or lusterless black matching National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 37038. See Appendix A.

(3) The service door frame may be black.

(4) The mirror brackets and other body accessories may be stainless steel with a satin finish.

(c) *Multifunction school activity bus.* The color requirements in this section do not apply to multifunction school activity buses.

§ 171.20. Electrical system.

(a) *Battery.* The requirements for the battery are as follows:

(1) The battery shall have a minimum cold cranking capacity rating equal to the cranking current required for 30 seconds at 0° F (-17.8° C) and a minimum reserve capacity rating of 120 minutes at 25 amp. Higher capacities may be required dependent upon optional equipment and local environmental conditions.

(2) Batteries in Type B, C and D school buses shall be mounted on a sliding tray.

(b) *Generator or alternator.* Requirements for generators and alternators are as follows:

(1) Every Type A and B school bus up to 15,000 pounds GVWR shall have a minimum 60 ampere per hour alternator.

(2) Every Type B school bus over 15,000 pounds GVWR and every Type C and D school bus shall be equipped with an alternator meeting SAE Standard J180b—See Appendix A—with a minimum output rating of 100 amperes, capable of producing a minimum of 50% of its maximum rated output at the engine manufacturer's recommended idle speed.

(3) Every school bus equipped with an electrical power lift shall have a minimum 100 ampere per hour alternator.

(4) A direct drive generator or alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other driven components.

(5) Refer to *SBMI Design Objectives Booklet*. See Appendix A—for required generator or alternator capacity.

(c) *Wiring.* Requirements for wiring are as follows: Wiring shall conform to current applicable SAE Standards. Wiring and circuits shall be of a standard color and number coding and each chassis shall have a wiring diagram and circuit that coincides with the wiring and circuitry of the chassis.

§ 171.21. Exhaust system.

(a) *General rule.* The exhaust pipe, muffler and tailpipe shall be outside the body compartment and securely attached to the chassis with clamps and hangers of a type and installed as recommended by the chassis manufacturer.

(b) *Tailpipe.* The tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16 gauge steel tubing.

(c) *Tailpipe extension.* The exhaust system of a school bus powered by a gasoline engine shall discharge to the atmosphere at or within 6 inches forward of the rearmost part of the school bus.

(d) *Tailpipe extension for school buses using fuels other than gasoline.* The exhaust system for a school bus using fuels other than gasoline shall discharge to the atmosphere either at or within 15 inches forward of the rearmost part of the vehicle; or to the rear of all doors or windows designed to be opened, except windows designed to be opened solely as emergency exits.

(e) *Insulation.* The exhaust system on a gasoline powered chassis shall be properly insulated from fuel tank connections by a securely attached metal shield at any point where it is 12 inches or less from the tank or tank connections.

(f) *Muffler.* The muffler shall be constructed of corrosion resistant material.

(g) *Discharge lines and outlets.* The discharge lines and outlets on school buses equipped with compressed or liquefied gas fuel systems shall be installed in accordance with Chapter 175 (relating to vehicle equipment and inspection).

(h) *Exhaust system hangers.* Exhaust systems may be equipped with hangers that permit required movement due to expansion and contraction caused by heat of the exhaust and relative motion between the engine and chassis of a vehicle.

(i) *Exhaust system and discharge location.* Exhaust systems are not permitted to discharge to the atmosphere at a location immediately below the fuel tank or the fuel tank filler pipe. Exhaust systems shall also extend and discharge completely to the outside edge of the vehicle body.

(j) *Exception.* This section does not apply to auxiliary fuel-fired heating systems.

§ 171.36. Tires and rims.

The requirements for the tires and rims of a school bus are as follows:

(1) School buses shall be equipped with tires and rims which conform to the vehicle chassis manufacturer's specifications as to tire size, in that the tires and rims are not smaller than those that have been recommended by the chassis manufacturer. Tires and rims shall meet the requirements of FMVSS Nos. 119 and 120. See Appendix A.

(2) Dual rear tires shall be provided on Type A2, Type B, Type C and Type D school buses.

(3) Tires on the same axle shall be of the same size and type of construction—bias, belted or radial. Type A school bus tires shall be of same size and type of construction on all axles.

(4) If the vehicle is equipped with a spare tire and rim assembly for emergency use, it shall be of the same size as those mounted on the vehicle.

(5) Tube type tires and tubeless equivalent tires shall be provided on dual wheel vehicles.

(6) When tires are replaced, they shall be of a quality equivalent to the original equipment.

(7) Radial type tires at least equivalent in strength and size to the bias construction tire specified may be substituted; however, no mixing of radial type and bias construction type tires may be permitted on the same axle.

(8) Regrooved, recapped or retreaded tires shall comply with the following:

(i) Regrooved, recapped or retreaded tires may not be used on front wheels or on single rear wheels.

(ii) Regrooved tires shall comply with safety standards certified by the tire manufacturer as meeting 49 CFR 569 (relating to regrooved tires)—see Appendix A—and shall be stamped as "Regroovable."

(iii) Recapped or retreaded tires shall comply with FMVSS No. 117. See Appendix A.

(iv) Regroovable tires may be retreaded, recapped or regrooved.

(9) No tire may be used which is in an unsafe condition. Tread depth on tires may at no time be less than $4/32$ of an inch on the front and $2/32$ of an inch on the rear as measured on two adjacent treads by an acceptable gauge such as the Dill, or its equivalent.

(10) A spare tire, if used, shall be suitably mounted in an accessible location outside the passenger compartment. Types A and B school buses need not comply with this paragraph.

§ 171.37. Transmission.

(a) *Automatic.* An automatic or semiautomatic transmission shall have at least three forward speeds and one reverse speed.

(b) *Manual.* On manual transmissions, second and higher gears shall be synchronized except when incompatible with engine power. A minimum of three forward speeds and one reverse speed shall be provided.

Subchapter C. SCHOOL BUS BODY STANDARDS

§ 171.47. Color.

The requirements for the color of school bus bodies are as follows:

(1) The school bus body shall be painted a uniform National School Bus Yellow. See Appendix B.

(2) The roof of the school bus may be painted white.

(3) The body exterior trim, including the exterior mirrors, may be black. The bumper shall be black.

(4) If a school bus is equipped with reflective material, other than that required under §§ 171.50 and 171.59 (relating to doors and emergency exits; and lamps and signals), the reflective material shall be of automotive engineering grade or better. If additional reflective materials and markings are used, they may be applied as follows:

(5) The pilaster (vertical window post) may be black.

(6) The color requirements in this section do not apply to multifunction school activity buses.

§ 171.50. Doors and emergency exits.

(a) *Service doors.* The requirements for service doors are as follows:

(1) The service door shall be under the control of the driver, and designed so as to afford easy release and prevent accidental opening. When a hand lever is used, no part may come together so as to shear or crush fingers.

(2) The service door shall be located on the right side of the school bus opposite the driver and within direct view of the driver.

(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. Type A school bus service doors shall have a minimum opening area of 1,200 square inches.

(4) The service door shall be of the split type, sedan type or jackknife type. Split-type door includes a sectioned door which divides and opens inward or outward. If one section of a split type door opens inward and the other opens outward, the front section shall open outward.

(5) Lower as well as upper windows shall have approved safety glazing. The bottom of the lower window may not be more than 35 inches from the ground when the bus is unloaded. The top of the upper window may not be more than 6 inches from the top of the door. Type

A school buses shall have an upper window with an area of at least 350 square inches of approved safety glazing.

(6) Vertical closing edges on split type or folding type entrance doors shall be equipped with flexible material to protect the passengers' fingers. Type A school buses may be equipped with the chassis manufacturer's standard entrance door.

(7) There may be no door to the left of the driver on Type C or D school buses. Type A and B school buses may be equipped with the chassis manufacturer's standard entrance door.

(8) Doors shall be equipped with padding at the top edge of each door opening. The padding shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening.

(b) *Emergency exits.* Each school bus shall comply with FMVSS No. 217. See Appendix A. The area of square centimeters of the unobstructed opening for emergency exits shall collectively amount to at least 432 multiplied times the number of designated seating positions in the bus. The area of an opening equipped with a wheel chair lift is counted toward meeting additional emergency area requirements only if the lift is designed to be folded or stored so that the area is available for use by persons not needing the lift.

(1) The requirements for emergency exit doors are as follows:

(i) The emergency exit door shall be hinged according to FMVSS No. 217. See Appendix A. Double emergency exit doors shall also be hinged according to FMVSS No. 217. See Appendix A.

(ii) The upper portion of the rear emergency exit door shall have a window equipped with approved safety glazing, the exposed area of which is at least 400 square inches. The lower portion of the rear emergency door on Type B, C and D school buses shall contain a window of approved safety glazing, measuring a minimum of 350 square inches. Type A school buses are exempt from this subparagraph.

(iii) Except as provided in subparagraph (iv), no portion of a seat or a restraining barrier may be installed within the area bounded by the opening of a side emergency exit door, a vertical transverse plane parallel to that plane at a distance of 30 centimeters (11 $3/4$ inches) forward of that plane, and a longitudinal vertical plane passing through the longitudinal centerline of the bus. See Figure 4.

(iv) A seat bottom may be located within the area described in subparagraph (iii) if the seat bottom pivots and automatically assumes and retains a vertical position when not in use, so that no portion of the seat bottom is within the area described in subparagraph (iii) when the seat bottom is vertical. See Figure 5.

(v) No portion of a seat or restraining barrier—located forward of the area described in subparagraph (iii) and between the door opening and a longitudinal vertical plane passing through the longitudinal centerline of the bus—may extend rearward of a vertical transverse plane tangent to the forwardmost portion of a latch mechanism on the door. See Figures 5 and 6.

(vi) Each emergency exit door of a school bus shall be equipped with a positive door opening device that, after the release mechanism has been operated:

- (A) Bears the weight of the door.
- (B) Keeps the door from closing past the point at which the door is perpendicular to the side of the bus body, regardless of the body's orientation.
- (C) Provides a means for release or override.
- (vii) The positive door opening device shall perform the functions specified in subparagraph (vi)(A) and (B) without the need for additional action beyond opening the door past the point at which the door is perpendicular to the side of the bus body.
- (viii) Emergency door exits shall be equipped with padding at the top edge of each door opening. The padding shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening.
- (ix) The emergency exit door opening may not be blocked with an obstruction higher than 1/4 inch across the bottom of the emergency exit door opening.
- (x) Each school bus emergency exit door shall allow manual release of the door by a single person, from both inside and outside the passenger compartment. The release mechanism shall operate without the use of remote controls or tools, and notwithstanding any failure of the vehicle's power system. When the release mechanism is not in the position that causes an emergency exit door to be closed, and the vehicle's ignition is in the "on" position, a continuous warning sound shall be audible at the driver's seating position.
- (xi) Two side emergency exit doors may not be located, in whole or in part, within the same post and roof bow panel space.
- (xii) Supplemental security locks installed on emergency doors shall be equipped with an ignition interlock system or an audiovisual alarm located in the driver's compartment. Hasps may not be used.
- (2) The requirements for emergency roof exits are as follows:
 - (i) Each emergency roof exit shall be hinged on its forward side, and shall be operable from both inside and outside the vehicle.
 - (ii) In a school bus equipped with a single emergency exit, the exit shall be located as near as practicable to the midpoint of the passenger compartment.
 - (iii) In a bus equipped with two emergency roof exits:
 - (A) One emergency roof exit shall be located as near as practicable to a point equidistant between the midpoint of the passenger compartment and the foremost limit of the passenger compartment.
 - (B) The other emergency roof exit shall be located as near as practicable to a point equidistant between the midpoint of the passenger compartment and the rearmost point of the passenger compartment.
 - (iv) In a bus equipped with three or more emergency roof exits, the roof exits shall be installed so that, to the extent practicable, the longitudinal distance between each pair of adjacent roof exits is the same and equal to:
 - (A) The distance from the foremost point of the passenger compartment to the foremost roof exit.
 - (B) The distance from the rearmost point of the passenger compartment to the rearmost roof exit.
 - (v) Except as provided in subparagraph (vi), each emergency roof exit shall be installed with its longitudinal

centerline coinciding with a longitudinal vertical plane passing through the longitudinal centerline of the school bus.

(vi) In a bus equipped with two or more emergency roof exits, for each roof exit offset from the longitudinal vertical plane specified in subparagraph (v), there shall be another roof exit offset from that plane an equal distance to the other side.

(vii) Each school bus emergency roof exit shall allow manual release of the exit by a single person, from both inside and outside the passenger compartment, using not more than two release mechanisms.

(viii) Each school bus emergency roof exit, after the release mechanism has been operated, shall be manually extendable by a single person to a position that permits an opening at least 41 centimeters—16 1/8 inches—high and 41 centimeters—16 1/8—wide.

(3) The requirements for emergency exit windows are as follows:

(i) A bus equipped with emergency exit windows shall have an even number of these windows, not counting a push-out rear window. Side emergency exit windows shall be evenly divided between the right and left sides of the bus.

(ii) Each school bus emergency exit window shall allow manual release of the exit by a single person, from inside the passenger compartment, using not more than two release mechanisms. Each release mechanism shall operate without the use of remote controls or tools, and notwithstanding a failure of the vehicle's power system. When the release mechanism is open and the vehicle's ignition is in the "on" position, a continuous warning shall be audible at the driver's seating position.

(4) The engine starting system of a bus may not operate if an emergency exit is locked from either inside or outside the bus. An emergency exit is considered locked if the release mechanism cannot be activated and the exit cannot be opened by a person at the exit without a key or other special device, or a combination or other special information.

(5) The requirements for emergency exit labeling are as follows:

(i) Each school bus emergency exit shall be labeled "Emergency Door" or "Emergency Exit," as appropriate, in letters at least 5 centimeters (2 inches) high, of a color that contrasts with its background. For emergency exit doors, the label shall be located at the top of, or directly above, the emergency exit door on both the inside and outside surfaces of the bus. The label for roof exits shall be located on an inside surface of the exit, or within 30 centimeters (11 3/4 inches) of the roof exit opening. For emergency exit windows, the label shall be located at the top of, or directly above, or at the bottom of the emergency exit window on both the inside and outside surfaces of the bus. If the school bus is equipped with tinted windows, the emergency exit labeling may not be placed on the glass, unless it is placed on both the inside and outside.

(ii) Concise operating instructions describing the motions necessary to unlatch and open the emergency exit shall be located within 15 centimeters (5 15/16 inches) of the release mechanism on the inside surface of the bus. These instructions shall be in letters at least 1 centimeter (3/8 inches) high and of a color that contrasts with its background—for example: "Lift to Unlatch, Push or Open;" or "Turn Handle, Push Out to Open."

(iii) Each opening for a required emergency exit shall be outlined around its outside opened perimeter with a minimum 3 centimeters—1 1/8 inches—wide retroreflective tape, either red, white or yellow in color, which meets the requirements of FMVSS No. 131. See Appendix A.

§ 171.54. Heaters.

(a) The requirements for heaters are as follows:

(1) Heaters shall provide evenly distributed heat throughout the interior of the bus.

(2) At least one heater shall provide defrosting for the windshield, driver's side sash and entrance door.

(3) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses may not dangle or rub against the chassis or sharp edges and may not interfere with or restrict the operation of any engine function. Heater hoses shall conform to applicable SAE Standards. See Appendix A. Heater lines on the interior of the bus shall be shielded to prevent scalding of the driver or passengers.

(4) A hot water heater system shall include a shutoff valve installed in the pressure and return lines at the engine. There shall be a water flow regulating valve installed for convenient operation by the driver. Type A school buses are exempt from this paragraph.

(5) Accessible bleeder valves shall be installed to remove air from the heater lines. The valves shall be installed in an appropriate place in the return lines of the heater.

(6) Heater motors, cores and fans shall be readily accessible for service. Access panels shall be provided as needed.

(b) Auxiliary fuel-fired heating systems are permitted, provided they comply with the following:

(1) The auxiliary heating system fuel shall utilize the same type fuel as specified for the vehicle engine.

(2) The heaters may be either of a direct hot air type or connected to the engine's coolant system.

(3) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.

(4) Auxiliary heating systems shall be installed pursuant to the manufacturer's recommendations and may not direct exhaust in a manner that will endanger bus passengers.

(5) Auxiliary heating systems which operate on diesel fuel shall be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(6) Auxiliary heating systems shall be low voltage.

(7) Auxiliary heating systems shall comply with all applicable Federal Motor Vehicle Safety Standards, including FMVSS 301 as well as SAE test procedures.

§ 171.55. Identification.

(a) *Required.* Every school bus body shall bear the words "SCHOOL BUS" in black letters at least 8 inches high on both the front and the rear of the body, or on signs attached thereto. Lettering shall be placed as high as possible without impairment of its visibility. Lettering shall conform to "Series B" of Standard Alphabets for Highway Signs.

(b) *Identification number.* A school bus shall display an identification number consisting of no more than 4 black

numbers, letters or a combination of numbers and letters. The numbers or letters shall be a minimum 5 inches in height and shall be displayed in a prominent location on the front, rear and on both sides of the bus. On a school bus with a rounded front, the identification number displayed on the front of the bus may be displayed on the black front bumper in yellow numbers, letters, or a combination of numbers and letters, in lieu of black numbers, letters, or a combination of numbers and letters on the front of the yellow bus body.

(c) *School, bus company and manufacturer markings.* School buses shall have the name of the school district, private or parochial school, school bus contractor, or school bus owner clearly visible, lettered on each side of the school bus body in the upper body belt band area as close as practical to the bottom ledge of the bottom window sash in letters of not less than 4 inches in height. Lettering shall be in black or National School Bus Yellow, depending on the contrasting background color. See Appendix B. A paper or vinyl route identification number or symbols may be placed in the rear of the first right or left passenger window, or both. The bus contractor may have his name or the name of the company in letters no larger than 3 inches in height. The dealer identification insignia may be displayed, in an area not to exceed 6 inches in height by 12 inches in width. The manufacturer's insignias may be displayed. Pennsylvania Public Utility Commission certification number and the U.S. DOT identification number, and any other required commercial vehicle markings may be displayed.

(d) *Roof-top identification.* School buses may display the first eight digits of the title number on the roof in numbers of at least 12.75 inches and not more than 15 inches in height. Lettering shall be in black reflective material and placed in a longitudinal column with the first digit beginning at the front and the last digit ending towards the rear of the school bus as illustrated as follows:

* * * * *

(e) *Additional markings.* Except as set forth in this section, signs or lettering are not permitted.

§ 171.58. Interior.

The requirements for the interior of school buses are as follows:

(1) The interior of every school bus shall be free of unnecessary projections likely to cause injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed so as to contain lapped joints, the forward panel shall be lapped by the rear panel, and exposed edges shall be beaded, hemmed, flanged or otherwise treated to minimize sharp edges.

(2) Every school bus shall meet the requirements of FMVSS No. 302, as to the flammability of interior materials. See Appendix A.

(3) Book racks or luggage racks are not permitted.

(4) Interior radio/stereo speakers shall be of the flush mounted type. Exposed parts shall be treated to minimize sharp edges.

(5) The driver's area forward of the foremost padded barriers shall permit the mounting of required safety equipment and vehicle operating equipment.

(6) The requirements for air-conditioning units are as follows:

(i) Persons installing air-conditioning units in school buses after the vehicle's original manufacture date shall install the equipment in accordance with manufacturer's specification and applicable FMVSS.

(ii) Interior ceiling-mounted air-conditioning units, mounted above the seats within the head protection zone or at the rear of the bus, shall be padded with materials meeting FMVSS No. 302 to an extent to insure compliance with the head impact test requirements of FMVSS No. 222. See Appendix A.

(iii) This paragraph does not prohibit the installation of air-conditioning units in locations other than those described in subparagraph (ii). Air-conditioning units may be installed in other locations if labeled as described in subparagraph (i).

§ 171.59. Lamps and signals.

(a) *General rule.* All lamps, signals, reflectors and their installation must be in conformance with applicable FMVSS and SAE standards.

(b) *Exterior lamps.* Exterior lamps shall meet the requirements of FMVSS No. 108.

(c) *Flashing signal lamps and stop signal arm devices.* The requirements for flashing signal lamps and stop signal arm devices are as follows:

(1) *Signal lamps.* Every school bus shall be equipped with 8-way warning lamps consisting of two red and two amber alternately flashing signal lamps at the rear of the vehicle and two red and two amber alternately flashing signal lamps at the front of the vehicle.

(i) Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the school bus.

(ii) The system shall be wired so that the amber signal lamps are activated manually, and if activated, are automatically deactivated and the red signal lamps automatically activated when the school bus service door is opened.

(iii) Amber and red warning lamps must alternate between left and right at a minimum rate of 60 flashes per minute.

(iv) LED and/or strobe lights may be used in the 8-way warning lamps system.

(v) If strobe lights are used, the strobe effect must appear as a flash of varying intensity and not separate flashes. All amber and red warning lamps must strobe in the same pattern. The same pattern is the same number of flashes per lamp before the system alternates to the other side.

(vi) The area around the lens of each alternately flashing signal lamp shall be of a black contrasting color. The use of visors or hoods with an appropriate black background to fit the shape of the visors or hoods and the roofcap is permitted.

(vii) Flashers for alternately flashing red and amber signal lamps shall be enclosed in the school bus body in a readily accessible location.

(2) *Stop signal arm devices.* A school bus may be equipped with strobe or LED flashing stop signal, or both. The signal may be equipped with two flashing strobe or LED lights, or both, at least 4 inches in diameter, red in color and double faced. Stop signal arm devices on school buses shall comply with FMVSS No. 131—See Appendix A—and the following requirements:

(i) The stop signal arm shall be a regular octagon which is at least 450 mm × 450 mm—17.72 inches × 17.72 inches—in diameter.

(ii) The stop signal arm shall be red on both sides, except as provided in subparagraphs (iii)—(v).

(iii) The stop signal arm shall have a white border at least 12 mm—0.47 inch—wide on both sides, except as provided in subparagraph (v).

(iv) The stop signal arm shall have the word “STOP” displayed in white upper-case letters on both sides, except as provided in subparagraph (v). The letters shall be at least 150 mm—5.9 inches—in height and have a stroke width of at least 20 mm—0.79 inch.

(v) If two stop signal arms are installed on a school bus, the rearmost stop signal arm may not contain lettering, symbols or markings on the forward side.

(vi) The stop signal arm shall comply with clause (A) or (B), or both.

(A) The entire surface of both sides of the stop signal arm shall be reflectorized with Type III reflectorized material that meets the minimum specific intensity requirements of FMVSS No. 125. See Appendix A. If two stop signal arms are installed on a school bus, the forward side of the rearmost stop signal arm may not be reflectorized.

(B) Each side of the stop signal arm shall have at least two red lamps that meet the requirements of SAE Standard J578. See Appendix A. The lamps shall be centered on the vertical centerline of the stop arm. One of the lamps shall be located at the extreme top of the stop arm and the other at its extreme bottom.

(vii) The stop signal arm shall be installed on the left side of the bus.

(viii) The stop signal arm shall be located so that, when in the extended position, the following requirements are met:

(A) The stop signal arm is perpendicular to the side of the bus, ±5°.

(B) The top edge of the sign is parallel to and within 6 inches of a horizontal plane tangent to the lower edge of the driver's window frame.

(C) The vertical centerline of the stop sign is at least 9 inches away from the side of the school bus.

(ix) If a rearmost stop signal arm is installed on a school bus, the stop signal arm shall comply with subparagraphs (vii) and (viii).

(x) The stop signal arm shall be automatically extended so that it complies with subparagraph (viii), at a minimum, whenever the red signal lamps required by FMVSS No. 108, S5.1.4—See Appendix A—are activated; except that a device may be installed that prevents the automatic extension of a stop signal arm. The mechanism for activating the device shall be within the reach of the driver. While the device preventing automatic extension is activated, a continuous or intermittent signal audible to the driver shall sound. The audible signal may be equipped with a timing device but shall require the signal to sound for at least 60 seconds. If a timing device is used, it shall automatically recycle each time the service entry door is opened while the engine is running and the manual override is engaged.

(xi) The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a minimum rate of 60 flashes per minute.

(xii) The stop signal arm and components shall comply with SAE Standard J1133. See Appendix A.

(3) *Exception.* A multifunction school activity bus is exempt from the flashing signal lamps and stop arm device requirements of this section. However, a multifunction school activity bus which is not in compliance with the requirements of § 171.18 (relating to color) may not have 8-way warning lamps and stop arm devices.

(d) *Interior lamps.* Interior lamps shall adequately illuminate the aisle and step well.

(e) *Turn signal and stop lamps.* The rear turn signal lamps shall be at least 7 inches in diameter, or if in a shape other than round, a minimum of 38 square inches, and meet SAE Standards. These signals shall be connected to the chassis hazard warning switch to cause simultaneous flashing of the turn signal lamps when needed as vehicular traffic hazard warning. The turn signal lamps shall be placed as wide apart as practical and their centerline shall be approximately 8 inches below the rear windows. Type A school bus lamps shall be 21 square inches in lens area. Just inside the turn signal, there shall be installed at the same elevation, two 7 inch diameter stop lamps, or if in a shape other than round, a minimum of 38 square inches. The lamps shall flash at a rate of 60—120 flashes per minute.

(f) *Monitor.* If a school bus is equipped with indicators to monitor the front and rear lamps, it shall be mounted in full view of the driver. If the full circuit current passes through the indicator, each circuit shall be protected by a fuse, circuit breaker or multiplex electrical circuit technology.

§ 171.64. (Reserved).

§ 171.67. Traction assist devices.

School buses may be equipped with sanders and automatic tire chains. Sanders and automatic tire chains shall be installed in accordance with the manufacturer's installation procedures.

§ 171.68. Seat belts.

(a) *Seat belt for the driver.* A Type 2 seat belt meeting the requirements of FMVSS Nos. 208 and 209—See Appendix A—shall be provided for the driver. The belt shall be equipped with a retractor of sufficient quality and strength to keep the belt retracted and off the floor when not in use. The belt shall be anchored in accordance to FMVSS No. 210—See Appendix A.

(b) *Seat belts for the driver and all other designated seating positions.* Every Type A school bus shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the right front passenger's designated seating position, if any. All other designated seating positions shall have a Type 1 or Type 2 seat belt assembly. Seat belt assemblies shall comply with FMVSS Nos. 208, 209 and 210—See Appendix A.

(c) *Web cutters.* Every school bus equipped with passenger seat belts shall have at least one web cutter securely mounted in a visible location in the driver's compartment.

§ 171.69. Seats and crash barriers.

The requirements for seats and crash barriers are as follows:

(1) Seats shall have a minimum seating depth of 15 inches.

(2) A seating space at least 13 inches wide shall be provided for each passenger.

(3) Each seat, seat back cushion and crash barrier shall be covered with a material having at least a 42-ounce finished weight, 54 inches width, and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold and flex separation. Seat materials shall comply with FMVSS No. 302. See Appendix A.

(4) Seats not designed to meet FMVSS No. 222—See Appendix A—are not permitted. Specially equipped school buses, flip seats which comply with FMVSS No. 217—See Appendix A—and school bus seats designed with an integrated child restraint seat which complies with FMVSS No. 213—See Appendix A—are exempt from this paragraph. Child safety seats which comply with FMVSS No. 213 are also exempt from this paragraph if they are used and secured at all times as designated by the manufacturer.

(5) Except as set forth in paragraphs (6)—(11), the backs of all seats of similar size shall be of the same width at the top, of the same height above the floor, and shall slant at the same angle with the floor. A school bus seat designed with an integrated child restraint seat, which complies with FMVSS No. 213, shall have a crash barrier or have a seat back of similar size or height in front of it.

(6) Each school bus passenger seat shall have a minimum seat back height of 24 inches measured from the top of the seat cushion.

(7) The horizontal distance between passenger seats may not be more than 28 inches measured from the front of the seat back cushion forward to the back of the restraining barrier.

(8) Seats shall be forward-facing.

(9) Seats shall be installed in a manner to prevent the seats from disengaging from the seat frame under extraordinary operating conditions. Seats may not have springs protruding and may not have tears greater than 1 inch.

(10) Seats and anchorages shall comply with FMVSS No. 222. See Appendix A.

(11) A padded barrier shall be placed in front of all forward-facing passenger seats that do not have another seat in front of them, as required by FMVSS No. 222. See Appendix A.

§ 171.70. Steps.

The requirements for steps are as follows:

(1) The lower step at the service door may be not less than 12 inches and not more than 16 inches from the ground, based on standard chassis specifications.

(2) The service door entrance may be equipped with at least a two-step stepwell. Risers in each case shall be approximately equal. When a plywood floor is used on steel, the differential may be increased by the thickness of the plywood used. When a three-step stepwell is used, the first step at the service door shall be approximately 10 to 14 inches from the ground when the school bus is empty, based on standard chassis specifications. Type D school buses shall have at least a three-step stepwell with the first step at the service door 12 to 16 inches from the ground.

(3) Steps shall be enclosed to prevent accumulation of ice and snow.

(4) Steps may not protrude beyond the side body line.

(5) A grab handle at least 20 inches in length shall be provided in an unobstructed location inside the doorway. The grab handle shall be designed or installed to prevent items of school children's clothing, personal items or an appendage from being snagged in the grab handle or door.

(6) Steps on Types A and B school buses may be the manufacturer's standard.

(7) Steps, including those in the floor line platform area, shall be covered with 3/16-inch rubber floor covering or other nonskid material that is equal in wear and abrasion resistance to top grade rubber.

(8) The step tread material shall be permanently bonded to a durable backing material that is resistant to corrosion.

(9) The step tread shall have a 1 1/2 inch white nosing as an integral piece without any joint.

(10) The requirements for the rubber portion of step treads are as follows:

(i) Special compounding shall be used to allow for good abrasion resistance and a high coefficient of friction.

(ii) The rubber shall be flexible enough to allow it to be bent around a 1/2 inch mandrel both at 130°F and 20°F, without breaking or cracking.

§ 171.73. Sun shield.

(a) An interior adjustable transparent sun shield, with a finished edge and at least 6 inches by 30 inches shall be installed in Types B, C and D school buses in a position convenient for use by the driver.

(b) A sun shield (visor) shall be installed according to manufacturers standard on all Type A school buses. Additionally, Type A school buses may use an interior adjustable transparent sun shield, at least than 6 inches by 16 inches.

§ 171.74a. Crossing control arm.

School buses shall be equipped with a crossing control arm which shall be automatically activated whenever the bus is stopped with the red warning signals in use.

(1) The crossing control arm shall meet or exceed SAE Standard J1133.

(2) The crossing control arm shall be mounted on the right side of the front bumper and may not open more than 90°.

(3) The crossing control arm shall extend a minimum of 60 inches from the front bumper when in the extended position.

(4) The crossing control arm shall extend simultaneously with the stop arm by means of the stop arm controls.

(5) The crossing control arm shall incorporate system connectors (electrical, vacuum or air) at the gate and shall be easily removable to allow for towing of the school bus.

(6) All components of the crossing control arm and all connections shall be waterproofed.

(7) If the crossing control arm is not constructed of noncorrosive or nonferrous material, it shall be zinc-coated or aluminum-coated or treated by equivalent process.

(8) There may not be sharp edges or projections on the crossing control arm that could cause hazard or injury to students.

(9) A multifunction school activity bus is not required to be in compliance with this section.

§ 171.76. Ventilation.

The requirements for the ventilating system are as follows:

(1) The school bus body shall be equipped with a ventilating system.

(2) If used, auxiliary fans for the left or right side of the bus shall be placed in a location where they can be adjusted by the driver for their maximum effectiveness. These fans shall be 6 inches in diameter. The fan blades shall be covered with a protective cage and each fan shall be controlled by a separate switch.

§ 171.78. Windows.

The following apply to windows:

(1) Each full side window shall provide an unobstructed emergency opening at least 9 inches high and 22 inches wide, obtained by lowering the window.

(2) School buses shall be equipped with split sash windows. Push-out type windows may be used.

(3) Glass in the windshield, windows and doors shall be of approved safety glazing so mounted that the identifying designation is visible, and of sufficient quality to prevent distortion of view in any direction. Glazing materials shall comply with FMVSS No. 205. See Appendix A. Glass may be mounted in a conventional rubber gasket or affixed to the body by a bonding process.

(4) Exposed edges of glass shall be banded or have a finished edge.

§ 171.80. Windshield wipers.

A windshield wiping system, two-speed or more, shall be installed and in safe operating condition. The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers.

§ 171.81. Wiring.

Wiring shall conform to the following:

(1) Wiring shall conform to current applicable recommended practices of SAE Standard J1292. See Appendix A.

(2) Circuits shall conform to the following specifications:

(i) Wiring shall be arranged in at least six regular circuits, as follows:

(A) Head, tail, stop (brake) and instrument panel lamps.

(B) Clearance, side-marker and stepwell lamps-step well lamp shall be actuated when service door is opened.

(C) Dome lamps.

(D) Ignition and emergency door signal.

(E) Turn signal lamps and hazard warning switch.

(F) Alternately flashing signal lamps.

(ii) Each circuit shall be protected by a fuse, circuit breaker or multiplex electrical circuit technology. A system of color coding shall be used.

(iii) A combination circuits listed in this paragraph may be subdivided into additional independent circuits.

(iv) At least one additional circuit shall be installed for heaters and defrosters.

(v) Whenever possible, other electrical functions, such as sanders and electric-type windshield wipers, shall be provided with independent and properly protected circuits.

(vi) Each body circuit shall be coded by number or letter on a diagram of circuits and shall be attached to the body in a readily accessible location.

(3) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

(4) A body wiring diagram of easy readable size shall be furnished or affixed in an area convenient to the electrical accessory control panel.

(5) Wiring shall have an amperage capacity equal to or exceeding the designed load. Wiring splices shall be done at an accessible location and noted as splices on the wiring diagram.

(6) Body power wire shall be attached to a special terminal on the chassis.

(7) Wires passing through metal openings shall be protected by grommets.

(8) Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. Joints shall be soldered or joined by equally effective connectors.

§ 171.83. Portable emergency warning devices.

Every bus shall carry at least three portable emergency reflective triangles, as specified by Chapter 167 (relating to portable emergency warning devices). They shall be mounted in an accessible place in the driver's compartment.

§ 171.85. Video equipment.

Installation of video equipment is at the discretion of the school district or the school bus contractor.

§ 171.86. Fire axe.

Fire axes are prohibited.

Subchapter D. ADDITIONAL STANDARDS FOR SPECIALLY EQUIPPED SCHOOL BUSES AND SCHOOL VEHICLES

§ 171.91. General requirement.

School buses used for transporting students with disabilities shall comply with Subchapters B, C, G and this subchapter. School vehicles used for the transportation of students with disabilities shall comply with Subchapter E and this subchapter.

§ 171.92. Aisles.

(a) School buses equipped with a power lift or a ramp shall have aisles a minimum of 30 inches wide leading from the wheelchair or other type of mobility device area to the emergency door, power lift or ramp special service entrance. Under § 171.42 (relating to aisle), school buses that are not equipped with a power lift or ramp shall have aisles with a minimum clearance of at least 30 centimeters—11 3/4 inches—wide leading to the emergency door and the service entrance door.

(b) School vehicles may not be equipped with more than two wheelchair positions. (Each wheelchair seating position is counted as four designated seating positions, under 49 CFR 571.3(b) (relating to definitions).

§ 171.94. Grab handles.

Grab handles shall be provided on the interior of school buses on each side of the right front service door.

§ 171.95. Heaters.

Additional heaters may be installed in the rear portion of a school bus.

§ 171.96. Power lift.

(a) *General.* A school bus or school vehicle that is used specifically for the transportation of school children who utilize wheelchairs or other types of mobility devices, or who require life support equipment which cannot use the regular service entrance shall be equipped with a power lift. A power lift system shall comply and be installed in accordance with any applicable FMVSS. If a power lift system is inadequate to load or unload school children having special or unique needs, a ramp device may be installed.

(b) *Specific requirements.* The requirements for power lifts are as follows:

(1) The power lift shall be located either in the rear or on the right side of the vehicle body, but confined within the perimeter of the vehicle body when not extended. The power lift may not be attached to the exterior sides of the vehicle.

(2) The lifting mechanism shall be able to lift a minimum payload of 800 pounds. A clear opening and platform to accommodate a 30-inch wide wheelchair shall be provided.

(3) When the platform is in the fully up position, it shall be locked in position mechanically by means other than a support or lug in the door.

(4) Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the school bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

(5) Power lifts shall be equipped so they may be manually operated in the event of a power failure.

(6) The lift travel shall allow the lift platform to rest securely on the ground.

(7) Edges of the platform shall be designed to prevent the wheelchair or other type of mobility device from slipping or rolling off the platform and to prevent the operator's feet from being entangled during the raising and lowering process.

(8) A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level.

(9) A circuit breaker, fuse or an electronic device which provides protection against short circuits, thermal overloads and reversed polarity shall be installed between the power source and the lift motor, if electrical power is used.

(10) The lift mechanism shall be designed to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up or full down position.

§ 171.97. Ramps.

(a) *General.* If a power lift system is inadequate to load and unload students having special or unique needs, a ramp device may be installed.

(b) *Requirements.* The requirements for ramps are as follows:

(1) Ramps shall be rigid and of sufficient strength to support the wheel chair or other type of mobility device, occupant and attendants without stress damage.

(2) Ramps shall be equipped with a protective flange on each longitudinal side to keep wheel chairs or other types of mobility devices on the ramp.

(3) Ramp floors shall be of a nonskid material.

(4) Ramps shall be equipped with a handle and constructed so as to permit one person to put the ramp in place and return it to its storage place.

(5) Ramps, during use, shall be connected to the school bus or school vehicle at floor level to permit easy access of wheel chairs or other types of mobility devices, and to be free of danger of detachment.

(6) A dustproof and waterproof enclosed container shall be provided if the ramp is stored under the floor.

§ 171.99. Restraining devices.

(a) Seat frames and seats may be equipped with belt restraint systems designed and installed in accordance with FMVSS Nos. 209 and 213 and used as designated by the manufacturer. Attachment framework and anchorage devices shall conform with FMVSS No. 210—See Appendix A.

(b) Drivers of school vehicles are required to comply with the requirements of 75 Pa.C.S. § 4581 (relating to child passenger restraints) and the Department's regulations implementing those requirements.

§ 171.102. Special light.

Lights shall be placed inside the school bus or school vehicle to sufficiently illuminate the lift area and shall be activated from the door area.

§ 171.103. Special service entrance.

(a) *General.* A special service entrance may be constructed to accommodate a wheelchair lift for the loading and unloading of passengers.

(b) *Requirements for school buses.* The following apply to the special service entrance on school buses:

(1) The special service entrance shall be located at a convenient point on the right—curb side—of the school bus and far enough to the rear to prevent the door, when open, from obstructing the right front service door—excluding a regular front service door lift.

(2) The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and provide the same strength as other floor openings.

(3) With doors open, the minimum clear opening shall be 30 inches in width.

(4) A drip moulding shall be installed above the opening to effectively divert water from the entrance.

(5) The entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform.

(6) Door posts and headers from the entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the school bus not used for service doors.

(c) *Requirements for school vehicles.* The following apply to the special service entrance on school vehicles:

(1) The special service entrance shall be located at a convenient point to the right—curb side or to the rear of the school vehicle.

(2) With doors open, the minimum clear opening shall be 30 inches in width.

(3) A drip molding shall be installed above the opening to effectively divert water from the entrance.

(4) The entrance shall be of sufficient width and depth to accommodate the mechanical lift and related accessories as well as the lifting platform.

(5) Door posts and headers from the entrance shall be reinforced sufficiently to provide support and strength equivalent to original manufacture.

§ 171.104. Special service entrance doors.

The requirements for special service entrance doors are as follows:

(1) Either a single door or double doors may be used for the special service entrance.

(2) Doors shall open outwardly.

(3) Doors shall have positive fastening devices to hold the doors in the open position.

(4) Doors shall be weather sealed. Double doors shall be so constructed that a flange on the outside of the forward door overlaps the edge of the rear door when closed.

(5) If optional power doors are installed, the design shall permit release of the doors for opening and closing from inside the school bus or school vehicle.

(6) If manually operated dual doors are provided, the rear door shall have at least a one point fastening device to the header.

(i) The forward mounted door shall have at least three fastening devices—one to the header, one to the floor line of the body and the other into the rear door.

(ii) These locking devices shall afford maximum safety when the doors are in the closed position.

(iii) The door and hinge mechanism shall be of sufficient strength to provide for the same type of use as a standard entrance door.

(7) Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body.

(8) Each door shall have windows set in rubber compatible within 1 inch of the lower line of the adjacent sash.

(9) Doors shall be equipped with a device that will actuate an audible or visible signal located in the driver's compartment when the doors are not securely closed and the ignition is in the "on" position.

(10) The lifting mechanism switch shall be wired so as to prevent the lifting mechanism from operating when the lift platform door is closed.

(11) Supplemental security locks installed on special service entrance doors shall be equipped with an ignition interlock system or an audiovisual alarm located in the driver's compartment.

§ 171.105. Identification.

A specially equipped school bus or school vehicle may display the universal handicapped symbol on the rear of the vehicle below the window line. The emblem shall be white on blue, may not exceed 12 inches in height and width, and shall be of reflective material.

§ 171.107. Web cutter.

Every specially equipped school bus and school vehicle shall have at least one web cutter securely mounted in a visible location within the driver's compartment.

Subchapter E. SCHOOL VEHICLE STANDARDS**§ 171.121 Applicability.**

The requirements of this subchapter apply to motor vehicles used to transport preprimary, primary or secondary school students to or from public, private or parochial schools or events related to these schools or school-related activities, which are designed to carry 11 to 15 passengers, including the driver, and which are registered in this Commonwealth as a bus prior to March 1, 1993, or a motor vehicle which is designed to carry 11 to 15 passengers, including the driver, and which was titled to any public, private or parochial school on or before March 1, 1993, and which is registered to that public, private or parochial school in this Commonwealth as a bus prior to September 15, 1993 and school vehicles.

§ 171.125. Seating.

(a) *Vehicle seats.* Vehicle seats and seat belts shall be of a type and installed as recommended by the vehicle manufacturer.

(b) *Dividers.* Dividers may not be used to separate the seats.

(c) *Seating space.* A designated seating position of safe design and construction shall be provided for each passenger and a passenger may not be carried for which a safe designated seating position is not available. Seats shall be forward facing.

(d) *Child passenger restraints.* Drivers of school vehicles are required to comply with the requirements of 75

Pa.C.S. § 4581 (relating to child passenger restraints) and the Department's regulations implementing those requirements.

§ 171.126. Web cutter.

Every school vehicle shall have at least one web cutter securely mounted in a visible location within the driver's compartment.

§ 171.127. Certification.

A school vehicle shall be certified by the original manufacturer or final stage manufacturer to meet the Federal Motor Vehicle Safety Standards for a passenger car or a multipurpose passenger vehicle.

Subchapter F. MASS TRANSIT PUPIL TRANSPORTATION BUS STANDARDS**§ 171.138. Portable emergency warning device.**

Every bus shall carry at least three portable emergency reflective triangles, as specified by Chapter 167 (relating to portable emergency warning devices). They shall be mounted in an accessible place in the driver's compartment.

Subchapter G. OPERATION STANDARDS FOR VEHICLES SUBJECT TO THIS CHAPTER**§ 171.149. Unsafe operations.**

(a) *General.* Vehicles subject to this chapter may not be operated in a condition that is likely to cause an accident or a breakdown of the vehicle.

(b) *Exemption.* A vehicle subject to this chapter discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. The operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

(c) *Securing loose items.* Any items stored by the driver shall be secured, so that the items do not interfere with the operation of the accelerator or brake pedal, impede the loading or unloading process or any other operational control for the safe operation of the vehicle.

[Pa.B. Doc. No. 05-991. Filed for public inspection May 20, 2005, 9:00 a.m.]

STATEMENTS OF POLICY

Title 37—LAW

DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 97]

Guidelines for the Implementation of State Intermediate Punishment

The Department of Corrections (Department) issues guidelines for the implementation of the first State Intermediate Punishment Program approved by the General Assembly. The guidelines implement 42 Pa.C.S. Chapter 99 (relating to State intermediate punishment), which permits a defendant who commits a drug-related offense to be sentenced to an individualized drug offender treatment program (DOTP) for 24 months.

A. *Effective Date*

The guidelines became effective on May 18, 2005.

B. *Contact Person*

Further information concerning the guidelines can be obtained from Jill C. Fluck, Special Assistant to the Secretary, Department of Corrections, 2520 Lisburn Road, P. O. Box 598, Camp Hill, PA 17001. The guidelines are published on the Department's website: www.cor.state.pa.us.

C. *Statutory Authority*

The guidelines are published under 42 Pa.C.S. § 9906 (relating to written guidelines and regulations) which requires the Department to develop written guidelines that are not subject to the Regulatory Review Act (71 P. S. §§ 745.1—745.15). The guidelines are effective for 2 years and must be replaced with regulations promulgated consistently with the Regulatory Review Act within the 2-year period during which the guidelines are effective.

D. *Purpose and Background*

On November 19, 2004, Governor Rendell signed into law 42 Pa.C.S. Chapter 99, which became effective on May 18, 2005. Chapter 99 establishes the Commonwealth's first State Intermediate Punishment Program. The State Intermediate Punishment Program is intended to reduce recidivism by providing intense drug and alcohol treatment to certain defendants who have been convicted of drug-related offenses. A drug-related offense is a crime that was motivated by the defendant's consumption of or addiction to alcohol or other drugs.

Chapter 99 permits certain defendants who have been convicted of drug-related offenses to be committed to the Department for an assessment of their addiction and other treatment needs. Defendants who are subject to a sentence that includes an enhancement for the use of a deadly weapon or who have been convicted of a personal injury crime and certain other sexual crimes cannot be sentenced to State intermediate punishment. If, after assessment, the Department determines that the defendant is likely to benefit from a DOTP and is appropriate for placement in a program, the Department will develop an individualized DOTP for the defendant. The judge may sentence the defendant to participate in the DOTP with the agreement of the defendant and the attorney for the Commonwealth.

A DOTP will be 24 months in duration and consist of at least four components. The defendant shall serve a minimum of 7 months incarceration in a State correctional institution, during which the defendant shall receive a minimum of 4 months treatment in an institutional therapeutic community. The defendant then shall receive a minimum of 2 months treatment in a community-based therapeutic community and a minimum of 6 months treatment through an outpatient addiction treatment facility. The balance of the 24-month program consists of supervised reintegration into the community. Chapter 99 permits the Department to transfer the defendant from less restrictive to more restrictive settings for medical, disciplinary or administrative reasons and to suspend or expel the defendant from the program. The Department intends to expel defendants who are not meaningfully participating in their individualized DOTP. A defendant who is expelled from the program will be resentenced by the court.

E. *Paperwork*

The guidelines will not increase the paperwork requirements of the counties. The guidelines will require counties to submit to the Department documentation that currently is being prepared in criminal cases. The Department will use the existing documentation and other evaluative tools in performing assessments. The Department and the various treatment providers will have to prepare additional reports under the guidelines.

F. *Fiscal Impact*

The guidelines will be fiscally neutral with respect to counties. The Department anticipates a savings of \$3.873 million through the first 5 years of the program.

JEFFREY A. BEARD, Ph.D.,
Secretary

Fiscal Note: 19-8. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart B. DEPARTMENT OF CORRECTIONS

CHAPTER 97. STATE INTERMEDIATE PUNISHMENT DRUG OFFENDER TREATMENT PROGRAM—STATEMENT OF POLICY

Sec.	
97.1.	Authority and purpose.
97.2.	Definitions.
97.3.	Commitment for assessment.
97.4.	Assessment of addiction and other treatment needs.
97.5.	DOTP Selection Committee.
97.6.	Participant selection criteria.
97.7.	DOTP.
97.8.	Confinement in a State correctional institution.
97.9.	Program advancement and regression.
97.10.	Community-based therapeutic community.
97.11.	Outpatient addiction treatment facility.
97.12.	Supervised reintegration into the community.
97.13.	Treatment sanctions.
97.14.	Disciplinary sanctions.
97.15.	Suspension from a DOTP.
97.16.	Expulsion from a DOTP.
97.17.	Consent to disclosure of information.

§ 97.1. Authority and purpose.

(a) This chapter is published under the act and establishes the DOTP administered by the Department. This chapter is intended to inform judges, prosecutors, defense counsel, defendants and the general public about the DOTP.

(b) The DOTP is a form of State intermediate punishment that provides a sentencing alternative for a person who commits a drug-related offense as defined in the act. The DOTP offers a sentencing alternative that punishes a person who commits a drug-related offense, but also provides treatment that offers the opportunity for the person to address their drug or alcohol addiction or abuse.

§ 97.2. Definitions.

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

Act—42 Pa.C.S. Chapter 99 (relating to State intermediate punishment) establishing the DOTP.

Commission—The Pennsylvania Commission on Sentencing.

Community-Based therapeutic community—A long-term residential addiction treatment program licensed by the Department of Health to provide addiction treatment services using a therapeutic community model, determined by the Department to be qualified to provide addiction treatment to eligible offenders and accredited as a therapeutic community for the treatment of drug and alcohol abuse and addiction by the Commission on Accreditation of Rehabilitation Facilities or another Nationally recognized accreditation organization for community-based therapeutic communities for drug and alcohol treatment.

Community corrections center—A residential program that is supervised and operated by the Department for inmates with prerelease status or who are on parole.

Court—The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge if the original trial judge is no longer serving as a judge of the sentencing court.

DOTP—Drug Offender Treatment Program—An individualized treatment program established by the Department consisting primarily of drug and alcohol addiction treatment and lasting for 24 months and including a period of at least 7 months in a State correctional institution, a minimum of 4 months of which shall be in an institutional therapeutic community; a period of treatment in a community-based therapeutic community of at least 2 months; at least 6 months treatment through an outpatient addiction treatment program; and a period of supervised reintegration into the community.

Defendant—An individual charged with a drug-related offense.

Department—The Department of Corrections of the Commonwealth.

Drug-related offense—A criminal offense for which the defendant is convicted and that the court determines was motivated by the defendant's consumption of or addiction to alcohol or a controlled substance, counterfeit, designer drug, drug, immediate precursor or marijuana, as those terms are defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-143).

Eligible offender—

(i) A defendant designated by the sentencing court as a person convicted of a drug-related offense who:

(A) Has undergone an assessment performed by the Department which assessment has concluded that the defendant is in need of drug and alcohol addiction treatment and would benefit from commitment to a DOTP and that placement in a DOTP would be appropriate.

(B) Does not demonstrate a history of present or past violent behavior.

(C) Would be placed in the custody of the Department if not sentenced to State intermediate punishment.

(D) Provides written consent permitting the release of information pertaining to the defendant's participation in a DOTP.

(ii) The term does not include a defendant who is subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon, as defined pursuant to law or the sentencing guidelines promulgated by the Commission, or a defendant who has been convicted of a personal injury crime as defined in section 103 of the Crime Victims Act (18 P.S. § 11.103), or an attempt or conspiracy to commit such a crime or who has been convicted of violating 18 Pa.C.S. § 4302, § 5901, § 6312, § 6318, § 6320 or Chapter 76, Subchapter C.

Expulsion—The permanent removal of a participant from a DOTP.

Group home—A residential program that is contracted out by the Department to a private service provider for inmates with prerelease status or who are on parole.

Individualized drug offender treatment plan—An individualized addiction treatment plan within the framework of the DOTP.

Institutional therapeutic community—A residential drug treatment program in a State correctional institution, accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the American Correctional Association or other Nationally recognized accreditation organization for therapeutic community drug and alcohol addiction treatment.

Outpatient addiction treatment facility—An addiction treatment facility licensed by the Department of Health and designated by the Department as qualified to provide addiction treatment to criminal justice offenders.

Participant—An eligible offender actually sentenced to State intermediate punishment under 42 Pa.C.S. § 9721(a)(7) (relating to sentencing generally).

Transitional residence—A residence investigated and approved by the Department as appropriate for housing a participant in a DOTP.

§ 97.3. Commitment for assessment.

(a) Prior to imposing sentence, the court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department for the purpose of evaluating whether the defendant would benefit from a DOTP and whether placement in a DOTP is appropriate.

(b) The committing county shall deliver a defendant committed to the custody of the Department for purposes of an evaluation to the institution the Department has designated for reception of inmates from that county. The defendant shall be housed in a State correctional institu-

tion while undergoing the evaluation. The following documents shall be delivered to the Department simultaneously with the defendant's arrival:

(1) A certified copy of the order committing the defendant to the Department's custody for purposes of an evaluation.

(2) A summary of the offense for which the inmate has been convicted, including the criminal complaint and police report summarizing the facts of the crime, if available or a copy of the affidavit of probable cause accompanying the arrest warrant.

(3) A summary of the defendant's criminal history or history of delinquency including information maintained by the court under 42 Pa.C.S. Chapter 63 (relating to juvenile matters).

(4) Any available information regarding the defendant's history of drug or alcohol abuse or addiction, including any evaluation performed using Court Reporting Network instruments or other evaluation techniques deemed appropriate by the court under 75 Pa.C.S. § 3816 (relating to requirements for driving under influence offenders) or any other provision of law.

(5) A presentence investigation when available or the official version of the crime for which the offender was convicted or a copy of the guilty plea transcript or a copy of the preliminary hearing transcript.

(6) A written consent in the form set forth in § 97.17 (relating to consent of disclosure information) authorizing the release of information pertaining to the defendant's participation in the DOTP.

(7) A copy of the guideline sentence form issued by the Commission.

(8) A record of the defendant's adjustment in the county correctional facility, including misconducts and escape history.

(9) Any current medical or psychological condition requiring treatment, including suicide attempts.

(10) Any medical admission testing performed by the county and the results of those tests, including hepatitis, HIV/AIDS, tuberculosis or other infectious disease testing.

(11) A notice of current or previously administered medications.

(12) A 48-hour supply of current medications.

(13) Other information the court deems relevant to assist the Department with its assessment of the defendant.

§ 97.4. Assessment of addiction and other treatment needs.

(a) The Department will conduct a risk assessment and assess the addiction and other treatment needs of a defendant committed to its custody for purposes of an evaluation. The assessment of addiction shall be conducted using a Nationally recognized assessment instrument or an instrument that has been normed and validated on the Department's inmate population by a recognized expert in these matters. The instrument will be administered by persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments. The assessment will be reviewed and approved by a supervisor with at least 3 years of experience providing drug and alcohol counseling services.

(b) The Department will provide a report of its assessment to the court, the defendant, the attorney for the Commonwealth and the Commission within 60 days of the commitment of the defendant to the Department for purposes of evaluation. If the Department determines that the defendant will benefit from a DOTP and placement in a DOTP is appropriate, the report will include a proposed DOTP detailing the type of treatment proposed for the defendant. If the Department determines that the defendant will not benefit from a DOTP or that placement in a DOTP is inappropriate, the report will set forth the reasons for the Department's determination.

(c) The act provides that the court may not modify or alter the terms of the Department's proposed DOTP without the agreement of the Department and attorney for the Commonwealth. A request for modification of the terms of a proposed DOTP shall be sent to the Deputy Superintendent for the Diagnostic and Classification Center at SCI-Camp Hill for male inmates and the Deputy Superintendent for Centralized Services at SCI-Muncy for female inmates. If the Department agrees to a request for modification, it will forward an amended report to the court, defendant, attorney for the Commonwealth and the Commission.

§ 97.5. DOTP Selection Committee.

(a) The Participant Selection Committee shall consist of the Diagnostic and Classification Center Director, or a designee, the Deputy Superintendent responsible for the Diagnostic and Classification Center, or a designee and the Chief of the Department's Central Office Treatment Division, or a designee.

(b) The Participant Selection Committee shall apply the participant selection criteria to determine whether a defendant will benefit from a DOTP and whether placement in a DOTP is appropriate.

§ 97.6. Participant selection criteria.

(a) An eligible offender, as that term is defined in the act, may be selected to be a participant in a DOTP. The Participant Selection Committee will consider information relevant to determining which defendants are most likely to benefit from a DOTP by becoming productive, law-abiding members of society by addressing their abuse of or addiction to alcohol or other drugs. Selection criteria will include the following:

(1) Information furnished to the Department by the sentencing court.

(2) The results of the assessment of addiction and other treatment needs conducted by the Department.

(3) The length of the sentence that would be typically imposed under the standard range of the sentencing guidelines promulgated by the Commission.

(4) The eligible offender's motivation to participate meaningfully in a DOTP.

(5) Whether the eligible offender has provided to the Department written consent permitting the release of information pertaining to his participation in a DOTP.

(6) The eligible offender's criminal history.

(7) The eligible offender's escape or parole absconder history.

(8) The eligible offender's institutional adjustment during current and prior incarcerations.

(9) The availability of the Department's programming resources.

(b) No eligible offender has a right to placement in a DOTP. A DOTP is intended to assist defendants to become productive, law-abiding members of society and is not intended to be a means for a defendant simply to serve a shorter sentence. The goal of the Participant Selection Committee will be to select those defendants it believes will most likely benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively. The number of participants selected for a DOTP will be that number that the Participant Selection Committee believes will neither under use nor overtax the available programming resources.

§ 97.7. DOTP.

(a) A DOTP developed for a defendant shall be designed to address the defendant's individually assessed drug and alcohol abuse and addiction needs and other issues essential to the defendant's successful reintegration into the community, including education and employment issues.

(b) A DOTP developed for a defendant shall be 24 months in duration and include the following:

(1) A period of confinement in a State correctional institution of at least 7 months, including the assessment period prior to the imposition of sentence and at least 4 months during which the defendant shall be placed in an institutional therapeutic community.

(2) A period of treatment in a community-based therapeutic community of at least 2 months.

(3) A period of at least 6 months treatment through an outpatient addiction treatment facility.

(4) A period of supervised reintegration into the community for the balance of the DOTP.

§ 97.8. Confinement in a State correctional institution.

(a) The Department will accommodate requests to conduct sentencing proceedings for persons committed to its custody by means of videoconferencing subject to equipment and staff availability. A defendant who is not sentenced by means of videoconferencing, but is sentenced to a DOTP following an evaluation and recommendation by the Department shall be delivered to the institution the Department has designated for reception of inmates from the committing county. The defendant will be considered to be a participant upon receipt by the Department.

(b) The participant will be required to begin his individual DOTP while housed in a State correctional institution and may be required to begin additional programming intended to address other treatment needs identified during incarceration.

§ 97.9. Program advancement and regression.

(a) An individual DOTP contemplates that a participant will progress through treatment provided in progressively less restrictive treatment settings. The Department anticipates that some participants who have progressed to a less restrictive treatment setting will benefit from an additional period of treatment or confinement in a more restrictive setting or location. Consistent with the minimum time requirements in the act, the Department may transfer a participant to a State correctional institution, an institutional therapeutic community, a community-based therapeutic community, an outpatient addiction treatment program or an approved transitional residence.

The Department may transfer a participant between less restrictive and more restrictive settings based upon the participant's progress or regression in treatment or for medical, disciplinary or other administrative reasons.

(b) The Chief of the Department's Central Office Treatment Division, or a designee, will determine whether a participant will be transferred to a different setting or location. The Department's goal will be to take the action that it believes will maximize the use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively.

§ 97.10. Community-based therapeutic community.

(a) A participant who successfully completes the institutional therapeutic community portion of the DOTP and any required additional programming will be placed in a community based therapeutic community. Placement in a community based therapeutic community will not necessarily be made immediately upon successful completion of the institutional therapeutic community and any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of his DOTP.

(b) The participant will be required to continue engaging in his individual DOTP while housed in a community-based therapeutic community and may be required to participate in additional programming intended to address other treatment needs identified during incarceration.

(c) The treatment staff of the community-based therapeutic community shall provide the Department with an informational report concerning the participant's progress toward completion of the community-based treatment portion of his DOTP at the conclusion of the participant's first 2 months in the community-based therapeutic community.

(1) The report must include a recommendation whether the participant has progressed sufficiently to begin the outpatient addiction treatment portion of his DOTP, if the participant should continue in the community-based treatment community, be returned to the institutional therapeutic community or to a State correctional institution or be expelled from the DOTP.

(2) The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment deficiencies noted.

(3) The report must be transmitted to the Chief of the Department's Central Office Treatment Division, or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the community-based therapeutic treatment community treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the community-based therapeutic community to submit reports in addition to the report required by subsection (c).

§ 97.11. Outpatient addiction treatment facility.

(a) A participant who successfully completes the community-based therapeutic community and any additional required programming will be assigned to an outpatient addiction treatment facility. Assignment to an outpatient addiction treatment facility will not necessarily be made immediately upon successful completion of the community-based therapeutic community and any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of his DOTP. A participant may reside in a community corrections center, group home or an approved transitional residence while assigned to an outpatient addiction treatment facility program, but will not be permitted to begin residing in a group home or an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant will be required to continue his individual DOTP while assigned to an outpatient addiction treatment facility program and may be required to participate in additional programming intended to address other treatment needs identified during incarceration.

(c) The treatment staff of the outpatient addiction treatment facility shall provide the Department with an informational report concerning the participant's progress toward completion of the outpatient addiction treatment portion of his DOTP at the conclusion of the participant's first 6 months of treatment with the outpatient addiction treatment facility.

(1) The report must include a recommendation whether the participant has progressed sufficiently to begin supervised reintegration into the community, if the participant should continue treatment with the outpatient addiction treatment facility, be returned to a community-based treatment community, institutional therapeutic community or to a State correctional institution or be expelled from the DOTP.

(2) The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment deficiencies noted.

(3) The report shall be transmitted to the Chief of the Department's Central Office Treatment Division or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the outpatient addiction treatment facility treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the outpatient addiction treatment program to submit reports in addition to the report required by subsection (c).

§ 97.12. Supervised reintegration into the community.

(a) A participant who successfully completes treatment through an outpatient addiction treatment facility and any additional required programming will begin supervised reintegration into the community for the remaining portion of his DOTP. The participant may continue to or be permitted to begin to reside in a community corrections center, group home or an approved transitional residence during the period of supervised reintegration into the community, but will not be permitted to begin residing in an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant residing in an approved transitional residence will be supervised by the Department during the remainder of his DOTP. The participant will be required to comply with any conditions imposed by the Department while residing in an approved transitional residence including abstaining from the use of alcohol or other drugs, submitting urine, hair or other samples the Department requests to monitor the participant's use of alcohol or other drugs and engaging in additional treatment or programming required by the Department.

(c) A participant will continue to be subject to the treatment and disciplinary sanctions in §§ 97.13 and 97.14 (relating to treatment sanctions; and disciplinary sanctions) while residing in an approved transitional residence.

(d) The Department will notify the sentencing court, the attorney for the Commonwealth and the Commission when the participant successfully completes the DOTP.

§ 97.13. Treatment sanctions.

(a) A participant who tests positive for the use of alcohol or other drugs shall receive a hearing according to the procedures in the Department's inmate disciplinary policy. If the hearing examiner determines that the participant used alcohol or other drugs, the participant shall be subject to the following sanctions:

(1) A participant housed in a State correctional institution or institutional therapeutic community shall be expelled from the DOTP and housed as the Department deems appropriate pending further action by the sentencing court.

(2) A participant receiving treatment through a community-based therapeutic community, outpatient addiction treatment facility or while during supervised reintegration to society shall be evaluated by the Department. The participant shall be housed as the Department deems appropriate pending completion of the evaluation. Following the evaluation, the participant may be placed in the treatment setting deemed appropriate by the Chief of the Department's Central Office Treatment Division, or a designee, or suspended or expelled from the DOTP.

(b) Subject to the time limitations in the act, a participant who requests assistance because he believes he is in danger of relapsing will be given the opportunity to receive treatment in a more restrictive treatment setting as deemed appropriate by the Chief of the Department's Central Office Treatment Division, or a designee.

§ 97.14. Disciplinary sanctions.

(a) A participant who is alleged to have violated the Department's disciplinary rules, shall receive a hearing according to the procedures in the Department's inmate disciplinary policy.

(b) If the hearing examiner determines that the participant committed a Class 1 or Class 2 misconduct, the Chief of the Department's Central Office Treatment Division, or a designee, will determine whether the participant will be suspended or expelled from the DOTP, sanctioned according to the Department's inmate disciplinary policy or be subject to other sanctions deemed appropriate.

§ 97.15. Suspension from a DOTP.

(a) A participant who violates the conditions of his DOTP, other than by testing positive for the use of alcohol or other drugs or by committing a violation of the Department's disciplinary rules, may be suspended from participation in a DOTP.

(b) The Department's goal in determining whether to suspend a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after a period of suspension.

(c) The Chief of the Department's Central Office Treatment Division, or a designee, will be responsible for determining whether to suspend a participant from a DOTP. The determination whether to suspend a participant from a DOTP may be based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division, or a designee.

(d) A participant who is suspended from participation in a DOTP will be housed in the setting deemed appropriate by the Chief of the Department's Central Office Treatment Division, or a designee, and shall comply with the Department's rules and any conditions imposed during the period of suspension.

§ 97.16. Expulsion from a DOTP.

(a) In addition to the provisions of §§ 97.13 and 97.14 (relating to treatment sanctions; and disciplinary actions), a participant who violates the conditions of his DOTP or who is not constructively participating in his DOTP or who will be unable to complete his DOTP within the period remaining on his 24 months sentence may be expelled from participation in a DOTP.

(b) The Department's goal in determining whether to expel a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after being subject to sanctions or a period of suspension, or both.

(c) The Chief of the Department's Central Office Treatment Division, or a designee, will be responsible for determining whether to expel a participant from a DOTP. The determination whether to expel a participant from a DOTP may be based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division, or a designee.

(d) The Department will promptly notify the sentencing court, the participant, the attorney for the Commonwealth and the Commission of the expulsion of a participant from a DOTP and of the reason for the expulsion. The inmate will be housed in a State correctional institution or county prison pending action by the court.

§ 97.17. Consent to disclosure of information.

The consent to disclosure of information shall be in the following form:

CONSENT

I, the undersigned, hereby give my consent for the Commonwealth of Pennsylvania Department of Corrections, its officers, employees, volunteers, contractors and agents to release and disclose to any court, attorney for the Commonwealth, the Pennsylvania Commission on Sentencing and to my attorney information pertaining to my evaluation for and participation in a drug offender treatment program. This consent to release and disclosure includes medical and dental information, mental health treatment information, drug and alcohol treatment information, criminal history records information and any other information contained in records maintained by the Department of Corrections, its officers, employees, volunteers, contractors and agents. This consent to release and disclosure extends to records pertaining to any period during which I am or was committed to the custody of the Department of Corrections and shall not expire.

Disclosure of medical/dental information may pertain to all aspects of my treatment and hospitalization, including psychological and psychiatric information and drug and/or alcohol information.

Disclosure of mental health records pertains to treatment, hospitalization, and/or outpatient care provided to me for the period listed above. I understand that my record may contain information regarding all aspects of my mental health treatment and hospitalization, including psychological and psychiatric information, drug and/or alcohol information.

In authorizing this disclosure, I expressly waive any and all rights I may have to the confidential maintenance of these records, including any such rights that exist under local, state, and federal statutory and/or constitutional law, rule or order, including those contained in the Pennsylvania Mental Health Procedures Act of 1976 and the Pennsylvania Drug and Alcohol Abuse Control Act of 1972.

I understand that I have no obligation to authorize disclosure of any information from my record and that I may revoke this consent, except to the extent that action has already been taken, at any time by notifying in writing the Medical Records Technician, Health Care Administrator, or Facility Manager. I also understand that revocation of this consent will result in my being expelled from the drug offender treatment program and that I will be resentenced by the court.

I understand that these records are the property of the Department of Corrections and that my authorization for their release does not require the Department of Corrections to release these records.

Furthermore, I will indemnify and hold harmless the Pennsylvania Department of Corrections, and its officers, employees, volunteers, contractors and agents, for any losses, costs, damages, or expenses incurred because of releasing information in accordance with this authorization.

Signature

Date

Witness Signature

Date

[Pa.B. Doc. No. 05-992. Filed for public inspection May 20, 2005, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Dog Control Facilities; Increase in Payment

The Department of Agriculture gives notice of an increase in the amount it will pay for services rendered by a legally constituted law enforcement agency maintaining a compound for the humane disposition of stray, unlicensed dogs apprehended running at large. Currently, this reimbursement is \$10 per dog. Effective July 1, 2005, this payment will increase to \$20 per dog.

This increase shall be paid from the current surplus in the Dog Law Restricted Account, and is subject to the continued availability of these funds.

The increase is authorized under section 1001(b)(5) of the Dog Law (3 P. S. § 459-1001(b)(5)) and 7 Pa. Code § 25.1 (relating to general).

Further information is available by contacting the Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attn: Mary Bender, Director.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-993. Filed for public inspection May 20, 2005, 9:00 a.m.]

Interstate/International Quarantine Order; Vesicular Stomatitis

A. Vesicular stomatitis is an infectious viral disease that primarily affects horses, cattle and swine.

B. Vesicular stomatitis is designated a "dangerous transmissible disease" of animals under 3 Pa.C.S. § 2321(a)(40) (relating to dangerous transmissible diseases).

C. The Department of Agriculture (Department) has broad authority under 3 Pa.C.S. §§ 2301—2389 (relating to the Domestic Animal Law) to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases. This includes the authority in 3 Pa.C.S. § 2329 (relating to quarantine) to issue the interstate/international quarantine order as follows.

D. Vesicular stomatitis exists in other states and nations, and the transporting of infected animals from these states or nations could spread that disease among susceptible domestic animals in this Commonwealth.

E. There are reasonable and relatively unintrusive quarantine restrictions the Department can impose in order to prevent vesicular stomatitis from entering this Commonwealth.

Order

The Department enters an interstate/international quarantine order with respect to vesicular stomatitis, incorporating the foregoing recitals into this order. This order is entered under authority of 3 Pa.C.S. § 2329 and establishes the following restrictions and conditions:

1. No hoofed animals may enter this Commonwealth if vesicular stomatitis has been diagnosed within 10 miles of the premises of origin since January 1, 2005.

2. All hoofed animals entering this Commonwealth from a state in which vesicular stomatitis has been diagnosed since January 1, 2005, shall be examined by an accredited veterinarian to determine whether they are free from vesicular stomatitis, and shall be accompanied by a Certificate of Veterinary Inspection with the following written statement signed by that accredited veterinarian:

All animals identified on this Certificate of Veterinary Inspection have been examined and found to be free from vesicular stomatitis. During the past 30 days, these animals have neither been exposed to vesicular stomatitis nor located within 10 miles of a site where vesicular stomatitis has been diagnosed.

3. This order will be automatically rescinded on December 31, 2005, unless extended under the previous authority.

4. This order is effective as of May 4, 2005

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-994. Filed for public inspection May 20, 2005, 9:00 a.m.]

Pennsylvania Agricultural Product Promotion Matching Grant Program 2005-2006 Application Period

Under 7 Pa. Code Chapter 105 (relating to Pennsylvania agricultural product promotion matching grant program—statement of policy), the Department of Agriculture (Department) announces the application period for the Pennsylvania Agricultural Product Promotion Matching Grant Program (Program).

The Program provides matching funds to nonprofit agricultural product promotion and marketing organizations in this Commonwealth for projects intended to increase consumer awareness of Pennsylvania agricultural products and thereby increase sales of these products.

The Secretary of the Department will review and evaluate the application and supporting documentation and may consider the following factors, among others, in deciding whether to approve or reject the grant request:

1. The relevance of the project to the promotion or marketing of Pennsylvania agricultural products, such as through the PA Preferred Program.

2. The innovativeness of the project described in the application, for example, renewable energy programs.

3. The scope of the project and the number of people who will be exposed to or affected by the project described in the application.

4. The impact which the project will have upon the promotion and sales of the Pennsylvania agricultural products to which the project is targeted.

5. The availability of full funding for the project from the applicant or from any source other than the Program.

6. The apparent ability of the applicant to complete the project as described in the application or, in the case of a grant to fund a National or regional agricultural product promotion or marketing project, the apparent ability of the entity with primary responsibility for the project to complete it.

7. The overall performance of the project if the project had received funding from the Program in a previous fiscal year.

8. Projects that are joint efforts between two or more nonprofit agricultural product promotion and marketing organizations in this Commonwealth may be given preference over projects involving only one organization.

9. Projects when reference to the Department, as a source of funding, can practicably be made in promotional materials or broadcasts, and may be given preference over projects that would not make the reference.

The application, work plan and budget should reflect January 1, 2006, as the project start date. Grant funds will be disbursed as an advance payment upon receipt of a fully executed grant agreement by the grantee. The project completion date will be December 31, 2006.

Applications for the Program will be accepted by the Department on June 6, 2005, through 4 p.m. on July 8, 2005, in the Bureau of Market Development, Room 308, 2301 North Cameron Street, Harrisburg, PA 17110-9408. Information and a grant application may be obtained from Kyle D. Nagurny, Director, at the previous listed address or on the Department's website: www.pda.state.pa.us (Select: "Funding Opportunities" then "Agricultural Product Promotion Matching Grant")

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-995. Filed for public inspection May 20, 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 10, 2005.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
5-5-05	Willow Grove Bancorp, Inc., Maple Glen, to acquire 100% of the voting shares of Chester Valley Bancorp, Inc., Downingtown, and thereby indirectly acquire First Financial Bank, Downingtown	Maple Glen	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-21-05	Allegiance Bank of North America Bala Cynwyd Montgomery County	36 North 3rd Street Philadelphia Philadelphia County	Opened
5-9-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Warwick Square Shopping Center 2395 Old York Road Jamison Bucks County	Opened
5-9-05	Wayne Bank Honesdale Wayne County	Fountain Springs East II Route 611 Pocono Township Monroe County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
5-9-05	Nova Savings Bank Philadelphia Philadelphia County	Articles of Amendment amend and restate the Bank's Articles of Incorporation in their entirety.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Branch Applications

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-9-05	Fairless Credit Union Morrisville Bucks County	521 Oxford Valley Road Fairless Hills Bristol Township Bucks County	Filed

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-996. Filed for public inspection May 20, 2005, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of June 2005

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of June 2005 is 7%.

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

which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.54 to which was added 2.50 percentage points for a total of 7.04 that by law is rounded off to the nearest quarter at 7%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-997. Filed for public inspection May 20, 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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060003	Wyoming County Housing Authority P. O. Box 350 Nicholson, PA 18446	Nicholson Borough Wyoming County	Martin's Creek CWF 4F	Y
PAS802221 (Individual Stormwater)	United Parcel Service—Hometown 1821 South 19th Street Harrisburg, PA 17104	Rush Township Schuylkill County	UNT to the Little Schuylkill River (3A)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0083691 (Industrial Waste)	West Earl Water Authority/Water Department P. O. Box 202 157 West Metzler Road Brownstown, PA 17508	Lancaster County West Earl Township	UNT Conestoga River/7J	Y
PA0083143 (Industrial Waste)	Saxton Borough Municipal Authority 707 9th Street Saxton, PA 16678-1213	Bedford County Liberty Township	Raystown Branch Juniata River/11-D	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>
PA0102792	Bernie's Mobile Home Park 347 Edgewood Drive Cabot, PA 16023-9704	Winfield Township, Butler County	UNT to Little Buffalo Creek 18-F	Y
PA0102610	Kennihan Development Company, Inc. Villa Vista Estates 133 Terra Drive Valencia, PA 16059	Middlesex Township Butler County	UNT to Glade Run 20-C	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0103021	Bear Lake Inn and the Trading Place Greenly Street P. O. Box 132 Bear Lake, PA 16402	Bear Lake Borough Warren County	UNT to Pine Valley Creek 16-B	Y
PA0024511	Redbank Valley Municipal Authority 243 Broad Street New Bethlehem, PA 16242	Mahoning Township Armstrong County	Redbank Creek 17-C	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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

PA0054895, Industrial Waste, NAICS 325998, **Palmer International, Inc.**, 2036 Lucon Road, P. O. Box 315; Skippack, PA 19474. This proposed facility is located in Skippack Township, **Montgomery County**.

Description of Proposed Activity: Discharge of noncontact cooling water from cooling tower, boiler blowdown, water softener backwash and stormwater associated with industrial activities to an UNT to Skippack Creek.

The receiving stream, Skippack Creek, is in the State Water Plan watershed 3E, and is classified for: TSF. The nearest downstream public water supply intake for Philadelphia Water Suburban Company is located on Perkiomen Creek and is 11.06 miles below the point of discharge. The concentration limit for total, phosphorus is based on an approved TMDL for Skippack Creek.

The proposed effluent limits for Outfall 001 are based on an annual average flow of 5,800 gpd of noncontact cooling water from cooling tower, rocket cooling jacket, glycol cold trap, boiler blow-down, water softener backwash, wastewater from tank farm, hazardous waste sump and stormwater associated with industrial activities:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Flow			Monitor	Monitor	
Total Suspended Solids			30	60	75
Total Dissolved Solids			Monitor	Monitor	Monitor
Phosphorus as P			2.0		4.0
Total Residual Chlorine			0.5	1.0	1.25
Oil and Grease			15		30
Temperature					110°F
pH (STD)			6.0 min.		9.0

The proposed effluent limits for Outfall 002 are based on an annual average flow of 2,200 gpd of noncontact cooling water from turbo mixing cooling jacket, rubber grinder cooling jacket, nauta mixer cooling jacket, boiler blow-down from a boiler and stormwater associated with industrial activities:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Flow			Monitor	Monitor	
Total Suspended Solids			30	60	75
Phosphorus as P			2.0		4.0
Total Residual Chlorine			0.5	1.0	1.25
Temperature					110°F
pH (STD)			6.0 min.		9.0
Total Dissolved Solids			Monitor	Monitor	Monitor

The proposed effluent limits for Outfall 003 are based on stormwater discharge associated with industrial activities and draining from the roofs of the Building A, the Pot Room and the Rocket Room:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD ₅				Monitor	
COD				Monitor	
Oil and Grease				Monitor	

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH (STD)					Monitor
Total Suspended Solids					Monitor
Total Kjeldahl Nitrogen					Monitor
Total Phosphorus					Monitor
Iron (Dissolved)					Monitor

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures.
2. BAT/ELG Reopener.
3. Chemical Additives.
4. TMDL/WLA Analysis.
5. Stormwater Outfalls BMPs.
6. Laboratory Certification.
7. Outfall 004 from Administrative Building without Monitoring Requirements.

PA0053937, Sewage, **Ralph B. and Gayla J. Johnson**, 1021 Copeland School Road, West Chester, PA 19380-1829. This proposed facility is located in East Bradford Township, **Chester County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated sewage from a single residence sewage treatment plant.

The receiving stream, Broad Run, is in the State Water Plan Watershed 3H and is classified for: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is for Aqua America, located on East Branch Brandywine Creek, 2.6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 400 gpd:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD ₅					
(5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Suspended Solids			10		20
Ammonia (as N)					
(5-1 to 10-31)			3.0		6.0
(11-1 to 4-30)			9.0		18.0
Total Residual Chlorine			Monitor and Report		Monitor and Report
Fecal Coliform			200/100 ml Geom. mean		1,000/100 ml
Dissolved Oxygen			minimum of 6.0 mg/l at all times		
pH			within limits of 6.0 to 9.0 standard units at all times		

In addition to the effluent limits, the permit contains the following major special conditions:

1. AMR Submission.
2. Phase Out When Sewers Available.
3. Adopt Remedial Measures.
4. No Stormwater.
5. Obtain Property Rights.
6. Change in Ownership.
7. Sludge Disposal.

PA0011096 Amendment 1, Industrial Waste, **Sunoco, Inc. (R & M)**, P. O. Box 426, Marcus Hook, PA 19061-0426.

This application is for amendment of an NPDES permit to discharge noncontact cooling water from compressors and stormwater runoff from the Marcus Hook oil refinery area in Borough of Marcus Hook, **Delaware County**. This is an existing discharge to Middle Creek and Delaware River Estuary Zone 4. The amendment will resolve all issues outlined in the notice of appeal dated November 10, 2004.

The receiving stream is classified for the following uses: WWF.

The proposed effluent limits for Outfall MP201, based on an average flow of 7.90 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids (Net)	100	Monitor and Report	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Organic Carbon (Net)			5
Oil and Grease	15		30
Temperature*			110°F
pH	within limits of 6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfall MP301, based on an average flow of 4.7 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Organic Carbon (Net)			5
Total Suspended Solids (Net)	100	Monitor and Report	
Oil and Grease	15		30
Temperature*			110°F
pH	within limits of 6.0 to 9.0 Standard Units at all times		

*Not more than 5°F above the average daily temperature during the 1961-66 period, which is shown as follows, or a maximum of 86°F, whichever is less, which temperature shall be measured outside of designated heat dissipation areas as described in Section 4.30, 6F of the Delaware River Basin Commission Water Quality Regulations.

<i>Date</i>	<i>Average Daily Temperature (°F) (1961-1966)</i>
January 1-31	42
February 1-29	36
March 1-31	40
April 1-30	47
May 1-31	58
June 4-30	72
July 1-31	80
August 1-31	81
September 1-14	78
September 15-30	76
October 1-31	70
November 1-30	60
December 1-14	50
December 15-31	45

The proposed effluent limits for Outfall 401 are as follows. This outfall receives highly diluted process water with stormwater from Tank TK-101 only during a heavy storm event.

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	Monitor and Report
COD	Monitor and Report
Oil and Grease	Monitor and Report
pH	Monitor and Report
Total Suspended Solids	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Phosphorus, Total	Monitor and Report
Zinc, Total	Monitor and Report
Iron (Dissolved)	Monitor and Report
Benzene	Monitor and Report
Xylene, Total	Monitor and Report
Toluene	Monitor and Report
Ethylbenzene	Monitor and Report
BETX, Total	Monitor and Report
Methyl Tert Butyl Ether	Monitor and Report
Acrolein	Monitor and Report

The proposed effluent limits for stormwater Outfalls 020, 021A—021F and 022 are as follows:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	Monitor and Report
COD	Monitor and Report
Oil and Grease	Monitor and Report
pH (STD Units)	Monitor and Report
Total Suspended Solids	Monitor and Report

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Kjeldahl Nitrogen	Monitor and Report
Total Phosphorus	Monitor and Report
Iron (Dissolved)	Monitor and Report

*An annual inspection of area contributing stormwater to these outfalls is permitted in lieu of monitoring. However, the Department reserves the right to ask for monitoring of these outfalls for all listed parameters no more than once per year.

The EPA waiver is not in effect.

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

PAS#602204, Industrial Stormwater, **SR Used Parts**, 400 Daniels Road, Nazareth, PA 18064. This proposed facility located in Bushkill Township, **Northampton County**.

Description of Proposed Activity: Issuance of new Industrial Stormwater Permit.

The receiving stream, unnamed tributary to East Branch Monocacy Creek, is in the State Water Plan watershed No. 2C and is classified for: HQ-CWF. The nearest downstream public water supply intake for Keystone Water Co. is located on the Delaware River, over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are as follows:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

In addition to the effluent limits, the permit contains the following major special conditions:

Requirements applicable to stormwater outfalls along with identified best management practices.

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

Application No. PA 0087955, Sewage, **Cassville Water and Sewer Authority**, P. O. Box 48, Cassville, PA 16623. This facility is located in Cass Township, **Huntingdon County**.

Description of activity: The application is for renewal of an NPDES permit for existing discharge of treated sewage.

The receiving stream, UNT to Little Trough Creek, is in Watershed 11-D, and classified for trout stocking, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough Water Authority is located on the Juniata River, approximately 121 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.030 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	4.0		8.0
(11-1 to 4-30)	12.0		24.0
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		3,800/100 ml as a geometric average	

Individuals may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (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.

PA0096369, Sewage, **Patrick J. DiCesare**, 116 East Pittsburgh Street, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Valley Hi MHP STP in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Buffalo 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: McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of 0.00625 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	3.4			6.8
Nov 1 to Apr 30	10.2			20.4
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.46			1.0
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0096881, Sewage, **G & G Mobile Home Sales**, 23 Oakridge Heights Drive, Oakdale, PA 15071. This application is for renewal of an NPDES permit to discharge treated sewage from Oakridge Heights Mobile Home Park No. 1 STP in North Fayette Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale to Unnamed Tributary of North Branch Robinson 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: West View Borough Municipal Water Authority on the Ohio River.

Outfall 001: existing discharge, design flow of 0.00588 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅ Day	25			50
Suspended Solids	30			60
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0098396, Sewage, **Oak Estates, Inc.**, 600 Laurelview Drive, Mt. Pleasant, PA 15666. This application is for renewal of an NPDES permit to discharge treated sewage from Laurelview Manor MHP STP in Bullskin Township, **Fayette County**.

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

Outfall 001: existing discharge, design flow of 0.03 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	2.0			4.0
Nov 1 to Apr 30	3.5			7.0

NOTICES

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000 as a geometric mean			
Total Residual Chlorine	0.3			0.7
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0098531, Sewage, **Chesla Investment Group, LLC**. This application is for renewal of an NPDES permit to discharge treated sewage from Green Hills MHP STP in Hempfield Township, **Westmoreland County**.

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

Outfall 001: existing discharge, design flow of 0.03 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
May 1 to Oct 31	2.5			5.0
Nov 1 to Apr 30	7.5			15.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 as a geometric mean			
Total Residual Chlorine	0.2			0.45
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0216852, Sewage, **TRC, Inc.**, 441 Route 31, Ruffsedale, PA 15679. This application is for renewal of an NPDES permit to discharge treated sewage from TRC Estates Sewage Treatment Plant in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Buffalo 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: Westmoreland County Municipal Authority.

Outfall 001: existing discharge, design flow of 0.025 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	3.5			7.0
Nov 1 to Apr 30	10.5			21.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0216925, Sewage, **Consolidation Coal Company**, 1 Bridge Street, Monongah, WV 26554. This application is for renewal of an NPDES permit to discharge treated sewage from Kuhntown Portal Wastewater Treatment Plant in Wayne Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Hoovers Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply, and recreation. The first downstream potable water supply intake from this facility is the: Dunkard Valley Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.014 mgd.

Parameter	Concentration (mg/l)			Instantaneous Maximum
	Average Monthly	Average Weekly	Maximum Daily	
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	2.0			4.0
Nov 1 to Apr 30	3.5			7.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.05			0.11
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.

PA238302, Industrial Waste. **Air Liquide Industrial U. S. L.P.**, 2700 Post Oak Blvd., Houston, TX 77056. This proposed facility is located in St. Marys, **Elk County**.

Description of Proposed Activity: discharge of 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 PA American Water Company and the West Branch Susquehanna River located at Milton Borough approximately 118 miles below point of discharge.

The receiving stream, West Creek, is in watershed 8-A and classified for: HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of n/a mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Maximum Maximum (mg/l)
CBOD ₅	XX		
Chemical Oxygen Demand	XX		
Oil and Grease	XX		
SARA Title III, Section 313 Water Priority Chemicals**	XX		
Total Suspended Solids	XX		
Total Phosphorus	XX		
Total Kjeldahl Nitrogen	XX		
Total Iron	XX		
pH	6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

PA0239577, Sewage. **United States Department of Agriculture, Allegheny National Forest**, 222 Liberty Street, P. O. Box 847, Warren, PA 16365. This proposed facility is located in Hamilton Township, **McKean County**.

Description of Proposed Activity: New discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, Fluoride, Phenolics, Sulfate and Chloride, existing downstream potable water supply, considered during the evaluation is the Emlenton Water Company located on the Allegheny River, approximately 105 miles below point of discharge.

The receiving stream, the Kinzua Creek, is in watershed 16 and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0075 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
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	.5		1.2
Dissolved Oxygen		minimum of 6 mg/l at all times	
pH		6.0 to 9.0 standard units at all times	

*As geometric mean.

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications Under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 3905403, Sewerage, **Upper Saucon Township Municipal Authority**, 5500 Camp Meeting Road, Center Valley, PA 18034-9444. This proposed facility is located in Upper Saucon Township, **Lehigh County**.

Description of Proposed Action/Activity: This project will construct a new pumping station and force main north of the intersection of Spring Valley Road and Franklin Lane.

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

WQM Permit No. 2105401, Sewerage, **Big Spring Fish and Game, Spencer Miller**, P. O. Box 81, Newville, PA 17241. This proposed facility is located in North Newton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Installation of a small flow sewage treatment system to serve meeting facility on an existing lot.

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

WQM Permit No. 2604401, Sewerage, **Perry Township Municipal Authority**, P. O. Box 183, Star Junction, PA 15483 This proposed facility is located in Perry Township, **Fayette County**.

Description of Proposed Action/Activity: Application for construction and operation of sewage treatment plant and sewer and pumping system to serve the Wickhaven, Whitsett and Banning areas.

The Pennsylvania Infrastructure Investment Authority which administers this Commonwealth's State Revolving Fund has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. 4305401, Sewerage, **City of Farrell**, 500 Roemer Boulevard, Farrell, PA 16121. This proposed facility is located in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This project is for the replacement of the Kiefer Pump Station along with pumps, motors and controls and the replacement of the existing 8 inch force main with a 12 inch force main.

WQM Permit No. 2005402, Sewerage, **Conneaut Lake Joint Municipal Authority**, 9888 Route 285 West, P. O. Box 277, Conneaut Lake, PA 16316-0277. This proposed facility is located in Sadsbury Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the replacement of an ejector station with a submersible grinder pump station.

WQM Permit No. 1605401, Sewerage, **Shipperville Borough Sewage**, P. O. Box 244, Shipperville, PA 16254-0244. This proposed facility is located in Elk Township, **Clarion County**.

Description of Proposed Action/Activity: This project is to replace existing chlorine tablet disinfection system with a liquid Chlorine chemical feed pump, day tank and appurtenances.

WQM Permit No. 6203418, Sewerage Amendment No. 1, **Sugar Grove Area Sewage Authority**, P. O. Box 321, Sugar Grove, PA 16350. This proposed facility is located in Sugar Grove Borough and Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: This project is for sanitary sewer lines, force main sewer lines, low pressure sewer lines, two duplex pump stations, a premanufactured extended aeration wastewater treatment plant and an outfall sewer line.

WQM Permit No. 1605402, Sewerage, **Exit 60 Sewerage, Inc.**, P. O. Box 265, Clarion, PA 16214. This proposed facility is located in Paint Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a new wastewater treatment facility to serve a residential and commercial development.

WQM Permit No. 2405401, Sewerage, **Jay Township Authority**, 81 West Teaberry Street, P. O. Box 186, Weedville, PA 15686. This proposed facility is located in Jay Township, **Elk County**.

Description of Proposed Action/Activity: This project is for the construction of four pump stations and sewer extensions to serve the villages of Scattertown, Weedville and Caledonia.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1505026	Jennersville Professional Center, LLC 2215 Baltimore Pike Oxford, PA 19363	Chester	Penn Township	UNT East Branch Big Elk Creek (HQ-TSF-MF)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905013	Peter Cooper 133 State St. Emmaus, PA 18049	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF
PAI023905014	Bethany United Methodist Church 1208 N. Brookside Rd. Allentown, PA 18106	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025205004	Lumberland, Inc. P. O. Box 162 Pond Eddy, NY 12770	Pike	Delaware Township	Adams Creek EV

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

Sullivan County Conservation District: R. R. 2, Box 2022B, Dushore, PA 18614, (570) 928-7057.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045705001	Bruce R. Smay Muncy Creek Watershed Assoc. P. O. Box 47 Muncy, PA 17756	Sullivan	Laporte and Davidson Townships	Muncy Creek-CWF

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

Westmoreland County Conservation District: Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056505001	Unity Land Management, LLC R. D. 8, Box 532 Greensburg, PA 15601	Westmoreland	Unity Township	UNT to Sewickley Creek (HQ-CWF)

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)
- 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>	<i>DEP Protocol (Y/N)</i>
PAG132277	Hughestown Borough 42 Center Street Hughestown, PA 18640	Luzerne	Hughestown Borough	Susquehanna River WWF	Y

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Applicant **Lexington Land Development Corporation**

Municipality	Reading Township
County	Adams
Responsible Official	William C Bashore, Senior Vice President 336 West King Street Lancaster, PA 17603
Type of Facility	Public Water Supply
Consulting Engineer	Christopher S Pecora, P. E. KPI Technology 143 Carlisle Street Gettysburg, PA 17325
Application Received Date	4/18/2005
Description of Action	Construction of a new community water system to be called Hampton Heights.
Permit No. 0105504	Public Water Supply.
Applicant	Battlegrounds at Plum Run
Municipality	Cumberland Township
County	Adams
Responsible Official	Wayne B Hill, Owner P. O. Box 3038 828 Biglerville Road Gettysburg, PA 17325-0038
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	4/19/2005
Description of Action	Construction of a new community water system

Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467

Permit No. 9996436, Public Water Supply.
Applicant **Monadnock Mountain Spring Water, Inc.**
Township or Borough Wilton, NH

Responsible Official	Vincent Gerbino, QC Manager and Compliance Officer
Type of Facility	Out-of-State Bottled Water System
Application Received Date	May 3, 2005
Description of Action	Applicant requesting Department approval to sell bottled water in Pennsylvania under the brand name Monadnock Mountain Spring Water

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, 303, 304 and 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 any 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, or 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 following sites, 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 under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following Notice(s) of Intent to Remediate:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

ITT Engineered Processed Solutions Group, Borough of Columbia, **Lancaster County**. ENSR International, 2005 Cabot Boulevard West, Suite 100, Langhorne, PA 19047, on behalf of ITT Engineered Process Solutions Group, 10 Mountainview Road, Upper Saddle River, NJ 07458, submitted a revised Notice of Intent to Remediate site soils and groundwater contaminated with gasoline and No. 2 fuel oil. The applicant seeks to remediate the site to a combination of the Statewide Health and Site-specific standards.

Brethren Village, Manheim Township, **Lancaster County**. GCI Environmental, 1250 East King Street, Lancaster, PA 17602-3236 on behalf of Brethren Village, 3001 Lititz Pike, P. O. Box 5093, Lancaster, PA 17606-5093, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heating oil. The applicant seeks to remediate the site to the site-specific standard. The property will continue to be a residential community.

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

Liberty Park Development Site, City of Pittsburgh, **Allegheny County**. Joseph M. Harrick, Penn Environmental and Remediation, Inc., 359 Northgate Drive, Warrendale, PA 15066 on behalf of John Coyne P. E., Director of Engineering and Construction, Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219 has submitted a Notice of Intent to Remediate soils contaminated with metals including antimony, arsenic, boron, lead, thallium, silver, and PAHs; and site groundwater contaminated with perchloroethylene. Planned remediation includes a combination of excavation and removal of site soils or managing them onsite with placement under appropriate buffers to meet a Site-Specific Standard, and addressing groundwater through pathway elimination to meet a Site-Specific Standard or showing it meets a nonuse aquifer Statewide Health Standard. Future planned use is for Residential development including single and multi-family units.

BWXT Parks Township Site, Parks Township, **Armstrong County**. Bruce E. Fishman, Ph.D., DABT, RBR Consulting, Inc., 650 Shady Drive, Beaver Falls, PA 15010 on behalf of James R. Barrett, BWX Technologies, Inc., Engineering and Technical Services, MC106, Mount Athos Road, Lynchburg, VA 24504-5447 has submitted a Notice of Intent to Remediate site groundwater contaminated with chlorinated solvents to meet a Site-Specific Standard. The site was previously remediated to demonstrate attainment of radiological standards, which resulted in a full-unrestricted release by the Nuclear Regulatory Commission. No future planned use for the site.

R & P Coal Company Property (Former) Indiana Township, **Indiana County**. Mary King, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of C. Edward Receski, Indiana University of Pennsylvania, an Institute within the Pennsylvania State System of Higher Education, 235 Sutton Hall, Indiana, PA 15705-1085 and William Weir, R & P Coal Company, 1800 Washington Road, Pittsburgh, PA 15241-1421 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with chlorinated solvents to meet a Statewide Health Standard by excavation and removal of contaminated soils and monitoring of ground water to show it meets the standard at the property boundary. Future planned use of the site is for offices and/or classrooms for the University.

Johnstown Cambria Iron Works, City of Johnstown, **Cambria County**. Harry Trout, L. Robert Kimball & Associates, 415 Moon Clinton Road, Coraopolis, PA 15108 on behalf of Deborah M. Walter, Johnstown Redevelopment Authority, 401 Washington Street, Johnstown, PA 15901 has submitted a Baseline Environmental Report concerning the remediation of site soil contaminated with fuel oil and lead. The Baseline Environmental Report was approved by the Department on February 18, 2005.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation

to participate should contact the regional office identified before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

PLAN APPROVALS

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

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

45-313-013: Johnson-Diversey, Inc. (880 Crowe Road, East Stroudsburg, PA 18301) for construction of a packaging system and associated air cleaning device at their facility in Stroud Township, **Monroe County**.

48-309-125: Keystone Cement Co. (P. O. Box A, Bath, PA 18014) for construction of a finish mill and related material feed system and an indirect coal firing system at their facility in East Allen Township, **Northampton County**.

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

06-03063B: East Penn Mfg. Co., Inc. (P. O. Box 147, Deka Road, Lyon Station, PA 19536-0147) for construction of a small parts caster and lead pot controlled by a fabric collector and HEPA filter in the Borough of Kutztown, **Berks County**.

06-05007C: Carpenter Technology Corp. (P. O. Box 14662, Reading, PA 19612-4662) for construction of a replacement electric arc furnace controlled by an existing fabric collector in the City of Reading, **Berks County**. The facility is subject to Title V. The source is subject to 40 CFR Part 60, Subpart AA, Standards of Performance for New Stationary Sources.

67-03132A: Voith Siemens Hydro Power Generation (P. O. Box 712, York, PA 17405) for construction of an iron powder cutting and plasma cutting operation controlled by a cyclone and cartridge collector in series at its hydro turbines and parts manufacturing facility in West Manchester Township, **York County**.

67-05007B: Adhesives Research, Inc. (P. O. Box 100, Glen Rock, PA 17327) for modification of an existing coater and addition of a new coater, both to be controlled by a new Regenerative Thermal Oxidizer at its adhesive coating facility in Springfield Township, **York County**.

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

61-011C: Merisol Antioxidants LLC (292 State Route 8, Oil City PA 16301) for modification of distillation columns, addition of a new column, modifications to the flare and additional ancillary modifications for the Meta Expansion Project in Cornplanter Township, **Venango County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 05056: Arway Linen and Rentals (1696 Foulkrod Street, Philadelphia, PA 19124) for installation of a 300 hp No. 4 oil fired boiler in Philadelphia, **Philadelphia County**.

AMS 05057: Calpine Philadelphia—Southwest Water Pollution Control Plant (8200 Enterprise Ave, Philadelphia, PA 19153) for modification of operating restrictions on the digester gas engines in Philadelphia, **Philadelphia County**.

AMS 05058: Calpine Philadelphia—Northeast Water Pollution Control Plant (3895-99 Richmond Street, Philadelphia, PA 19137) for modification of operating restrictions on digester gas engines in Philadelphia, **Philadelphia County**.

AMS 05066: Ashland Specialty Chemical Co. (2801 Christopher Columbus Boulevard, Philadelphia, PA 19148) for installation of a Fiber Reinforced Plastic resin plant in Philadelphia, **Philadelphia County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

46-00201: Kirk and Nice Funeral Home and Crematorium (80 Stenton Avenue, Whitmarsh Township, PA) for operation of a human crematorium in Whitmarsh Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. The major source of air emissions is one human crematorium rated at 0.716 MMBtu/hr primary combustion and 1.4 mmBtu/hr secondary combustion. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00029: Glasgow, Inc.—Spring House Asphalt Plant and Quarry (PA Route 309 and Hartman Road, Montgomeryville, PA 18936) for a non-Title V, State Only, Synthetic Minor Permit in Montgomery Township, **Montgomery County**. Glasgow, Inc. owns and operates a stationary stone crushing plant, an electric powered portable stone crushing plant and a batch asphalt plant at this location. This permit also includes another portable stone crushing plant that operates at this facility and is shared with other asphalt plants and quarries under the control of Glasgow, Inc. This facility has the potential to emit 20.68 tons of particulate matter per year, 24.9 tons of nitrogen oxides per year, 6.8 tons of volatile organic compounds per year, 13.15 tons of sulfur dioxide per year, and 59.53 tons carbon monoxide per year. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

09-0156B: Jolly Gardener Products, Inc.—Frontier Division (500 East Pumping Station Road, Quakertown, PA 18951) for installation of the diesel engine and the wood processing equipment Richland Township, **Bucks County**. This installation of the diesel engine and the wood processing equipment may result in the emissions of

30.12 ton per year of nitrogen oxides, 1.17 tons per year of carbon monoxide, 0.22 ton per year of volatile organic compounds, 5.79 tons per year of sulfur oxides and 11.1 tons per year of particulate matter. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

39-301-082: We Are Pets, Inc. (9923 Old Route 22, Breinigsville, PA 18031) for installation and operation of a Pet Crematory at their facility in Weisenburg Township, **Lehigh County**. The unit will have a rated capacity of 150 lbs/hr and fire on LP gas. The minimum operating temperature of 1800°F shall be maintained with a minimum gas retention time of 1 second in secondary combustion chamber. Expected particulate emissions will be 0.009 grain/dscf, corrected at 7% O₂. CO emission will be less than 4.5 PPM corrected to 7% O₂. Visible air contaminants shall not be emitted in a manner so that the opacity of the emissions is equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any 1 hour; or equal to or greater than 30% at any time. The Plan Approval and Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the source 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.

36-05090A: Hershey Foods Corp.—Y & S Candies, Inc. (400 Running Pump Road, Lancaster, PA 17603) for construction of a new fabric collector at their candy manufacturing facility in East Hempfield Township, **Lancaster County**. The new source has the potential to emit less than 1 ton of PM10 per year. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 03046: TDPS Materials (2nd Street and Erie Avenue Philadelphia, PA 19120) for installation of a 110 tons per hour concrete crushing plant. The NO_x emissions will increase by 6.72 tons and the particulate emissions will increase by 11.85 tons per rolling 12-month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

AMS 05036: Southern Graphic Systems (2781 Roberts Ave., Philadelphia, PA 19129) for replacement of a flexographic printing plate processor. There is no increase in emissions from this installation. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

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

54-00041: Silberline Manufacturing Co., Inc. (130 Lincon Drive, P. O. Box B, Tamaqua, PA 18252) for operation of two combustion boilers and milling and screening operation in Rush Township, **Schuylkill County**. This action is a renewal of the Title V Operating Permit issued in 2000.

13-00014: Silberline Manufacturing Co, Inc. (130 Lincon Drive, P. O. Box B, Tamaqua, PA 18252) for operation of two combustion boilers and milling and screening operation in Lansford Borough, **Carbon County**. This action is a renewal of the Title V Operating Permit issued in 2000.

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

01-05007: Schindler Elevator Corp. (1200 Biglerville Road, Gettysburg, PA 17325-4449) for a renewal of their Title V Operating Permit. The facility manufactures elevators and moving stairways (SIC Code No. 3534). The facility's major sources of emissions are the coating booths. The sources primarily emit volatile organic compounds in Cumberland Township, **Adams County**.

28-05002: Letterkenny Army Depot—United States Department of Defense (1 Ovecash Avenue, Building 365, Chambersburg, PA 17201) for renewal of their Title V Operating Permit. The Depot Systems Command installation primarily emits volatile organic compounds, nitrogen oxides, sulfur oxides and particulate matter in Greene/Letterkenny Townships, **Franklin County**.

67-05047: Modern Landfill (4400 Mt. Pisgah Road, York, PA 17402-8240) for operation of a municipal landfill in Windsor and Lower Windsor Townships, **York County**. This is a renewal of the 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.

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

39-00076: Coplay Aggregates, Inc. (5101 Beekmantown Road, Whitehall, PA 18052) for operation of a stone crushing plant and its accessories at their facility in Whitehall Township, **Lehigh County**.

39-00077: Puritan Products, Inc. (2290 Avenue A, Bethlehem, PA 18017) for operation of a wholesale distribution of industrial chemicals which includes warehouse, storage, blending and packaging and its associated operation at their facility in the City of Bethlehem, **Lehigh County**.

40-00074: Altec Industries, Inc. (250 Laird Street, Plains, PA 18705) for operation of four spray booths and their associated accessories at their facility in Plains Township, **Luzerne County**.

40-00085: Carpenter Certech, Inc. (550 Stewart Road, Wilkes Barre, PA 18706) for operation of four kilns, five ovens, two curing ovens and alumina spraybooth and their associated accessories at their facility in Hanover Township, **Luzerne County**.

40-00087: Pride Mobility Products Corp. (182 Susquehanna Avenue, Exeter, PA 18643) for operation of two 16.8 mmBtu/hr gas fired boilers and their associated accessories at their facility in Duryea Borough, **Luzerne County**.

40-00092: Rad Woodwork Co., Inc. (P. O. Box 531, Nescopeck, PA 18635) for operation of three woodwork processes and their associated control equipment at their facility in Nescopeck, **Luzerne County**.

48-00072: Lift All East, Inc. (2706 Broad head Road, Bethlehem, PA 18020) for operation of a spray booth and their accessories at their facility in Bethlehem Township, **Northampton County**.

48-00081: NAPA Development Corp., Inc. (P. O. Box 639, Wind Gap, PA 18091) for operation of a portable stone crushing plant and its associated accessories at their facility in Plainfield Township, **Northampton County**.

52-00005: Springbrook Enterprises, Inc. (HC 8, Box 8210, Hawley PA 18428) for operation of a stone crushing plant and its accessories at their facility in Blooming Grove Township, **Pikes County**.

54-00061: Kaytee Products Inc. (55 North Sillyman Street, Cressona, PA 17929-1196) for operation of a grain processor and manufacturing of bird food products at their facility in Cressona Borough, **Schuylkill County**.

54-00063: Greater Pottsville Area Sewer Authority (401 North Center Street, Pottsville, PA 17901-7163) for operation of their sewage facility in the City of Pottsville, **Schuylkill County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

49-00046: Kurt Weiss Greenhouses of Pennsylvania, Inc. (10 Arcos Road, Mt. Carmel, PA 17851) for operation of a greenhouse facility at 10 Arcos Road in Mt. Carmel Township, **Northumberland County**.

The facility incorporates five natural gas/#2 fuel oil fired boilers, two of which are equipped with low nitrogen oxides burners. The applicant had previously proposed to restrict the operation of each of these five boilers to a maximum of 180 hours in any 12 consecutive month period to ensure that the facility is a synthetic minor with respect to its air contaminant emissions but, in place of this prior proposed restriction, has now proposed to restrict the facility-wide #2 fuel oil usage to 2,000,000 gallons in any 12 consecutive month period as well as the maximum #2 fuel oil sulfur content to .2% (by weight) for this purpose. Based on these new proposed restrictions, the facility is not expected to emit more than 28.95 tons of sulfur oxides, 37.87 tons of nitrogen oxides, 16.94 tons of carbon monoxide, 3.83 tons of particulate matter (including PM10) and 1.52 tons of volatile organic compounds in any 12 consecutive month period.

The Department proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to the emission of air contaminants as well as the conditions previously established in Plan Approvals 49-302-051 and 49-302-051A and Operating Permit 49-302-051. These previously-established conditions include a condition limiting the fuel used in all five boilers to natural gas and #2 fuel oil to which no reclaimed or waste oil or other waste materials have been added, a condition requiring the use of low nitrogen oxides burners on two of the five boilers as well as a condition restricting the nitrogen oxides emissions from the same two boilers to 31 parts per million when burning natural gas and 76 parts per million when burning #2 fuel oil (parts per million on a dry volume basis, corrected to 3% oxygen).

The Department additionally proposes to incorporate into the operating permit to be issued a condition limiting the amount of #2 fuel oil used in the facility to no more than 2 million gallons in any 12 consecutive month period, a condition limiting the sulfur content of the #2 fuel oil to no more than .2% (by weight) and a condition requiring the maintenance of records of the amount of #2 fuel oil used in the facility each month as well as the sulfur content of each load of #2 fuel oil delivered to the facility.

17-00057: Petroleum Development Corp. (103 East Main Street, Bridgeport, WV 26330) for their Tate compressor station in Greenwood Township, **Clearfield County**. The facility's main sources include a 115 hp natural gas fired reciprocating internal combustion compressor engine and a glycol dehydration system. The facility has the potential to emit nitrogen oxides, sulfur oxides, carbon monoxide, particulate matter, volatile organic compounds, and hazardous air pollutants below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

17-00058: Petroleum Development Corp. (103 East Main Street, Bridgeport, WV 26330) for their Passmore compressor station in Bell Township, **Clearfield County**. The facility's main sources include a 180 hp natural gas fired reciprocating internal combustion compressor engine and a glycol dehydration system. The facility has the potential to emit nitrogen oxides (NOx), sulfur oxides (SOx), carbon monoxide (CO), particulate matter (PM10), volatile organic compounds (VOCs), and hazardous air pollutants (HAPs) below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00508: Johnstown Crematory (146 Chandler Avenue, Johnstown, Pa 15906) for operation of human crematory in Lower Yoder Township, **Somerset County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

43-00286: RW Sidley, Inc. (3401 New Castle Road, West Middlesex, PA 16159) for a Natural Minor Permit to operate a concrete products manufacturing facility in Shenango Township, **Mercer County**. The facility included portable concrete batch plant as a significant source.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

S04-016: Sea Gull Lighting Products, Inc. (25th and Wharton Streets, Philadelphia, PA 19146) for issuance of a Minor State Only Operating Permit. The facility's air emission sources include two less than 3 mmBtu/hr boilers, symbol a drying oven, three paint booths, a paint stripping operation, and a polishing process with a dust collector in the City of Philadelphia, **Philadelphia County**.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University

Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

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 num-

ber; 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 acidity¹

¹The 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.

17051601 and NPDES Permit No. NA, Junior Coal Contracting, Inc., (2330 Six Mile Road, Philipsburg, PA 16866), to operate the Leslie Tipple in Decatur Township, **Clearfield County** and for NPDES discharge permit. Surface Acres Proposed 38.0. Receiving Stream: Moshannon Creek, classified for the following use: TSF. Application received March 7, 2005.

30841312 and NPDES Permit No. PA0013490, Consolidation Coal Company, (1 Bridge Street, Monongah, WV 26554), to revise the permit for the Blacksville Mine No. 2 in Wayne Township, **Greene County** to install 37 degasification boreholes. Surface Acres Proposed 18.5. No additional discharges. Application received March 11, 2005.

30810703 and NPDES Permit No. PA0092894, Consol Pennsylvania Coal Company, (1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Coal Refuse Disposal Areas No. 1 and No. 2 in Richhill Township, **Greene County** to modify the reclamation plan and add an NPDES discharge point at Disposal Area No. 1. Receiving Stream: UNT to Owens Run, classified for the following use: WWF. Application received April 21, 2005.

Greensburg District Mining Office: R. R. 2, Box 603C, Greensburg, PA 15601, (724) 925-5500.

26040103 and NPDES Permit No. PA0250589, Amerikohl Mining, Inc., (202 Sunset Drive, Butler, PA 16001). Revision application to mine the Sewickley coal seam for sandstone to an existing bituminous surface mine, located in German Township, **Fayette County**, affecting 201.4 acres. Receiving streams: UNTs to Cat's Run, classified for the following use: WWF. The first potable water supply intake within 10 miles downstream from the point of discharge: Masontown Water Works. Revision application received: May 2, 2005.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

16050106 and NPDES Permit No. PA0242675, Timothy A. Keck (93 Carrier Street, Summerville, PA 15864). Commencement, operation, and restoration of a bituminous surface strip and auger operation in Redbank Township, **Clarion County** affecting 224.0 acres. Receiving streams: UNTs to Pine Creek, classified for the following uses: CWF. The first downstream potable water supply intakes from the point of discharge are Hawthorn Area Municipal Authority and Redbank Valley Municipal Authority. Application to include a landuse change from non-commercial forestland to unmanaged natural habitat on lands of Timothy A. Keck. Application received: April 25, 2005.

16050106-E-1, Timothy A. Keck (93 Carrier Street, Summerville, PA 15864). Application for a stream encroachment to upgrade an existing or install a new stream crossing for a haul road crossing of Unnamed Tributary No. 4 to Pine Creek and for construction of the haul road within the 100-foot barrier of the stream in Redbank Township, **Clarion County** affecting 224.0 acres. Receiving streams: UNTs to Pine Creek, classified for the following uses: CWF. The first downstream potable water supply intakes from the point of discharge are Hawthorn Area Municipal Authority and Redbank Valley Municipal Authority. Application received: April 25, 2005.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17814000 and NPDES Permit No. PA0608769, TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824), major permit revision to temporarily relocate Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The permit is located in Penn Township, **Clearfield County** and affects 204.2 acres. Receiving streams: Irish Run and UNTs to Irish Run. Application received: March 24, 2005.

17910124 and NPDES Permit No. PA0206725, TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824), major permit revision to temporarily relocate Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The permit is located in Brady Township, **Clearfield County** and affects 393 acres. Receiving streams: Beech Run and UNT to Laurel Branch. Application received: March 24, 2005.

17900143 and NPDES Permit No. PA0206458. TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824), major permit revisions to temporarily relocated Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The application also includes a revision for a change in permit acreage from 342.5 to 344.7 acres. The permit is located in Penn Township, **Clearfield County**. Receiving streams: Irish Run and UNTs to Irish Run. Application received: March 24, 2005.

17030101 and NPDES Permit No. PA0243418. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650), major permit revision to an existing bituminous surface mine permit to add mining of the Middle Kittanning coal seam. The permit is located in Penn Township, **Clearfield County** and affects 220.8 acres. Receiving streams: UNTs to Bell Run and Bell Run.

Application received: April 4, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54050101. Park Mine Coal Company, (60 Weston Place, Shenandoah, PA 17976), commencement, operation and restoration of an anthracite surface mine and coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 602.0 acres, receiving stream: North Mahanoy Creek, classified for the following use: cold water fishes. Application received May 2, 2005.

Noncoal Applications Received

Effluent Limits

The following noncoal 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>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹			
pH ¹		greater than 6.0; less than 9.0	

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

7775SM12C4 and NPDES Permit No. PA0223573. Highway Materials, Inc., (1750 Walton Road, Blue Bell, PA 19422), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Alsace Township, **Berks County**, receiving stream: unnamed tributary to Laurel Run, classified for the following use: warm water fishes. Application received April 28, 2005.

34900801. Robert L. Gibbons, (R. R. 1 Box 500, Honey Grove, PA 17035), Stages I and II bond release for a quarry operation in Tuscarora Township, **Juniata County** affecting 1.0 acre on property owned by Robert L. Gibbons. Application received May 4, 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

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

E15-734. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406. Caln, East Whiteland and Tredyffrin Townships, **Chester County**, ACOE Philadelphia District.

PA Description E15-734

To widen, maintain and reconstruct an approximately 6.7-mile segment of existing highway, U. S. Route 202 Section 300, from four lanes to six lanes. Work will occur in and along the Valley Creek Watershed (EV) and will extend from the southern end at the U. S. Route 202 and Route 30 (Exton Bypass) Interchange (Malvern, PA Quad-angle N: 6.3 inches: W: 12.0 inches) in East Whiteland Township to the northern end at Howellville Road and the Swedesford Road Interchange (Valley Forge, PA Quad-angle N: 10.9 inches: W: 14.5 inches) in Tredyffrin Township, Chester County. The existing grass median will be replaced with a through lane and shoulder in each direction.

In addition, as part of the overall project the activities will also incorporate: two offsite intersection improvements, U. S. Route 202 and PA Route 29 interchange improvements, seven overhead/underpass bridge reconstructions, a Park-and-Ride lot construction and construction of a 2.4 mile two lane Collector-Distributor Road (C-D) along the northbound side of U. S. Route 202 in the PA Route 29 interchange area.

The project includes provisions for the construction of replacement wetlands and stream restoration along Valley Creek and Little Valley Creek at Ecology Park and 84 Lumber.

The project has been divided into four design/construction sections (310, 311, 320 and 330).

This permit is for Section 310 and is the first submission. The majority of the Section 310 work consists of:

- Reconstruction of the three overhead bridges as follows: Swedesford Road (S.R. 1002), Church Road (T-486) and Mill lane (T-488);
- A Park-and-Ride Lot at the intersection of Routes 322 and 30 in Caln Township
- Two offsite (OS) intersection improvements:
 - i. Phoenixville Pike and Planebrook Road and Swedesford Road Intersection (OS-1)
 - ii. The vicinity of the Phoenixville Pike and S.R. 0401 (OS-2).

Authorized work under this permit will include the following activities:

1. To place fill and impact 0.09 acres of wetland "T" (PFO-EV) and an associated drainage channel discharging to Valley Creek (EV) to facilitate the construction of a proposed stormwater management facility, the widening of S.R. 0401 (Conestoga Road) on eastbound side and intersection improvement from station 217+00 to the intersection of the S.R. 0401 and Moores Road. The work includes 0.019 acre of temporary wetland impacts.
2. To place fill and impact 0.002 acres of Wetland "3" (PEM-EV) to accommodate the widening of T-852 (Phoenixville Pike) east of Station 22+25.
3. To extend and maintain an existing 36-inch diameter corrugated metal pipe that carries an unnamed tributary to Valley Creek (EV) under T-852 remove at (Phoenixville Pike) east of Station 23+83. The culvert and appurtenant structures will be extended in-kind by approximately 7 feet at the downstream end to accommodate the widening of Phoenixville Pike.

4. To extend and maintain an existing 36-inch reinforced concrete pipe that carries an unnamed tributary to Valley Creek (EV) under T-852 remove at (Phoenixville Pike) at Station 21+50. The culvert and appurtenant structures will be extended in-kind by approximately 5 feet at downstream end to accommodate the widening of Phoenixville Pike.

5. To install and maintain temporary road crossings consisting of four, 18-inch diameter thermoplastic pipes in and along Valley Creek (EV) and Little Valley Creek (EV), associated with the stream restoration at East Whiteland Ecology Park and at the 84 Lumber Property.

6. Applicant proposes the following mitigation for the entire project that will be constructed during Section 310:

- A. To construct 0.60 acres of replacement wetlands on the 84 Lumber property situated along the Little Valley Creek.

- B. To construct and maintain approximately 440 linear feet of stream restoration/ stabilization in and along Little Valley Creek (EV) on the 84 Lumber property.

- C. To construct and maintain approximately 930 linear feet of stream restoration/stabilization in and along Valley Creek (EV) and associated tributaries at Ecology Park south of U. S. 202.

- D. To construct and maintain approximately 215 linear feet of stream restoration/ stabilization in and along tributaries to Valley Creek (EV) parallel to S.R. 0401 at station 218+25.

E23-449. Chester Downs & Marina LLC, c/o Harrah's Entertainment Inc, 777 Harrah's Boulevard, Atlantic City, NJ 08401, Chester City, Delaware County, ACOE Philadelphia District.

To redevelop the 65.06 acres of the former Sun Shipbuilding and Dry Dock Company facility into a new 5/8-mile harness racetrack and casino gaming and entertainment facility (a/k/a Harrah's Chester Casino & Race-track) situated along the Delaware River Waterfront.

Work will include:

1. To construct and maintain a 5/8-mile Oval Harness Racetrack within the 100-year floodway of the Delaware River.
2. Associated with Activity No. 1, to construct and maintain an approximately 37,508-square-foot, concrete pile-supported, high deck racetrack support platform to support the racetrack overtop a tidally flowed slip (Wet Dock No. 1) located between Piers No. 1 and 2 within the Delaware River (WWF, MF).
3. To construct and maintain the following stormwater outfalls:
 - a) Five 24-inch, and one 48-inch diameter HDPE storm water outfalls with rip-rap outlet protection along and discharging into Ridley Creek (WWF, MF).
 - b) Two 24-inch storm water HDPE outfall with riprap outlet protection along and discharging into the Delaware River.
 - c) One 18-inch, one 24-inch, and one 30-inch storm water HDPE outfalls discharging into the tidal Wet Dock (slip).
4. To place and maintain approximately 750 linear feet of riprap bank protection below the high tide line and along the perimeter of previously filled submerged lands. Work will also include minor grading and riparian corridor improvements.

5. To remove several old industrial structures within the Delaware River, including two crane rail supports, a sunken steel barge and pile-supported timber low deck structure (Pier No. 3). Also, to remove approximately 16,613 square feet of upland for conversion to an intertidal shallow water habitat. These activities are being performed as compensation for shading impacts for the new high deck racetrack support platform.

This authorization will replace all licenses previously granted by the Commissioners of Navigation to the Sun Shipbuilding Company and their predecessors.

The site is located at One Morton Avenue on the Delaware River Waterfront, just west of Ridley Creek, which forms the municipal boundary with Eddystone Borough (Bridgeport, PA-NJ Quadrangle N: 18.0 inches; W: 14.0 inches).

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

E48-354. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, in Palmer Township and Stockertown Borough, **Northampton County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain approximately 375 L.F. of impervious lining under the stream bed of Bushkill Creek (HQ-CWF) in an effort to remedy severe sinkhole formations and re-establish a natural channel within the S.R. 0033 right-of-way located at a point 0.5 mile south of S.R. 0191 (Nazareth, PA Quadrangle N: 22.5 inches; W: 2.1 inches) and to authorize the following plan revisions: to remove the existing S.R. 2017 (Tatamy Road) bridge and to construct and maintain approximately 133 L. F. of stream bed lining in Bushkill Creek (HQ-CWF) in the vicinity of S.R. 2017 located approximately 590 feet downstream of S.R. 0033 (Nazareth, PA Quadrangle N: 22.4 inches; W: 1.8 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E28-316: David Hahn, 9238 Gap Road, Waynesboro, PA 17268 in Quincy Township, **Franklin County**, ACOE Baltimore District.

To remove an existing timber bridge then to construct and maintain a 10-foot wide by 24-foot steel beam bridge with timber deck over Biesecker Run (CWF) (Waynesboro, PA Quadrangle N: 6.5 inches; W: 4.8 inches) in Quincy Township, Franklin County.

E07-395: Greenfield Township, R. D. 1, Box 948, Claysburg, PA 16625 in Greenfield Township, **Blair County**, ACOE Baltimore District.

To place fill in 0.04 acre of exceptional value PEM wetlands and less than 0.01 acre of other PEM wetlands for the purpose of: widening the intersection of SR 3013, realigning a segment of SR 3006, and reconstructing T-308 to accommodate the anticipated increase in truck

traffic to the proposed Walter Business Park (40° 16' 25", 78° 27' 48") in Greenfield Township, Blair County. The acreage of wetland impact is considered deminimus, and wetland replacement is not required.

E36-779: Soco Enterprises, Inc., 1330 Charlestown Road, Phoenixville, PA 19460 in Earl Township and East Earl Township, **Lancaster County**, ACOE Baltimore District.

To remove a 54" steel pipe road crossing, then to construct and maintain a concrete road crossing consisting of one 5.5' x 10' open bottom concrete box for normal stream flow and one 5' x 10' concrete box for flood flow located at a point just west of Ranck Road (New Holland PA Quadrangle N: 17.5 inches W: 8.5 inches) in Earl and East Earl Townships, Lancaster County.

E05-329: Keith D. Magill, 131 Ja-Ve Drive, Bedford, PA 15522 in Bedford Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain a private bridge with wingwalls on Pleasant Valley Run (CWF) having a single span of approximately 12 feet, a width of 12 feet and an underclearance of approximately 5.06 feet, and to impact 0.01 acre of PEM wetlands located at a site (Everett West, PA Quadrangle N: 14.9 inches; W: 8.0 inches) approximately 3,400 feet upstream of the T-482 (Deibert Road) Bridge Crossing in Bedford Township, Bedford County for the purpose of constructing a private residence. The acreage of wetland impact is considered deminimus and wetland replacement is not required.

E01-254: James M. Landis, Jr., 23 North Miller Street, Fairfield, PA 17320 in Fairfield Township, **Adams County**, ACOE Baltimore District.

To construct and maintain a 30-foot by 3-foot by 30-foot open bottom concrete box culvert with wingwalls for a private access road over Spring Run (CWF) located west of Fairfield Borough off North Miller Street (Fairfield, PA Quadrangle N: 7.0 inches; W: 17.5 inches) in Fairfield Borough and Hamiltonban Township, Adams County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-404. River Hill Power Company LLC, 94 Spruce Street, Indiana, PA 15701-8424. River Hill Power Waste Coal Electric Generating Facility and Appurtenances, Karthaus Township, **Clearfield County**, ACOE Baltimore District (Devils Elbow, PA Quadrangle N: 1.6 inches; W: 0.8 inch).

To construct, operate and maintain six water obstruction and encroachments in association with the construction and operation of a 290-megawatt waste coal electric generating power plant and its appurtenances. The following table lists the specific structure, structure dimensions, waterway impacted, Chapter 93 water quality designation, latitude and longitude.

Structure	Structure Dimension	Waterway Impacted	Water Quality	Latitude	Longitude
Water Make-up Intake	20-inch Diameter x 275-feet Length	West Branch Susquehanna River	WWF	41° 02' 06"	78° 06' 33"
Wastewater Outfall	12-inch x 220-feet Length	West Branch Susquehanna River	WWF	41° 02' 06"	78° 06' 33"

Structure	Structure Dimension	Waterway Impacted	Water Quality	Latitude	Longitude
Access Road Arch Culvert	20-foot Span × 6-foot Rise × 54-foot Length	Dutch Hollow Run	CWF-Wild Trout	41° 08' 00"	77° 07' 50"
Access Road Arch Culvert	57-inch Span × 38-inch Rise × 136-foot Length	UNT-Dutch Hollow Run	CWF-Wild Trout	41° 08' 02"	78° 07' 37"
Access Road Arch Culvert	57-inch Span × 38-inch Rise × 373-foot Length	UNT-Mosquito Creek	HQ-CWF	41° 08' 03"	78° 07' 05"
Access Road Arch Culvert	57-inch Span × 38-inch Rise × 221-foot Length	UNT-Mosquito Creek	HQ-CWF	41° 08' 06"	78° 07' 05"

Since Dutch Hollow Run is a wild trout stream, no construction or future repair work shall be done in or along the stream channel between October 1 and December 31 without the prior written approval of the Pennsylvania Fish and Boat Commission. The northern access road for the River Hill Power waste coal electric generating facility is located along the eastern right-of-way of SR 1001 approximately 2,300 feet north of SR 0879 and SR 1011 intersection. This permit also will authorize construction, operation, maintenance and removal of temporary construction crossings, causeways, stream diversions and cofferdams. All temporary structures shall be constructed of clean rock that is free of fines; and upon completion of construction activities, all temporary structures shall be removed with disturbed areas being restored to original contours and elevations. Construction of the above listed structures will permanently impact a total of 0.32-acre of wetland and 1,079 feet of waterway. For mitigation of the permanent wetland and waterway impacts, the permittee shall construct 0.60-acre of replacement wetland and 2,950 feet of stream mitigation by constructing operating and maintaining an alkaline addition system for Dutch Hollow Run.

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

E03-430. Cowanshannock Creek Watershed Association, P. O. Box 307, Rural Valley, PA 16249. To restore Cowanshannock Creek in Cowanshannock Township, **Armstrong County**, Pittsburgh ACOE District. (Rural Valley, PA Quadrangle N: 8.4 inches; W: 2.7 inches and Latitude: 40° 47' 58"—Longitude: 79° 16' 18"). The applicant proposes to restore and maintain approximately 2200 linear feet of Cowanshannock Creek (WWF). The project is located at the West Shamokin High School off of Route 85.

E11-310. McAneny Brothers, Inc., 470 Industrial Park Road, Ebensburg, PA 15931. To expand an existing warehouse and fill wetlands in Cambria Township, **Cambria County**, Pittsburgh ACOE District. (Nanty Glo, PA Quadrangle N: 15.3 inches; W: 0.9 inch and Latitude: 40° 27' 33"—Longitude: 78° 45' 23"). The applicant proposes to place and maintain fill in 0.38 acres of wetland (PFO) for the purpose of expanding an existing warehouse. The project is located along Industrial Park Road within the Cambria County Industrial Park.

E30-212. Emerald Coal Resources, L. P., 158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370. To place fill in wetland as part of extension of a rail siding in Franklin Township, **Greene County**, Pittsburgh ACOE District. (Waynesburg, PA Quadrangle N: 3.0 inches; W: 13.9

inches and Latitude: 39° 53' 29"—Longitude: 80° 13' 27"). The applicant proposes to place and maintain fill in 0.25 acre of wetland as part of a proposed extension of a rail siding parallel to the existing Norfolk Southern track along South Fork Tenmile Creek (HQ-WWF).

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

E20-541, Mr. James W. Klinginsmith and Ms. Ellen S. Klinginsmith, 11728 South Lake Road, Conneaut Lake, PA 16316. Klinginsmith Dock and Concrete Seawall, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle N: 18.2 inches; W: 6.6 inches).

The applicant proposes to remove the existing 55-foot long dock and to construct and maintain a 65-foot long dock on posts having a 20-foot by 10-foot platform at the lakeward end of the dock and to construct and maintain a 0.5 foot wide concrete seawall having a length of approximately 70 feet, anchored into the ground landward of the seawall and constructed directly in front of the existing steel seawall approximately 0.5 mile southwest of the intersection of SR 322 and SR 18 on the south side of Conneaut Lake. Conneaut Lake is a perennial body of water classified as a high quality warm water fishery.

E42-314, Department of Transportation, District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA. S.R. 0219, Section C09, Bradford Bypass Upgrade in Bradford and Foster Township, **McKean County**, ACOE Pittsburgh District (Bradford, PA Quadrangle N: 18 inches; W: 0.75 inch to N: 9.75 inches; W: 3.25 inches).

PennDOT is proposing pavement reconstruction and shoulders of 3.3 miles of mainline S.R. 0219 and to replace the existing two structures with the following:

- To construct and maintain a dual 4-span steel plate girder bridge having clear spans of 70.3 feet, 105.4 feet, 105.4 feet, 70.3 feet and an underclearance of 27 feet on a 70° skew across West Branch of Tunungwant Creek and Forman Street, on S.R. 0219, Segment 0550, Offset 0000.

- To construct and maintain a single span composite prestressed concrete spread box beam bridge having a clear span of 58 feet and an underclearance of 8.6 feet on a 82°30' skew across Bolivar Run on S.R. 0219, Segment 0570, Offset 1752.

This project will include no impacts to wetlands. According to 25 Pa. Code Chapter 93, The West Branch of Tunungwant Creek and Bolivar Run are classified as CWF.

ENVIRONMENTAL ASSESSMENTS

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

EA64-003. Rusty Palmer, Inc., 1103 Texas Palmyra Highway, Honesdale, PA 18431-7681, in Texas Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To restore approximately 320 linear feet of the channel of Indian Orchard Brook (HQ-CWF, MF), pursuant to permit waiver provision 25 Pa. Code § 105.12(a)(16), Dam Safety and Waterway Management Regulations. The project will impact approximately 700 linear feet of the current channel alignment. The project is located just upstream of the confluence of Indian Orchard Brook and the Lackawaxen River (White Mills, PA Quadrangle N: 8.5 inches; W: 12.6 inches).

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

EA67-015CO. South Branch, L. P., 6259 Reynold's Mill Road, Seven Valley's, PA 17360-8844, York Township, **York County**, ACOE Baltimore District.

Project proposes to construct, operate, and maintain a nonjurisdictional dam across a tributary to East Branch Codorus Creek (CWF) for the purpose of providing water storage for livestock. A 30-foot wide stream crossing is also proposed. The project will not directly or indirectly impact wetlands, and will impact approximately 250 linear feet of stream channel. The proposed dam and stream crossing will be located approximately 1,050 feet west of the intersection of Reynolds Mill Road and Overlook Street (York, PA Quadrangle, N: 4.7", W: 15.2").

D46-001EA. Montgomery County Commissioners, Montgomery County Court House, P. O. Box 311, Norristown, PA 19404. Bridgeport Borough, **Montgomery County**, ACOE Philadelphia District.

Project proposes to construct, operate, and maintain a fish passage facility at the Norristown Dam for the purpose of facilitating passage and restoration of anadromous fish species within the Schuylkill River (WWF, MF) watershed. The fish passage facility will consist of a 140-foot long Denil fishway located along and adjacent to the south bank of the river (right abutment of dam) and an excavated channel located immediately downstream of the fishway to facilitate fish movement to the fishway entrance. The project will temporarily impact approximately 0.47 acre and permanently impact approximately 0.04 acre of riverine and open water habitat (Norristown, PA Quadrangle, N: 19.8", W: 13.6").

D46-027EA. Exelon Generation, 300 Exelon Way, KSB-3-S, Kennett Square, PA 19348. Phoenixville Borough, **Chester County**, ACOE Philadelphia District.

Project proposes to construct, operate, and maintain a fish passage facility at the Black Rock Dam for the purpose of facilitating passage and restoration of anadromous fish species within the Schuylkill River (WWF, MF) watershed. The fish passage facility will consist of a 130-foot long Denil fishway located along and adjacent to the west bank of the river (right abutment of dam) and an excavated channel located immediately downstream of the fishway to facilitate fish movement to the fishway entrance. The project will temporarily impact approximately 0.48 acre and permanently impact approximately 0.02 acre of riverine and open water habitat including impacts to the Phoenixville Branch Canal (Phoenixville, PA Quadrangle, N: 4.3", W: 1.0").

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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0083909 (Sewage)	Conestoga Wood Specialities Corporation 245 Reading Road P. O. Box 158 East Earl, PA 17519-0158	Lancaster County East Earl Township	Conestoga River 7-J	Y
PA0038288 (Industrial Waste)	RecOil, Inc. 280 East Street York, PA 17403	York County York City	UNT Mill Creek 7-H	Y
PA0088331 (Sewage)	David Martin (Lot #1) 914 South 13th Street Harrisburg, PA 17104	Dauphin County Londonderry Township	UNT Conewago Creek 7-G	Y
PA0088293 (Sewage)	Todd A. Librandi 93 Airport Drive Middletown, PA 17057	Dauphin County Londonderry Township	UNT Conewago Creek 7-G	Y
PA0081655 (Industrial Waste)	Philadelphia Mixers 121 East Main Street Palmyra, PA 17078	Lebanon County Palmyra Borough	Killinger Creek 7-D	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>
PA0024686 Industrial Waste	Mid Mon Valley Water Pollution Control Authority P. O. Box 197 Allenport, PA 15412-0197	Washington County Allenport Borough	Monongahela River	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0058092, Industrial Waste, **Department of Environmental Protection**, 2 East Main Street, Norristown, PA 19401. This proposed facility is located in Whippen Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for a minor amendment to discharge up to 10,000 gpd of treated groundwater into Willow Run in Watershed 3F Lower Schuylkill.

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

NPDES Permit No. PA0088331, Sewage, **David Martin, Martin Lot No. 1**, 914 South 14th Street, Harrisburg, PA 17104. This proposed facility is located in Londonderry Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT to the Conewago Creek in Watershed 7-G.

NPDES Permit No. PA0088293, Sewage, **Todd Librandi, Martin Lot. No. 2**, 93 Airport Drive, Middletown, PA 17057. This proposed facility is located in Londonderry Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT to the Conewago Creek in Watershed 7-G.

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. 2893404, Amendment 05-1, Sewerage, **Deerwood Homeowners Association, BJC Custom Homes**, 11375 Lafayette Road, Mercersburg, PA 17236. This proposed facility is located in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Modifications to sewerage facilities consisting of: change of treatment plant manufacturer from Advanced Environmental Systems, Inc. to Dutchland, Inc. and the wastewater treatment facility will consist of flow equalization, aeration, clarifier, tertiary filter, chlorination, dechlorination and post aeration.

WQM Permit No. 0605403, Sewerage, **Muhlenberg Township Authority**, 2840 Kutztown Road, Reading, PA 19605. This proposed facility is located in Muhlenberg Township, **Berks County**.

Description of Proposed Action/Activity: Construction of a gravity collection system to serve 269 homes in Saylor Farm Estates. This system will connect into the existing Muhlenberg treatment collection system.

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

WQM Permit No. 6504407, Sewerage, **Chapeldale, LLC**, 6 Commerce Drive, Pittsburgh, PA 15239. This proposed facility is located in Upper Burrell Township, **Westmoreland County**.

Description of Proposed Action/Activity: Construction of a submersible pump station.

WQM Permit No. 6586407-A1, Sewerage, **Hempfield Township Municipal Authority**, R. D. 6, Box 501, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Construction of a new sewage treatment plant, pump station and 500 LF of 12-inch DEP force main.

WQM Permit No. 0405401, Sewage, **Chippewa Township**, 2811 Darlington Road, Beaver Falls, PA 15010. This proposed facility is located in Chippewa Township, **Beaver County**.

Description of Proposed Action/Activity: Construction of approximately 1,803 feet of 8-inch PVC sanitary sewer to serve the Shenango Woods Phase II Development.

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

WQM Permit No. WQG018377, Sewerage, **Tania Centra**, 558 Quaker Hill Road, Warren, PA 16365. This proposed facility is located in Glade Township, **Warren County**.

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

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

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>
PAI026404005	Lake Moc-A-Tek, Inc. P. O. Box 481 Hamlin, PA 18427	Wayne	Paupack Township	Tributary to Wallenpaupack Creek HQ-CWF
PAI024804040	Easton Area School District 811 Northampton St. Easton, PA 18042-4298	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI025404003	Paul J. Goettner 239 East Main St. Suite 203 East Greenville, PA 18041	Schuylkill	Rush Township	Little Schuylkill River CWF Nesquehoning Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030703002-1	Paul and DeAnne Yohn P. O. Box 951 Altoona, PA 16603	Blair	Frankstown Township	UNT Canoe Creek HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Marlborough Township Chester County	PAG2001504080	Dewson Construction Com Dewson Property 7 South Lincoln Street Wilmington, DE 19805	UNT Pocopson Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
London Grove Township Chester County	PAG2001503054	Willow Creek, LLC Porter Estates Sbdv aka Foxchase 214A Willow Valley Lakes Drive Willow Street, PA 17584	UNT Middle Branch White Clay Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG2001505032	Herron Hill Properties 10 Yorktown Dr. Kennett Square, PA 19348 and Yorktown Properties, LLC 816 W. Springfield Rd. Springfield, PA 19064	East Branch Red Clay Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Township Delaware County	PAG2002305016	Calvin E. Powell P. O. Box 195 Chester Heights, PA 19017	West Branch Chester Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marple Township Delaware County	PAG2002304068	The Nolen Group, Inc. 505 1/2 Germantown Pike Lafayette Hill, PA 19440	Darby Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG2004605021	Trategic Realty Investment, LLC 1008 Upper Gulph Road Suite 300 Wayne, PA 19087	Cobbs Creek/Delaware River Basin (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

NOTICES

3087

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Moreland Township Montgomery County	PAG2004604166	Anand P. Mittal Willow Crest Manor Development 1012 Stonebridge Road Lower Gwynedd, PA 19002	Tributary Pennypack Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG2004603219	TH Properties, Inc. Kingston Hill Phase II 345 Main Street Harleysville, PA 19438	West Branch Swamp Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Moreland Township Montgomery County	PAG2004605006	Maple Village 2815 Byberry Road Hatboro, PA 19040	UNT Pennypack Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Norristown Borough Montgomery County	PAG2004604173	MacAllister Group Hera Business Center Development 6 East Germantown Pike Plymouth Meeting, PA 19462	Sawmill Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105004	Plaza Properties Corporation Airport Business Plaza Development 504 South Heilbrun Drive Media, PA 19063	Schuylkill River (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105011	School District of Philadelphia CCA Baldi Middle School 734 Schuylkill Avenue Philadelphia, PA 19146-2397	Delaware River (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Borough of Minersville Cass Township Norwegian Township Schuylkill County	PAG2005405010	Municipal Authority Borough of Minersville 2 East Sunbury St. Minersville, PA 17954	West Branch of Schuylkill River CWF	Schuylkill County Cons. Dist. (570) 622-3742
North Whitehall Township Lehigh County	PAG2003904038	Bruce Laub 4984 Glenview St. Schnecksville, PA 18078	Fells Creek CWF	Lehigh County Cons. Dist. (610) 391-9583
Whitehall Township Lehigh County	PAG2003904039	RH Land, LP AVI Hornstein 1150 S. Cedar Cr. Blvd. Allentown, PA 18103	Coplay Creek CWF	Lehigh County Cons. Dist. (610) 391-9583
North Whitehall Township Lehigh County	PAG2003905010	North Whitehall Township Ron Stahley 3256 Levans Rd. Coplay, PA 18037	Coplay Creek CWF	Lehigh County Cons. Dist. (610) 391-9583
Whitehall Township Lehigh County	PAG2003905012	Frank Clark Whitehall Township 3219 Macarthur Rd. Whitehall, PA 18052	Jordan Creek TSF, MF	Lehigh County Cons. Dist. (610) 391-9583
Hazleton City Luzerne County	PAG2004005002	Hazleton Area School District 1515 West 23rd St. Hazleton, PA 18202-1647	Hazle Creek CWF	Luzerne County Cons. Dist. (570) 674-7991
Upper Mt. Bethel Township Northampton County	PAG2004805014	Bruce Cameron Village Properties, LLC 61 Seminole Terrace Mt. Bethel, PA 18343	Allegheny Creek CWF Oughoughton Creek CWF	Northampton County Cons. Dist. (610) 746-1971

<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>
Schuylkill Township Schuylkill County	PAG2005405014	Schuylkill Headwaters Association Inc. P. O. Box 138 Pottsville, PA 17901	UNT to Wabash Creek CWF	Schuylkill County Cons. Dist. (570) 622-3742
Upper Saucon Township Lehigh County	PAG2003905011	Tom Williams Cityline Fire & Water Restoration 822 West Hamilton St. Suite301 Allentown, PA 18101	Saucon Creek CWF	Lehigh County Cons. Dist. (610) 391-9583
Mt. Joy Township Adams County	PAG2000105008	Michael Wachs 718 Arch St. Philadelphia, PA 19016	White Run WWF	Stefani Pililis Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-5171
Hamilton Township Franklin County	PAG2002805030	Oscar and Renee Galvan 741 Dickey's Drive Chambersburg, PA 17201	Back Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Washington Township Franklin County	PAG2002805023	WTMA 11102 Buchanan Trail East Waynesboro, PA 17268	East Branch Antietam Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Guilford Township Franklin County	PAG2002805016	Grove Family Library 101 Ragged Edge Road South Chambersburg, PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Montgomery Township Franklin County	PAG2002805019	Apple Jack Estates 10658 Church Hill Road Mercersburg, PA 17236	Conococheague Creek MF-TSF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Washington Township Franklin County	PAG2002805026	East End Development c/o Ronnie Martin 1625 East Main Street Waynesboro, PA 17268	East Branch Antietam CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
East Hanover Township Dauphin County	PAG2002205029	Glenn Kline 9827 Allentown Blvd. Grantville, PA 17028	Bow Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100

NOTICES

3089

<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>
Lower Swatara Township Middletown Borough Dauphin County	PAG2002205025	Penn State University 101P Physical Plant Bldg. University Park, PA 16802-1119	Susquehanna River and Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
West Hanover Township Dauphin County	PAG2002205018	Andrew S Williams 7841 Associates 3035 N Progress Ave. Harrisburg, PA 17110	Manada Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Wernersville Borough Berks County	PAG2000605035	Peter Eisenhauer Eisenhauer Nissan/Saab, Inc. 6371 Penn Avenue Wernersville, PA 19565	Hospital Creek Tulpehocken Creek Watershed TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Dover Township York County	PAG2006704040	Ashcombe Farms West, Phases 2 and 3 AFW Development, Inc. 1730 Columbia Ave. Lancaster, PA 17603	Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAG2006704102	Kibler Properties LLC 2575 Eastern Blvd. York, PA 17402	MB of Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006704131	Saturn of York—Sutilff Enterprises P. O. Box 1307 Harrisburg, PA 17105	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township York County	PAG2006705032	Golden Tract West Kinsley Equities II 6259 Reynolds Mill Road Seven Valleys, PA 17360	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County	PAG2006705026	Baxter Investment-Wallen Tract Apartments Baxter Investment Group Chris Trone 1108 Baltimore Steet	Oil Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manheim Township York County	PAG2006704043	Joshua Hill Farm Woodhaven Development 4175 Hanover Pike Manchester, MD 21102	WB Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Centre County Ferguson Township	PAR10F120R	S & A Custom Built Homes 2121 Old Gatesburg Rd. Suite 200 State College, PA 16803	Big Hollow Drainageway CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817

<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>
Lycoming County Loyalsock Township	PAG2004105005	The Faxon Co. Fred Holland 442 Williams St. Williamsport, PA 17701	Millers Run and West Br. and Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Old Lycoming Township	PAG2004105006	DMS Realty Inc. c/o David Shirn 1804 Lycoming Creek Road Williamsport, PA 17701	Bottle Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Montour County Mahoning and Valley Townships	PAG2004704002	Todd Stein Calder Square, Box 11172 State College, PA 16805	Sechler Run CWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Montour County Liberty Township	PAG204704004	Michael McCarty 995 Bald Top Rd. Danville, PA 17821	UNT to Chillisquaque CWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Montour County Mahoning Township	PAG24705002	Brian Soyko Sheetz, Inc. 5700 6th Ave. Altoona, PA 16602-1111	Sechler Run CWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Armstrong County Freeport Borough Buffalo Township Butler County	PAG2000304003	Buffalo Township Municipal Authority 707 South Pike Road Sarver, PA 16055	Allegheny River (CWF)	Armstrong County CD (724) 548-3425
Beaver County Hopewell Township	PAG2000405007	Department of Transportation 45 Thoms Run Road Bridgeville, PA 15017	Raccoon Creek (WWF)	Beaver County CD (724) 378-1701
Cambria County Cresson Township	PAG2001105006	The Peoples Natural Gas Company dba Dominion Peoples 1201 Pitt Street Pittsburgh, PA 15221	UNT to Little Conemaugh River (CWF)	Cambria County CD (814) 472-2120
Washington County Centerville and West Brownsville Boroughs	PAG2006305004	Center-West Joint Sewer Authority P. O. Box 542 Brownsville, PA 15417	Monongahela River (WWF)	Washington County CD (724) 228-6774
Westmoreland County Unity Township	PAG2006505001	Charter Oak United Methodist Church R. R. 7, Box 353A Greensburg, PA 15601	Fourmile Run Basin (TSF)	Westmoreland County CD (724) 837-5271
Mercer County City of Hermitage	PAG2004305005	John Hudson Hudson Group, Inc 2540 Shenango Valley Freeway Hermitage, PA 16148	UNT to Pine Run-WWF	Mercer County Conservation District (724) 662-2242
Mercer County City of Hermitage	PAG2004305006	Michael Feldser CCL Container 1 Llodio Drive Hermitage, PA 16148	UNT to Shenango River-WWF	Mercer County Conservation District (724) 662-2242

*General Permit Type—PAG-3**Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Jackson Township Susquehanna County	PAR212235 Cheyenne Stone Inc. Box 137 Snake Hill Road Jackson, PA 18825	Tunkhannock Creek CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
St. Marys, Elk County	PAR808369 Joseph F. Bologna P. O. Box 89 Saint Marys, PA 15857-0089	UNT to Trout Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Haycock Township Bucks County	PAG040030 Sandra Rabenold 1241 Roundhouse Road Quakertown, PA 18951	Dimple Creek Watershed 2D	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Haycock Township Bucks County	PAG040031 Sandra Rabenold 1241 Roundhouse Road Quakertown, PA 18951	Dimple Creek Watershed 2D	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Franklin County Letterkenny Township	PAG043633 Curvin J. Gochenour, Jr. P. O. Box 177 Roxbury, PA 17251	Conodoguinet Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Warwick Township	PAG043638 Donald P. Story 17 Warwick Road Lititz, PA 17543	UNT Lititz Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Colebrookdale Township	PAG043612 Frank Gussoni 2825 Soni Drive Trooper, PA 19403	No Discharge Unbuilt	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Glade Township Warren County	PAG049169 Tania Centra 558 Quaker Hill Road Warren, PA 16365	UNT to Conewango Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

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).

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

Permit No. 4605502, Public Water Supply.

Applicant **Pottstown Borough Authority**
100 East High Street
Pottstown, PA 19464

Township Lower Pottsgrove

County **Montgomery**

Type of Facility PWS

Consulting Engineer BCM Engineers, Inc.
920 Germantown Pike, Suite200
Plymouth Meeting, PA 19462

Permit to Construct Issued May 3, 2005

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

Permit No. 4004506, Public Water Supply.

Applicant **United Water Pennsylvania**
34 Route 22 West
Summersville, NJ 08876

Borough or Township Dallas Township

County **Luzerne**

Type of Facility PWS

Consulting Engineer Steven M. Metzler, P. E.
SAIC Engineering, Inc.
1129 Business Parkway South,
Suite10
Westminster, MD 21157

Permit to Construct Issued May 5, 2005

Permit No. 4005503, Public Water Supply.

Applicant **Bezdecki Family, LLC
d/b/a Sutton Springs**
1823 Sutton Road
Shavertown, PA 18708

Borough or Township Jackson Township

County **Luzerne**

Type of Facility Bottled Water System

Consulting Engineer Richard B. Kresge, P. E.
Quad Three Group, Inc.
37 North Washington Street
Wilkes-Barre, PA 18701

Permit to Construct Issued May 9, 2005

Permit No. Minor Amendment, Public Water Supply.

Applicant **Borough of Catasauqua**
118 Bridge Street
Catasauqua, PA 18032

Borough or Township Catasauqua Borough

County **Lehigh**

Type of Facility PWS

Consulting Engineer Kirt L. Ervin, P. E.
U. S. Engineering, LLC
75 Jardin Circle
Highland, IL 62249

Permit to Construct Issued May 3, 2005

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3605503 MA, Minor Amendment, Public Water Supply.

Applicant **DS Waters of America, LP**

Municipality West Earl Township

County **Lancaster**

Type of Facility Addition of Bellefonte Big Spring as an additional source of supply.

Consulting Engineer Gary J Toplak, P. E.
Crouse & Company
400 Penn Center Blvd.
Pittsburgh, PA 15235

Permit to Construct Issued: 3/1/2005

Permit No. 3605505 MA, Minor Amendment, Public Water Supply.

Applicant **DS Waters of America, LP**

Municipality West Earl Township

County **Lancaster**

Type of Facility Relocation of existing bottling lines, treatment equipment and silos from the Lancaster Plant to the Ephrata Plant.

Consulting Engineer Gary J Toplak, P. E.
Crouse & Company
400 Penn Center Blvd.
Pittsburgh, PA 15235

Permit to Construct Issued: 4/15/2005

Permit No. 2205503 MA, Minor Amendment, Public Water Supply.

Applicant **Pillow Borough Authority**

Municipality Pillow Borough

County **Dauphin**

Type of Facility Construction of a new 107,000-gallon finished water storage tank to replace an existing tank.

Consulting Engineer Harry E Bingaman, P. E.
Glace Assoc., Inc.
3705 Trindle Rd.
Camp Hill, PA 17011

Permit to Construct Issued: 4/26/2005

Permit No. 6704512, Public Water Supply.

Applicant **Asbury Pointe LTD**

Municipality East Manchester Township

County **York**
 Type of Facility Construction of Well No. 10 w/ Disinfection.
 Consulting Engineer Jerry T Stahlman, P. E.
 Stahlman & Stahlman, Inc.
 139 E Market Street
 York, PA 17401
 Permit to Construct Issued: 4/22/2005

Operations Permit issued to: DS Waters of America, LP, 7366003, West Earl Township, Lancaster County on 5/5/2005 for the operation of facilities approved under Construction Permit No. 590468.

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

Permit No. 1805501—Construction, Public Water Supply.

Applicant **Porter Township Municipal Authority**
 Township or Borough Porter Township
 County **Clinton**
 Responsible Official Nell Yearick, Business Manager
 Porter Township Municipal Authority
 26 Spring Run Road
 Mill Hall, PA 17751
 Type of Facility Public Water Supply—Construction
 Consulting Engineer Daniel B. Guss, P. E.
 Uni-Tech Consulting Engineers, Inc.
 2007 Cato Avenue
 State College, PA 16801
 Permit Issued Date 5/9/05
 Description of Action Addition of corrosion control to comply with the Lead and Copper Rule.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lehigh Township	1069 Municipal Road Walnutport, PA 18088	Northampton

Plan Description: The approved plan provides for the construction of a single family residential dwelling to replace a residence destroyed by a fire on a 0.3 acre site. On-lot sewage disposal systems cannot be utilized due to poor soil conditions and small lot size. A small flow treatment system consisting of a septic tank and EcoFlo peat filter with ultra-violet radiation disinfection of the sewage effluent will be utilized to treat the 400 gpd of sewage flows. The discharge of the effluent will be to the main stem of the Lehigh River via an easement obtained from the adjoining property owner. The proposed development is located on Three Mile Lane, Lehigh Township,

Northampton County. The approved project will require an NPDES permit for the proposed effluent discharge. The permit application must be submitted in the name of the Permittee, David Roth. The approved project will require a Clean Streams Law permit for the construction and operation of the proposed sewerage facilities.

Plan Location: 400 Blue Mountain Drive, Lehigh Township, Northampton County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lehigh Township	1069 Municipal Road Walnutport, PA 18088	Northampton

Plan Description: The approved plan provides for a small flow treatment facility for an existing single-family residence on a 0.19-acre lot to replace an existing malfunctioning cesspool. On-lot sewage disposal systems utilizing soil-based treatment methods cannot be used due to unsuitable soils, steep slopes and small lot size. The proposed small flow treatment facility includes a Micro-Fast aerated treatment unit, alternate free access gravity sand filter and a chlorine disinfection unit prior to discharging the proposed 400 gpd of sewage flows to an UNT of the Lehigh River. Any required NPDES Permits or WQM Permits must be obtained in the name of the applicant, Albert R. George, III.

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>
Sergeant Township	126 Circle Drive Clermont Mt. Jewett, PA 16740	McKean

Plan Description: The approved plan provides for the construction of a sanitary sewerage collection system and a sewage treatment plant for the Village of Clermont in Sergeant Township, McKean County. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Guilford Township	115 Spring Valley Rd. Chambersburg PA 17201	Franklin

Plan Description: The approved plan entitled White Rock provides for an extension of Quincy Sewer authority facilities to serve 475 residential dwellings and 25 commercial lots with flows of 200,000 gallons per day, located on the both sides of Anthony Highway at Mont Alto Road. The extension will be constructed, owned and operated by the Guilford Township Authority and/or the Quincy Sewer Authority, in accordance with an intermunicipal agreement to be entered into. The Department's review of the sewage facilities planning module has not identified any significant environmental impacts resulting from this proposal. Required NPDES Permits or WQM Permits must be obtained in the name of the owners.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Antis Township	909 North Second Street Bellwood, PA 16617	Blair

Plan Description: The approved plan provides for the construction of a municipal wastewater pump station and related facilities to serve the existing Pineroft I-99 interchange area. As part of this project, 4,000 linear feet of gravity sewer line and 3,000 linear feet of sewer force main and related facilities will be constructed in order to connect the pump station to the Northern Blair Sewer Authority's existing manhole and gravity sanitary sewer system located behind the E. R. Carpenter Co., Inc. manufacturing facility. The sewage will be treated at the Tyrone Borough Sewage Treatment Plant, which is operated and maintained by the Tyrone Borough Sewer Authority. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Warriors Mark Township	P. O. Box 114 Warriors Mark, PA 16877	Huntingdon

Plan Description: The approved plan provides for a subdivision called Ridgeview II which consists of 28 single-family residential lots served by on-lot sewage systems and a public water supply. 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.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL**Plan Disapprovals Granted Under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Codorus Township	1986 Stoverstown Road Spring Grove, PA 17362	York

Plan Description: Lynwood Phase II-C, A3-67946-264-2: The plan provide for a 25 lot single-family residential subdivision on 20.3 acres with total proposed sewage flows of 9,600 gpd to be treated by individual on-lot disposal systems. The proposed development is located on the south side of Pin Oak Drive and at the end of Lynwood Drive, just east of Oak Ridge Drive in North Codorus Township, York County. The plan was disapproved because a response has not been received to the Department's "incomplete" letter dated September 9, 2003, requesting additional project information and establishing a 60-day response time period prior to mandatory disapproval action.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Windsor Township	2425 Craley Road Wrightsville, PA 17368	York

Plan Description: Southern Heights, A3-67937-222-2: The plan provided for a seven lot single-family residential subdivision on 13.5 acres with total proposed sewage flows of 2,800 gpd to be treated by individual on-lot disposal systems. The proposed development is located on the north side of Trinity North Road, approximately 500 feet east of Cool Creek Road in Lower Windsor Township, York County. The plan was disapproved because a response was not received to the Department's "incomplete" letter dated January 5, 2004, requesting additional project information and establishing a 60-day response time period prior to mandatory disapproval action.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Guilford Township	115 Spring Valley Rd. Chambersburg PA 17201	Franklin County

Plan Description: The William A. Honeycutt planning module, proposing one residential lot using an individual on-lot sewage disposal system and public water service, was disapproved because the preliminary hydrogeologic evaluation failed to adequately assess the background nitrate-nitrogen concentrations at the site.

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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Molycorp York, Spring Garden Township, **York County**. Malcolm Pirnie, Inc., 1603 Carmody Court, Suite 403, Sewickley, PA 15143, on behalf of Molycorp, Inc., 350 North Sherman Street, York, PA 17403, submitted a combined Remedial Investigation, Risk Assessment and Final Report concerning remediation of site soils and groundwater contaminated with VOCs, SVOCs and metals. The report is intended to document remediation of the site to a combination of the Site-specific and State-wide Health standards.

Wyomissing Industrial Park (western portion of the former Goss Graphic Systems site), Borough of Wyomissing, **Berks County**. American Analytical & Environmental Inc., 738 Front Street, Catasauqua, PA 18032, on behalf of Chip & Gary Real Estate Holdings, LLC, 500 Walnut Street, Birdsboro, PA 19508; Zenith Properties, LP, P. O. Box 5828, Wyomissing, PA 19610; and Chima, Inc., 126 North Second Street, Reading, PA 19601, submitted a combined Remedial Investigation and Final Report concerning remediation of site groundwater contaminated with metals, chlorinated volatile organic compounds and semivolatile organic compounds. The report is intended to document remediation of the site to a combination of the Site-specific and Statewide Health standards.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Potter County Redevelopment Authority-Arch Street Property, Coudersport Borough, **Potter County**. Moody & Associates, Inc, 11548 Cotton Road, Meadville, PA 16335 has submitted a Baseline Environmental Report concerning soil and groundwater contamination resulting from historic use as a vegetable tanning facility. This area is served by a municipal water supply. The applicant proposes to use pathway elimination to attain a Special Industrial Area standard.

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

Nu-Brite Chemical Company, Haysville Borough, **Allegheny County**. Steve McGuire, Veolia Water/NA Water Systems, 250 Airside Drive, Moon Township, PA 15108 (on behalf of Andrzej Bernat, Nu-Brite Chemical Company, 2505 Rue de la Metropole, Longueuil, Quebec J4G 1E5) has submitted a Remedial Investigation Report, Risk Assessment Report, and a Final Report concerning remediation of site soil and groundwater contaminated

with organic solvents, lead and arsenic. The reports are intended to document remediation of the site to meet the Site Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Armstrong World Industries—Building 800, City of Lancaster and Manhim Township, **Lancaster County**. Science Applications International Corporation, 6310 Allentown Boulevard, Harrisburg, PA 17112, on behalf of Armstrong World Industries, Inc., P. O. Box 3001, Lancaster, PA 17604-3001, submitted a Final Report concerning remediation of site soils contaminated with solvents. The final report demonstrated attainment of the Statewide Health standard, and was approved by the Department on May 3, 2005.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

McCloskey Residence Cleanup, City of Lock Haven, **Clinton County**. Chambers Environmental Group Inc. 629 East Rolling Ridge Drive, Bellefonte, PA 16823 has submitted a Final Report concerning soil contaminated with fuel oil No. 1. This Final Report demonstrated attainment of the Statewide Health Standard for groundwater and was approved by the Department on April 27, 2005.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

Hazardous Waste Transporter License Renewed

Marcor Remediation, Inc., 246 Cockeysville Road, P. O. Box 1043, Hunt Valley, MD 21030. License No. PA-AH0568. Effective April 14, 2005.

Horwith Trucks, Inc., P. O. Box 7, 1449 Nor-Bath Blvd, Northampton, PA 18067. License No. PA-AH0176. Effective April 14, 2005.

Environmental Waste Minimization, Inc., 14 Brick Kiln Ct., Northampton, PA 18067. License No. PA-AH0682. Effective May 2, 2005.

EQ Industrial Services, Inc., 2701 N. I-94 Service Drive, Ypsilanti, MI 48198. License No. PA-AH0615. Effective May 2, 2005.

Actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

Hazardous Waste Transporter License Voluntarily Terminated

EDP, Inc., 1722 Bolling Avenue, Norfolk, VA 23508. License No. PA-AH0593. Effective March 1, 2005.

RESIDUAL WASTE GENERAL PERMITS

Permits Reissued 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR047. Excell Minerals, Inc., Two Gateway Center, 603 Stanwix Street—1825, Pittsburgh, PA 15222.

General Permit No. WMGR047 was originally issued to Recmix of Pennsylvania, Inc., 586 Plum Run Road, Canonsburg, PA 15317 for the beneficial use of waste slag generated from the extraction of stainless steel from stainless steel slag as an agricultural liming agent.

Based on a notification of a change of ownership and the inclusion of the use of the waste slag as an ingredient in specialty fertilizer production, the beneficial use of waste slag is now under the ownership and management of Excell Minerals, Inc. Notice is hereby given of the re-issuance of the General Permit No. WMGR047 granting Excell Minerals, Inc. the beneficial use of waste slag as specified in the general permit. Central Office approved the re-issuance of this general permit on May 9, 2005.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit Approved 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR098D003. Blackwood, Inc., 12 Tremont Road, Tremont, PA 17981-11907. General Permit Number WMGR098D003 is for the beneficial use of waste foundry sands and sand system dusts generated at ferrous metal foundries and steel industries for use as a construction material, a soil additive or soil amendment. Central Office approved the determination of applicability on May 6, 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.

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

Permit No. 101600. Waste Reduction & Recycling Center Inc., 2100 Sans Souci Parkway, Wilkes-Barre, PA 18702. A permit renewal for the continued operation of

this Municipal Waste Transfer Facility located in Hanover Township, **Luzerne County**. The permit was issued by the Regional Office on March 31, 2005. The permit expiration date is extended until March 31, 2015.

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.

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

GP-20-291: Taylor Ramsey Corp.—Carmen Spears Division (631 West Central Avenue, Titusville, PA 16354) on May 2, 2005, for operation of an industrial boiler in Titusville, **Crawford 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.

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

46-0158A: Colorcon Division—BPSI (415 Moyer Boulevard, West Point, PA 19486) May 4, 2005, to operate a wet and dry dispersions in Upper Gwynedd Township, **Montgomery County**.

46-0005Y: Merck and Co., Inc. (770 Sumneytown Pike, West Point, PA 19486) on May 4, 2005, to operate a building 69, AOS in Upper Gwynedd Township, **Montgomery County**.

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

28-03049A: Thomas L. Geisel Funeral Home, Inc. (333 Falling Spring Road, Chambersburg, PA 17201) on May 3, 2005, to construct a human crematory controlled by an afterburner at their funeral home in Guilford Township, **Franklin County**.

36-05087B: Morgan Corp. (35 Thousand Oaks Boulevard, P. O. Box 588, Morgantown, PA 19543) on May 5, 2005, to construct a drive-thru paint spray booth with High Volume Low Pressure spray guns at their existing facility in Ephrata Borough, **Lancaster County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

14-00031A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on April 5, 2005, to install a replacement air cleaning device, a water spray dust suppression system, on various pieces of stone crushing, screening and conveying equipment at the Sandy Ridge Quarry Plant No. 9 in Rush Township, **Centre County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 04145: Veteran's Health Affairs Medical Center (3900 Woodland Ave, Philadelphia, PA 19104) on April 21, 2005, to install a 17.32 mmBtu/hr boiler firing natural gas, No. 2 and No. 6 fuel oils in Philadelphia, **Philadelphia 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.

46-322-007: Waste Management Disposal Services of PA, Inc. (1425 Sell Road, Pottstown, PA 19464) on May 4, 2005, to operate a municipal solid waste landfill in West Pottsgrove Township, **Montgomery County**.

23-0014C: Kimberly-Clark Corp. (Front Street and Avenue of the States, Chester, PA 19103) on May 9, 2005, to operate a wet scrubber dust control system in City of Chester, **Delaware County**.

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

36-05104A: Ephrata Manufacturing Co. (104 West Pine Street, Ephrata, PA 17522) on March 29, 2005, to construct a baghouse to control emissions from a sand muller and a sand conveying system in Ephrata Borough, **Lancaster County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

03-00229D: Rosebud Mining Co. (301 Market Street, Kittanning PA 16201) on May 3, 2005, to allow time for a Departmental compliance inspection at Coal Prep Plant in Bethel Township, **Armstrong County**. This is a Plan Approval Extension.

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

10-300C: Spang and Co.—Magnetics Division (796 East Butler Road, Butler, PA 16003) on March 31, 2005, for construction of kool mu insulation barrels and rotoclone in East Butler Borough, **Butler County**.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

17-305-042C: DTE River Hill, LLC—DTE Synfuel Operations, LLC (414 South Main Street, Suite 600, Ann Arbor, MI 48104) on April 29, 2005, to terminate plan approval to construct a coal railcar unloading operation, a synthetic fuel railcar loading operation and a diesel powered hydraulic excavator in an agglomerated coal fines (synfuel) facility in Karthaus Township, **Clearfield County**.

53-00003B: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512) on April 21, 2005, plan approval to modify a 4,445 horsepower natural gas fired

reciprocating internal combustion compressor engine (Engine 1A) at their Ellisburg Station in Allegany Township, **Potter County** was denied because the applicant failed to demonstrate that the engine would comply with all applicable requirements of 25 Pa. Code Chapters 121—145 in that information submitted in support of the plan approval application demonstrated that the emission of formaldehyde, a hazardous air pollutant, from the engine, when aggregated with the formaldehyde emissions from the rest of the respective facility, will cause air pollution which is prohibited by 25 Pa. Code § 121.7. The applicant also failed to demonstrate that the formaldehyde emissions from Engine 1A will be controlled to the maximum extent, consistent with the best available technology.

49-00020A: Truck Accessories Group, Inc.—Leer East (200 Housels Run Road, Milton, PA 17847) on April 27, 2005, plan approval to construct a mold maintenance area, a wet-out reinforcement area, a secondary lamination area, a base rail lamination area, a truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic truck cap and tonneau cover assembly and final finish operations, an aluminum welding operation and an aluminum truck cap assembly, final finish and installation operation in a fiberglass reinforced plastics and aluminum truck cap and tonneau cover manufacturing facility in Milton Borough, **Northumberland County** was denied because the applicant failed to provide a plan approval application which contained information that was request by the Department and was necessary to perform a thorough evaluation of the air contamination aspects of the respective sources.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05005: Department of Corrections—SCI Camp Hill (P. O. Box 598, Camp Hill, PA 17001) on May 6, 2005, for operations of two other boilers and two engines in Lower Allen Township, **Cumberland County**. This is a renewal of the Title V operating permit.

36-05017: Conestoga Wood Specialties Corp. (245 Reading Road, East Earl, PA 17519-0518) on May 6, 2005, for woodworking operations in East Earl Township, **Lancaster County**. This is a renewal of the Title V operating permit.

36-05029: High Steel Structures, Inc. (P. O. Box 10008, 1853 William Penn Way, Lancaster, PA 17605-0008) on May 5, 2005, a fabricated structural steel manufacturer in East Lampeter Township, **Lancaster County**. This is a renewal of the Title V operating permit.

38-05017: Greater Lebanon Refuse Authority (1610 Russell Road, Lebanon, PA 17046-1437) on May 4, 2005, for operation of refuse landfills in North Lebanon Township, **Lebanon County**. This is a renewal of the Title V operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

24-00145: GE Thermometrics, Inc. (967 Windfall Road, St. Marys, PA 15857) on May 4, 2005, the Department reissued Title V Permit to operate an electronic resistor manufacturing facility located in the City of St. Marys, **Elk 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 Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.

09-00148: Bucks County Community College (275 Swamp Road, Newtown, PA 18940) on May 5, 2005, to operate a Natural Minor Operating Permit in Newtown Township, **Bucks County**.

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

06-05068: Scranton Altoona Terminal Corp. (P. O. Box 2621, Harrisburg, PA 17105-2621) on May 9, 2005, to operate a bulk gasoline terminal controlled by three carbon adsorption/absorption units, various internal floating roofs and pressure/vacuum vents in the Sinking Spring Borough, **Berks County**.

21-05048: Lear Operations, Corp. (P. O. Box 40, Carlisle, PA 17013) on May 5, 2005, for a synthetic minor permit to operate automotive carpet and backing operations in Carlisle Borough, **Cumberland County**.

22-05050: Dauphin Meadows, Inc. (3035 Route 209, P. O. Box 68, Millersburg, PA 17061) on May 5, 2005, to operate the landfill's source in Washington Township, **Dauphin County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

43-00273: Select Industries, Inc. (242 Reynolds Industrial Park Road, Greenville, PA 16125) on May 4, 2005, the Department re-issued Natural Minor Operating Permit to perform metal coating operations in Pymatuning Township, **Mercer County**. The facility's primary emission sources include coating and lithographic printing lines. The VOC and HAP emissions from this facility are below major source levels.

25-00337: Custom Engineering Corp. (2800 McClelland Ave., Erie, PA 16510) on May 3, 2005, for reissuance of a Natural Minor operating permit for a metal fabrication operation that includes surface coating in the City of Erie, **Erie County**.

10-00310: Air Products and Chemicals, Inc. (300 Schaffner Road, Butler, PA 16001) on May 3, 2005, for reissuance of a Natural Minor operating permit for the operation of a hydrogen production facility in Butler, **Butler County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

N04-009: Household Metals, Inc. (645 East Erie Avenue, Philadelphia, PA 19134) on May 3, 2005, to operate a steel door manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include six spray booths, one 1 million Btu/hr natural gas fired washer and one 0.5 million Btu/hr natural gas fired oven.

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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00142: ML 35 LLC (35 Runway Road, Levittown, PA 19057) on May 6, 2005, to operate a facility to provide back-up electrical power facility in Bristol Township, **Bucks County**. This amendment is to address a Change of Ownership from Qwest Communications Corporation. Administrative Amendment of State-Only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

15-00018: Wyeth Pharmaceuticas—Great Valley (P. O. Box 861, Paoli, PA 19301) on May 5, 2005, to amend the operation of a Synthetic Minor Operating Permit in East Whiteland Township, **Chester County**.

46-00018: Brown Printing Co. (668 Gravel Pike, East Greenville, PA 18041-2199) on May 6, 2005, for a Title V facility in Upper Hanover Township, **Montgomery County**. The Title V Permit for this facility has been amended to incorporate the requirements of plan approval PA-46-0018C, under the requirements of 25 Pa. Code § 127.450(a)(5). This action removes one offset lithographic press and replaces it with another offset lithographic press. The replacement will result in an increase of 11.23 tons of volatile organic compounds to be emitted per year. This action also adds a new regenerative thermal oxidizer to the facility. Monitoring and recordkeeping requirements have been added to demonstrate compliance with applicable limitations.

09-00007: Waste Management Disposal Services of PA Inc (1121 Bordentown Road, Morrisville, PA 19067) on May 5, 2005, to amend the operation to: (a) incorporate Plan Approval 09-0007A; (b) incorporate of 40 CFR Part 63, Subpart AAAA; and (c) resolve of the appeal issued June 24, 1997, for Facility Title V Operating Permit in Falls Township, **Bucks County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

41-00028: Koppers Industries, Inc. (P. O. Box 189, Montgomery, PA 17752) on May 18, 2004, via administrative amendment, to incorporate the conditions established in Plan Approval 41-00028A which was issued on May 18, 2004, for the construction of a 33,475,000 Btu per hour No. 2 fuel oil-fired boiler in Clinton Township, **Lycoming County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

62-00136: Berenfield Containers Inc. (31 Railroad Street, Clarendon, PA 16313) on May 3, 2005, the Department administratively amended the Title V Permit for the Berenfield Container facility located in Clarendon Borough, **Warren County**. This amendment corrected several typographical errors contained in the Silk Screening sources (Sources ID No. 117, No. 118 and No. 122).

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) 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.

04-00108: Armstrong World Industries, Inc. (1018 Eleventh Street, Beaver Falls, PA 15101) for their ceiling tile manufacturing facility in Beaver Falls, **Beaver County**. To increase VOC emissions by 0.5 tons per year (tpy), formaldehyde emissions by 0.47 tpy, and to limit the special coating usage associated with this de minimis emission increase to 500 hours at this facility. This increase in emissions has been approved by the Department as a de minimis emission increase in accordance with 25 Pa. Code § 127.449.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

17-305-042: DTE River Hill, LLC—DTE, Synfuel Operations, LLC (414 South Main Street, Suite 600, Ann Arbor, MI 48104) on April 29, 2005, to terminate the operating permit for a coal fines agglomeration (synfuel) facility in Karthaus Township, **Clearfield County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

11991301 and NPDES Permit No. PA0215210, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Twin Rocks Mine in Blacklick Township, **Cambria County** to add and delete underground permit acres and add subsidence control plan acres. Underground Acres Proposed 2705, SCP Acres Proposed 2705. No additional discharges. Permit issued May 2, 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; CWF; WWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority. Application received April 20, 2005. Permit issued May 3, 2005.

11040102 and NPDES Permit No. PA0249688. E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722, commencement, operation and restoration of a bituminous surface mine in Chest and White Townships; **Cambria County** and Beccaria and Chest Townships, **Clearfield County**, affecting 136.0 acres. Receiving streams: UNTs to/and South Witmer Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 23, 2004. Permit issued: May 4, 2005.

56030104 and NPDES Permit No. PA0249459. Elk Lick Energy, Inc., P. O. Box 240, Friedens, PA 15541, for commencement, operation and restoration of a bituminous surface mine in Jenner and Quemahoning Townships, **Somerset County**, affecting 171.9 acres. Receiving stream: Two Mile Run to Quemahoning Reservoir classified for the following uses: CWF; CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. Application received May 2, 2003. Permit issued May 3, 2005.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

33950103 and NPDES Permit No. PA0226971. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838). Renewal of an existing bituminous strip operation in Snyder Township, **Jefferson County** affecting 82.0 acres. This renewal is issued for reclamation only. Receiving streams: UNTs to Little Toby Creek. Application received: March 11, 2005. Permit Issued: May 3, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

22030201. Meadowbrook Coal Co., Inc. (6690 State Route 209, Lykens, PA 17048), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Wiconisco Township, **Dauphin County** affecting 84.0 acres, receiving stream: none. Application received December 10, 2003. Permit issued May 6, 2005.

40940101R2. Pioneer Aggregates, Inc. (202 Main Street, Laflin, PA 18702), renewal of an existing anthracite surface mine operation in Laflin Borough and Plains Township, **Luzerne County** affecting 117.0 acres, receiving stream: none. Application received October 25, 2004. Renewal issued May 9, 2005.

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

20032809. Andrew M. Kosturick (8565 State Highway 285, Conneaut Lake, PA 16316). Commencement, operation and restoration of a small noncoal sand and gravel operation in East Fallowfield Township, **Crawford**

County affecting 3.0 acres. Receiving streams: None. Application received: October 7, 2003. Permit Issued: April 12, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

64052802. Kevin Schrader, (P. O. Box 262, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Preston Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received March 3, 2005. Permit issued May 3, 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.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32054001. Charles J. Merlo, Inc., 234 Merlo Road, Mineral Point, PA 15942. Construction Blasting—Norfolk Southern Railway Company. Keystone Bulldout Project, Conemaugh Township, **Indiana County**. Duration through April 30, 2006. Permit issued May 5, 2005.

Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.

30054001. Mashuda Corporation (21101 Route 19, Evans City, PA 16033). Permit issued for Phase 1 development of the Evergreene Technology Park located in Franklin Township, **Greene County**, with an expected duration of 8 months. Permit issued May 2, 2005.

65054003. Golden Triangle, Inc. (40 Patridge Lane, Imperial, PA 15126). Permit issued for construction of Department of Transportation SR 0022, Section B02, located in the Municipality of Murrysville and Salem Township, **Westmoreland County**, with an expected duration of 2 years. Permit issued May 2, 2005.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

59044001. Trumbull Corporation (R. D. 2, Box 130A, Route 15 South, Tioga, PA 16946), for highway construction blasting, located in Lawrenceville and Tioga Townships, **Tioga County**, with an expected duration of 365 days. Permit issued: April 26, 2005.

14054012. Stone Valley Construction, Inc. (P. O. Box 369, Pine Grove Mills, PA 16868), for construction blasting, located in Spring Township, **Centre County**, with an expected duration of 365 days. Permit issued: May 3, 2005.

14054013. Roeshot Construction (2625 Carolean Drive, State College, PA 16801), for construction blasting, located in Ferguson Township, **Centre County**, with an expected duration of 5 days. Permit issued: May 3, 2005.

14054014. Galen Dreibelbis (266 W. Clinton Avenue, State College, PA 16804), for construction blasting, located in Ferguson Township, **Centre County**, with an expected duration of 2 days, beginning May 13, 2005. Permit issued: May 7, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

15054001. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at McKenzie Brew House in East Whiteland Township, **Chester County** with an expiration date of May 25, 2006. Permit issued May 2, 2005.

36054008. Joao & Bradley Construction (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Improvements to the Southside Water System and Sanitary Sewer in Mount Joy Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued May 2, 2005.

36054009. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Lausch Lane Subdivision in Manheim Township, **Lancaster County** with an expiration date of April 15, 2006. Permit issued May 2, 2005.

36054010. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for a foundation at 145 Queen Street in Ephrata Borough, **Lancaster County** with an expiration date of April 15, 2006. Permit issued May 2, 2005.

67054015. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Iron Bridge Subdivision in West Manchester Township, **York County** with an expiration date of April 16, 2006. Permit issued May 2, 2005.

22054104. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a home in Derry Township, **Dauphin County** with an expiration date of October 30, 2005. Permit issued May 2, 2005.

46054111. Allan A. Myers, Inc. (P. O. Box 98, 1805 Berks Road, Worcester, PA 19490), construction blasting for Applewood Development in Worcester Township, **Montgomery County** with an expiration date of April 25, 2006. Permit issued May 2, 2005.

09054005. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Roaring Rocks Road in Tinticum Township, **Bucks County** with an expiration date of April 15, 2006. Permit issued May 3, 2005.

21054130. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Reisman Home in Dickinson Township, **Cumberland County** with an expiration date of April 30, 2006. Permit issued May 3, 2005.

28054115. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Robert Martin Farm with an expiration date of May 31, 2006. Permit issued May 3, 2005.

28054116. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting for Thornwood Village in Guilford Township, **Franklin County** with an expiration date of April 30, 2006. Permit issued May 3, 2005.

48054005. AMROC (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Hanover Corporate Center II in Hanover Township, **Northampton County** with an expiration date of May 25, 2006. Permit issued May 3, 2005.

64054102. ER Linde Construction Corp. (9 Collan Park, Honesdale, PA 18431), construction blasting for Mansfield Development in Manchester Township, **Wayne County** with an expiration date of April 1, 2006. Permit issued May 3, 2005.

67054017. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for improvements at John Rudy Park in Manchester Township, **York County** with an expiration date of April 15, 2006. Permit issued May 3, 2005.

67054018. Wagman Construction, Inc. (3290 Susquehanna Trail North, York, PA 17405) and **Kesco, Inc.**, (P. O. Box 95, Adrian, PA 16210), construction blasting at Homewood at Plumcreek in Penn Township, **York County** with an expiration date of January 31, 2006. Permit issued May 3, 2005.

28054011. P & W Excavating, Inc. (P. O. Box 712, McConnellsburg, PA 17233) and **Winchester Building Supply**, (2001 Millwood Pike, Winchester, VA 22602), construction blasting at Hoffman Transport in Antrim Township, **Franklin County** with an expiration date of October 31, 2005. Permit issued May 4, 2005.

67054107. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Sam Kreider Farm in Washington Township, **York County** with an expiration date of April 30, 2006. Permit issued May 4, 2005.

64054002. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for Bob Schaefer Excavating/Shale Pit in South Canaan Township, **Wayne County** with an expiration date of June 30, 2005. Permit issued May 5, 2005.

09054006. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting at Valley Square Phase II in Warrington Township, **Bucks County** with an expiration date of May 15, 2006. Permit issued May 5, 2005.

09054007. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting at Lamplighter II Housing Project in Warrington Township, **Bucks County** with an expiration date of May 20, 2006. Permit issued May 5, 2005.

36054118. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for James Zimmerman manure storage in West Earl Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued May 5, 2005.

39054104. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for Whispering Farms in Upper Macungie Township, **Lehigh County** with an expiration date of May 1, 2006. Permit issued May 5, 2005.

45054114. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for a home in Paradise Township, **Monroe County** with an expiration date of May 1, 2006. Permit issued May 5, 2005.

46054113. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Shelly Square Shopping Center in Upper Salford Township, **Montgomery County** with an expiration date of May 5, 2006. Permit issued May 5, 2005.

46054114. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Pimlico Farms Subdivision in East Norriton Township, **Montgomery County** with an expiration date of April 30, 2006. Permit issued May 5, 2005.

67054019. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554) and **J Roy's, Inc.**, (935 Stone Hill Road, Denver, PA 17517), construction

blasting at Valley View Estates in Hellam Township, **York County** with an expiration date of September 30, 2005. Permit issued May 6, 2005.

01054107. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Oak Hills Development in Conewago Township, **Adams County** with an expiration date of May 30, 2006. Permit issued May 6, 2005.

01054108. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Hickory Ridge Subdivision in Mt. Pleasant Township and Bonneville Borough, **Adams County** with an expiration date of May 30, 2006. Permit issued May 6, 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

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

E19-245. Columbia Montour Council Boy Scouts of America, 5 Audobon Court, Bloomsburg, PA 17815. Fishing Creek stream project at the Boy Scout Camp, in Sugarloaf Township, **Columbia County**, ACOE Baltimore District (Stillwater, PA Quadrangle N: 20 inches; W: 16 inches).

To construct, operate and maintain a stream stabilization project consisting of six cross vein structures, seven "J" hook structures, and three single leg vein structures along a 1.4 mile stretch of Fishing Creek with changes in the pattern, profile and cross-section. The permit also authorizes 0.25 mile of Coles Creek. This portion of stabilization effort will consist of four cross veins and two "J" hooks with changes in the pattern, profile and cross-section. The structures in Fishing Creek will be constructed out of stone measuring a minimum of 3.5 feet by 3 feet by 2 feet and in Coles Creek the stone shall have a minimum of 2.8 feet by 2.4 feet by 1.6 feet. This project is located at the Boy Scout Camp 1 mile from SR 487 on SR 4049.

E47-080 Denied. PPL Montour Preserve, 700 Preserve Road, Danville PA 17821. Chillisquaque Creek Restoration Project, in Anthony Township, **Montour County**, ACOE Baltimore District (Washingtonville, PA Quadrangle N: 17 inches; W: 5.5 inches).

The applicant is proposing to restore 2,300 linear feet of Chillisquaque Creek (WWF) by means of natural channel design techniques. The restoration project intends to reduce the slope of the existing embankments, incorporate instream rock and log structures to direct high velocities away from the stream banks, narrow the bankfull channel to improve sediment transport, and improve the pool-rifle sequence. The completed project is intended to improve stream stability, reduce near-bank velocities, reduce sediment supply and provide improved instream and riparian habitat.

E60-168. Lewisburg Recreation Authority, c/o Greg Wetzel, 629 Fairground Road, Lewisburg, PA 17837. Playground, in Lewisburg Borough, **Union County**, ACOE Baltimore District (Lewisburg, PA Quadrangle N: 16.1 inches; W: 3.3 inches).

To construct and maintain a youth playground, a tot lot, a skate park, a spray fountain, climbing boulders, a parking lot expansion, a life trail and picnic areas and an underground stormwater detention basin in the floodplain of Limestone Run off 15th Street about 1,200 feet from the intersection of 15th Street with Saint Mary Street in the Borough of Lewisburg.

The project will not impact waterways while impacting 0.8 acre of wetland and less than 5 acres of earth disturbance. Limestone Run is a WWF stream.

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

E02-891 A1. ELG Metals, Inc., 369 River Road, P. O. Box 369, McKeesport, PA 15132-0369. To transfer and amend Permit No. E02-891 in the City of McKeesport, **Allegheny County** (Glassport, PA Quadrangle N: 18.9 inches; W: 0.1 inch and Latitude: 40° 21' 15"—Longitude: 79° 52' 30"). To transfer and amend permit E02-891

which authorized the construction and maintenance of a barge docking facility consisting of an anchored barge and two concrete retaining walls along the right bank of the Monongahela River (WWF) near River Mile 15.8 near the mouth of the Youghioheny River.

E26-322. Mountain Watershed Association, Inc., P. O. Box 408, Melcroft, PA 15642. To reconstruct the channel of Mill Run in Springfield Township, **Fayette County** (Mill Run, PA Quadrangle N: 14.3 inches; W: 11.5 inches and Latitude: 39° 58' 24"—Longitude: 79° 27' 19"). To reconstruct, stabilize and maintain approximately 1,400 linear feet of the channel of Mill Run (HQ-CWF) located between SR 381 and Hampton Road. The project includes placement of fill in 0.014 acre of PEM de minimis wetlands.

E30-211. Rices Landing Borough, P. O. Box 185, 137 Main Street, Rices Landing, PA 15357. To construct and maintain boat docks in four phases in and along the left bank of the Monongahela River (WWF) at River Mile 68.5 in Rices Landing Borough, **Greene County** (Mather, PA Quadrangle N: 13.6 inches; W: 0.05 inch and Latitude: 39° 57' 00"—Longitude: 80° 0' 1"). Phase 1 consists of 60 linear feet of 6-foot wide docks; Phases 2, 3 and 4 consist of 1,350 linear feet of 12-foot wide docks; and 102 linear feet of 6-foot wide docks along Pumpkin Run (WWF).

E32-468. Department of Transportation, Engineering District 10-0, P. O. Box 429, Indiana, PA 15701. To relocate channel and storm water pond and place fill in Burrell and West Wheatfield Townships, **Indiana County** (Begin: Bolivar, PA Quadrangle N: 13.1 inches; W: 10.7 inches and Latitude: 40° 26' 50"—Longitude: 79° 12' 07" End: Bolivar, PA Quadrangle N: 14.3 inches; W: 1.4 inches and Latitude: 40° 27' 13"—Longitude: 79° 08' 06"). To temporarily relocate 320.0 linear feet of an UNT to Toms Run (CWF), to construct and maintain 110 linear foot relocated channel and a stormwater pond within the same UNT to Toms Run, to place and maintain fill in 0.44 acre of wetland (0.35 acres PEM, 0.09 acre PSS), and to extend and maintain an existing 155.0 foot long, 24-inch diameter pipe for a distance of 55.0 feet at its downstream end in the same UNT to Toms Run (CWF). The pipe extension qualifies for Department waiver 105.12(a)(2). The project is located on US 22, Section 491. The replacement wetlands have already been constructed at the AMD and Art Demonstration Project in Vintondale.

E65-853. Donald A. Paulone Custom Built Homes, Inc., Employee Profit Sharing Trust, One Corporate Circle, Suite 1000, Greensburg, PA 15601. To construct four culverts and fill wetlands in Unity Township, **Westmoreland County**, Pittsburgh ACOE District. (Latrobe, PA Quadrangle N: 8.0 inches; W: 14.0 inches and Latitude: 40° 17' 40"—Longitude: 79° 28' 30"). To construct and maintain three 4-foot diameter culverts approximately 57 feet long with inlet and outlet protection in an UNT to Slate Creek (WWF); to construct and maintain a 4-foot diameter culvert approximately 88 feet long, with wing walls at both ends with inlet and outlet protection in another UNT to Slate Creek (WWF); to place and maintain fill in six wetlands: 0.23 acre of wetland 1; 0.04 acre in wetland 3; 0.017 acre of wetland 4; 0.04 acre in wetland 6; 0.23 acre of wetland 7 and 0.02 acre in wetland 9, for a total amount of 0.54 acre of wetland impacts. The impacts are part of proposed residential

development known as the Villas at Grayhawk. The project is located along the south side of SR 30, approximately 200 feet east of the intersection between SR 30 and Johnson Road. To meet the wetland replacement requirements the applicant will construct 0.54 acre of replacement wetlands.

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

E16-127. Porter Township, 9485 Currllsville Road, New Bethlehem, PA 16242. Leatherwood Creek Low Flow Stream Crossing, in Porter Township, **Clarion County**, ACOE Pittsburgh District (Sligo, PA Quadrangle N: 6.3 inches; W: 1.8 inches).

To construct and maintain a low flow crossing within Leatherwood Creek (CWF) consisting of a minimum of seven 30-inch diameter pipes with concrete roadway surface at a point approximately 1600 feet southeast of the intersection of SR 854 and T-472.

E25-688. BTDD, Ltd., 101 Lakemont Park Blvd., Altoona, PA 16602. Tract 310 Development in Millcreek Township, **Crawford County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 13.0 inches; W: 7.5 inches).

The applicant proposes to prepare a property for development approximately 400 feet northeast of the intersection of S.R. 20 and Asbury Road (Swanville, PA Quadrangle N: 13.0 inches; W: 7.5 inches) in Millcreek Township, Erie County involving: 1) to place fill in the floodway of Spring Run having a length of approximately 200 feet, a width of approximately 15 feet and a depth of approximately 12 feet; and 2) to construct and maintain an approximately 50-foot long, 14.5-foot wide by 9-foot high CMP pipe arch culvert in Spring Run. Spring Run is a perennial stream classified as a cold water fishery and a migratory fishery.

E33-214. Hart Resource Technologies, Inc., P. O. Box 232, 5035 Route 110, Creekside, PA 15732. Punxsutawney Brine Treatment Facility Outfall to Mahoning Creek, in Punxsutawney Borough, **Jefferson County**, ACOE Pittsburgh District (Punxsutawney, PA Quadrangle N: 11.7 inches; W: 13.4 inches).

To construct and maintain two 4-inch diameter PVC pipes through the existing flood control dike within a 13-inch diameter steel casing and ending with perforated diffusers at approximately the midpoint of Mahoning Creek from the south (left) bank for an outfall from the proposed Punxsutawney Brine Treatment Plant at 400 Gilpin Street approximately 0.1 mile northeast of Indiana Street.

E61-270. Randall A. Sherman, 2206 Route 38, Emlenton, PA 16373. Randall Sherman Bridge, in Richland Township, **Venango County**, ACOE Pittsburgh District (Emlenton, PA Quadrangle N: 11.7 inches; W: 6.2 inches).

The applicant proposes to construct and maintain a single span steel grate bridge with concrete abutments having a clear span of approximately 35 feet and an underclearance of 7.5 feet across Richey Run in Richland Township, Venango County (Emlenton, PA Quadrangle N: 11.7 inches; W: 6.2 inches) approximately 250 feet

east of the intersection of State Route 38 and T 550. A portion of the project has already been completed. Project includes construction of an overtopping area on the left approach. Richey Run is a perennial stream classified as a cold water fishery. The project proposes to directly impact approximately 50 feet of stream.

SPECIAL NOTICES

Drinking Water State Revolving Fund

Special Notice Under the Federal Safe Drinking Water Act

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

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Aqua Pennsylvania, Inc.—White Haven Division	204 East Sunbury Street Shamokin, PA 17872	Luzerne

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Applicant, Aqua Pennsylvania, Inc., Shickshinny Lake Water System, Union Township, Luzerne County, proposes two wells, treatment, system interconnection, alternate power and distribution system replacement and improvements. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Public Hearing for NPDES Permit No. PAI024805005

The Department of Environmental Protection (Department) will hold a public hearing to accept comment on NPDES Permit Application No. PAI024805005 for the discharge of stormwater from construction activities at the proposed Estates at Green Pond, Phases I and II in Bethlehem Township, Northampton County.

The public hearing will be held on June 30, 2005, at 7 p.m. in the Bethlehem Township Municipal Building, 4225 Easton Avenue, Bethlehem, PA 18020, by the Department of Environmental Protection, Water Management Program, Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511. The hearing is in response to an application submitted by Toll Brothers, Inc., 4178 Rexford Drive, Bethlehem, PA 18020. The NPDES permit application proposes the discharge of stormwater from construction activities to Nancy Run in the Bushkill Creek Watershed.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Estates at Green Pond Public Hearing, Department of Environmental Protection, Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to NPDES Permit Application No. PAI024805005. Written copies of oral testimony

are requested. Relinquishing time to others will not be allowed. All individuals attending the hearing will have the opportunity to testify if they want to do so; however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Northampton County Conservation District office at the Gracedale Complex in Nazareth, PA 18064, (610) 746-1971.

For further information, contact Mark Carmon, Northeast Regional Office, (570) 826-2511.

Environmental Assessment; Borough of Akron, Lancaster County

Southcentral Regional Office, Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

Location: Borough of Akron, 117 South Seventh Street, P. O. Box 130, Akron, PA 17501-0130

Public Water Supply Permit No. 3604509. Borough of Akron, **Lancaster County**

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Borough of Akron proposes the installation of a nitrate treatment system and support building to treat the elevated nitrate levels in the source waters. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Environmental Assessment; Windsor Borough, York County

Southcentral Regional Office, Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

Location: Windsor Borough Water Authority, 2 East Main Street, Windsor, PA 17366

Public Water Supply Permit No. 6703510. Windsor Borough, **York County**

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Windsor Borough Water Authority proposes the installation of approximately 8,800 LF of 8-inch distribution mains and associated valves to augment pressure and fire flows. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 05-998. Filed for public inspection May 20, 2005, 9:00 a.m.]

Acceptance of Applications for New or Innovative Water/Wastewater Technology Grants Through the Growing Greener Program

As part of the Department of Environmental Protection's (Department) Growing Greener Program (Program), applications are now being accepted for new or innovative water/wastewater technology grants. The Environmental Stewardship and Watershed Protection Act authorizes the Department to make these grants available to municipalities, municipal authorities, counties and school districts for improvements to existing drinking water or sewage treatment facilities using new or innovative technology. Grants for individual projects will be available up to \$500,000 under this Program.

Preference will be given to the following new or innovative projects:

- Treatment of groundwater under the direct influence of surface water.
- Holistic approaches to treatment of drinking water for arsenic, nitrates and other mobile contaminants to ensure safety with respect to potential, current and future risks.
- Elimination of combined sewer overflows.
- Biosolids processing, especially technologies intended for odor abatement.
- Advanced wastewater treatment for nutrient removal in watersheds where nutrient removal has been identified by the Department as a priority.

The deadline for submitting grant applications to the Department's Growing Greener Grants Center is July 29, 2005. The grant application form is available on the Department's website at www.dep.state.pa.us/elibrary (Select "Forms," "Water Supply and Wastewater Management" and "3800-FM-WSWM071"). The form name and number are: Application for Growing Greener Grant Assistance New or Innovative Water/Wastewater Technology, 3800-FM-WSWM0271.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-999. Filed for public inspection May 20, 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.

Final Technical Guidance—Substantive Revision

DEP ID: 012-0700-002. Title: Agricultural Land Preservation Policy. Description: The purpose of this guidance is to provide policy guidance to Department staff to: 1) consider ways to prevent the irreversible loss of prime agricultural land; and 2) administer the Department's programs so that Department funds and Department-administered Federal funds are not used to encourage the conversion of prime agricultural land to other uses when feasible alternatives are available. This policy implements Executive Order 2003-2. The order directs the Department to list agency actions that directly or indirectly impact prime agricultural lands, provide a statement of agency guidelines and procedures that eliminate or minimize impacts detrimental to the continued use of prime agricultural lands and describe any statutory or regulatory changes necessary to implement the intent of the executive order. Comments: A notice of availability of the draft version of this document was published at 34 Pa.B. 6105 (November 6, 2004). Provision for a 30-day public comment period was provided for the draft document, which concluded on December 6, 2004. The document was revised in response to comments received from the public. Effective Date: May 21, 2005. Contact: Lou Guerra, Department of Environmental Protection Policy Office, (717) 783-8727.

Draft Technical Guidance—New Guidance

DEP ID: 580-2200-009. Title: Safety Requirements for Construction of Shafts for Underground Mines. Description: This document provides guidance to identify the safety requirements applicable to the development of shaft and slope entries to underground mines. Written Comments: Interested persons may submit written comments on this draft technical guidance document by June 20, 2005. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Joseph A. Scaffoni, Department of Environmental Protection, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road,

Room 167, Uniontown, PA 15401, jsbaffoni@state.pa.us. Questions regarding the draft technical guidance document should be directed to Joseph A. Sbaffoni, (724) 439-7469, jsbaffoni@state.pa.us. Effective Date: Upon publication as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1000. Filed for public inspection May 20, 2005, 9:00 a.m.]

Oil and Gas Technical Advisory Board Meeting

The Department of Environmental Protection's (Department) Oil and Gas Technical Advisory Board will hold a meeting on June 2, 2005, at 10 a.m. in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Agenda items for this meeting will include consideration of the Bonding Workgroup's recommendations, a review of a draft document entitled Process for Evaluating Discharge from Abandoned Oil and Gas Wells, as well as program updates from the Well Plugging program and the Adoption Incentives program.

Questions concerning this meeting should be directed to David Hogeman, Director, Bureau of Oil and Gas Management, (717) 772-2199, dhogeman@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1001. Filed for public inspection May 20, 2005, 9:00 a.m.]

Small Systems Technical Assistance Center Advisory Board Meeting Change

The Small Systems Technical Assistance Center Advisory Board's regular quarterly board meeting scheduled for May 19, 2005, has been rescheduled for June 9, 2005, from 10 a.m. to 3 p.m. in Susquehanna Room B, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA.

Questions concerning the meeting should be directed to Ray Braun, (717) 772-2186, rbraun@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1002. Filed for public inspection May 20, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Canonsburg General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Canonsburg General Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.7.C11 (relating to staff clothing change areas).

This 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, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1003. Filed for public inspection May 20, 2005, 9:00 a.m.]

Application of Gettysburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gettysburg Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 9.1.C (relating to facility access).

This 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, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1004. Filed for public inspection May 20, 2005, 9:00 a.m.]

Application of UPMC Presbyterian Shadyside for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 10.15.A2 and 10.6.A (relating to room size; and dining, recreation and day space).

This 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, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1005. Filed for public inspection May 20, 2005, 9:00 a.m.]

Emergency Medical Services Operating Fund Funding Priorities

Under 28 Pa. Code §§ 1001.22 and 1001.23 (relating to criteria for funding; and allocation of funds), the Department of Health (Department) hereby gives notice of priorities for the distribution by the regional emergency medical services (EMS) councils of funding from the Emergency Medical Services Operating Fund (EMSOF) for the fiscal year beginning July 1, 2005, and ending June 30, 2006.

EMSOF moneys are to be used to provide funding to maintain, improve and develop the quality of the EMS system within this Commonwealth. The Department finds that the EMSOF is not sufficient to fully fund the EMS system. Therefore, it gives notice, under 28 Pa. Code § 1001.22(d), that recipients of EMSOF funding from regional EMS councils may be required to contribute funds toward all purchases, acquisitions and projects for which the Department permits the use of EMSOF moneys.

Each regional EMS council shall prioritize the distribution of its EMSOF allocation based upon the Statewide EMS Development Plan and its regional EMS development plan, subject to the funding priorities set forth in this notice. By September 30, 2005, the regional EMS councils shall notify the providers and other appropriate entities of the established funding priorities, the application process, acquisition documentation requirements and processing deadlines. Each regional EMS council must complete all documents required for the distribution of EMSOF funding by June 30, 2006.

The Department may increase the amount of the initial payment or reimbursement from the EMSOF based upon the EMS development plans (State and regional) or documented financial hardship of a provider of EMS. A provider of EMS that seeks additional funds due to financial hardship shall be required to submit a financial disclosure statement and other documentation deemed necessary by the Department.

A provider of EMS applying for EMSOF funding must be in compliance, or aggressively pursuing full compliance, with all regulations, policies and priorities of the State and regional EMS systems.

Funds for purchases, acquisitions and projects for the fiscal year beginning July 1, 2005, and ending June 30, 2006, must be expended by the regional EMS council by June 30, 2006, unless a written request for an extension of time, not to exceed 90 calendar days, is submitted by the regional EMS council and approved by the Department prior to June 30, 2006.

Funding Priorities

These priorities are not ranked. The priorities must be considered before there is any regional distribution of EMSOF moneys for initiatives that are not listed. Funding must be distributed consistent with the regional and Statewide EMS development plans. Consequently, if the priorities in this notice have been funded and additional funding is available, the request to use EMSOF money towards nonpriority items must still be supported by the Statewide and regional EMS development plans.

- Development or improvement of an organizational risk management program (safety measures, hazard recognition/mitigation and the necessary organizational structure and support processes) proposed by an ambulance service. Proposals for funding must be comprehensive and include safe vehicle operations. Approval by the Department is required prior to funding.

- Recruitment and retention programs, including scholarships/tuition reimbursement for emergency medical technician and paramedic training in areas with high prehospital personnel vacancy rates as determined by the regional EMS council and approved by the Department.

- Automatic external defibrillators (AED) for Department recognized quick response services and basic life support (BLS) ambulance services.

- Equipment required to meet BLS and advanced life support (ALS) ambulance service licensure.

- Capnography equipment (especially wave-form end-tidal CO₂ monitors).

- Ambulance for ambulance services that operate a single ambulance more than 10 years of age or for more than 200,000 miles.

- Software/computer equipment to enable services to collect and transmit EMS patient care reports electronically.

- Communication equipment and capabilities for EMS response in areas with poor to no communication capability between ambulances and medical command facilities or between ambulances and receiving facilities.

- Quality assurance/improvement initiatives.
- Continuous positive airway pressure devices approved by the Department.
- Identification vests for mass casualty response and incident command roles.

- EMS personnel protective respiratory equipment approved by the Department to protect the EMS practitioner from communicable diseases transmitted from person to person through airborne mechanisms.

When two or more ambulance companies have consolidated, the entity may be deemed eligible to receive a one-time grant not to exceed the amount of the combined total for which the individual companies would have been eligible had they not consolidated.

Emergency Preparedness and Response Funding Requests

Emergency preparedness and response funding requests must be based on local and response roles of services, regional needs and needs identified by threat

vulnerability analysis. Purchases must be coordinated with county emergency, fire service, HAZMAT and hospital organizations in the applicant's service area to assure interoperability and to prevent duplication. Funding requests related to response to terrorism and emergency preparedness must have a clear connection to the regional EMS catastrophic plan and the regional EMS development plan. Priority will be given to fund the ambulance services in each region that have committed to participating in the EMS surge capability project and respond to requests for EMS, both interstate and intrastate, as identified in the State and regional catastrophic casualty care plans.

Provider Equipment

Purchases by providers of EMS are not limited to equipment. If an EMS provider requests EMSOF moneys to purchase equipment, the Eligible Provider Equipment List identifies equipment for which EMSOF funds will be made available to purchase. This chart identifies the types of providers of EMS eligible for equipment purchases supported by EMSOF funding and the maximum allowable cost upon which the EMSOF contribution will be calculated.

EMSOF funds will fund 60% of the maximum allowable cost of an equipment item for rural providers and will fund 50% of the maximum allowable cost of an equipment item for nonrural providers. An eligible provider is responsible for the balance of the purchase price. The provider may purchase an item for an amount that exceeds the maximum allowable cost, but the provider will be responsible for any amount exceeding that figure. The last two columns of the chart identify the percentage of EMSOF contribution towards the purchase price, up to the maximum allowable cost of the item, based upon whether the provider operates in a rural or nonrural area.

AED capability must be funded for a QRS or a BLS ambulance service prior to the service being approved to receive EMSOF funds towards the purchase of any other equipment.

Questions regarding the Eligible Provider Equipment List or other matters addressed in this notice should be directed to Joseph W. Schmider, Director, Emergency Medical Services Office, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 787-8740. Speech or hearing impaired persons should use VTT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984. Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Joseph W. Schmider at the previously listed address or telephone numbers.

Eligible Provider Equipment List

Equipment Description	Life Expectancy	Eligible Purchase for:				Allowable Costs ¹	Nonrural (50%)	Rural (60%)
		ALS	ALS/SQ	BLS	QRS			
EKG Monitor/Defibrillator with Pacer	5 years	Y	Y	N	N	12,000	6,000	7,200
12 Lead EKG ²	5 years	Y	Y	N	N	20,000	10,000	12,000
Automated External Defibrillator (AED)	5 years	N	N	Y ³	Y ³	3,500	1,750	2,100

NOTICES

3109

<i>Equipment Description</i>	<i>Life Expectancy</i>	<i>Eligible Purchase for:</i>				<i>Allowable Costs¹</i>	<i>Nonrural (50%)</i>	<i>Rural (60%)</i>
		<i>ALS</i>	<i>ALS/SQ</i>	<i>BLS</i>	<i>QRS</i>			
Oxygen Equipment (any combination) Cylinder Demand Valve w/Hose & Mask Regulator (combination or constant flow) Case	5 years	Y	Y	Y	Y	500	250	300
Capnography Equipment	3 years	Y	Y	N	N	3,000	1,500	1,800
CPAP Ventilation Portable Equipment	5 years	Y	Y	N	N	900	450	540
Pulse Oximeter	5 years	Y	Y	N	N	700	350	420
Nitrous Oxide Delivery System	5 years	Y	Y	N	N	2,000	1,000	1,200
Intravenous Infusion Pumps	5 years	Y	Y	N	N	2,000	1,000	1,000
Adult/Pediatric Intubation Kits	5 years	Y ⁸	Y ⁸	N	N	600	300	360
Transtracheal Jet Insufflators (TTJ)	5 years	Y	Y	N	N	200	100	120
Splinting/Immobilization Devices (any combination) Backboard Cervical Immobilization Device Splints (rigid, traction, and the like)	3 years	Y	Y	Y	Y	500	250	300
Stairchair	5 years	Y	N	Y	N	2,000	1,000	1,200
Stretcher—Primary	5 years	Y	N	Y	N	4,000	2,000	2,400
Stretcher/Chair Combination	5 years	Y	N	Y	N	700	350	420
Suction (portable, battery operated)	3 years	Y	Y	Y	Y	900	450	540
Ventilator, Automatic (per Department guidelines)	5 years	Y ⁴	Y ⁴	Y ⁵	Y ⁵	3,000	1,500	1,800
Ambulance	-	Y	N	Y	N	-	15,000	20,000
Squad/Response Vehicle	-	N	Y	N	Y	-	7,500	9,000
Data Collection Software ⁶	-	Y	Y	Y	Y	1,700	1,700	1,700
Data Collection Hardware ⁷	3 years	Y	Y	Y	Y	1,500	750	900
Radio, Mobile (two per vehicle)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	3,000	1,500	1,800
Radio, Portable (one per vehicle)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁰	3,000	1,500	1,800
Triage Vest Set	5 years	Y	Y	Y	Y	150	75	90
Triage System	5 years	Y	Y	Y	Y	500	250	300
Alerting Equipment (5 per service @ \$400 each)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	2,000	1,000	1,200
Vehicle Safety Monitoring Systems	5 years	Y	Y	Y	Y	3,500	1,750	2,100
Personal Protective Equipment/Turnout Gear: Helmet, Coat, Pants, Boots (one set)	5 years	Y	Y	Y	Y	1,200	600	720
Protective Ballistic Vest (over garment style)	5 years	Y	Y	Y	Y	1,000	500	600
Traffic Safety Equipment	5 years	Y	Y	Y	Y	500	250	300

Equipment Description	Life Expectancy	Eligible Purchase for:				Allowable Costs ¹	Nonrural (50%)	Rural (60%)
		ALS	ALS/SQ	BLS	QRS			
Large Patient Moving/Carrying Device	10 years	Y	Y	Y	Y	300	150	180
Self Contained Breathing Apparatus (2 per licensed vehicle)	10 years	Y	Y	Y	Y	3,000	1,500	1,800

¹All figures are dollar amounts for each item of equipment.

²Amount includes \$1,000 for communications package. Receiving facility must have appropriate communications capabilities.

³Must be an approved AED service or part of regional planning, and AED medical director required.

⁴Completion of approved training program required.

⁵Completion of approved training program required and BLS service medical director approval required.

⁶Must be a Department-approved software program, version and vendor.

⁷Data collection hardware may include computer, modem, printer, backup device and battery system.

⁸Must be durable equipment, not disposable equipment.

⁹Must be compatible with regional and State EMS communications plan.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1006. Filed for public inspection May 20, 2005, 9:00 a.m.]

Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, June 15, 2005, at 10 a.m. in Room 812, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17108.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Cynthia Trafton, Bureau of Health Planning at (717) 772-5298 or ctrafton@state.pa.us, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1007. Filed for public inspection May 20, 2005, 9:00 a.m.]

Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under section 3 of the Pennsylvania Cancer Control, Prevention, and Research Act (35 P. S. § 5633), will hold a meeting on Wednesday, June 22, 2005, from 8 a.m. to 12 p.m. in Room 812, Health and Welfare Building, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Kathleen A. Zitka, Chief, Department of Health, Cancer Prevention and Control Section, Room 1011, Health and Welfare Building, Harrisburg, PA, (717) 787-5251, 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. 05-1008. Filed for public inspection May 20, 2005, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Sacred Heart Hospital Transitional Care Facility
421 Chew Street
Allentown, PA 18102-3490

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) and 28 Pa. Code §§ 205.33(a) and 211.12(b) (relating to utility room; and nursing services):

UPMC Magee-Womens Transitional Care Unit
300 Halket Street
Pittsburgh, PA 15213

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be

reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously, for speech and/or hearing impaired persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1009. Filed for public inspection May 20, 2005, 9:00 a.m.]

Requests for Exception to 28 Pa. Code § 551.21(d)(2) to Perform Ambulatory Surgical Procedures Included on the List of Medicare Approved ASC Procedures

The following ambulatory surgical facilities are seeking an exception to 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery) to perform ambulatory surgical procedures included on the List of Medicare Approved ASC Procedures:

Altoona Hospital Surgery Center
Doylestown Surgery Center

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 Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

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) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1010. Filed for public inspection May 20, 2005, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania 9s in a Line '05 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania 9s in a Line '05.

2. *Price:* The price of a Pennsylvania 9s in a Line '05 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania 9s in a Line '05 instant lottery game ticket will contain one play area and a "BONUS" area. The play symbols and their captions located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE). The play symbols and their captions located in the "BONUS" area are "NO BONUS" (TRY AGAIN) or 9X Symbol (MULT X9).

4. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$3, \$9, \$19, \$39, \$90 and \$9,000.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania 9s in a Line '05 instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of 9 (NINE) in a left to right diagonal in the play area, and a prize amount of \$9,000 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$9,000.

(b) Holders of tickets with three matching play symbols of 9 (NINE) in a right to left diagonal in the play area, and a prize amount of \$90 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$90.

(c) Holders of tickets with three matching play symbols of 9 (NINE) in the right column in the play area, and a prize amount of \$9 in the prize arrow pointing to that win, and with a 9X symbol (MULT X9) in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$81.

(d) Holders of tickets with three matching play symbols of 9 (NINE) in the bottom row in the play area, and a prize amount of \$39 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$39.

(e) Holders of tickets with three matching play symbols of 9 (NINE) in the left column in the play area, and a prize amount of \$3 in the prize arrow pointing to that win, and with a 9X symbol (MULT X9) in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$27.

(f) Holders of tickets with three matching play symbols of 9 (NINE) in the top row in the play area, and a prize amount of \$19 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$19.

(g) Holders of tickets with three matching play symbols of 9 (NINE) in the right column in the play area, and a prize amount of \$9 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$9.

(h) Holders of tickets with three matching play symbols of 9 (NINE) in the middle row in the play area, and a prize amount of \$1 in the prize arrow pointing to that win, and with a 9X symbol (MULT X9) in the "BONUS" area, on a single ticket, shall be entitled to a prize of \$9.

(i) Holders of tickets with three matching play symbols of 9 (NINE) in the left column in the play area, and a prize amount of \$3 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$3.

(j) Holders of tickets with three matching play symbols of 9 (NINE) in the middle row in the play area, and a prize amount of \$1 in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of \$1.

(k) Holders of tickets with three matching play symbols of 9 (NINE) in the middle column in the play area, and a prize amount of "Free" in the prize arrow pointing to that win, on a single ticket, shall be entitled to a prize of one

Pennsylvania 9s in a Line '05 instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

7. *Number and Description of Prizes and Approximate*

<i>Get</i>	<i>Win:</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 10,800,000 Tickets</i>
FREE	TICKET	17.65	612,000
\$1	\$1	15.79	684,000
\$3	\$3	16.67	648,000
\$1 (9X)	\$9	75	144,000
\$9	\$9	150	72,000
\$19	\$19	300	36,000
\$3 (9X)	\$27	898.88	12,015
\$39	\$39	2,034	5,310
\$9 (9X)	\$81	24,000	450
\$90	\$90	24,000	450
\$9,000	\$9,000	2,160,000	5

9X in bonus box = Win 9 times that prize

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania 9s in a Line '05 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania 9s in a Line '05, prize money from winning Pennsylvania 9s in a Line '05 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania 9s in a Line '05 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania 9s in a Line '05 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1011. Filed for public inspection May 20, 2005, 9:00 a.m.]

Pennsylvania Struck By Luck Bingo Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of

Odds: The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Struck By Luck Bingo.

2. *Price:* The price of a Pennsylvania Struck By Luck Bingo instant lottery game ticket is \$2.

3. *Play Symbols:*

(a) Each Pennsylvania Struck By Luck Bingo instant lottery game ticket will contain four play areas designated as "Card 1," "Card 2," "Card 3" and "Card 4." The 77 play symbols located in the four play areas are: The numbers 01 through 75, "FREE" symbol and a Lightning "BOLT" symbol. The "FREE" symbol is a free space. The Lightning "BOLT" symbol is a free space, and when it appears in a winning pattern, the prize doubles.

(b) Each ticket will also contain a "Caller's Card" area. The "Caller's Card" area will consist of 30 spaces on a 3 by 10 grid. The play symbols that may be located in each space on the grid are: The letter B with a number 01 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75.

4. *Prizes:* The prizes that can be won in this game are \$2, \$5, \$10, \$20, \$100, \$250, \$500, and \$20,000.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 14,400,000 tickets will be printed for the Pennsylvania Struck By Luck Bingo instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 4," shall be entitled to a prize of \$20,000.

(b) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 3," shall be entitled to a prize of \$500.

(c) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 2," shall be entitled to a prize of \$250.

(d) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 4," shall be entitled to a prize of \$250.

(e) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 1," shall be entitled to a prize of \$100.

(f) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 2" or "Card 3," shall be entitled to a prize of \$100.

(g) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 1," shall be entitled to a prize of \$20.

(h) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 2" or "Card 3" or "Card 4," shall be entitled to a prize of \$20.

(i) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 1," shall be entitled to a prize of \$10.

(j) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a Lightning "BOLT" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 4," shall be entitled to a prize of \$10.

(k) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 4," shall be entitled to a prize of \$5.

(l) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a Lightning "BOLT" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$4.

(m) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$2.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Get Bingo With:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
LINE CARD 1	\$2	23.08	624,000
LINE CARD 2	\$2	23.08	624,000
LINE CARD 3	\$2	25	576,000
LINE CARD 1 + LINE CARD 2	\$4	75	192,000
LINE CARD 2 + LINE CARD 3	\$4	75	192,000
LINE CARD 1 w/BOLT	\$4	60	240,000
LINE CARD 2 w/BOLT	\$4	60	240,000
LINE CARD 3 w/BOLT	\$4	60	240,000
LINE CARD 4	\$5	50	288,000
LINE CARD 1 + LINE CARD 2 + LINE CARD 3	\$6	150	96,000
4 CORNERS CARD 1	\$10	375	38,400
LINE CARD 4 w/BOLT	\$10	250	57,600
LINE CARDS 1, 2, 3 & 4	\$11	150	96,000
LINE CARD 4 w/BOLT + 4 CORNERS CARD 1	\$20	750	19,200
DIAMOND CARD 1	\$20	750	19,200
4 CORNERS CARD 2	\$20	750	19,200
4 CORNERS CARD 3	\$20	750	19,200
4 CORNERS CARD 4	\$20	750	19,200
LINE CARD 4 w/BOLT + DIAMOND CARD 1	\$30	888.89	16,200
LINE CARD 4 w/BOLT + 4 CORNERS CARD 2	\$30	888.89	16,200
LINE CARD 4 w/BOLT + 4 CORNERS CARD 3	\$30	888.89	16,200
4 CORNERS CARDS 1 & 2	\$30	1,846	7,800
4 CORNERS CARDS 1 & 3	\$30	1,846	7,800
4 CORNERS CARDS 1 & 4	\$30	1,905	7,560
4 CORNERS CARDS 3 & 4	\$40	800	18,000
DIAMOND CARD 1 + 4 CORNERS CARD 4	\$40	800	18,000
4 CORNERS CARDS 1, 2 & 3	\$50	2,400	6,000
DIAMOND CARD 2	\$100	24,000	600

<i>Get Bingo With:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
DIAMOND CARD 3	\$100	24,000	600
"X" CARD 1	\$100	24,000	600
"X" CARD 2	\$250	60,000	240
DIAMOND CARD 4	\$250	60,000	240
"X" CARD 2 + DIAMOND CARD 4	\$500	120,000	120
"X" CARD 3	\$500	120,000	120
"X" CARD 4	\$20,000	2,400,000	6

BOLT = Win double the prize shown.
Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Struck By Luck Bingo instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Struck By Luck Bingo, prize money from winning Pennsylvania Struck By Luck Bingo instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Struck By Luck Bingo instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Struck By Luck Bingo or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1012. Filed for public inspection May 20, 2005, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on June 7, 2005, at 9:45 a.m. in Room 515, Historical and Museum Commission, Third and North Streets, Harrisburg, PA. Persons with a disability who

wish to attend the meeting and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Persons with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

Great Valley and Piedmont Region

1. *Roberts & Mander Stove Company Buildings*, Jacksonville Road, Tanner and Lincoln Avenues, Hatboro, Montgomery County
2. *Smaltz Building*, 315 N. 12th Street, Philadelphia
3. *Wynnestay*, 5125 Woodbine Avenue, Philadelphia
4. *Fetter's Mill Village Historic District*, Fetter's Mill Road and Pennypack Lane, Bryn Athyn Borough and Lower Moreland Township, Montgomery County
5. *Sunnybrook*, 50 Sunnybrook Road, Lower Pottsgrove Township, Montgomery County

Allegheny Plateau

6. *Noxen School House*, School Street, Noxen Township, Wyoming County

Anthracite Region and Poconos, Ridge and Valley, Southwestern Pennsylvania

No nominations

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 05-1013. Filed for public inspection May 20, 2005, 9:00 a.m.]

HUMAN RELATIONS COMMISSION

Public Hearing Opinions

The Human Relations Commission (Commission), under section 7(o) of the Pennsylvania Human Relations Act

(act) (43 P. S. § 957(o)), announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)) in the following cases:

Shawn Brooks v. Viacom, Inc., Infinity Broadcasting Corp., Joseph Zurzolo, Peter Kleiner and Ken Stevens c/o Viacom, Inc. d/b/a Infinity Broadcasting Corporation, Doc. No. E99572D, PHRC Case No. 200027223 (Pennsylvania Human Relations Commission, February 28, 2005)

Employer-circulated racially offensive statements and stereotypes to employees, hostile work environment, constructive discharge.

Ruling for complainant, 9-0 decision and 1 abstention
43 pages

Kimberly Byrd v. Eileen Sacco, PHRC Case No. 200205077 and Kimberly Bryd v. Eileen and Edward Sacco, PHRC Case No. 200302350 (Pennsylvania Human Relations Commission, March 1, 2005)

Race-based harassment at home, retaliation.

Ruling for respondent, 9-0 decision and 1 abstention
35 pages

Charles E. Dean, II v. Larry McCrae, Inc., PHRC Case No. 200209681 (Pennsylvania Human Relations Commission, April 19, 2005)

Monetary damages following Rule to Show Cause Finding in retaliation complaint.

Ruling for complainant, 9-0 decision
11 pages

Tanika Vallati v. Lamar Yoder, PHRC Case No. 200302403 and Marilyn Noto v. Lamar Yoder, PHRC Case No. 200302412 (Pennsylvania Human Relations Commission, March 22, 2005)

Monetary damages following Rule to Show Cause Finding in consolidated sexual harassment complaints.

Ruling for complainant, 8-0 decision
14 pages

Debra L. Wurst v. Weisser Mobile Homes, Inc., PHRC Case No. 2003000049 (Pennsylvania Human Relations Commission, April 19, 2005)

Pregnancy-based employment termination.

Ruling for complainant, 8-1 decision
32 pages

The final orders in the previously listed cases are subject to appeal to Commonwealth Court, and if appealed are subject to being affirmed, reversed or modified, in whole or part.

A copy of an opinion listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Pennsylvania Place, Harrisburg, PA 17101.

The check or money order should be made payable to the "Commonwealth of Pennsylvania." Copies are also available under the Legal section of the Commission's website at www.phrc.state.pa.us.

HOMER C. FLOYD,
Executive Director

[Pa.B. Doc. No. 05-1014. Filed for public inspection May 20, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of a regulation, contact the promulgating agency.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
18-397	Department of Transportation Occupational Limited License	5/9/05

<i>Emergency Certified Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
18-400	Department of Transportation School Buses and School Vehicles	5/10/05

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1015. Filed for public inspection May 20, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Com- pany

AIG Indemnity Insurance Company (AIG Indemnity), a domestic stock casualty insurance company, has filed an application to increase its classes of underwriting authorities. The class of insurance that AIG Indemnity has applied to add is as mentioned in 40 P. S. § 382(c)(14), Workers' Compensation. Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (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 ad-

dressed 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 A. Kotal, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rkotal@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1016. Filed for public inspection May 20, 2005, 9:00 a.m.]

Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Company

AIG Preferred Insurance Company (AIG Preferred), a domestic stock casualty insurance company, has filed an application to increase its classes of underwriting authorities. The class of insurance that AIG Preferred has applied to add is as mentioned in 40 P. S. § 382(c)(14), Workers' Compensation. Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (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 A. Kotal, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rkotal@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1017. Filed for public inspection May 20, 2005, 9:00 a.m.]

Pennsylvania Professional Liability Joint Underwriting; Rate Filing

On May 2, 2005, the Insurance Department (Department) received from the Pennsylvania Professional Liability Joint Underwriting Association (JUA) a filing to decrease occurrence and mature claims made rates overall by 1.9% for noninstitutional health care providers. The changes in the filing include revisions to:

- Nine class relativities.
- Movement of eight counties from one territory to another.
- Changing two territorial relativities.
- Adjusting for coverage due to statutory changes taking effect January 1, 2006, as outlined in section 715 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.715).

The JUA is also seeking approval to decrease occurrence and mature claims made rates overall by 1.9% for institutional health care providers.

Unless formal administrative action is taken prior to July 1, 2005, the rates within the subject filing may be deemed into use upon the effective date, January 1, 2006, by operation of law.

A copy of the filing is available on the Department's website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin." A pdf copy of this filing is located at the link "View Filing" underneath the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Mike McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1018. Filed for public inspection May 20, 2005, 9:00 a.m.]

Per Diem Charges for Financial Examinations; Notice 2005-05

Under the authority in section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges), an updated schedule of per diem changes for financial examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$250 per day
Actuarial Associate 1	\$250 per day
Actuary 1	\$496 per day
Examiner 1	\$317 per day
Examiner 2	\$405 per day
Examiner 3	\$440 per day
Examination Manager	\$573 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for financial examination costs in 1/2-hour units.

This schedule is effective July 1, 2005.

This document supersedes the notice published at 34 Pa.B. 3211 (June 19, 2004) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1019. Filed for public inspection May 20, 2005, 9:00 a.m.]

Per Diem Charges for Market Conduct Examinations; Notice 2005-06

Under the authority in section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges), an up-

dated schedule of per diem changes for market conduct examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$225 per day
Examiner 1	\$294 per day
Examiner 2	\$404 per day
Examiner Manager	\$483 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for examination costs in 1/2-hour units.

This schedule is effective July 1, 2005.

This document supersedes the notice published at 34 Pa.B. 3211 (June 19, 2004) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1020. Filed for public inspection May 20, 2005, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Governor's Office

Management Directive No. 205.9—Implementation of Financial Disclosure Provisions of the Governor's Code of Conduct, Amended April 15, 2005.

Management Directive No. 205.10—Financial Disclosures Required by the Public Official and Employee Ethics Act, Act 93 of 1998, 65 Pa.C.S. §§ 1101—1113, Amended April 15, 2005.

Management Directive No. 205.12—Financial Disclosures Required of Former Employees by the Public Official and Employee Ethics Act, Act 93 of 1998, 65 Pa.C.S. §§ 1101—1113, Amended April 15, 2005.

Management Directive No. 570.14—Deferred Compensation Program, Amended March 25, 2005.

MARY JANE PHELPS,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 05-1021. Filed for public inspection May 20, 2005, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's Board of Directors at 10:30 a.m. on Monday, June 6, 2005, at the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B.K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 05-1022. Filed for public inspection May 20, 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 13, 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-00121718. Bonnie and Melvin Hackart (311 Popular Lane, New Providence, Lancaster County, PA 17560)—persons, in paratransit service, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

A-00121676. Sirawan Transportation, Inc. (8312 State Road, Unit 13, City and County of Philadelphia, PA 19136), a corporation of the Commonwealth—persons in group and party service in vehicles seating 11 to 15 passengers, including the driver, between points in the County of Delaware, and the City and County of Philadelphia, and from point in said city and counties, to points in Pennsylvania located within an airline distance of 100 statute miles of the limits of the City and County of Philadelphia, and vice versa; subject to the following conditions: (a) that no right, power or privilege is granted to provide service to or from points in the County of

Chester; and (b) that service to or from points in the Counties of Lehigh and Northampton shall be limited to transportation for Core Care Services, Inc. and US Air Express; which is to be a transfer of all the right authorized under the certificate issued at A-00117931, F. 3 to Qonnections, Inc., subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00121716. FJG Transportation, Inc. (1500 Farr Street, Scranton, Lackawanna County, PA 18504), a corporation of the Commonwealth—persons in limousine service, between points in the Counties of Lackawanna, Luzerne, Monroe, Pike and Wayne, and from points in said counties to points in Pennsylvania, and return. *Attorney:* Donald P. Dolan, 1561 Sanderson Avenue, Scranton, PA 18509, (570) 961-2811.

A-00121719. Woodlyn Volunteer Fire Co. No. 1 (P. O. Box 217, Woodlyn, Delaware County, PA 19094), a corporation of the Commonwealth—persons in paratransit service, between points in the Counties of Philadelphia, Delaware, Montgomery, Bucks and Chester, and from points in said counties, to points in Pennsylvania, and return.

A-00121720. Leonard R. Lewandowski (106 Morningside Drive, Red Lion, York County, PA 17356)—persons, upon call or demand, in the Boroughs of Red Lion, Dallastown, Jacobus, Windsor, Loganville, Wintertown, Glen Rock, Shrewsbury, Stewartstown, Felton, Cross Roads and Yoe and the Townships of York, Springfield, Shrewsbury, Windsor, North Hopewell, East Hopewell and Hopewell, all located in York County.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-00108299, Folder 3. J.E.T. Enterprises, Inc. t/d/b/a Londonderry Limousines, Ltd. (320 Plaza Drive, Palmyra, Lebanon County, PA 17078), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Dauphin, Lancaster, Cumberland and Lebanon, and from points in said counties, to points in Pennsylvania, and return.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.

A-00120953, Folder 3. Marco Tralongo t/d/b/a Quality Limousine (4806 Gardenville Road, Pittsburgh, Allegheny County, PA 15236)—persons in limousine service, between points in Pennsylvania; which is to be a transfer of all the right authorized under the certificate issued at A-00105306, to Barry J. Testa (deceased) t/d/b/a Hollywood Limousine Service, subject to the same limitations and conditions.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1023. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications

A-310547F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Susquehanna Telcove. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Susquehanna Telcove for approval of adoption of an interim interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Susquehanna Telcove, by its counsel, filed on April 29, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interim interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and Susquehanna Telcove 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. 05-1024. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications

A-311103F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Investment, LLC. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Investment, LLC for approval of adoption of an interim interconnection and resale agreement under section 252(i) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Investment, LLC, by its counsel, filed on April 29, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interim interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Investment, 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. 05-1025. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications

A-310378F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Eastern Pennsylvania, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Eastern Pennsylvania, Inc. for approval of adoption of an interim interconnection and resale agreement under section 252(i) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Eastern Pennsylvania, Inc., by its counsel, filed on April 29, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interim interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Eastern 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. 05-1026. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications

A-310470F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Pennsylvania, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Pennsylvania, Inc. for approval of adoption of an interim interconnection and resale agreement under section 252(i) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove of Pennsylvania, Inc., by its counsel, filed on April 29, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interim interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a

Sprint and TelCove 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. 05-1027. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications

A-310923F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Operations, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Operations, Inc. for approval of adoption of an interim interconnection and resale agreement under section 252(i) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Operations, Inc., by its counsel, filed on April 29, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interim interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and TelCove Operations, 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. 05-1028. Filed for public inspection May 20, 2005, 9:00 a.m.]

Telecommunications Services

A-310183F0002AMA, A-310183F0002AMB and A-310183F0002AMC. Sprint Communications Company, L. P. Application of Sprint Communications Company, L. P. for approval of the right to offer, render, furnish or supply telecommunications services as a competitive local exchange carrier to the public in the service territories of Alltel Pennsylvania, Inc., Commonwealth Telephone Company and Palmerton Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 6, 2005. The documents filed in support of the application are available for inspection and copying

at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Sprint Communications Company, L. P.

Through and By Counsel: Zsuzsanna E. Benedek, Esquire, 240 North Third Street, Suite 201, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1029. Filed for public inspection May 20, 2005, 9:00 a.m.]

Water and Wastewater Service

A-210061F2000 and A-230048F2000. James P. Dorwart and Donna D. Dorwart t/a Dorwart Enterprises. Application of James P. Dorwart and Donna D. Dorwart t/a Dorwart Enterprises for approval of the abandonment of their Certificate of Public Convenience as a water and wastewater supplier in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 6, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: James P. and Donna D. Dorwart t/a Dorwart Enterprises

Through and By Counsel: Dan Altland, Esquire, Caldwell and Kearn, 3631 North Front Street, Harrisburg, PA 17110

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1030. Filed for public inspection May 20, 2005, 9:00 a.m.]

Water Service

A-210104F0060. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Centre Township, Berks County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 6, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Frances P. Orth, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1031. Filed for public inspection May 20, 2005, 9:00 a.m.]

Water Service

A-210119. Sun Valley Water Company. Application of Sun Valley Water Company for approval of the right to begin to offer, render, furnish or supply water service to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 6, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Sun Valley Water Company

Through: Robert R. Cameron, Secretary and Treasurer, P. O. Box 1090, Brodheadsville, PA 18322

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1032. Filed for public inspection May 20, 2005, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-047.1, Paving Repairs/Spray Patch Paving, All PRPA Piers, until 2 p.m. on Thursday, June 16, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available May 31, 2005. Additional information and project listings can be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A prebid job site meeting will be held on June 9, 2005, at 10 a.m. at PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 05-1033. Filed for public inspection May 20, 2005, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 6, 2005	Valentino L. Bell (D) (Death Benefit)	1 p.m.
July 27, 2005	Joel J. Wentling (Purchase of Service)	2:30 p.m.
August 10, 2005	John P. Wabby William J. Toomey Jr. (Retirement Covered Compensation)	1 p.m.
August 24, 2005	James A. McLaughlin (D)	1 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 05-1034. Filed for public inspection May 20, 2005, 9:00 a.m.]

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 27, 2005 Dennis Clark 2:30 p.m.
(Multiple 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. 05-1035. Filed for public inspection May 20, 2005, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Brian K. Bender; Doc. No. 1344-45-02

On April 7, 2005, Brian K. Bender, license no. CO-215028L, of State College, Centre County, was assessed a civil penalty in the amount of \$1,000 for practicing cosmetology on a lapsed license.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Cosmetology (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.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-1036. Filed for public inspection May 20, 2005, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Brenda J. Hamed; Doc. No. 32944-45-01

On April 7, 2005, Brenda J. Hamed, unlicensed, of Philadelphia, Philadelphia County, was assessed a civil penalty in the amount of \$500 for maintaining an unlicensed shop.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Cosmetology (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.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-1037. Filed for public inspection May 20, 2005, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Fatoumata Sidibeh d/b/a Fatima African Hair Braiding; Doc. No. 1766-45-04

On April 7, 2005, Fatoumata Sidibeh d/b/a Fatima African Hair Braiding, unlicensed, of Philadelphia, Philadelphia County, was assessed a civil penalty in the amount of \$1,500 for maintaining an unlicensed shop.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Cosmetology (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.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-1038. Filed for public inspection May 20, 2005, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Right-to-Know Law Policy

I. GENERAL POLICY

The Commonwealth of Pennsylvania State Employees' Retirement System (SERS) shall provide the public with access to public records to the fullest extent required by law consistent with its duties to protect the interests and rights of SERS and its members. This policy relates to the release of information pertaining to SERS business in compliance with the Pennsylvania Right-To-Know Law (RTKL), 65 P.S. §§ 66.1—66.9, Management Directive 205.36 Amended, and Management Directive 505.18 Amended. The Chief Counsel of SERS' Legal Office

should be consulted in cases in which this policy does not provide sufficient guidance to reach a determination.

In promulgating this policy, the State Employees' Retirement Board (Board) is cognizant of the statutory and decisional law on the subject and the fiduciary and administrative duties it owes to the members of SERS and its obligations to the citizens of the Commonwealth of Pennsylvania (Commonwealth) to operate in an open manner. In situations where the right of the Commonwealth's citizens competes with the foregoing duties of the Board, the standards listed below shall, when appropriate, be applied.

- The release of medical records to the public shall be in compliance with state and federal laws, which protect the privacy of health care information by restricting the disclosure of records.

- As a general rule, the disclosure of information that will be detrimental to SERS' investments shall be protected if disclosure would breach the fiduciary responsibility set forth in 71 Pa.C.S. § 5931.

- Disclosure of nonpublic information in response to court orders and subpoenas shall not result in disciplinary action.

- The names and home addresses of any active members, vestees or annuitants who are law enforcement officers, enforcement officers or psychiatric security aides (as defined by 71 Pa.C.S. § 5102), members of the judiciary (as defined by 71 Pa.C.S. § 5102), prison personnel employed by the Pennsylvania Department of Corrections, officers employed by the Pennsylvania Board of Probation and Parole and similarly-situated members shall not be released to the public because disclosure may impair such members' personal security.

Consistent with this policy, SERS may, from time to time, make available on its web site (www.sers.state.pa.us) certain financial and investment information to facilitate access to such information and reduce time delays and processing efforts associated with formal written RTKL Requests.

II. DEFINITIONS

Business Day—Any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when SERS Central Office in Harrisburg, Pennsylvania is closed for all or part of a day due to a state holiday; pursuant to Management Directive 530.17, Partial and Full Day Closings of State Offices, or Management Directive 505.7, Personnel Rules, Section 8.7, due to severe weather (such as blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state or federal law enforcement agencies or officials.

Deemed Denied—A RTKL Request is Deemed Denied if one of the following conditions occurs, subject to extension agreed to by the Requester: (i) SERS fails to respond within the initial 10 Business Day period after receiving a RTKL Request; (ii) SERS extends the 10 Business Day period by up to 30 calendar days, but then fails to respond by the end of that extended period; or (iii) SERS notifies the Requester that it requires additional time to issue or respond in excess of the permitted 30 calendar day period.

Exceptions—A written document filed with the RTKL Exceptions Official by a Requester challenging the RTKL Official's denial or a deemed denial of the Requester's RTKL Request.

Mailing Date—The date (1) affixed to a Response from the RTKL Official to a RTKL Request, which is to be the

date the Response is deposited in the United States Mail, (2) affixed to a final determination from the RTKL Exceptions Official, which is to be the date the final determination is deposited in the United States Mail, (3) stamped by the United States Post Office on the envelope transmitting the Exceptions filed by a Requester, or (4) Exceptions are received by the Exceptions Official if they are hand delivered or sent via facsimile.

Public Record—Any document that satisfies the general definition of Public Record set forth in the RTKL and does not fall within any of the exceptions set forth therein. The general definition consists of two parts: (i) “[a]ny account, voucher, or contract dealing with the receipt or disbursement of funds by [SERS], or its acquisition, use or disposal of services or of supplies, materials, equipment or other property,” and (ii) “any minute, order or decision by [SERS] fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons.” 65 P.S. § 66.1(2). The exceptions to this definition are (i) any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by SERS in the performance of its official duties or (ii) any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statutory law or order or decree of court, or which would operate to the prejudice or impairment of a person’s reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or state or municipal authorities of federal funds, excepting therefrom, however, the record of any conviction for any criminal act.

Records Custodian—Any person having custody, possession or control of a record.

Redaction—The eradication of a portion of a record by any means while retaining the remainder.

Requester—A person who is a resident of the Commonwealth and submits a RTKL Request.

Response—SERS’ reply to a RTKL Request made pursuant to the RTKL. A Response may be (i) the act of providing the Requester with access to a record, (ii) SERS’ written notice granting, denying or partially granting and partially denying access to a record, or (iii) an interim Response which extends the time for SERS’ final Response as discussed later herein. A Response denying a RTKL Request in whole or in part must list all of the specific reasons relied on for denying such RTKL Request and must include one or more citations of supporting authority. Inaction by SERS is not a Response, even when it results in a RTKL Request being Deemed Denied.

RTKL Counsel—Any attorney designated by the Chief Counsel of SERS’ Legal Office to advise the RTKL Official and to represent the RTKL Official in Exceptions proceedings.

RTKL Exceptions Counsel—Any attorney designated by the Chief Counsel of SERS’ Legal Office to advise the RTKL Exceptions Official.

RTKL Exceptions Official—Any official or employee designated by the Board or, if authorized by the Board, the Executive Director to consider Exceptions, conduct hearings, as appropriate, and issue final determinations (which shall constitute SERS’ final determinations) resolving those Exceptions. The Board or, if authorized by the Board, the Executive Director may designate a chief

RTKL Exceptions Official and one or more individuals as associate RTKL Exceptions Officials.

RTKL Official—Any official or employee designated by the Board or, if authorized by the Board, the Executive Director to receive and respond to RTKL Requests. The Board or, if authorized by the Board, the Executive Director may designate a chief RTKL Official and one or more individuals as assistant RTKL Officials.

RTKL Request—A written request invoking the RTKL submitted to the RTKL Official asking for access to a record.

III. FORM OF RTKL REQUEST

All RTKL Requests must:

- Be submitted in writing;
 - State the name and address of the Requester;
 - Set forth the address to which the Response should be addressed; and
 - Identify or describe the records sought with sufficient specificity to enable SERS to ascertain which records are being requested.
- **NOTE:** SERS will not accept RTKL Requests submitted via e-mail.

All RTKL Requests must be submitted in writing via United States mail, facsimile or hand delivery to the RTKL Official and be properly addressed as follows:

Mail: SERS Right-to-Know Law Official
P. O. Box 1147
Harrisburg, PA 17108-1147

Facsimile: SERS Right-to-Know Law Official
(717) 783-7300

Hand delivery: SERS Right-to-Know Law Official
30 North Third Street,
1st Floor Receptionist
Harrisburg, PA

For purposes of this policy, SERS’ business hours are from 8:30 a.m. to 4:00 p.m. on any Business Day.

IV. WHO HAS THE RIGHT TO KNOW

The RTKL provides that, unless otherwise provided by law, a Public Record shall be accessible for inspection and duplication by a Requester in accordance with the RTKL. SERS may, at its discretion, require a requesting party to produce proper identification to establish that the party is a resident of the Commonwealth.

Not uncommonly, SERS receives requests for records from parties that are not residents of the Commonwealth, especially from businesses that may use the requested records for commercial purposes. In such cases, SERS may exercise discretion in either declining to comply with the request or providing the records as a courtesy to the requesting party. Among the factors that may be considered by SERS are the administrative burdens of compliance, the benefits to be derived by SERS (e.g., cooperating in a survey that would be of interest to SERS), the risk that the information could be used to SERS’ or a member’s detriment, and other considerations that may be relevant to the particular request at hand. Voluntary disclosure by SERS shall not require SERS to provide the same records to others or to provide future records of the same type to anyone.

V. PROCEDURE FOR RESPONDING TO RTKL REQUESTS

SERS shall respond only to written RTKL Requests delivered via United States mail, facsimile or hand

delivery. All RTKL Requests must be directed to the RTKL Official. The time limitations set forth herein do not take effect until the RTKL Official receives the RTKL Request. (Any RTKL Request received by SERS after the close of SERS' business hours, as set forth above, shall be deemed received on the following Business Day.) Upon receipt of a RTKL Request, the RTKL Official will take the following actions:

- Date stamp the RTKL Request;
- Assign a tracking number to the RTKL Request;
- Record the RTKL Request in the system used by SERS for tracking RTKL Requests;
- Compute the day on which the 10 Business Day period will expire and make a notation of that date on the first page of the RTKL Request (the day that a RTKL Request is received or deemed received is not counted for this purpose);
- Make an electronic or paper copy of the RTKL Request, including all documents submitted with it and the envelope, if any, in which it came;
- Create a file for the retention of the original RTKL Request, a copy of the Response, a record of verbal or written communications with the Requester and a copy of other communications.

The RTKL Official shall be responsible for the issuance of interim and final Responses to all RTKL requests. Upon receipt of a RTKL Request, the RTKL Official shall render a final Response within 10 Business Days from the date the RTKL Request is received, unless an interim Response is warranted and issued within that time.

An interim Response may be sent on or before the last day of the 10 Business Day period to extend the period for a final Response. Such interim Response must notify the Requester that the RTKL Request is being reviewed, must state a reasonable date that a final Response is expected to be provided, and must set forth one of the following reasons justifying the need for additional time:

- The RTKL Request requires Redaction of a Public Record;
- The RTKL Request requires the retrieval of a record stored in a remote location;
- A final Response within the 10 Business Day period cannot be accomplished due to bona fide and specified staffing limitations;
- A legal review is necessary to determine if a record is a Public Record subject to access under the RTKL;
- The Requester has not complied with SERS' policies regarding access to Public Records; or
- The anticipated cost of complying with the RTKL Request exceeds one hundred dollars (\$100) and the Requester has not prepaid such amount. If SERS requires prepayment, the time for issuance of a final Response shall be tolled from the time the demand for prepayment is made until such time as payment is actually received.

If an interim Response is issued, then a final Response should be sent within 30 calendar days from the end of the 10 Business Day period. Failure to comply with either the 10 Business Day or the 30 calendar day time limit will result in the RTKL Request being Deemed Denied.

• **NOTE:** If the anticipated cost of complying with the RTKL Request exceeds \$100 and the Requester does not pay such amount within 30 calendar days after he/she is

informed to do so by an interim Response, the RTKL Request will be considered withdrawn.

The RTKL Official shall conduct an initial review of each RTKL Request according to the following intake procedure:

- Review the RTKL Request to determine whether a basis exists for rejecting the RTKL Request, in whole or in part, without further consideration, including but not limited to the following:
 - A. The requesting party is not a resident of the Commonwealth;
 - B. Lack of specificity;
 - C. The requested records are not within the RTKL's definition of Public Record; or
 - D. The RTKL Official has personal knowledge that the requested records are not in the possession or control of SERS.
- Determine whether the RTKL Request must be granted, in whole or in part, without further consideration;
- Draft any Response denying or granting access to the identified records as necessary;
- Review any questions with RTKL Counsel as necessary;
- Draft written instructions to Records Custodians regarding compliance with the RTKL Request as necessary; and
- Determine if the anticipated cost of complying with the RTKL Request will exceed \$100 and if prepayment will be required and, if so, present the Requester with a demand for prepayment.

If the RTKL Official does not identify a basis for denying the RTKL Request in its entirety without further consideration, the RTKL Official shall forward the RTKL Request or relevant portions thereof to potential Records Custodians. Once the RTKL Official forwards the RTKL Request or relevant portions thereof, it shall be the responsibility of each such potential Records Custodian to conduct a good faith investigation to determine if he/she has custody of any of the requested records. It shall be the responsibility of each such potential Records Custodian to promptly inform the RTKL Official whether he/she has possession of any of the requested records and, if so, the estimated cost of providing such records.

If any such potential Records Custodian knows or believes that another official, employee or agent of SERS has possession of the requested records, he/she shall forward the RTKL Request to that person and shall inform the RTKL Official of this immediately.

The RTKL Official shall issue a final Response within the aforementioned time periods, which Response shall specify that the RTKL Request is (1) granted, (2) denied, or (3) granted in part and denied in part. If a RTKL Request is denied, in whole or in part, the RTKL Official must specify the following in the Response:

- A description of the records requested;
- The specific reasons for the denial, including a citation of supporting legal authority (if based on a determination that a record is not a Public Record, the specific reasons for such determination shall be included);
- The typed or printed name, title, business address, business telephone number, and signature of the RTKL Official on whose authority the denial is issued;

- The Mailing Date of the Response;
- The procedure to appeal the denial of access under the RTKL.

• **NOTE:** SERS is not required to create a Public Record that does not already exist, nor is SERS required to compile, maintain, format or organize a Public Record in a manner that the agency does not currently do so.

VI. PHYSICAL ACCESS TO PUBLIC RECORDS

The Public Records of SERS shall be accessible for inspection and duplication by any Requester during the hours of 8:30 a.m. to 4:00 p.m. on any Business Day. A Requester wishing to inspect SERS' Public Records on site shall provide a written request to the RTKL Official who shall determine on an ad hoc basis the time and place where such Public Records shall be made available to a Requester and the manner of duplication that shall be available.

SERS may maintain certain Public Records in electronic form. For those who wish to inspect a paper copy of portions of such Public Records, SERS shall print the portions of such Public Records that the Requester wishes to see. If the Requester wants to keep the pages from such printed portions or to receive the record in electronic form, SERS will charge a fee.

VII. EXCEPTIONS PROCEDURE

All Exceptions shall be directed to the RTKL Exceptions Official at the address and in the same manner for delivering RTKL Requests specified in Article III of this policy. A Requester shall have 15 Business Days from the Mailing Date of the written denial or 15 calendar days from the date a RTKL Request is Deemed Denied to file Exceptions with the RTKL Exceptions Official. Exceptions are deemed to be filed the date they are postmarked if properly addressed and submitted by United States mail or the date they are received by the RTKL Exceptions Official if submitted through any other means. The applicable aforementioned date shall also constitute the Mailing Date of Exceptions. Any reasons for Exceptions not stated in writing within the 15 Business Day or 15 calendar day period, as applicable, are deemed to be waived and shall be disregarded by SERS.

• **NOTE:** SERS will not accept RTKL Exceptions by e-mail.

All RTKL Exceptions filed with SERS must:

- Be postmarked if sent by mail or received by the RTKL Exceptions Official within the aforementioned time period;
- State the reasons upon which the Requester asserts that the record is a Public Record;
- Address the reasons stated by the RTKL Official for denying the RTKL Request (unless the RTKL Request was Deemed Denied); and
- Be correctly addressed or delivered to the RTKL Exceptions Official.

All RTKL Exceptions must be submitted in writing via United States mail, facsimile or hand delivery to the RTKL Exceptions Official and addressed as follows:

Mail: SERS Right-to-Know Law Exceptions Official
P. O. Box 1147
Harrisburg, PA 17108-1147

Facsimile: SERS Right-to-Know Law Exceptions Official
(717) 783-7300

Hand delivery: SERS Right-to-Know Law Exceptions Official
30 North Third Street,
1st Floor Receptionist
Harrisburg, PA

Any Exceptions that do not meet the above-described requirements shall be deemed defective and will not extend the time limit to file Exceptions.

• **NOTE:** A Requester shall not be permitted to file Exceptions to the decision of the RTKL Official to send an interim Response within the 10 Business Day time period.

Upon receipt of Exceptions, the RTKL Exceptions Official shall take the following actions:

- Date stamp the exceptions letter;
- Retain the envelope and any documents that accompany the exceptions letter;
- Send a copy of the exceptions letter and accompanying documents to the RTKL Official, the RTKL Counsel and the RTKL Exceptions Counsel;
- Schedule and conduct a hearing, if a hearing is ordered by the RTKL Exceptions Official (the RTKL Exceptions Official may request that the Requester and the RTKL Official make written submissions, whether in connection with a hearing or otherwise);
- Obtain the services of a court reporter or other method of recording testimony, if a hearing is scheduled;
- Docket the receipt of evidence and other submittals;
- Maintain a record of the final determination by the RTKL Exceptions Official; and
- Prepare an official record if an appeal is filed in the Commonwealth Court.

If Exceptions are to be resolved without a hearing, the General Rules of Administrative Practice and Procedure, set forth at 1 Pa. Code, Chapters 31, 33, and 35, shall not apply.

The RTKL Official shall have 15 calendar days from the Mailing Date of the Exceptions to file "Reply Exceptions" with the RTKL Exceptions Official. The Reply Exceptions must:

- Be in writing;
- Be mailed or delivered to the RTKL Exceptions Official within the aforementioned time period;
- Be mailed to the Requester;
- Fully advise the Requester and the RTKL Exceptions Official as to the reasons for the RTKL Official's decision;
- Admit or deny specifically and in detail each material allegation of the Exceptions; and
- State clearly and concisely the facts and matters of law relied upon.

The RTKL Exceptions Official shall not accept any pleadings, responses or briefs from the RTKL Official or the Requester other than the original Exceptions of the Requester and the Reply Exceptions of the RTKL Official, unless a hearing is held or unless the RTKL Exceptions Official requests that the Requester and the RTKL Official make written submissions. Upon receipt of the Reply Exceptions, the RTKL Exceptions Official shall rule on any pending requests for a hearing.

The RTKL Exceptions Official shall issue the final determination of the agency within 30 calendar days of the Mailing Date of the Exceptions unless the Requester agrees otherwise.

VIII. RTKL HEARINGS

Prior to the issuance of the final determination, the Requester or the RTKL Official may request a hearing. The decision of whether to grant a hearing is solely within the discretion of the RTKL Exceptions Official and may be conditioned on a waiver of the 30 calendar day time limit. The decision of whether to grant a hearing is not appealable. The RTKL Exceptions Official may order a hearing if considered desirable, notwithstanding that neither the Requester nor the RTKL Official has requested a hearing.

If a hearing is held, the identified records shall not be made part of the hearing record. Rather, the RTKL Official shall provide a description of the document either in writing or by means of oral testimony. Unless otherwise specified by the RTKL Exceptions Official, Exceptions hearings shall be held at SERS' Central Office in Harrisburg located at 30 North Third Street, Harrisburg, Pennsylvania before the RTKL Exceptions Official or a hearing official designated by the RTKL Exceptions Official. Hearings shall be conducted pursuant to the General Rules of Administrative Practice and Procedure to the extent directed by the designated hearing official or the RTKL Exceptions Official.

IX. RIGHT TO APPEAL TO COMMONWEALTH COURT

If the RTKL Exceptions Official agrees with the RTKL Official in denying the Requester access to records, the Requester shall be entitled to appeal the final determination of SERS to Commonwealth Court within thirty (30) calendar days from the Mailing Date of SERS' final determination. Both SERS and the Requester may be subject to fines and court costs as prescribed by the RTKL.

X. NOTICE TO MEMBER

At the time SERS issues a Response to a RTKL Request for records regarding a member account, SERS may provide written notice to that member that identifies (a) the name of the Requester and (b) the information provided by SERS. For those RTKL Requests that seek records regarding the accounts of multiple members, notice may be provided by publication via the website, newsletter or any other reasonable method.

Neither members nor employers have the right to approve or disapprove a request for SERS' records. Records regarding a member may be furnished to current agency employers and former employers upon request without written notice to the member.

XI. MEMBER AUTHORIZATION FOR RELEASE OF INFORMATION

In addition to any release of records in response to a RTKL Request, any information available to a member from his/her own member file shall be released upon written authorization from such member and confirmation by SERS. Upon receiving a written authorization from a member, SERS will contact the member to confirm that the authorization is genuine prior to providing the information as directed in the member's authorization.

XII. REDACTION

SERS shall redact those portions of a record that are prohibited from disclosure and may redact those portions

that otherwise are not public records. The Public Record portions of a record that may remain after such redaction shall be subject to release.

XIII. FEES

The following fees shall be applicable to all RTKL Requests:

- Photocopies—A "photocopy" is a single-sided copy or one side of a double-sided copy. The charge for one side of a standard 8.5" × 11" page shall be \$0.15.

- Charges for other services and materials will be determined on a case-by-case basis based upon the applicable cost to SERS. These include, but are not limited to, charges for the following:

- A) PC Diskette copies
- B) Microfilm/microfiche and other forms of copies
- C) Postage
- D) Redaction (based on hourly wage and benefits)
- E) User fee for printing or copying records from SERS' computers
- F) Certification of copies
- G) Employee time for compiling and printing requested records (based on hourly wage and benefits)
- H) Employee time for compiling electronic disk of requested records (based on wage and benefits)
- I) Computer time for compiling requested records

The RTKL Official, after consultation with the Executive Director, may waive fees on the basis of hardship or de minimus charges.

- **NOTE:** The RTKL Official may require a Requester to prepay if the fees required to fulfill the request are expected to exceed \$100. If SERS requires prepayment, the time for providing the records as to which SERS has indicated it will grant access shall be tolled from the time the demand for prepayment is made until such time as payment is actually received.

A Requester who is informed that his/her RTKL Request has been granted but that prepayment is necessary due to the anticipated costs exceeding \$100 shall have 30 calendar days to make payment to SERS. If SERS does not receive payment by the end of this period, SERS will consider the RTKL Request to have been withdrawn and will purge the file accordingly. Any future attempt to procure the identified records after this time must be done by initiating a new RTKL Request.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 05-1039. Filed for public inspection May 20, 2005, 9:00 a.m.]

STATE ETHICS COMMISSION

Public Meeting

Under 65 Pa.C.S. §§ 1101—1113 (relating to the Public Official and Employee Ethics Act) (act), the State Ethics Commission (Commission) is required to hold at least two public hearings each year to seek input from persons and

organizations who represent any individual subject to the provisions of the act and from other interested parties.

The Commission will conduct a public meeting on June 7, 2005, at 9 a.m. in Room 307, Finance Building, Harrisburg, PA for purposes of receiving said input and for the conduct of other agency business. Public officials, public employees, organizations and members of the general public may attend.

Persons seeking to testify or present any statement, information or other comments in relation to the act, the regulations of the Commission or agency operations should contact Claire J. Hershberger at (717) 783-1610 or (800) 932-0936. Written copies of any statement should be provided at the time of the meeting.

JOHN J. CONTINO,
Executive Director

[Pa.B. Doc. No. 05-1040. Filed for public inspection May 20, 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

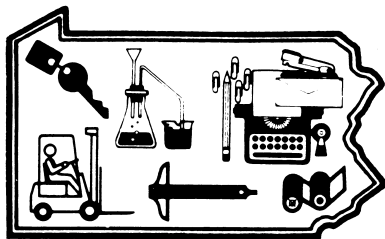
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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



Commodities

DMF521692 Beverage Syrup, BAG IN BOX, 1/5 gallon containers for July 1st, 2005 through June 30, 2006. Equipment and supplies required for the dispensing of carbonated soft drink beverages in the institutions dietary department for 1 year.

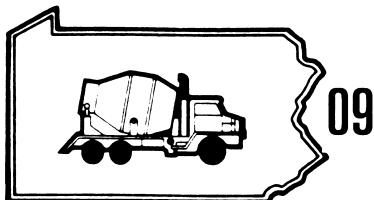
Department: Corrections

Location: SCI - HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654

Duration: July 1, 2005 through June 30, 2006.

Contact: Phyllis Norris, PA1, (814) 643-2400, 303 040

SERVICES



Construction & Construction Maintenance

DGS A 577-36 REVISED REBID PROJECT TITLE: Repair Main Corridor Roof. BRIEF Remove the existing EPDM roofing system and the tapered insulation system including all flashings and roofing accessories. Install a New Mechanically Attached Tapered Closed Cell Polyisocyanurate Foam Core Board Insulation System and a new Fully Adhered White-on-Black EPDM Roofing System including all required flashings and accessories. ESTIMATED RANGE: \$100,000 TO \$500,000. General Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange the delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check in the amount of \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th & Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, June 15, 2005 at 1:00 PM. A PRE-BID CONFERENCE HAS BEEN SCHEDULED FOR WEDNESDAY, JUNE 1, 2005 AT 10:00 AM AT SCI GRATERFORD - MEET IN RECEPTION AREA. ANY CONTRACTOR PLANNING TO ATTEND THE PRE-BID MUST REGISTER THEIR NAME AND COMPANY NAME PRIOR TO THE PRE-BID WITH GEORGE HILTNER, TEL: (610) 489-4151. ALL CONTRACTORS WHO HAVE SECURED CONTRACT DOCUMENTS ARE INVITED AND URGED TO ATTEND THIS PRE-BID CONFERENCE. All Bidders must be registered to secure plans and specifications. Register at: www.vendorregistration.state.pa.us.

Department: Corrections

Location: State Correctional Institution, Graterford, Montgomery County, Pennsylvania

Duration: 120 Calendar Days from Date of Initial Job Conference

Contact: Contract and Bidding, (717) 787-3923

DGS A 251-604 PROJECT TITLE: Upgrade Electrical System. BRIEF Upgrade electrical system including new generator, main service and power panels throughout the building. ESTIMATED RANGE: \$100,000 TO \$500,000. Electrical Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange the delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check in the amount of \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th & Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, June 8, 2005 at 1:00 PM. All Bidders must be registered to secure plans and specifications. Register at: www.vendorregistration.state.pa.us.

Department: Transportation

Location: PennDOT Stockpile No. 1, Leighton, Carbon County, Pennsylvania

Duration: 180 Calendar Days from Date of Initial Job Conference

Contact: Contract and Bidding, (717) 787-3923

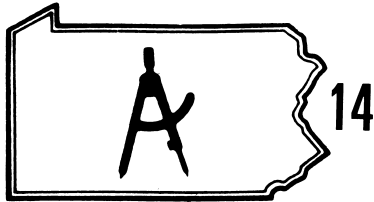
SU-2005/4 INVITATION TO BID - SHIPPENSBURG UNIVERSITY SU-2005/4 Major Asphalt Renovations. Shippensburg University of the State System of Higher Education invites General Contractors to request bid documents for this project. Work includes all work necessary to make major asphalt renovations. Contract will be an Open-Ended Contract for one year period, renewable for four additional one year periods. Individual Work Orders will be issued against the open ended contract. Prospective Bidders may obtain project plans by faxing request to 717-477-4004, Attn: Deborah K. Martin, Shippensburg University, Director of Purchasing & Contracting, 1871 Old Main Drive, Shippensburg, PA 17257, telephone (717) 477-1121. Pre-Bid Meeting with site visit immediately to follow will be held on, June 1, 2005 at 2:00 PM in Reed Operations Center Conference Room. Bids Due: June 21, 2005 at 4:00 P.M. Old Main Room 300. Public Bid Opening: June 22, 2005 at 2:00 P.M., Old Main Room 203A. The system encourages responses from small firms, minority firms, and firms which may have not previously performed work for the System. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education

Location: Shippensburg University, Shippensburg, PA

Duration: Open End contract for one year, with options to renew for 4 additional one year periods.

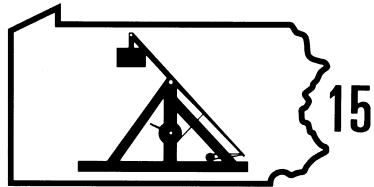
Contact: Deborah K. Martin, (717) 477-1121



Engineering Services

CN00014860 This contract will be for On-Call Drilling for subsurface boring, sampling and testing at various locations in PennDOT Engineering District 1-0.

Department: Transportation
Location: Engineering District 1-0 consists of Crawford, Erie, Forest, Mercer, Venango & Warren Counties
Duration: This will be a two year contract.
Contact: Amy Judson-Burak, (814) 678-7185



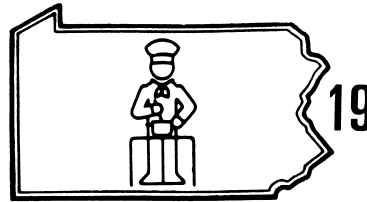
Environmental Maintenance Service

OSM 17(7163)102.1 Water Line Extension Project, McDowell Mountain South. The principal items of work and approximate quantities include Site Preparation and Restoration, Connection to Existing System, 4,570 linear feet of Installation of Eight Inch (8") Ductile Iron Pipe Including Fittings, 6 Eight Inch (8") Gate Valves and Valve Boxes, 850 cubic yards of Select Granular Material (2RC), 1 Two Inch (2") Automatic Air Release Valve, 2 Two Inch (2") Blow-Off Valves, 9 Valve Markers, 580 Square Yards of Rock Lining and Traffic Control. This project issues on May 20, 2005 and bids will be opened on June 14, 2005 at 2:00 p.m. Bid documents cost \$10.00 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

OSM 04(0153)101.1 Abandoned Mine Reclamation Project, Jordan Run. The principal items of work and approximate quantities include 10 Brush Piles, 229,900 cubic yards of Grading, 525 square yards of Rock Lining, 475 linear feet of Subsurface Drain, Relocation of PA Turnpike Commission's Outlet Drain, 24 acres of Seeding and planting 1,780 Trees. This project issues on May 20, 2005 and bids will be opened on June 14, 2005 at 2:00 p.m. Bid documents cost \$10.00 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: Big Beaver Borough, Beaver County
Duration: 240 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820



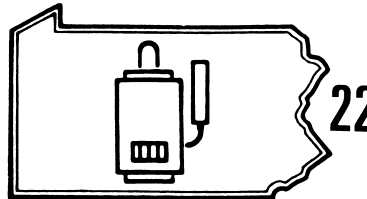
Food

30081848 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 610-740-3428 or by 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) 740-3428

CN00014925 Fresh Breads.

Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: July 1 through September 30, 2005
Contact: Kathy Zeigler, (724) 656-7308



HVAC Services

CN00014866 Electrical Services to include labor, materials and equipment to repair and/or upgrade the electrical services at our main yard and five (5) stockpile locations or remote areas within Mercer County, PA.

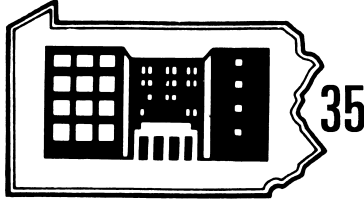
Department: Transportation
Location: Mercer County, PA
Duration: Estimated start date 8/01/05 through 7/31/07. This is a two year contract with one two-year renewal.
Contact: Cynthia L. Supel, (724) 662-5350



Janitorial Services

CN0014865 Initial, Weekly and Quarterly Cleaning Services of office areas at the Mercer County Maintenance Building, located at 215 N. Maple Street, Mercer, PA 16137. For complete specifications, please contact Cynthia Supel for complete bid package. Vendors are welcome to visit the site for assessment by appointment. Please call 724-662-5350 to set up appointment.

Department: Transportation
Location: 215 North Maple Street, Mercer, PA 16137
Duration: Estimated to begin 7-01-05 through 6-30-06, one year contract with option to renew for four (4) one year periods to end 6-30-10. Renewals are subject to annual CPI increase.
Contact: Cynthia Supel, (724) 662-5350



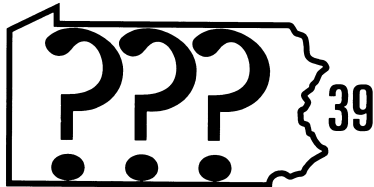
Real Estate Services

CN00014911 The Department of Transportation (District 6) is accepting bids for providing full title searches, bring downs, settlements, disbursements and recording deeds in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties. Interested Vendors must be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a Request for Quote (RFQ). Invitation to Bid. To register and obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendor-registration.state.pa.us. After you are registered fax your Company Name, address, phone and fax number to, Linda Bunt, District 6 Right of Way Unit at 610-205-6599 or email your information to lbunt@state.pa.us. Bids will be opened on June 16, 2005 at 11:00am in the District Office.

Department: Transportation
Location: Bucks, Chester, Delaware, Montgomery and Philadelphia Counties.
Duration: Three year contract with an option to renew for 2 years.
Contact: Linda Bunt, (610) 205-6784

93849 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Labor and Industry with 18,434 useable square feet of office space in Dauphin County, PA. with a minimum parking for 9 ADA vehicles, within the Harrisburg City Limits. Downtown locations will be considered. For more information on SFP #93849 which is due on June 20, 2005 visit www.dgs.state.pa.us and click on Real Estate to download an SFP or call (717) 787-7412.

Department: Labor and Industry
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Jennings Ward, (717) 787-7412



Miscellaneous

KURFP-0084 PBX Maintenance Kutztown University of Pennsylvania invites Northern Telecom certified distributors to submit bids and responses to maintain the Northern Telecom, Meridian 1, Option 81C telephone switch using Succession 3.0 software. The telephone switch resides on the Kutztown University of Pennsylvania campus. The switch is located in the Administration Annex, on the first floor, and is easily accessible. Bids and responses to this RFP shall include all fees associated with yearly maintenance, new installations, remote/on-site adds, moves and changes, as well as switch upgrades as required by KU or Nortel. See Schedule "A" for complete listing. RFP packages are available May 16, 2005 through pre-proposal meeting/walk through. A pre-proposal meeting has been scheduled for May 26, 2005. Proposals are to be received no later than 2:00 PM, Wednesday, June 8, 2005. The signed original plus three (3) additional copies of the proposal, the accompanying diskette for pricing responses, and any additional required information are to be delivered to the following address no later than the closing date. Barbara E. Reitz, Director of Purchasing, Kutztown University, Administration Building, Room 224, Kutztown, Pa 19530. Non-discrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: The term of this agreement shall be thirty-six (36) months. It shall commence on the effective Date and Time as indicated by legal council's signature and shall expire thirty-six (36) months to date.
Contact: Diane Smith, (610) 683-4830

KURFP-0085 Environmental Engineering and Industrial Hygiene Services, KURFP-0085: Kutztown University is seeking qualified firm(s) interested in submitting proposals in response to the University's Request for Proposal (RFP) for environmental engineering and industrial hygiene services at Kutztown University. The contractor selection process will be via sealed competitive proposals in accordance with the RFP using the Best Value Contracting method. The work includes but is not limited to the assistance of the University Environmental Health and Safety Office to perform various tasks related to safety and environmental compliance. RFP packages are available for a non refundable fee of \$15.00 from: Kutztown University, Attn: Craig Kleinsmith, Facilities Office of Planning & Construction, P.O. Box 730, Kutztown, PA 19530; or phone (610) 683-4602; fax (610) 683-1553; email: kleinsmi@kutztown.edu. RFP packages are available May 23, 2005 through June 17, 2005. To obtain the RFP packet, please submit a written request and send either cash or check in the amount of \$15.00. Checks must be made payable to "Kutztown University." The RFP packet will not be mailed until the fee is received. All questions must be submitted in writing by 4:00 PM on June 20, 2005, to the attention of Craig Kleinsmith, fax: (610) 683-1553, or email to kleinsmi@kutztown.edu. Proposals are to be received no later than 3:00 PM, July 7, 2005 in Room 229, Office of Planning and Construction. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, Pa 19530
Duration: One year with the possibility of four one-year renewals.
Contact: Craig Kleinsmith, (610) 683-4602

SU-04-28 Pillar Enclosure Replacement & Repair. Shippensburg University is seeking vendors who are interested in providing the necessary labor, materials, equipment, supervision, engineering and coordination to remove, rebuild and re-secure pillar enclosures in the Steam Plant at Shippensburg University. Interested vendors may request a bid package by faxing a request to (717) 477-1350 or emailing a request for kmsmit@ship.edu. Bids are due 6/9/05 by 4:00 PM and the bids will be opened on 6/10/05 @ 2:00 PM. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: Services to begin upon contract award and should be completed by October 2005.
Contact: Karen Smith, (717) 477-1386

[Pa.B. Doc. No. 05-1041. Filed for public inspection May 20, 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