

# PENNSYLVANIA BULLETIN

Volume 35

Number 25

Saturday, June 18, 2005 • Harrisburg, Pa.

Pages 3395—3532

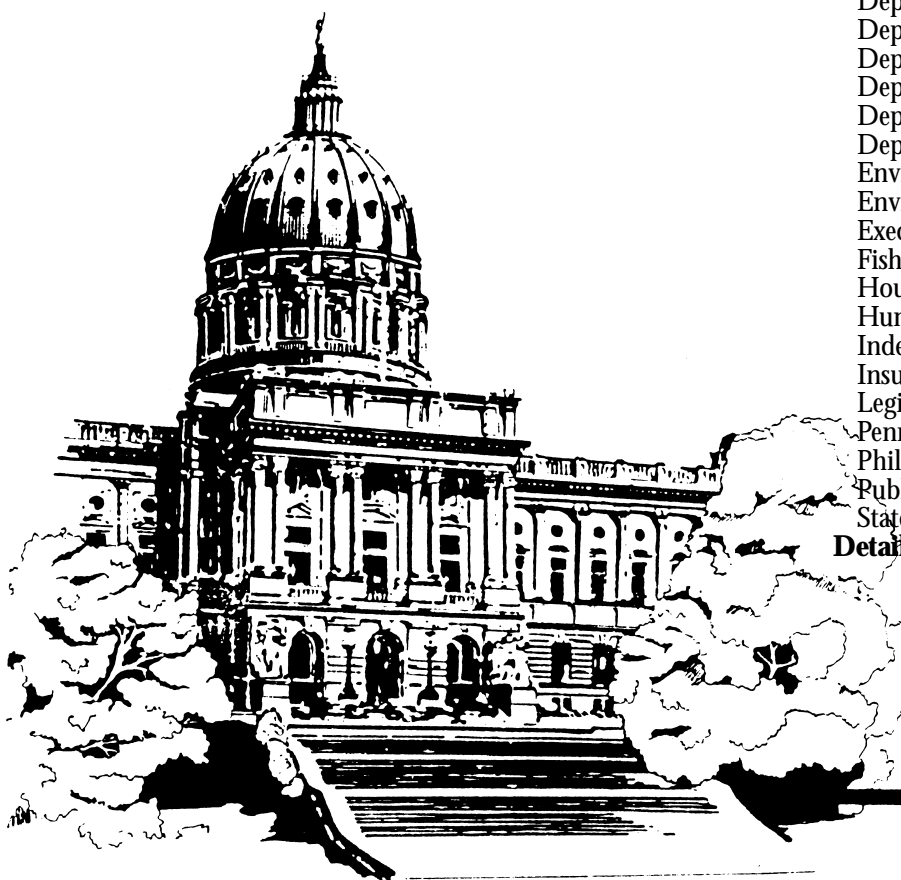
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Insurance Department  
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Philadelphia Regional Port Authority  
Public School Employees' Retirement Board  
State Tax Equalization Board

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

**No. 367, June 2005**

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**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

(800) 334-1429 ext. 2340 (toll free, out-of-State)

(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.

Attn: *Pennsylvania Bulletin*

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Mechanicsburg, PA 17055-3198

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ISBN 0-8182-0004-9

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Standard Interrogatories in Compulsory Arbitration Cases; Motor Vehicle Liability and Premises Liability Cases; Trial Division Administrative Doc. No. 2005-02

##### Order

*And Now*, this 1st day of June, 2005, effective immediately, the Standard Interrogatories and Requests for Production of Documents adopted by Order of this Court dated April 8, 2005 are amended as follows:

##### 1) Plaintiff's Interrogatories Addressed to Defendant—Motor Vehicle Liability:

27. is amended to read: "If you have engaged, or expect to engage, healthcare professionals and/or other expert witnesses (i.e. accident reconstructionists), whom you intend to have testify or whose report you intend to submit at trial on your behalf on any matter pertaining to this action, state . . ."

28. is Deleted.

##### 2) Defendant's Interrogatories Addressed to Plaintiff—Motor Vehicle Liability:

24. is amended to read: "If you have engaged, or expect to engage, healthcare professionals and/or other expert witnesses (i.e. accident reconstructionists), whom you intend to have testify or whose report you intend to submit at trial on your behalf on any matter pertaining to this action, state . . ."

##### 3) Plaintiff's Interrogatories Addressed to Defendant—Premises Liability:

17. is amended to read: "If you have engaged, or expect to engage, healthcare professionals and/or other expert witnesses (i.e. accident reconstructionists), whom you intend to have testify or whose report you intend to submit at trial on your behalf on any matter pertaining to this action, state . . ."

18. is Deleted.

##### 4) Defendant's Interrogatories Addressed to Plaintiff—Premises Liability:

16. is amended to read: "If you have engaged, or expect to engage, healthcare professionals and/or other expert witnesses (i.e. accident reconstructionists), whom you intend to have testify or whose report you intend to submit at trial on your behalf on any matter pertaining to this action, state . . ."

##### 5) Plaintiff's Request for Production of Documents, Exhibit "E";

The following is added at the end of the first sentence of the opening paragraph: "... unless protected by the attorney-client privilege or the work-product doctrine."

Request No. 3. is Deleted.

Request No. 7 (now 6) will read as follows: "Reports, communications, and/or documents prepared by any and all experts who will testify or whose reports will be submitted at trial."

Request No. 9 (now 8) will read as follows: "Resumes and qualifications of any and all experts who will testify or whose reports will be submitted at trial."

##### 6) Defendant's Request for Production of Documents, Exhibit "F."

The following is added at the end of the first sentence of the opening paragraph: "... unless protected by the attorney-client privilege or the work-product doctrine."

Request No. 3. is Deleted.

Request No. 7 (now 6) will read as follows: "Reports, communications, and/or documents prepared by any and all experts who will testify or whose reports will be submitted at trial."

Request No. 9 (now 8) will read as follows: "Resumes and qualifications of any and all experts who will testify or whose reports will be submitted at trial."

It is further *Ordered, Adjudged and Decreed* that from time to time the Standard Interrogatories and Requests for Production of Documents adopted by Trial Division Administrative Order No. 2005-02 may be administratively updated and revised. Any such update and revision shall be posted on the website of the First Judicial District of Pennsylvania, <http://courts.phila.gov>.

*By the Court*

JAMES J. FITZGERALD, III,  
*Administrative Judge*

[Pa.B. Doc. No. 05-1167. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Peter A. Wood having been suspended from the practice of law in the State of New Jersey for a period of one year, the Supreme Court of Pennsylvania issued an Order on June 6, 2005, suspending Peter A. Wood from the Bar of this Commonwealth, effective July 6, 2005, consistent with the Order of the Supreme Court of New Jersey dated November 16, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 05-1168. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Notice of Transfer to Inactive Status

Notice is hereby given that Frederick T. Haase, Jr., having been transferred to disability inactive status in the State of Delaware by Order of the Supreme Court of

Delaware dated October 20, 2004, the Supreme Court of Pennsylvania issued an Order on June 6, 2005, transferring Frederick T. Haase, Jr., to inactive status, effective immediately, pursuant to Rule 301(c) Pa.R.D.E (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 05-1169. Filed for public inspection June 17, 2005, 9:00 a.m.]

## ORPHANS' COURT PROCEDURAL RULES COMMITTEE

### Proposed Electronic Forms

The Orphans' Court Procedural Rules Committee is publishing seventeen forms in electronic format ("e-forms") which it proposes to recommend for use before the Orphans' Court Divisions and Registers of Wills of this Commonwealth.

The Orphans' Court e-forms are intended to promote uniformity and standardize the content of pleadings and forms in use practice across the state without supplanting local forms. The Register's forms vary only slightly from previously approved printed forms. Eventually, the Committee hopes that it will be possible to fill in the forms on-line, and then file them either conventionally or electronically in accordance with local practice.<sup>1</sup>

Under the guidance of the previous Chair of the Committee, the Honorable John M. Cascio of Somerset County, and current Chair, Mary Jane Barrett of Philadelphia, the Committee assembled, reviewed and modified existing county forms to create the current set of proposed statewide forms. Prior to publication, the forms were reviewed by the full Committee, an ad hoc group of attorneys and judges from around the Commonwealth, as well as the Orphans' Court Section of the Pennsylvania Trial Judges Conference.

<sup>1</sup> As of January 1, 2005, the first Orphans' Court electronic filing project in Pennsylvania is operational in Philadelphia, under the direction of Administrative Judge Joseph O'Keefe. While e-filing is not directly linked to the statewide forms project, the Committee seeks to facilitate e-filing as it becomes more prevalent statewide.

The draft statewide e-forms are posted on the website of the Administrative Office of Pennsylvania Courts ("AOPC") at [www.aopc.org/index/suptcmtes/orphctrules/eforms.asp](http://www.aopc.org/index/suptcmtes/orphctrules/eforms.asp) from which the forms can be downloaded and copies can be printed. Hard copies of the forms can also be obtained upon request by contacting the Committee.

The following draft statewide e-forms are submitted for comment:

#### *Forms for Orphans' Court*

Petition for Adjudication—Decedent's Estate  
 Petition for Adjudication—Trust Estate  
 Petition for Adjudication—Guardian of Estate of Incapacitated Person  
 Petition for Adjudication—Principal's Estate under Power of Attorney  
 Charitable Gift Notice  
 Notice of Claim  
 Annual Report of Guardian of the Estate  
 Annual Report of Guardian of the Person

#### *Forms for Register of Wills*

Estate Information Sheet  
 Petition for Grant of Letters  
 Petition for Probate  
 Oath of Subscribing Witness  
 Oath of Non-subscribing Witness  
 Renunciation  
 Rule 5.6 Notice  
 Rule 5.7 Certification of Rule 5.6 Notice  
 Inventory  
 Rule 6.12 Status Report

The Committee welcomes input from attorneys, judges and court administrators as to both the form and substance of the draft e-forms and seeks suggestions as to additional forms which may be suitable for statewide use. All communications in reference to the proposed e-forms should be sent, no later than July 19, 2005, to the following address:

Dean R. Phillips, Chief Counsel  
 Rebecca M. Darr, Deputy Counsel  
 Orphans' Court Procedural Rules Committee  
 5035 Ritter Road, Suite 700  
 Mechanicsburg, PA 17055

Or via E-Mail to:  
[orphanrules@pacourts.us](mailto:orphanrules@pacourts.us)

MARY JANE BARRETT,  
*Chair*

[Pa.B. Doc. No. 05-1170. Filed for public inspection June 17, 2005, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 211]

#### Handling, Use and Storage of Explosives

The Environmental Quality Board (Board) amends Chapter 211 (relating to storage, handling and use of explosives) to read as set forth in Annex A. This final-omitted rulemaking establishes standards to ensure that explosive magazines are secure from unauthorized intrusion and theft.

Notice of proposed rulemaking is omitted under section 204(2) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(2) and (3)), known as the Commonwealth Documents Law (CDL). Section 204(2) of the CDL provides that an agency may omit the notice of proposed rulemaking if all persons subject to the regulation are named therein and are either served with the proposed rulemaking or have actual notice of the proposed rulemaking. There are approximately 350 persons that will be directly affected by this final-omitted rulemaking. They include licensees of outdoor magazines and persons who currently store in this Commonwealth explosives in the form of fireworks, blasting agents, high explosives and detonators. These persons were sent a copy of this final-omitted rulemaking at least 2 weeks prior to the Board's January 18, 2005, and April 19, 2005, meetings. Section 204(3) of the CDL provides that an agency may omit the notice of proposed rulemaking if the agency finds for good cause that notice of proposed rulemaking is impracticable, unnecessary or contrary to the public interest. In this case, using the notice of proposed rulemaking procedure is contrary to the public's interest. As more fully explained in the background section, the existing magazine standards are inadequate to prevent the theft of explosives. This final-omitted rulemaking will provide additional significant deterrence to thefts of explosives from magazines and subsequent accidental or deliberate injury to persons and damage to property.

This final-omitted rulemaking was adopted by order of the Board at its meeting of January 18, 2005. At the April 19, 2005, Board meeting, the Board approved amendments to the final order addressing the Independent Regulatory Commission's (IRRC) March 10, 2005, disapproval of the Board's January 18, 2005, rulemaking. IRRC's disapproval order was received March 16, 2005.

#### A. Effective Date

This final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Persons and Information

For further information, contact Joseph G. Pizarchik, Director, Bureau of Mining and Reclamation, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8461 Harrisburg, PA 17105-8461, (717) 783-9892; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654 5984 (TDD users) or (800)

654-5988 (voice users). This final-omitted rulemaking is available on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us).

#### C. Statutory Authority

The final-omitted rulemaking is being made under the authority of:

(1) Section 11 of the act of July 1, 1937 (P. L. 2681, No. 537) (Act 537) (73 P. S. § 161) and Reorganization Plan No. 8 of 1981 (71 P. S. § 751-35), which authorize the Department to promulgate implementing regulations for the licensing of blasters and the use, storage and handling of explosives in most contexts other than mining.

(2) Section 4.2 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.4b) and section 11(e) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3311(e)), which direct the Department to promulgate regulations concerning the handling and use of explosives at coal and noncoal surface mine sites as well as the licensing of blasters.

(3) Sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20), which authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to promulgate rules and regulations as are necessary for the proper work of the Department.

#### D. Background

The Department's regulations addressing the storage of explosives are in Subchapter B (relating to storage and classification of explosives). Subchapter B incorporates by reference the performance and design requirements in 27 CFR Part 555, Subpart K (relating to Storage), established by the United States Department of Justice, Bureau of Alcohol, Tobacco and Firearms (ATF). See § 211.115(a) (relating to standards for classifying and storing explosives and constructing, maintaining and siting magazines). Current ATF regulations focus on safety concerns regarding the location of magazines to reduce threat from accidental explosions. The magazine security requirements are minimal and only address design requirements for magazine construction, doors and locks on the doors. There are no effective perimeter security requirements and magazines are too readily accessible to those who want to steal explosives. See, for example, 27 CFR 555.207 (relating to construction of type 1 magazines).

As a result of inadequate security requirements, explosives have been stolen from magazines in this Commonwealth. From March 2003 to December 2003, the last period for which data from ATF is available, this Commonwealth led the nation with nine explosives thefts. In these 9 thefts, 1,859 pounds of explosives and 375 detonators, necessary to detonate the explosives, were stolen. Not all of this material has been recovered. These thefts of explosives pose a significant risk to the public's safety and the threat of future thefts may present an even greater risk to the public safety.

A recent theft of explosives investigated by the Pennsylvania State Police (PSP) resulted in the Pennsylvania Office of Homeland Security, the PSP and the Department working to develop regulatory standards for additional magazine security measures. This final-omitted rulemaking establishes specific performance standards and

include examples that meet the performance standards. The final-omitted rulemaking specifically provides magazine licensees the flexibility to propose and use other methods and technologies that meet the performance standards and which may be more cost effective.

This final-omitted rulemaking also adds a duty that magazine licensees must report thefts of explosives and attempted break-ins to the Department, this PSP and local police with jurisdiction. The information will be used to assess the effectiveness of these security standards and for possible necessary enhancements.

The Department's regulations are being amended because neither the Pennsylvania Office of Homeland Security nor the PSP have regulatory authority over the construction or operation of explosive magazines. These agencies have assisted in the development of this final-omitted rulemaking and concur that their implementation will significantly enhance security of this Commonwealth and reduce the risk of theft of explosives and the resulting risk of injury to persons and damage to property.

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on February 8, 2005, the Department submitted a copy of the January 18, 2005, final rulemaking with notice of proposed rulemaking omitted to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. On the same date, the Department also submitted this final-omitted rulemaking to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In addition to the final-omitted rulemaking, IRRC and the House and Senate Committees were provided with a copy of a detailed regulatory analysis form prepared by the Department.

On March 9, 2005, the House and Senate Committees were deemed to have approved the Board's final order. On March 10, 2005, IRRC held a meeting and disapproved the Board's final order. IRRC's written disapproval order was received March 16, 2005. IRRC disapproved the final-omitted rulemaking, finding it was not in the public interest to approve the requirements. IRRC identified cost and clarity concerns. In addition, IRRC indicated that the Board should consider lower standards for compliance for the fireworks industry.

The need to move quickly to address IRRC's disapproval was highlighted by recent developments. Sometime between 1 p.m. on Friday, March 11, 2005, and 2:05 p.m. on Monday, March 14, 2005, the weekend immediately following IRRC's disapproval of the security measures to prevent unauthorized wheeled vehicles from accessing explosive storage magazines, unauthorized personnel broke into a magazine. A wheeled vehicle was used to drive up to a magazine and to pull the locking mechanism from the magazine door. A comparison of the magazine contents to the licensee's inventory records disclosed that the compromised magazine contained more explosives than the inventory records indicated were present. It was impossible to determine if anything was stolen. This was the fourth magazine break in at this site in 10 years.

As suggested at the IRRC hearing and by various legislators, representatives of the Department and PSP met with representatives of the fireworks industry and the explosives industry to obtain their input on how the Board should address the issues listed in IRRC's order. The changes approved by the Board at the April 19, 2005,

meeting are based on industry input. The following summary identifies the changes from the January 18, 2005, Board final order made in response to IRRC's order.

#### *E. Summary of the Final-Omitted Rulemaking*

This final-omitted rulemaking amends Chapter 211 to establish effective security standards for the storage of explosives. The amendments are summarized as follows.

##### *§ 211.101. Definitions.*

This section is amended to include definitions for "access point," "concertina razor wire," "indoor magazine," "inner perimeter security," "outdoor magazine site," "outer perimeter security" and "wheeled vehicle." These are critical terms used in new § 211.115(c) and (d) (relating to standards for classifying and storing explosives and constructing, maintaining and siting magazines). Defining these terms should minimize the risk of confusion in applying these new security standards.

Additionally, this section has been amended to include a definition for "display fireworks." This amendment addresses one of the stated grounds for IRRC's order, specifically: direct costs to the private sector; desirability and feasibility of setting lesser standards for small business; clarity; and adverse effects on prices of goods and services and competition. A provision specifically directed to the storage of fireworks has been added to the regulation.

##### *§ 211.111. Scope.*

This section is amended to clarify that Subchapter B does not apply to explosives stored underground in permitted underground mines.

##### *§ 211.113. Application contents.*

Subsection (b) is amended to include two new requirements for the license application. To enable risk assessment and prompt emergency response, the application is to include a plan showing the security measures being undertaken, as well as the longitude and latitude of the magazine.

##### *§ 211.115. Standards for classifying and storing explosives and constructing, maintaining and siting magazines.*

###### *Subsection (a)*

This subsection incorporates by reference the ATF regulations for classifying and storing explosives. The citation to the ATF regulations is corrected to reflect that the ATF regulations have been recodified from 27 CFR Part 55 to Part 555 as a result of moving the ATF to the Department of Justice. The Department's regulations will now contain security standards for magazines in addition to those required by the ATF. If the ATF establishes, at some time in the future, magazine security standards that conflict with the Department's regulations, the more stringent standards will apply.

###### *Subsection (c)*

This subsection requires that indoor magazines be located in buildings which are in compliance with applicable building codes and other regulations. To address the stated grounds for IRRC's order, specifically, direct costs to the private sector and adverse effects on prices of goods and services and competition, this section has been amended to no longer require indoor magazines for the storage of detonators to be located in a separate, secure room from other indoor magazines. This amendment will reduce costs to indoor magazine licensees storing detonators.

*Subsection (d)*

This subsection contains most of the new security standards established by this final-omitted rulemaking. It also clarifies that § 211.115(d) does not apply to Type 3 magazines. To address the stated grounds for IRRC's order, specifically, IRRC's desire for lower security standards for the fireworks industry, direct costs to the private sector, desirability and feasibility of setting lesser standards of compliance for small business and adverse effects on prices of goods and services and competition, this subsection has been amended to no longer require daily inspection or perimeter security measures, except for an outer perimeter gate at any access point, for Type 4 magazines storing display fireworks.

This amendment was based on industry input and to address IRRC's objection to treating explosive magazine storing fireworks the same as other explosive storage magazines when securing them against theft. The industry and IRRC believe stolen fireworks pose less of a risk to public safety compared to other explosives. This amendment will dramatically reduce the fireworks industry costs of implementing these regulations. For many small fireworks magazine licensees, some of whom are hobbyists, the only requirement beyond the standards in the current regulations will be for an outer perimeter access gate.

*Subsection (d)(1)*

This paragraph establishes the requirement that the magazine be inspected daily by the licensee or an agent. Inspections of magazines containing explosives shall occur at least once every 24 hours. A record of the inspection and any problems encountered is to be maintained for at least 3 years. To address the stated grounds for IRRC's order, specifically, direct costs to the private sector and desirability and feasibility of setting lesser standards of compliance for small business, and adverse effects on prices of goods and services and competition, this section has been amended to no longer require inspection of magazines every 24 hours provided the magazines are equipped with electronic intrusion detection devices and are located at sites that have outer perimeter gates equipped with electronic intrusion detection devices. Therefore, inspection requirements will be no more stringent than the standards in the current regulations. This amendment will significantly reduce industry costs of implementing these regulations.

*Subsection (d)(2), (3), (8) and (9)*

Subsection (d)(2), (3), (7) and (9) establishes the standards addressing access to magazines. Magazine licensees are to establish outer perimeter security to obstruct or deter, to the greatest extent possible, unauthorized wheeled vehicles from entering the site. Subsection (d)(3) identifies various measures or combinations which can be used to obstruct or deter, to the greatest extent possible, unauthorized vehicular access. Access through the outer perimeter security is limited to one point unless otherwise approved by the Department. Subsection (d)(9) addresses the signs to be placed on the outer perimeter system. The signs are to warn first responders and the public of the hazards on the site. These amendments provide the licensee with the flexibility to propose alternative security measures that meet the performance standards.

To address the stated grounds for IRRC's order, specifically, clarity and costs, the regulation has been amended to specify additional outer perimeter security measures including the use of guard personnel, closed circuit television and electronic intrusion detection devices.

*Subsection (d)(4), (6) and (7)*

These paragraphs require additional measures to obstruct or deter, to the greatest extent possible, unauthorized personnel access to the magazine and provide the licensee with the flexibility to propose alternative security measures that meet the performance standards.

Subsection (d)(4) provides an additional security performance standard for magazines used to store high explosives or detonators. In addition to the outer perimeter security to obstruct or deter unauthorized wheeled vehicle intrusions to all magazines, inner perimeter security to obstruct or deter the intrusion of unauthorized persons must be provided for magazines containing high explosives or detonators. To address the stated grounds for IRRC's order, specifically, clarity and costs, the final-omitted rulemaking has been amended to specify additional inner perimeter security measures, including the use of guard personnel, closed circuit television, electronic intrusion detection devices and fencing. Subsection (d)(6) has also been modified to address IRRC's belief that a single perimeter barrier was adequate. It has been amended to allow a single layer of security, if it meets the performance standards of obstructing unauthorized entry of the site by wheeled vehicles and deters unauthorized access to the magazines by personnel.

To address the stated grounds for IRRC's order, specifically, direct costs to the private sector and adverse effects on prices of goods and services and competition, the minimum distance that inner perimeter security is required to be from a magazine has been reduced from 25 feet to 6 feet. This reduction would save a magazine licensee storing high explosives or detonators in a magazine with a width and length of 10 feet and choosing fencing as inner perimeter security approximately \$3,000 or a savings of nearly 2/3 the cost to meet the requirements.

*Subsection (d)(5) and (11)*

These paragraphs require that all mobile and easily moveable magazines being used as stationary magazines must be immobilized. These amendments provide the licensee with the flexibility to propose alternative security measures that meet the performance standards. To address the stated grounds for IRRC's order, specifically, clarity and direct costs to the private sector, the paragraphs have been amended to clarify which magazines need to be secured to terrain features. These magazines can be identified by measuring their dimensions, which can easily be determined, instead of by weighing them, which would require considerably more effort and additional costs.

*Subsection (d)(12) and (13)*

Subsection (d)(12) requires the licensee to notify the PSP and local law enforcement personnel of the establishment of an explosives magazine. The police will be better informed of the magazine location and may be able to patrol the area and more timely respond to attempted thefts. Subsection (d)(13) requires the licensee to immediately report to the PSP, local law enforcement officials and the Department all thefts, break-ins, attempted break-ins and unaccounted for explosives. Timely investigation should allow for greater recovery of stolen explosives and apprehension of perpetrators. This information will also be useful in evaluating the effectiveness of this final-omitted rulemaking.

*Subsections (e) and (f)*

These subsections establish a compliance schedule for magazines licensed on June 18, 2005. The inspection and

notification requirements contained in this final-omitted rulemaking take effect immediately. The final-omitted rulemaking provides 60 days for licensees to submit to the Department plans and schedules for the implementation of inner and outer perimeter security measures. This final-omitted rulemaking provides each licensee with the flexibility to choose the sequence in which they implement the inner and outer perimeter security measures. Security measures must be implemented within 360 days of the security plan approval unless the licensee requests and justifies and the Department approves a longer time period. The time extension request can be submitted either as part of the security plan or after the licensee starts implementing the plan. To address the stated grounds for IRRC's order, specifically, reasonableness of requirements, implementation procedures and timetables for compliance and clarity, the final-omitted rulemaking has been amended to clearly state that the security measures must be implemented within 360 days of the Department's approval of the security plan rather than within 360 days of the licensee's submittal of the plan. Finally, magazine licensees will immediately have to begin the daily inspections, maintain inspection logs and notify police of storage magazines and report any thefts or break-ins. These requirements will improve security immediately at explosive magazines.

#### *Subsections (g) and (h)*

These subsections provide the licensee with the flexibility to propose to the Department alternatives to the security requirements specified in § 211.115. This final-omitted rulemaking also provides the timeframes for the Department's review and action on these proposals. A licensee can request the Department to formally approve the measures described in the security plan.

#### *Subsection (i)*

This subsection provides that a licensee who installs and maintains security measures required by the final-omitted rulemaking shall be deemed to have obstructed or deterred unauthorized intrusions upon a magazine site.

#### *F. Benefits and Costs*

##### *Benefits*

The benefits of this final-omitted rulemaking are difficult to quantify. By greatly reducing the potential for the theft of explosives, this final-omitted rulemaking makes significantly less likely that individuals will have to bear the costs associated with injuries to persons and property damage resulting from the inept or malicious use of explosives. Reducing access to magazine sites should also reduce the number of thefts and the costs of related investigations.

##### *Compliance Costs*

Small magazine sites, where a few hundred pounds of explosives or less are stored, may cost less than \$12,000 to secure. Larger sites are estimated to cost less than \$52,000 to secure. The savings to the regulated community would be in the form of prevention of possible lawsuits stemming from explosives stolen from an inadequately secured site, resulting in harm to people or property. The cost to insure secured facilities may be less than the costs to insure unsecured facilities. The licensees' loss due to stolen explosives should also be reduced.

##### *Compliance Assistance Plan*

Compliance assistance will be in the form of allowing adequate time to implement these regulations and provid-

ing outreach and meetings to discuss the regulatory changes proposed with the affected industry community. The Pennsylvania Office of Homeland Security, the PSP and the Department also met with industry trade associations to discuss the amendments.

#### *Paperwork Requirements*

Plans showing the specifications of all security measures required by this final-omitted rulemaking will have to be prepared and submitted to the Department. Additional reporting requirements will not significantly change existing reporting, recordkeeping or other paperwork requirements. Additional recordkeeping requirements will be required to document inspection activities.

#### *Persons Affected by the Final-Omitted Rulemaking*

The final-omitted rulemaking directly affects a class of persons who hold explosive storage licenses issued by the Department and operate in this Commonwealth outdoor magazines and magazines for the storage of blasting agents, high explosives or detonators. This class of licensees consists of approximately 350 magazine site operators. The Department maintains a database that identifies the explosive storage licenseholders/magazine site operators who will receive direct notice from the Department concerning the new requirements.

#### *G. Pollution Prevention*

This final-omitted rulemaking addresses security measures to be taken to prevent unauthorized access to magazines and to prevent the theft of explosives from the magazines. As a result, the issue of pollution prevention is not applicable to this final-omitted rulemaking except as the additional security will reduce the criminal use of stolen explosives that may cause environmental pollution through the release of regulated substances.

#### *H. Sunset Review*

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

#### *I. Regulatory Review*

Under section 7(c) of the Regulatory Review Act (71 P. S. § 745.7(c)), on April 22, 2005, the Department submitted a copy of the amended final-omitted rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House and Senate Committees. On the same date, the Department also submitted this final-omitted rulemaking to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 26, 2005, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 12, 2005, and approved the final-omitted rulemaking.

#### *J. Findings*

The Board finds that:

(1) The final-omitted rulemaking is appropriate to implement the requirements of Act 537, as well as the Surface Mining Conservation and Reclamation Act and the Noncoal Surface Mining Conservation and Reclamation Act.

(2) Use of the omission of notice of proposed rulemaking procedure is appropriate because the notice of

proposed rulemaking procedure specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) is, in this instance, contrary to the public interest.

(3) The use of the notice of proposed rulemaking procedures is, in this instance, impracticable, unnecessary and contrary to the public interest in light of the current threat to the public safety from explosive magazines in this Commonwealth that have inadequate security measures. As demonstrated by recent thefts, the existing regulations leave explosives magazines vulnerable to theft.

(4) Persons directly affected by this final order were sent a copy of the proposed amendments at least 2 weeks prior to the adoption of the final-omitted rulemaking.

(5) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this preamble and in the public interest.

#### K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 211, are amended by amending §§ 211.101, 211.111, 211.113 and 211.115 to as set forth in Annex A.

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

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

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

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

KATHLEEN A. MCGINTY,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3187 (May 28, 2005).)

**Fiscal Note:** 7-394. (1) General Fund; (2) Implementing Year 2004-05 is \$26,000; (3) 1st Succeeding Year 2005-06 is \$147,500; 2nd Succeeding Year 2006-07 is \$152,000; 3rd Succeeding Year 2007-08 is \$156,500; 4th Succeeding Year 2008-09 is \$161,000; 5th Succeeding Year 2009-10 is \$165,000; (4) 2003-04 Program—\$41,056,000; 2002-03 Program—\$43,780,000; 2001-02 Program—\$43,354,000; (7) Environmental Program Mmanagement; (8) recommends adoption. Savings are anticipated to the Pennsylvania State Police General Government Operations appropriations in the General Fund and Motor License Fund. Estimated savings for 2004-05 are \$7,356, \$29,424 for 2005-06, \$30,307 for 2006-07, \$31,217 for 2007-08, \$32,154 for 2008-09 and \$33,119 for 2009-10. About 32% of the savings will accrue to the General Fund and 68% will accrue to the Motor License Fund.

## Annex A

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

#### Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

#### ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

#### CHAPTER 211. STORAGE, HANDLING AND USE OF EXPLOSIVES

##### Subchapter A. GENERAL PROVISIONS

##### § 211.101. Definitions.

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

*Access point*—A point in the outer perimeter security and a point in the inner perimeter security that allows entry to or exit from the magazine or the magazine site.

*Airblast*—An airborne shock wave resulting from an explosion, also known as air overpressure, which may or may not be audible.

*Blast area*—The area around the blast site that should be cleared to prevent injury to persons and damage to property.

*Blast site*—The specific location where the explosives charges are loaded into the blast holes.

*Blaster*—An individual who is licensed by the Department under Chapter 210 (relating to blasters' licenses) to detonate explosives and supervise blasting activities.

*Blaster-in-charge*—The blaster designated to have supervision and control over all blasting activities related to a blast.

*Blasting activity*—The actions associated with the use of explosives from the time of delivery of explosives to a worksite until all postblast measures are taken, including priming, loading, stemming, wiring or connecting, detonating, and all necessary safety, notification and monitoring measures.

*Building*—A structure that is designed for human habitation, employment or assembly.

*Charge weight*—The weight in pounds of an explosive charge.

*Concertina razor wire*—Razor wire that is extended in a spiral for use as a barrier, such as along or on a fence and having a minimum of 101 coils of wire to 50 linear feet.

*Delay interval*—The designed time interval, usually in milliseconds, between successive detonations.

*Detonator*—

(i) A device containing an initiating or primary explosive that is used for initiating detonation of explosives.

(ii) The term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord, delay connectors and nonelectric instantaneous and delay blasting caps.

*Display fireworks*—

(i) Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation.



(ii) The term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as consumer fireworks. Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the United States Department of Transportation at 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

(iii) The term also includes fused setpieces containing components which together exceed 50 mg of salute powder.

*Explosive*—A chemical compound, mixture or device that contains oxidizing and combustible materials or other ingredients in such proportions or quantities that an ignition by fire, friction, concussion, percussion or detonation may result in an explosion.

(i) The term includes safety fuse, squibs, detonating cord and igniters.

(ii) The term does not include the following:

(A) Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, matches and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or antique devices, as defined in 18 U.S.C.A. § 921 (relating to definitions).

(B) Smokeless powder, primers used for reloading rifle or pistol cartridges, shot shells, percussion caps and smokeless propellants intended for personal use.

*Flyrock*—Overburden, stone, clay or other material ejected from the blast area by the force of a blast.

*Indoor magazine*—A magazine located entirely within a secure intrusion-resistant and theft-resistant building which is primarily used for commercial or industrial purposes.

*Inner perimeter security*—Measures taken to increase the intrusion resistance and theft resistance of a magazine that encircles an individual or a group of magazines. These measures lie within the outer perimeter security measures.

*Magazine*—A structure used for the storage of explosives.

*Misfire*—Incomplete detonation of explosives.

*Outdoor magazine site*—The contiguous area of land upon which the following are located: a magazine or group of magazines; the outer perimeter security, and the inner perimeter security, if any.

*Outer perimeter security*—Measures taken to increase the intrusion resistance of magazines that encircle the area where the magazines are situated.

*Particle velocity*—A measure of the intensity of ground vibration, specifically the time rate of change of the amplitude of ground vibration.

*Peak particle velocity*—The maximum intensity of particle velocity.

*Person*—A natural person, partnership, association, or corporation or an agency, instrumentality or entity of state government.

*Primer*—A cartridge or package of high explosives into which a detonator has been inserted or attached.

*Purchase*—To obtain ownership of explosives from another person.

*Sale or sell*—To transfer ownership of explosives to another person.

*Scaled distance (Ds)*—A value calculated by using the actual distance (D) in feet, measured in a horizontal line from the blast site to the nearest building or structure, neither owned nor leased by the blasting activity permittee or its customer, divided by the square root of the maximum weight of explosives (W) in pounds, that is detonated per delay period of less than 8 milliseconds.

$$D_s = D / (\text{square root}) W$$

*Stemming*—Inert material placed in a blast hole after an explosive charge for the purpose of confining the explosion gases to the blast hole, and inert material used to separate explosive charges in decked holes.

*Structure*—

(i) A combination of materials or pieces of work built or composed of parts joined together in some definite manner for occupancy, use or ornamentation.

(ii) The term includes everything that is built or constructed, including bridges, offices, water towers, silos and dwellings.

*Utility line*—An electric cable, fiber optic line, pipeline or other type of conduit used to transport or transmit electricity, gases, liquids and other media including information.

*Wheeled vehicle*—A vehicle that moves about on three or more wheels and has a gross vehicle weight of less than 11,000 pounds.

**Subchapter B. STORAGE AND CLASSIFICATION OF EXPLOSIVES**

**§ 211.111. Scope.**

(a) This subchapter applies to the classification and storage of explosives. It establishes the requirements, procedures and standards for licensing, constructing, and siting and maintaining magazines.

(b) Persons storing explosives underground in permitted underground mines are exempt from this subchapter.

**§ 211.113. Application contents.**

(a) An application to obtain, renew, modify or transfer a magazine license shall be on forms approved by the Department. Before the Department issues, renews, transfers or modifies a license, the application must demonstrate that the applicant has complied with the applicable requirements of this chapter.

(b) A completed license application shall include:

(1) The applicant's name, address and telephone number.

(2) A contact person, including name, title and telephone number.

(3) The types and quantities of explosives to be stored within the magazine.

(4) A map, plan or a sketch of the site location showing the nearest buildings, nearest railways, nearest highways, and existing barricades, if any, and proposed barricades.

(5) A plan showing the design and specifications of the magazine to be licensed.

(6) A plan showing the design, specifications, dimensions and locations of all security measures to be installed

under § 211.115(d) (relating to standards for classifying and storing explosives and constructing, maintaining and siting magazines).

(7) The latitude and longitude of outdoor magazines except for Type 3 magazines as defined in 27 CFR 555.203(c) (relating to types of magazines).

(8) The latitude and longitude of indoor magazines containing high explosives.

(c) A license renewal application shall include:

(1) The applicant's name, address and telephone number.

(2) A contact person, including name, title and telephone number.

(3) The maximum amount and type of explosives for which the magazine is currently licensed.

**§ 211.115. Standards for classifying and storing explosives and constructing, maintaining and siting magazines.**

(a) The provisions of 27 CFR Part 555, Subpart K (relating to storage), are incorporated herein by reference. If any provision of 27 CFR Part 555, Subpart K addresses an issue addressed in this section, the more stringent provision applies. These provisions shall be used to:

(1) Classify explosives.

(2) Determine which class of explosives may be stored in each type of magazine.

(3) Determine the quantity of explosives that may be stored.

(4) Determine the applicable construction standards for each type of magazine.

(5) Site the magazine.

(6) Specify maintenance and housekeeping standards for a magazine.

(7) Grant variances.

(b) For purposes of incorporation by reference of 27 CFR Part 555, Subpart K, the term "Department" is substituted for the term "director" and the term "representatives of the Department" is substituted for the term "ATF Official."

(c) Indoor magazines shall be located in buildings which are in compliance with all applicable building codes and other applicable regulations

(d) Persons storing only display fireworks in Type 4 magazines as defined in 27 CFR 555.203(d) (relating to types of magazines) are exempt from this subsection except for paragraphs (8) and (9). Type 3 magazines as defined in 27 CFR 555.203(c), are exempt from this subsection. The following security measures apply to outdoor magazines and to indoor magazines located in buildings that are not intrusion-resistant and theft-resistant:

(1) Each magazine site shall be inspected by the licensee or his agent at least daily at approximately 24-hour intervals. If all magazines and outer perimeter security gates at the site are equipped with electronic intrusion detection devices conforming with paragraphs (3)(ii) or (iii), and (4)(ii) or (iii), or otherwise approved, in writing, by the Department, the inspection shall be conducted at least every 7 days. Individual magazines or entire magazine sites which do not contain explosives are not required to be inspected provided the inspection records reflect the date the last explosives were removed from the

magazine. Each inspection shall include the magazine itself, the access points and perimeter security. The inspection can be performed by a person or electronically by remote cameras. A record of the inspections shall be kept and made available to the Department. Records shall be maintained for at least 3 years. The record of each inspection shall include:

(i) The names of the persons who inspected the site.

(ii) The date and time each inspection began and ended.

(iii) Any information related to the integrity of the magazine site.

(iv) Actions taken on problems discovered.

(v) The dates on which no inspections were conducted because no explosives were contained in the magazine.

(2) There may be no more than one access point to each magazine site. The Department may approve, in writing, more than one access point to a magazine site if the Department determines that the security of the site will be maintained.

(3) Each magazine must have outer perimeter security that obstructs, to the greatest extent possible, unauthorized access to the magazine by wheeled vehicles. The outer perimeter security must surround the entire magazine site and be located at least 25 feet away from the exterior of any magazine within the site or at least 25 feet away from the inner perimeter security measures, whichever is applicable. The Department may approve, in writing, a lesser distance upon request when the Department determines a lesser distance is appropriate and will not compromise the security of the magazine site. The outer perimeter security requirements can be met by measures approved by the Department as provided for in subsection (g) or by one or a combination of the following:

(i) A sufficient number of personnel assigned to physically inspect each magazine containing explosives or detonators at least once every hour. All persons acting in this capacity shall at all times be equipped with a communications device capable of providing direct verbal communications with either the police department having jurisdiction or another person who has the ability to contact the police department having jurisdiction.

(ii) Closed Circuit Television (CCTV) continuously monitoring the entire outer perimeter, or any portion of the outer perimeter that is not protected by another measure.

(A) The images shall be recorded and maintained at least until magazine integrity is confirmed during the next required site inspection.

(B) The latest output images of all CCTV cameras shall be viewed at least once every hour by a person having direct verbal communications with the police department having jurisdiction.

(iii) Electronic intrusion detection devices including, but not limited to: microwave sensors, seismic detectors, vehicle detectors, alarms or infrared motion detectors.

(A) If microwave sensors, seismic sensors, vehicle detectors or similar devices are used, the zone of detection of the devices shall encompass the entire outer perimeter, or any portion of the outer perimeter that is not protected by another measure.

(B) All systems shall have the capability of providing initial notification of an alert within 15 minutes of an event and an onsite presence in response to an alert within 1 hour.

(C) All systems shall have a backup power supply, and provide an alert in the event of a power loss or a compromise of the system integrity.

(iv) An earthen barrier, a minimum of 7 feet in height. Earthen barriers shall be constructed to obstruct, to the greatest extent possible, unauthorized access by wheeled vehicles. If made of loose soils the earthen barrier shall be compacted and vegetated to the greatest extent possible.

(v) A barrier constructed of boulders. The boulders shall be of a size and weight sufficient to deter, to the greatest extent possible, defeat of the barrier by wheeled vehicles.

(vi) A highwall that is a minimum of 7 feet in height and whose face or slopes are sufficient to obstruct, to the greatest extent possible, unauthorized access to the magazine site by wheeled vehicles.

(vii) Barriers composed of natural terrain features which are impassable, to the greatest extent possible, to wheeled vehicles.

(viii) A fencing system constructed of members that are of sufficient size, strength and anchorage to deter, to the greatest extent possible, the fencing system from being bent over, broken through or uprooted by a wheeled vehicle.

(ix) Other equivalent barriers approved by the Department, in writing.

(4) In addition to the requirements contained in paragraph (3), a magazine or group of magazines within a site that contains high explosives or detonators shall be enclosed by inner perimeter security designed to obstruct, to the greatest extent possible, access by unauthorized persons. The additional inner perimeter security shall be located at least 6 feet away from the exterior of any magazine within the site and at least 25 feet inside and away from the outer perimeter security. The inner perimeter security requirement can be met by measures approved by the Department as provided for in subsection (g) or by one or a combination of the following:

(i) A sufficient number of personnel assigned to physically inspect each magazine containing high explosives or detonators at least once every hour. All persons acting in this capacity shall at all times be equipped with a communications device capable of providing direct verbal communications with either the police department having jurisdiction or another person who has the ability to contact the police department having jurisdiction.

(ii) CCTV continuously monitoring the magazine interior or the exterior of the doors of each magazine containing high explosives or detonators.

(A) The images shall be recorded and maintained at least until magazine integrity is confirmed during the next required site inspection.

(B) The latest output images of all CCTV cameras shall be viewed at least once every hour by a person having direct verbal communications with the police department having jurisdiction.

(iii) Electronic intrusion detection devices including, but not limited to: microwave sensors, seismic detectors, alarms or infrared motion detectors.

(A) If alarms, infrared motion detectors or other similar devices are used, they shall be installed on each magazine containing high explosives or detonators. Alarms shall be installed on all magazine doors. Infrared

motion detectors and other similar devices shall be installed on the interior of each magazine.

(B) If microwave sensors, seismic sensors or similar devices are used, the zone of detection of the devices shall encompass the entire inner perimeter, or any portion of the inner perimeter that is not protected by another measure.

(C) All systems shall have the capability of providing initial notification of an alert within 15 minutes of an event and an onsite presence in response to an alert within 1 hour.

(D) All systems shall have a backup power supply, and shall provide an alert in the event of a power loss or a compromise of the system integrity.

(iv) A highwall that is a minimum of 20 feet in height and whose face or slopes are sufficient to obstruct, to the greatest extent possible, access by unauthorized persons.

(v) A fence constructed of a minimum of 9 gauge chain link fencing with a maximum 2-inch mesh that is kept in a condition which maintains its original functionality. The fence shall:

(A) Be buried at least 1 foot at the base or be equipped with a minimum 1.66 inch outside diameter bottom rail.

(B) Have a minimum height of 8 feet above the ground.

(C) Have a top rail with a minimum 1.66 inch outside diameter.

(D) Have firmly anchored posts 10 feet or less on center. End, corner and pull posts shall have a minimum outside diameter of 2.875 inches if round or 2.5-inch square. Intermediate posts shall have a minimum outside diameter of 2.375 inches if round or 2.25-inch C-Section. Posts shall be set in concrete at a minimum depth of 33 inches. The post holes shall be a minimum of 12 inches in diameter and be completely filled with concrete.

(E) Have outriggers at the top with concertina razor wire attached.

(F) Have concertina razor wire attached on the inside at the bottom.

(G) Have as many gates as the licensee demonstrates are necessary to provide for the safe exit of employees in the event of an emergency.

(H) All inner perimeter security emergency exit gates shall meet the requirements specified in paragraph (6).

(I) Vegetation shall be kept trimmed or suppressed to a distance of 6 feet from each side of the fence.

(vi) The Department may approve, in writing, the use of other security fence systems or other barriers that provide at least equivalent security.

(5) In addition to outer perimeter security, all portable magazines being used as stationary magazines and magazines having an a volume of less than 3 cubic yards shall be immobilized by fastening the magazine securely to the earth or a terrain feature in a manner sufficient to prevent displacement of the magazine by a wheeled vehicle.

(6) Any single layer of perimeter security measures that obstructs, to the greatest extent possible, unauthorized access to the magazine by wheeled vehicles and deters, to the greatest extent possible, access by unauthorized persons, and is located at least 25 feet away from the exterior of any magazine within the site may be employed to satisfy the requirements of both paragraphs (3) and (4).

(7) Inner perimeter security gates shall be constructed at all access points. Gates shall have firmly anchored posts and shall be kept in a condition which maintains their original functionality. Each gate shall be securely padlocked whenever the site is unoccupied.

(i) Gates shall be constructed of a minimum of 9 gauge chain link fencing with a maximum 2-inch mesh. Gate frame members shall be a minimum outside diameter of 1.9 inches if round or 2.0-inch if square.

(ii) Gates shall have firmly anchored gate posts with a minimum 6.625-inch outside diameter. Posts shall be set in concrete at a minimum depth of 42 inches. The postholes shall be a minimum of 16 inches in diameter and shall be completely filled with concrete.

(iii) Gates shall have outriggers at the top with concertina razor wire attached.

(iv) The construction of the gates shall be contiguous with the surrounding fence.

(v) All gates shall have 2 locks. The locks shall have separate hasps and staples.

(vi) Each lock shall have a hood of at least 1/4-inch thick steel. The hoods must prevent sawing or lever-cutting action on the locks, hasps, and staples.

(vii) Each lock shall have at least five tumblers and a case-hardened shackle of at least 3/8 inches in diameter.

(viii) When a lock and chain are used to secure a gate, the minimum specification of the chain shall be 3/8 inch Grade 70, Transport.

(ix) The Department may approve, in writing, the use of other security gate systems that provide at least equivalent security.

(8) Outer perimeter security gates shall be constructed at all access points. Gates shall be designed and constructed to deter, to the greatest extent possible, defeat of the gate by wheeled vehicles. Gates shall have firmly anchored posts and be kept in a condition which maintains their original functionality. Gateposts shall be a minimum 6.625-inch outside diameter. Posts shall be set in concrete at a minimum depth of 42 inches. The postholes shall be a minimum of 16 inches in diameter and be completely filled with concrete. The Department may approve, in writing, the use of gateposts having smaller diameters or other shapes or alternate gatepost anchoring methods, or both, that provide at least equivalent security.

(9) Outer perimeter security gates shall be padlocked whenever the site is unoccupied. All gates shall have 2 locks which meet the specifications of paragraph (7)(vi)—(viii).

(10) "No Trespassing" signs shall be placed around the outer perimeter of the site. Warning signs shall be placed at all access points. Signs shall be well maintained.

(i) "No Trespassing" signs shall be spaced so that, except for corners, adjacent signs are visible.

(ii) Signs shall be placed so that a bullet passing directly through the sign will not impact a magazine.

(iii) Warning signs at all access points shall provide notice of private property and no trespassing, in addition to providing a notice substantially conforming to the following: "Danger, never fight explosives fires, explosives are stored on this site" to warn first responders and the public of the hazards contained within.

(iv) Warning signs at all access points shall provide an emergency contact phone number.

(v) Signs may not be obscured by vegetation or other obstructions.

(vi) Signs shall be constructed of a durable, weather-resistant material. Letters and numbers shall be of a minimum height of 2 inches that can be easily seen and read.

(11) Magazines shall be constructed to the standards contained in this paragraph. Magazines shall be constructed according to the construction standards found in 27 CFR Part 555, Subpart K (relating to storage) with the following additions:

(i) Mobile type 5 magazines being used as stationary magazines for more than 1 year must be located within the outer perimeter security, shall be immobilized in accordance with 27 CFR 555.211 (relating to construction of type 5 magazines) and be fastened securely to the earth or a terrain feature in a manner sufficient to prevent movement of the magazine by a motor vehicle. Motor vehicles used to transport bulk blasting agents that are left unattended at a magazine site must have two Department approved methods of disabling the vehicles to render them effectively immobilized and the vehicles must be kept within the outer perimeter security. Disabling methods may include:

(A) Steering locking devices

(B) Pedal locking devices

(C) Fuel or electrical system disablers.

(D) Other equivalent disabling measures approved by the Department.

(ii) Systems of pumps or tanks, or both, used to store, mix or dispense bulk blasting agents at magazine sites shall be equipped with locks or shall otherwise be constructed to prevent the unauthorized removal of blasting agents from the system.

(12) A person who stores explosive materials shall notify both the local police having jurisdiction in the area where the explosives are being stored and the Pennsylvania State Police of the storage. This notification must be made in the manner of and in addition to the notification requirements in 27 CFR 555.201(f) (relating to general).

(13) A person who stores explosive materials shall immediately notify the Department, the Pennsylvania State Police and the local police jurisdiction, if any, when any of the following occur:

(i) Evidence is discovered of a break-in or theft at the magazine, or an attempted theft or break-in has occurred.

(ii) The security measures required by this section have been breached or disabled or partially breached or disabled. Short-term partial breaches of security of less than 48-hour duration need not be reported under this subsection if all of the following apply:

(A) The partial breach was due to equipment failure or accidental or natural causes.

(B) An account of the partial breach was recorded under paragraph (1).

(C) Immediate measures are being taken to repair or replace the partial breach.

(iii) Unauthorized persons exhibiting suspicious behavior are observed in the vicinity of the magazine.

(iv) Inventory records indicate that explosive material is missing and unaccounted for.

(14) The notifications to State and local agencies required in paragraphs (12) and (13) are in addition to any notification required by agencies of the United States.

(e) Licensees of magazines licensed prior to June 18, 2005, shall comply with this section according to the following schedule except as approved by the Department under subsections (f) and (g):

(1) Immediately upon June 18, 2005, the inspection and notification requirements shall be implemented.

(2) Within 180 days of approval of the plan required by subsections (f) or (g), implement either the outer or inner perimeter security measure requirements.

(3) Within 360 days of approval of the plan required by subsections (f) or (g), implement the remaining perimeter security measure requirements.

(4) The Department, at its sole discretion, may approve, in writing, a time extension to the requirements of either paragraph (2) or (3) if the licensee has demonstrated a good faith effort to comply with the perimeter security measure requirements imposed under this chapter.

(f) By August 17, 2005, licensees of magazines licensed prior to June 18, 2005, shall submit to the Department on forms provided by the Department:

(1) The plan required by § 211.113(b)(6) (relating to application contents).

(2) A schedule for the implementation of the plan required by § 211.113(b)(6).

(3) If the security enhancements required by subsection (d) cannot be implemented in the time frames required by subsection (e), the plan must include a request for a time extension. The request for a time extension must include a schedule and a justification for the extension. The

Department will act upon time extension requests within 30 days of the receipt of the request.

(g) After consultation with the Pennsylvania State Police and the Pennsylvania Office of Homeland Security, the Department may approve, in writing, alternatives to specific requirements of this section which are based upon advanced technology or other alternatives and which, either alone or in combination with other measures, provide at least equivalent security at magazines or magazine sites. The Department will act upon requests for approval of alternative security measures or, upon the written request of the licensee, for approval of plans submitted pursuant to subsection (f) within 30 days of the receipt of the request. The Department may extend this review period for up to an additional 30 days if additional time is necessary to properly review the request.

(h) Requests for Department approval of plans submitted under subsection (f) or alternate requirements, including alternative security measures and time extensions under this section, shall be on forms provided by the Department.

(i) A licensee will be deemed to be in compliance with this section as to having deterred or obstructed, to the greatest extent possible, unauthorized intrusion upon a magazine site if the licensee constructs, installs, implements and maintains the security measures specified in subsection (d), which meet the requirements of this section and which are specified by the licensee in one of the following:

(1) A plan submitted to the Department under subsection (f).

(2) A plan submitted to and approved by the Department under subsection (g).

(3) A plan submitted to the Department under § 211.113(b)(6) (relating to application contents).

[Pa.B. Doc. No. 05-1171. Filed for public inspection June 17, 2005, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51 AND 53]

### Boat and Fishing Guide Operations

The Fish and Boat Commission (Commission) proposes to amend Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to charter boat/fishing guide operations.

#### A. *Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2006.

#### B. *Contact Person*

For further information on the proposed rulemaking, contact Laurie E. Shepler, Chief Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposal is available electronically through the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The Commission is adding Chapter 51, Subchapter L (relating to charter boat/fishing guide operations) under the statutory authority of section 2907.3(d) of the code (relating to fishing guide and charter boat permits, regulations). The proposed amendments to § 63.41 (relating to recognition of fishing guide operations) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. *Purpose and Background*

Under the act of November 29, 2004 (P. L. 1286, No. 159), persons operating charter boat or fishing guide operations on the waters of this Commonwealth are now required to obtain a charter boat/fishing guide permit from the Commission. The new law went into effect on January 1, 2005. However, the Commission has decided to defer implementation of the permit requirement pending the promulgation of rules and regulations for the new program.

The Executive Director established a workgroup consisting of Commission staff and 21 charter boat/fishing guides from across this Commonwealth and assigned them the task of developing draft regulations. The group formally met in January and March 2005 to discuss issues pertaining to this new program. With tremendous input from the charter boat/fishing guides, proposed regulations were drafted. The draft regulations address the majority, if not all, of the concerns raised by the workgroup.

#### E. *Summary of Proposals*

The Commission proposes new regulations to implement the charter boat/fishing guide permitting program. These proposed regulations define key terms and address the permit itself, including the application, the duration, renewals, suspension or revocation and display requirements. The proposal also includes a requirement that when a boat is involved, the operator demonstrate proficiency in boating safety by possessing a boating safety

education certificate acceptable to the Commission. The proposed regulations further include provisions pertaining to insurance, CPR and first aid, fishing licenses and permits and compliance with laws and regulations.

Under section 2907.3 of the code (relating to fishing guide and charter boat permits), holders of charter boat/fishing guide permits may be designated as special issuing agents for the purpose of selling to their customers One-Day Fishing Licenses, Three-Day Tourist Fishing Licenses, Seven-Day Tourist Fishing Licenses and applicable permits. The proposed regulations allow for interested permit holders to become special issuing agents by completing and submitting an application along with a bond or other security in a form acceptable to the Commission in an amount equal to the value of the licenses, stamps and permits being requested. The one-time, nonrefundable application fee required of other issuing agents is waived, and the reporting requirements are less stringent. The Commission proposes that the new regulations read as set forth in Annex A.

Last, the Commission proposes to delete § 63.41 (relating to recognition of fishing guide operations) that relates to the Commission's current voluntary recognition program. Under this program, fishing guide operators may pay a \$50 annual fee for which they receive official recognition of their businesses. This official recognition, among other things, entitles guides to advertise that they have been officially recognized by the Commission and gives them certain privileges with regard to the field dressing of fish. When the mandatory permitting program is in place, the voluntary program will no longer be needed. Thus, the Commission proposes to delete § 63.41 as set forth in Annex A.

#### F. *Paperwork*

The proposed rulemaking will increase paperwork and will create new paperwork requirements in that all persons wishing to operate charter boat or fishing guide operations on the waters of this Commonwealth will have to first apply for and obtain an annual permit from the Commission. The Commission estimates that there are approximately 250 charter boat/fishing guide operations in this Commonwealth. Under the voluntary program, the Commission officially recognized approximately 70 guides this year.

#### G. *Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public. Under section 2715(a.1) of the code (relating to license, permit and issuing agent fees), the fee for a resident charter boat/fishing guide permit is \$100, and the fee for a nonresident charter boat/fishing guide permit is \$400.

#### H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If

an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
Executive Director

**Fiscal Note:** 48A-173. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 51. ADMINISTRATIVE PROVISIONS**

**Subchapter L. CHARTER BOAT/FISHING GUIDE OPERATIONS**

Sec.	
51.121.	Definitions.
51.122.	Permits.
51.123.	Display of permits.
51.124.	Boating safety education.
51.125.	Insurance.
51.126.	CPR and first aid.
51.127.	Fishing license and permits.
51.128.	Compliance with laws and regulations
51.129.	Special issuing agents.
51.130.	Boundary waters.

**§ 51.121. Definitions.**

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

*Charter boat*—A boat operated as a commercial enterprise which carries passengers for hire for the purpose of fishing on the waters of this Commonwealth.

*Charter boat operator*—A person who operates or is in actual physical control of the movement of a charter boat.

*Commercial enterprise*—An operation where a person provides fishing guide or charter boat services in exchange for any consideration, including money, goods or services.

*Fishing guide*—A person who operates a commercial enterprise whereby he guides or leads others persons for the purpose of fishing on the waters of this Commonwealth.

**§ 51.122. Permits.**

(a) *Application.* A person desiring to be a charter boat operator or a fishing guide on the waters of this Commonwealth shall first apply for a permit on the form provided by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2715 of the code (relating to license, permit and issuing agent fees).

(b) *Duration.* Charter boat/fishing guide permits shall be valid for a calendar year and expire on December 31 of the year for which they were issued.

(c) *Renewal.* A holder of a charter boat/fishing guide permit shall apply to the Commission for renewal of the permit by completing the renewal application form provided by the Commission and by submitting it along with the appropriate fee to the Commission.

(d) *Suspension or revocation of permit.* The Commission may suspend or revoke a charter boat/fishing guide permit for noncompliance with the terms and conditions of this chapter or when the charter boat operator or fishing guide is convicted or acknowledges guilt of a violation of the code or this chapter. Suspension or

revocation procedures shall comply with Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges).

(e) *Prima facie evidence.* Advertising by any means, including websites, business cards, brochures, newspapers, periodicals or billboards, that a person provides fishing guide or charter boat services shall be prima facie evidence of a commercial enterprise.

**§ 51.123. Display of permits.**

(a) *Display of permit on outer garment.* While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.

(b) *Officers designated to check permits.* Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.

(c) *Display of decal on charter boats.* When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and below the gunwale near the stern of the boat or on each side window of the cockpit of the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.

**§ 51.124. Boating safety education.**

When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall possess a boating safety education certificate issued by the Commission or by another state in accordance with criteria of the National Association of State Boating Law Administrators or a boat operator's license issued by the United States Coast Guard. Applicants and holders of charter boat/fishing guide permits shall provide proof of certification of boating safety education upon the request of the Commission.

**§ 51.125. Insurance.**

Charter boat operators and fishing guides shall possess and maintain in full force and effect general liability insurance for all periods during which they are operating a charter boat/fishing guide operation on the waters of this Commonwealth. The minimum amount of coverage is \$250,000 for each occurrence and \$500,000 in the aggregate. Applicants and holders of charter boat/fishing guide permits shall provide proof of insurance upon the request of the Commission.

**§ 51.126. CPR and first aid.**

Charter boat operators and fishing guides shall possess and maintain current certification in basic CPR and basic first aid skills. Applicants and holders of charter boat/fishing guide permits shall provide proof of CPR or basic first aid certification upon the request of the Commission.

**§ 51.127. Fishing license and permits.**

Charter boat operators and their crewmembers and fishing guides shall possess valid fishing licenses and the stamps and permits required for the waters in which they

fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers possess a valid fishing license and the appropriate stamps and permits.

**§ 51.128. Compliance with laws and regulations.**

Charter boat operators and fishing guides shall comply with all Federal, State and local laws and regulations. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers comply with all fishing and boating laws and regulations.

**§ 51.129. Special issuing agents.**

(a) The Commission may designate holders of charter boat/fishing guide permits as special issuing agents for the purpose of selling to their customers One-Day Fishing Licenses, Three-Day Tourist Fishing Licenses, Seven-Day Tourist Fishing Licenses and trout/salmon permits and special permits for fishing Lake Erie and tributaries.

(b) A holder of a charter boat/fishing guide permit may seek to become a special issuing agent by completing and submitting to the Commission an application on the form prescribed by the Commission. Applications to become a special issuing agent shall be accompanied by a bond or other security in a form satisfactory to the Commission in an amount equal to the value of the licenses, stamps and permits being requested by the applicant. The one-time, nonrefundable fee required by § 51.35 (relating to operation of the issuing agency) is waived.

(c) Special issuing agents shall file quarterly reports of all fishing licenses, stamps and permits sold during the quarter in the manner determined by the Commission. Special issuing agents may file reports more frequently at the discretion of the agent.

(1) Special issuing agents shall include in their quarterly report detailed sales information and remittance for all licenses, stamps and permits sold during the reporting period.

(2) Special issuing agents shall file their reports so that they are received in the Harrisburg office by the 15th of the month following the reportable quarter.

(3) Special issuing agents shall file a report even if there is no sales activity to report for the quarter. Failure to file a report places the agency in a delinquent status.

(4) Special issuing agents shall indicate their agent number on the report, as well as the remittance.

(d) Special issuing agents shall maintain a bond or other security in a form satisfactory to the Commission in an amount equal to the value of all licenses, stamps and permits they wish to possess at each location where they issue licenses, stamps and permits.

(e) Except as otherwise provided by this section, Chapter 51, Subchapter D (relating to issuing agents) applies to special issuing agents under this section.

**§ 51.130. Boundary waters.**

(a) Residents of this Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a resident charter boat/fishing guide permit.

(b) Nonresidents of this Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a nonresident charter boat/fishing guide permit.

(c) For purposes of this section, there shall be a rebuttable presumption that a person operating a charter boat or fishing guide operation is operating on the waters of this Commonwealth if the person uses a boat launch in this Commonwealth.

**Subpart B. Fishing**

**CHAPTER 63. GENERAL FISHING REGULATIONS**

**§ 63.41. [Recognition of fishing guide operations] (Reserved).**

**[(a) Definitions.** The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

**Charter boat**—A boat operated as part of a fishing guide operation on the waters of this Commonwealth.

**Concurrent jurisdiction waters**—Those waters of this Commonwealth over which the Commonwealth and the United States Coast Guard exercise concurrent jurisdiction, including Lake Erie and the Ohio, Monongahela, Allegheny, Delaware and North Branch, Susquehanna and West Branch, Susquehanna (below Williamsport) Rivers.

**Fishing guide operation**—A commercial enterprise operated for the purpose of guiding or leading persons fishing on the waters of this Commonwealth by boat or otherwise.

**(b) Voluntary official recognition.** The Executive Director may upon application grant official recognition of fishing guide operations. Applications for recognition shall be made on forms provided by the Commission and contain information the Executive Director may require. Denial of official recognition may be appealed in accordance with Chapter 51, Subchapter E (relating to permit procedures).

**(c) Charter boats.** When charter boats are used, applicants for official recognition shall submit the following evidence along with their applications:

**(1) For charter boats carrying six or fewer passengers for hire on concurrent jurisdiction waters:**

**(i) A copy of a valid boat registration certificate, showing the boat use classification as “commercial passenger.”**

**(ii) A copy of the Federal documentation certificate if the boat is required to be documented for commercial service by the United States Coast Guard.**

**(iii) A copy of the operator’s license issued by the United States Coast Guard appropriate for the waters on which the boat will operate.**

**(2) For charter boats carrying seven or more passengers for hire on concurrent jurisdiction waters:**

**(i) A copy of a valid boat registration certificate, showing the boat use classification as “commercial passenger.”**

**(ii) A copy of the Federal documentation certificate if the boat is required to be documented for commercial service by the United States Coast Guard.**

**(iii) A copy of the operator’s license issued by the United States Coast Guard appropriate for the waters on which the boat will operate.**



(iv) A copy of the most recent inspection report for the vessel.

(3) For charter boats carrying six or fewer passengers for hire on waters other than concurrent jurisdiction waters:

(i) A copy of a valid boat registration certificate, showing the boat use classification as "commercial passenger."

(ii) A copy of a boating safety education certificate for all operators.

(4) For charter boats carrying seven or more passengers for hire on waters other than concurrent jurisdiction waters:

(i) A copy of a valid boat registration certificate, showing the boat use classification as "commercial passenger."

(ii) A copy of a boating safety education certificate for all operators.

(iii) A certificate of inspection issued under Chapter 115 (relating to boats carrying passengers for hire).

(d) *Duration and fee.* Official recognition of fishing guide operations shall be valid for a calendar year and shall expire on December 31 of the year of issuance. The annual fee for official recognition is \$50.

(e) *Use of official recognition.* Fishing guide operations recognized under this section may indicate that they have been "Officially Recognized by the Pennsylvania Fish and Boat Commission" in advertisements and by other means.

(f) *Compliance with regulations.* Persons who receive official recognition for fishing guide operations are responsible for ensuring that their employees, passengers and customers comply with fishing and boating regulations. The individual who submits and signs the application shall be the fishing guide or the owner/lessee/captain of the charter boat, and the individual shall be considered the individual party responsible for compliance with regulations. An application for official recognition shall include a provision whereby applicants agree that they will be responsible and are subject to prosecution for any violation of this part that occurs in connection with their operations.

(g) *Reports.* Officially-recognized fishing guide operations shall provide periodic reports to the Commission on the number of passengers or customers, number and species of fish caught and their disposition and other matters the Executive Director may require. Reports shall be submitted on forms approved by the Commission in numbers and at intervals determined by the Executive Director. Not more than four nor less than one report will be required per calendar year.

(h) *Field dressing of fish.*

(1) Notwithstanding § 63.15 (relating to field dressing of fish), fish caught pursuant to officially-recognized fishing guide operations may be filleted and have the head and tail removed before arrival at the place of consumption. The skin shall remain attached to the fillet for species subject to a minimum size limit. The minimum fillet size shall be 75% of the minimum size limit of the fish being filleted.

(2) The fishing guide operation shall give the person who receives the field dressed fish a signed, dated receipt indicating the species and number of fish on a form acceptable to the Commission. A person in possession of the field dressed fish shall carry the receipt with him and display it upon request to an officer authorized to enforce this title until the fish have arrived at the place of consumption. It is the responsibility of the officially-recognized fishing guide operation to ensure that a fish field dressed pursuant to the authority of this subsection complies with applicable season, size and creel limits.

(i) *Holder of official recognition.* Official recognition for a fishing guide operation that does not involve operation of a charter boat will be issued to an individual fishing guide. Each individual fishing guide shall apply for and receive official recognition. Official recognition for charter boats will be issued to the owner/lessee/captain of the boat. Individuals employed as crew members for a charter boat may, but need not necessarily, apply for and receive individual recognition as fishing guides. The operators of charter boats and the crew members shall comply with the licensing and training requirements in subsection (c).

(j) *Suspension or revocation of official recognition.* The Commission may suspend or revoke the official recognition of a fishing guide operation for noncompliance with the terms and conditions of this section or when the guide operation, the individual fishing guide, charter boat owner/lessee/captain or employee or crew member of the guide operation is convicted or acknowledges guilt of a violation of the code or this part related to the fishing guide operation. Suspension or revocation procedures shall comply with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registration or privileges). ]

[Pa.B. Doc. No. 05-1172. Filed for public inspection June 17, 2005, 9:00 a.m.]

[58 PA. CODE CHS. 51, 53, 63 AND 65]  
 General Provisions; Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 51, 53, 63 and 65. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments include housekeeping changes to the regulations and eliminate the requirement that tournaments, as a condition for culling, establish a daily limit of one fish less than the Statewide creel limit.

A. *Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2006.

B. *Contact Person*

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposal is available electronically through the Commission's website www.fish.state.pa.us.

### C. Statutory Authority

The proposed amendments to §§ 51.32, 51.33, 53.24 and 63.40 are published under the statutory authority of sections 322 and 2102 of the code (relating to rules and regulations; and rules and regulations). The proposed amendments to § 51.35 (relating to operation of issuing agency) are published under the statutory authority of section 2711 of the code (relating to issuing agents). The proposed amendments to § 63.20 (relating to permits for the protection and management of trout and salmon) are published under the statutory authority of section 2904 of the code (relating to permits for the protection and management of particular fish). The proposed amendments to § 65.13 (relating to wild brook trout enhancement) are published under the statutory authority of sections 2102 and 2307 of the code (relating to rules and regulations; and waters limited to specific purposes).

### D. Purpose and Background

The proposed rulemaking is designed to improve, make consistent and update the Commission's regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals.

### E. Summary of Proposals

(1) *Sections 51.32, 51.33, 51.35, 63.20 and 65.13.* Upon review of existing regulations relating to the sale and issuance of licenses and permits, the Commission has identified the need to make a few housekeeping changes to update these regulations and to keep them consistent with the act of November 29, 2004 (P. L. 1286, No. 159). The Commission has also identified the need for other housekeeping changes. For example, § 51.32(b) (relating to resident and nonresident licenses) refers to the Soldiers' and Sailors' Civil Relief Act of 1940, which needs to be updated as the Servicemembers Civil Relief Act. The Commission further proposes amending § 51.35 to allow other forms of security for issuing agents, in addition to bonds, to make this section consistent with the code.

In addition, § 63.20(f) provides that persons fishing in waters under special trout regulations designated under §§ 65.1—65.3 and 65.5—65.7 are required to have a trout/salmon permit. However, since that provision was first adopted, the Commission has added new special regulation programs for managing trout, including the wild brook trout enhancement program, and has ended others. The Commission proposes removing the references to specific programs in § 63.20(f) and instead including the requirement for a trout/salmon permit in the regulations pertaining to the individual programs, as in § 65.13.

The Commission proposes that these sections be amended to read as set forth in Annex A.

(2) *Sections 53.24 and 63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies).* As an outgrowth of recent discussions with tournament anglers and sponsors, there is interest in amending the Commission's current regulations dealing with culling. It is proposed that the Commission eliminate the requirement that tournament rules establish a daily limit of at least one fish less than the Statewide creel limit. This change will not have a negative fisheries impact, and the Bureau of Law Enforcement does not anticipate any problems.

The Commission proposes that these sections be amended to read as set forth in Annex A.

### F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

### G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
Executive Director

**Fiscal Note:** 48A-171. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart A. GENERAL PROVISIONS

#### CHAPTER 51. ADMINISTRATIVE PROVISIONS

##### Subchapter D. ISSUING AGENTS

#### § 51.32. Resident and nonresident licenses.

\* \* \*

(b) Military personnel who are stationed in this Commonwealth under permanent change of station orders (PCS) for a duration of 6 months or more may qualify as bona fide residents for the purpose of obtaining resident fishing licenses regardless of the fact they may maintain a legal domicile in another state as authorized by the [ **Soldiers' and Sailors' Civil Relief Act of 1940** ] **Servicemembers Civil Relief Act** (50 U.S.C.A. App. §§ 501—[ **591** ] **596**). Military personnel who are domiciled in this Commonwealth but who are stationed in another state or country qualify as bona fide residents of this Commonwealth for fishing license purposes so long as they do not become domiciles of another state.

\* \* \* \* \*

§ 51.33. Effective dates of licenses and [ **trout/salmon** ] permits.

(a) Fishing licenses and **related** permits [ , **such as trout/salmon permits** ] are valid for the year printed on the license certificate or permit, and the month of December of the preceding year, except for **1-day and** tourist licenses that are valid for the dates specified on the license certificate.

[ **(b) Annual licenses and permits for 2005 are valid for the 2005 year and any part of December 2004 commencing on the date of sale.** ]

§ 51.35. Operation of the issuing agency.

(a) A person, sole proprietorship, partnership or corporation may apply to become an issuing agent of the Commission for the purpose of selling fishing licenses. An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and shall pay a one-time, nonrefundable fee of \$100. Applications shall be accompanied by a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Executive Director or designee.

\* \* \* \* \*

CHAPTER 53. FISH AND BOAT COMMISSION PROPERTY

§ 53.24. Tournament and fishing derby permits.

\* \* \* \* \*

(c) Special activity permit for fishing tournaments.

\* \* \* \* \*

(5) Permit conditions. The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include:

\* \* \* \* \*

(ix) Upon request of an applicant for a tournament permit, the Commission may include a condition providing that one or more uninjured largemouth bass, smallmouth bass or spotted bass that an angler is landing, measuring or in the process of releasing from a recirculated or aerated livewell will not be considered as part of the daily creel limit if the fish is caught during a tournament that as part of its rules penalizes the return of any dead or distressed bass to the water, [establishes a daily limit of at least one fish less than the Statewide creel limit, ] requires use of recirculating or aerated temperature-controlled livewells, distributes to the contestants instructions on the proper maintenance and use of livewells and limits the fishing hours to no more than 9 hours per day. This permit condition will be included only in circumstances when the Commission finds that permitting culling will have no substantial adverse impacts on the protection and management of fish.

\* \* \* \* \*

Subpart B. Fishing

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.20. Permits for the protection and management of trout and salmon.

\* \* \* \* \*

(c) Form. Trout/salmon permits issued under this section shall be in the form of a stamp which shall be affixed to the person's fishing license and signed over the face of the stamp. The stamp shall bear a design, as may be approved by the Commission, together with the year for which it is valid. [ Trout/salmon permits shall be valid from January 1—December 31 of the year in which they are issued.

(d) Fee. Trout/salmon permits shall be issued by the Commission or an issuing agent approved by the Commission upon payment of a fee of \$5.

(e) ] (d) Exceptions.

\* \* \* \* \*

[(f)](e) Fish for trout or salmon. A person fishes for trout or salmon when one of the following applies:

(1) The person fishes in [ waters under special trout regulations designated under §§ 65.1—65.3 and 65.5—65.7, ] wilderness trout streams or their tributaries or Class A wild trout waters or their tributaries.

\* \* \* \* \*

§ 63.40. Fishing tournaments and fishing derbies.

\* \* \* \* \*

(b) Permits. It is unlawful to conduct a fishing tournament on Commonwealth waters without obtaining a special activity permit under this section.

\* \* \* \* \*

(4) Permit conditions. The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include:

\* \* \* \* \*

(vi) Upon request of an applicant for a tournament permit, the Commission may include a condition providing that one or more uninjured largemouth bass, smallmouth bass or spotted bass that an angler is landing, measuring or in the process of releasing from a recirculated or aerated livewell will not be considered as part of the daily creel limit if the fish is caught during a tournament that as part of its rules penalizes the return of any dead or distressed bass to the water, [establishes a daily limit of at least one fish less than the Statewide creel limit, ] requires use of recirculating or aerated temperature-controlled livewells, distributes to the contestants instructions on the proper maintenance and use of livewells and limits the fishing hours to no more than 9 hours per day. This permit condition will be included only in circumstances when the Commission finds that permitting culling will have no substantial adverse impacts on the protection and management of fish.

\* \* \* \* \*

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.13. Wild brook trout enhancement.

\* \* \* \* \*

(b) It is unlawful to fish in designated "Wild Brook Trout Enhancement Regulations" waters except in compliance with the following requirements:

\* \* \* \* \*

(5) A current trout/salmon permit is required.

[Pa.B. Doc. No. 05-1173. Filed for public inspection June 17, 2005, 9:00 a.m.]

[58 PA. CODE CHS. 63 AND 69]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 63 and 69 (relating to general fishing regulations; and fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rule-making under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments clarify the definition of approved trout waters. They also eliminate the minimum size limit for recreationally caught yellow perch in Lake Erie and its tributaries during the period, April 1 through November 30, and for

commercially caught yellow perch and increase the recreational creel limit to 30.

#### A. *Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2006.

#### B. *Contact Person*

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposal is available electronically through the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed amendments to §§ 63.3 and 69.12 (relating to fishing in approved trout waters; and seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendments to § 69.33 (relating to use of trap nets) are published under the statutory authority of section 2903 of the code (relating to boats and net licenses for boundary lakes).

#### D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance, clarify and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals.

#### E. *Summary of Proposals*

(1) *Section 63.3.* This section provides that the term "approved trout waters" means "designated waters open to public fishing that are stocked with trout." Prior to late 2002, the Commission's regulations defined the list of approved trout waters as the list contained in the "Summary Book." That definition did not allow the Commission much flexibility in adding and removing waters from the list. Accordingly, the current definition was added.

This definition is not entirely consistent with the way that the Commission historically has designated waters as approved trout waters. Specifically, the Commission historically has designated entire waters or sections of waters as being approved trout waters even though they may contain parts that are closed to public fishing and therefore are not stocked with trout. These waters or sections, however, are primarily open to the public. To remove the portions that are closed to the public from the list of approved trout waters would create a complicated patchwork of waters that are approved trout waters and those that are not. It would create difficulty in enforcement and would cause confusion among anglers.

To make the definition of approved trout waters consistent with the Commission's historical approach, the Commission proposes that § 63.3 be amended to read as set forth in Annex A.

(2) *Sections 69.12 and 69.33.* Dramatic declines in Lake Erie yellow perch in waters of this Commonwealth during the 1990s required conservative harvest regulations for the fisheries. In 1996, the daily creel limit was reduced to 20 perch and an 8 inch minimum size limit was implemented to reduce exploitation and enhance spawning stock size. In 2002, the Commission amended its regulations to reduce the minimum size limit from 8 inches to 7 inches during the period, December 1 through March 31, while maintaining the 8 inch minimum size limit during the period, April 1 through November 30. An 8.5 inch minimum size limit is in effect for commercially caught yellow perch in this Commonwealth.

Other jurisdictions have implemented yellow perch conservation measures, but none continue to be as conservative as the Commonwealth. None of the jurisdictions have a recreational minimum size limit. Ohio has a creel limit of 30. Other jurisdictions have creel limits of 50.

By 2004, the Lake Erie perch had recovered to levels of abundance seen in the late 1980s with a 350% increase since the early 1990s. Even more dramatic, the 2004 population will more than double in 2005 due to the very large 2003 year-class. The 2004 boat angler survey estimated Commonwealth anglers harvested over 500,000 perch of the 750,000 perch that were caught. Thus, about 198,000 yellow perch were released because they were undersize. Catch and release mortality can be high because of hydraulic decompressing when there are large numbers of undersize yellow perch. With the very strong 2003 year class growing into the population as 3 year olds in 2006, losses could far exceed those seen in previous years.

The opportunity exists to reduce these losses and allow this Commonwealth's yellow perch anglers to benefit from the large yellow perch populations with an increase in harvest with large yellow perch populations. Appropriate regulatory changes include eliminating the minimum size limit for recreationally caught yellow perch during the period, April 1 through November 30, and for commercially caught yellow perch and increasing the recreational creel limit to 30. These actions will reduce the release rate and any associated mortality. The commercial catch will continue to be controlled with a quota set at 30,000 pounds for this Commonwealth for 2005.

The yellow perch population is strong in Lake Erie and this Commonwealth's portion of Lake Erie. The Commission's evaluations suggest that the exceptional fishing should be sustained for several years. Beyond that, fishing quality would depend on yellow perch reproductive success in the coming years. The Commission will continue to be diligent in its assessment of Lake Erie fish stocks and increase the agency's agility in responding to changes in population status.

The Commission proposes to amend §§ 69.12 and 69.33 to read as set forth in Annex A.

#### F. *Paperwork*

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

#### G. *Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

#### H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-174. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**Part II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 63. GENERAL FISHING REGULATIONS**

**§ 63.3. Fishing in approved trout waters.**

It is unlawful to fish in approved trout waters from 12:01 a.m. March 1 to 8 a.m. on the opening day of trout

season in April. As used in this subpart, the term "approved trout waters" means designated waters **that contain significant portions that are** open to public fishing [ **that** ] **and** are stocked with trout. A listing of approved trout waters is published in the Commission's "Summary of Fishing Regulations and Laws," which is available from the Commission at Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. The Executive Director or a designee may, from time to time, supplement or modify the list of approved trout waters, and additions or deletions will be published in the *Pennsylvania Bulletin*.

**CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES.**

**Subchapter B. SPORT FISHING AND ANGLING**

**§ 69.12. Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries.**

\* \* \* \* \*

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
YELLOW PERCH	From December 1 through March 31	7 inches	[ 20 ] 30
	From April 1 through November 30	[ 8 inches ] None	[ 20 ] 30
	* * * * *		

**Subchapter D. COMMERCIAL FISHING, SEASONS AND NETS**

**§ 69.33. Use of trap nets.**

\* \* \* \* \*

(b) *Species.* A commercial trap net licensee may not possess or sell a fish except in compliance with the following size limits and seasons. The following size limits apply to commercial trap net licensees except that 5% of each licensee's daily catch by number per species may be undersized fish that may be lawfully sold:

<i>Species</i>	<i>Size Limit</i>	<i>Season</i>
Yellow perch ( <i>Perca flavescens</i> )	[ 8 1/2 inches ] None	No closed season until the total allowable catch is taken
	* * * * *	

[Pa.B. Doc. No. 05-1174. Filed for public inspection June 17, 2005, 9:00 a.m.]

**[58 PA. CODE CHS. 103 AND 111]**

**Boating**

The Fish and Boat Commission (Commission) proposes to amend Chapters 103 and 111 (relating to rules of the road; and special regulations counties). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments remove the requirement that all boat traffic operate in a counterclockwise fashion and limit the number of water ski devices on certain Commonwealth lakes.

**A. Effective Date**

The proposed amendments, if approved on final-form, will go into effect on January 1, 2006.

**B. Contact Person**

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposal is available electronically through the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

**C. Statutory Authority**

The proposed amendment to § 103.3 (relating to restriction for special areas) is published under the statutory authority of section 5123 of the code (relating to general boating regulations). The proposed amendments to §§ 111.3, 111.6, 111.13, 111.58, 111.64 and 111.66 are published under the statutory authority of sections 322 and 5124 of the code (relating to rules and regulations; and particular areas of water).

**D. Purpose and Background**

The proposed rulemaking is designed to improve and update the Commission's boating regulations to enhance the recreational boating experience. The specific purpose of the proposed amendments is described in more detail under the summary of proposals. The Commission's Boating Advisory Board (BAB) considered the proposed changes and recommended that the Commission publish a notice of proposed rulemaking containing the proposed amendments.

**E. Summary of Proposals**

(1) *Section 103.3.* This section, which requires motorboats to operate in a counterclockwise fashion insofar as

reasonably possible, has been in place for many years and was promulgated in an attempt to regulate boating traffic patterns on our inland waters. While the regulation has been successful in establishing an operational pattern, its language is ambiguous in that it allows for operation "insofar as reasonably possible." This caveat was included to allow deviation from the rule in some (or most) circumstances. It establishes an operational pattern but makes strict enforcement problematic.

The regulation presents several issues or questions for enforcement purposes. For example, if someone wants to go directly across a lake, rather than follow the shoreline in a counterclockwise direction, is that legal? On some lakes, counterclockwise operation is impossible because of obstructions. On large lakes, strict compliance with the regulation forces boaters to travel miles out of their way. If every boat were to operate under this counterclockwise operation rule, other rules concerning crossing situations and head-on passing would be unnecessary since no one would ever cross or meet another boat head on. The Navigation Rules are in place to enhance safety in crossing and passing situations.

A survey of other states' boating regulatory agencies reveals that they do not believe this type of regulation should be universally applied as it is here in this Commonwealth. If they have a similar regulation at all, it is only for specific waterways or for water skiing in specific areas.

The Navigation Rules in the Inland Steering and Sailing Rules, Rule 9, Narrow Channels state (in part): "(a)(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable." The Rules are silent concerning the operation of boats in other than narrow channels. The Rules assume that the rules with regard to crossing, overtaking and passing are sufficient to control operation on these waters.

Accordingly, the Commission proposes that § 103.3(a) be deleted as shown in Annex A.

(2) Sections 111.3, 111.6, 111.13, 111.58, 111.64 and 111.66. The BAB requested a review of the existing water skiing regulations that limit the number of water skiers or water skiing devices that may be towed behind a boat to identify those special regulations targeting single skier restrictions and recommend changes to these regulations to improve recreational opportunities. The original intention of most of these special regulations was to limit the number of water ski ropes rather than the number of persons on the skis. (In some cases, such as at Blue Marsh Lake, there was an intention to limit the number of persons.) A review of the regulations revealed inconsistency in language across the regulations that should be corrected. Additionally, since towed inflatables are regulated the same as water skis, the number of persons that can be towed on an inflatable is also limited to one. This creates problems for people whose device is manufactured to carry multiple persons and who wish to ride on the inflatable with younger children.

The Commission finds little justification in not allowing more than one skier if the number of water ski devices is limited. Also, since these regulations were put in place for safety on crowded lakes, the current restrictions do not seem appropriate for nonweekend and nonholidays or during the early or late season for most waterways. The Commission recommends that where the number of skiers needs to be restricted because of safety concerns, the

number of tow lines should be restricted rather than the number of persons on the ski device. The Commission also recommends that the restriction be placed only on weekends and holidays during the primary boating season.

Accordingly, the Commission proposes to amend these various sections to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-172. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart C. BOATING**

**CHAPTER 103. RULES OF THE ROAD**

**§ 103.3. Restriction for special areas.**

(a) [ **To provide for an orderly flow of boat traffic, motorboats shall operate in a counterclockwise fashion insofar as reasonably possible on all waters of this Commonwealth.**

(b) ] \* \* \*

[ (c) ] (b) \* \* \*

[ (d) ] (c) \* \* \*

**CHAPTER 111. SPECIAL REGULATIONS  
COUNTIES**

**§ 111.3. Armstrong County.**

(a) *Crooked Creek Lake.*

(1) [ **A boat may not tow more than one water skier. ] A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.**

\* \* \* \* \*

**§ 111.6. Berks County.**

(a) *Blue Marsh Lake.* [ **The following special regulations apply to Blue Marsh Lake:** ]

\* \* \* \* \*

\* \* \* \* \*

(3) [ No more than one water skier may be towed behind a boat. ] A boat may not tow more than one water ski device.

\* \* \* \* \*

§ 111.13. Carbon County.

(a) *Beltzville Lake—Beltzville State Park.* [ The following regulations apply to Beltzville Lake: ]

\* \* \*

(2) Waterskiing is prohibited except between sunrise and sunset in the designated ski zone. Boats in this zoned area shall operate in a counter-clockwise direction. Boats not engaged in waterskiing shall remain outside the ski zone area while waterskiing is in progress. [ On weekdays, it is unlawful for a boat to tow more than two water-skiers at a time. On weekends—Saturdays and Sundays—and Federal holidays, it is unlawful for a boat to tow more than one water-skier at a time. ] A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

\* \* \* \* \*

§ 111.58. Susquehanna County.

\* \* \* \* \*

(d) *Laurel Lake.*

(1) *Internal combustion motors are prohibited.* [ After April 1, 1997, the operation of boats powered by internal combustion motors is prohibited ] Internal combustion motors are prohibited except as otherwise provided in this subsection.

\* \* \*

(3) *Restrictions on operation of boats powered by internal combustion motors.* Operation of boats powered by internal combustion motors is subject to the following restrictions:

(i) *Ski devices.* [ No more than one water ski device with a maximum of one skier may be towed by a boat. ] A boat may not tow more than one water ski device.

\* \* \* \* \*

§ 111.64. Wayne County.

\* \* \* \* \*

(b) *Duck Harbor Pond.*

(1) [ A boat may tow only one water skier at a time. ] A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

\* \* \* \* \*

(c) *Long Pond.*

(2) [ The operation of boats using more than one water ski tow rope or towing more than two skiers is prohibited. ] A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

\* \* \* \* \*

§ 111.66. Wyoming County.

\* \* \* \* \*

(b) *Lake Winola.*

(1) [ No more than two waterskiers may be towed behind a boat. ] A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

\* \* \* \* \*

[Pa.B. Doc. No. 05-1175. Filed for public inspection June 17, 2005, 9:00 a.m.]

[58 PA. CODE CH. 75]

[Correction]

Fishing; Endangered Species

The Fish and Boat Commission (Commission) published a notice of proposed rulemaking at 35 Pa.B. 2398 (April 23, 2005) seeking public comments regarding proposed amendments to 58 Pa. Code Chapter 75 (relating to endangered species) that, among other things, adds the eastern spadefoot toad to the list of State endangered species. The preamble of the notice of proposed rulemaking erroneously states that two extant breeding populations of eastern spadefoot toads are currently reported in this Commonwealth in Northumberland and Berks Counties. The correct counties are Northumberland and Berks Counties.

In light of this error, the Commission is seeking public comments for an additional 30-day period. Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
Executive Director

[Pa.B. Doc. No. 05-764. Filed for public inspection April 22, 2005, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Environmental Protection

The Executive Board approved a reorganization of the Department of Environmental Protection effective May 27, 2005.

The organization chart at 35 Pa.B. 3427 (June 18, 2005) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 05-1176. Filed for public inspection June 17, 2005, 9:00 a.m.]

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

**SECRETARY**

Office of General Counsel  
 Chief Counsel  
 General Law Division  
 Regional Offices (6)  
 Bureau of Investigation  
 Bureau of Regulatory Counsel

Office of the Budget  
 Comptroller

**Boards/Commissions/Committees**  
 Agricultural Advisory Board  
 Air Quality Technical Advisory Committee  
 Cleanup Standards Scientific Advisory Board  
 Coal and Clay Mine Substance Insurance Fund  
 Coastal Zone Advisory Committee  
 Dredging Advisory Committee  
 Environmental Quality Board  
 Environmental Quality Board  
 Laboratory Accreditation Advisory Committee  
 Low Level Waste Advisory Committee  
 Mining and Reclamation Advisory Board  
 Oil and Gas Technical Advisory Board  
 Radiation Protection Advisory Committee  
 Recycling Fund Advisory Committee  
 Sewage Advisory Committee  
 Small Business Compliance Advisory Committee  
 Small Water Systems Technical Assistance Center Board  
 Solid Waste Advisory Committee  
 State Board for Certification of Sewage Enforcement Officers  
 State Board for Certification of Sewage Treatment Plant and Waterworks Operators  
 State Conservation Commission  
 Storage Tank Advisory Committee

**SECRETARY**

Office of Environmental Advocate

Office of Communications  
 Legislative Office

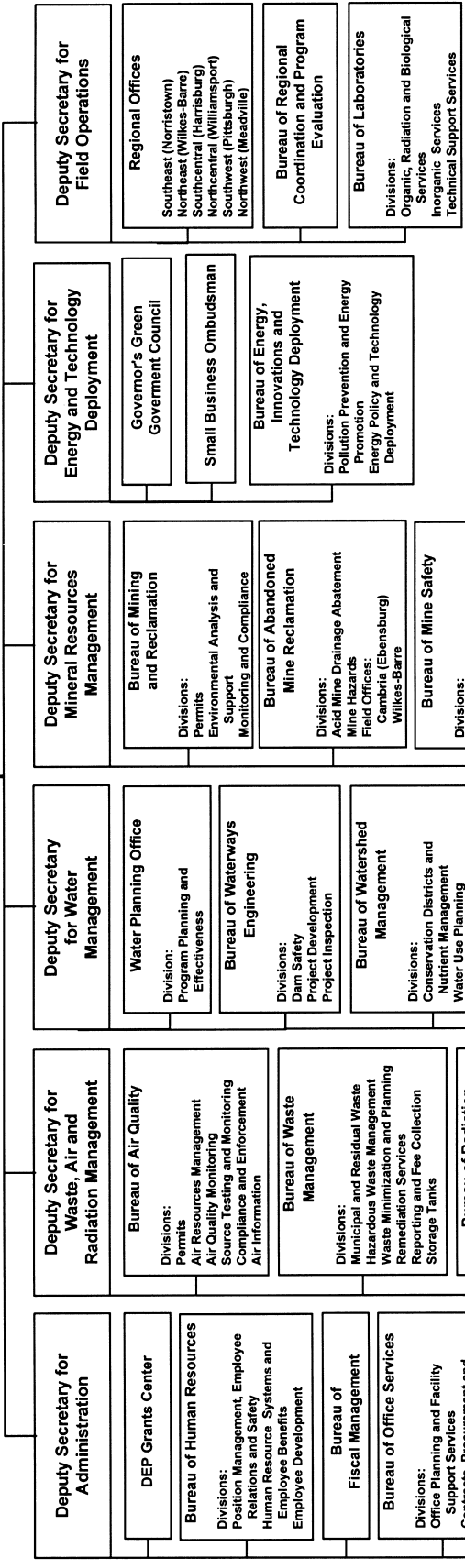
Special Deputy Secretary  
 Revitalization and Local Government Support  
 Land Recycling Program

Special Deputy Secretary  
 Office of Communications  
 Legislative Office

Special Deputy Secretary

Special Deputy Secretary  
 Community Development

Deputy Secretary for Administration



# NOTICES

## DEPARTMENT OF AGRICULTURE

### Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$500,000 in grants under its Year 2006 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$10,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

The proposed guidelines and conditions for the Program are set forth as follows.

In fulfillment in 7 Pa. Code § 23.4 (relating to conditions and guidelines), the Department invites public and legislative review of these proposed guidelines and conditions. Commentators should submit their comments, in writing, so they are received by the Department no later than 30 days from the date the proposed guidelines and conditions are published in the *Pennsylvania Bulletin*. Comments should be directed to Mary Bender, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

The Department will review and consider written comments in preparing the final guidelines and conditions for the Program. The final guidelines and conditions for the Program will be published in the *Pennsylvania Bulletin* after the close of the comment period referenced. The Department will invite the submission of grant applications at that time.

#### Proposed Guidelines and Conditions for the Year 2006 Dog Control Facility Bill Reimbursement Grant Program

##### 1. Definitions.

The following words and terms, when used in these guidelines and conditions, have the following meanings:

*Department*—The Department of Agriculture.

*Dog control*—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in section 102 of the Dog Law (3 P. S. § 459-102).

*Eligible Bill*—A document seeking payment for materials, services or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers,

computer equipment or software. Examples of eligible materials include the following:

- Cleaning supplies.
- Office supplies—typical supplies used to carry on daily office duties.
- Materials for building and repair projects.
- Purchases of medication, needles, and the like.

iv. If for services, a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:

- Labor charges with respect to which the invoice details the exact service performed and the date of performance.
- Veterinarian services with respect to which the invoice identifies the dog treated and the reason for the treatment. Veterinarian services may not include spay/neuter services.

- Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.

v. If for utilities (such as, electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.

vi. The name, address and telephone number of the entity issuing the invoice or receipt.

*Humane society or association for the prevention of cruelty to animals (SPCA)*—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in section 102 of the Dog Law.

*Program*—The Year 2006 Dog Control Facility Bill Reimbursement Program.

##### 2. Eligibility.

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

- a. Has been in operation for at least 1 year immediately preceding the application date.
- b. Has performed dog control functions for at least 1 year immediately preceding the application date.
- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.
- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2006.
- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2006.

f. Has a valid Pennsylvania 2006 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (such as, boarding kennel or commercial kennel, or both) at the same location are not eligible to participate in this program.

g. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2006 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2006, the maximum grant amount will not exceed \$10,000.

h. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2006 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2006, the maximum grant amount will not exceed \$5,000.

### 3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$10,000 with respect to any application.

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2006 through December 31, 2006. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2006, or after December 31, 2006, that bill is not an eligible bill and will not be reimbursed by the Department under the Program. The sole exception to the prohibition set forth in the preceding sentence is as follows: If a bill covers materials, services or utilities provided in part in 2005 and in part in 2006, and the grant recipient was also a grant recipient under the Year 2005 Dog Control Facility Bill Reimbursement Program, the Department may, at its discretion, consider the bill an eligible bill.

### 4. Application Process.

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request. Requests for application forms should be directed to Mary Bender, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

- i. The name and address of the applicant.
- ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.

- iii. The maximum grant amount sought by the applicant—not to exceed \$10,000.

- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2005 for the same type of materials, services or utilities for which reimbursement will be sought under the grant agreement.

- v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from State Dog Wardens performing dog control functions, through the year 2006.

- vi. Other information as the Department might reasonably require.

### 5. Review and approval of grant application.

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 60 days from the date the Bureau of Dog Law Enforcement receives the grant application, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation in order to evaluate the grant request, it will so advise the applicant within 60 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

- i. The number of applications received and the availability of funds for the grants sought.
- ii. The relative contribution of the applicant to dog control activities in the area it serves.
- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.
- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

- v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

- vi. The relative contribution of the applicant in terms of the number of stay or unwanted dogs it accepts from the Department's State Dog Wardens performing dog control functions.

### 6. Grant agreement.

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions under which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By May 15, 2006, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1 and April 30, 2006; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a

detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By September 15, 2006, the grant recipient will: (1) deliver copies of the eligible bills it has paid between May 1 and August 31, 2006; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By January 15, 2007, the grant recipient will: (1) deliver copies of the eligible bills it has paid between September 1 and December 31, 2006; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control

activities performed by the successful applicant during the referenced 4-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 90 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 05-1177. Filed for public inspection June 17, 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 June 7, 2005.

#### BANKING INSTITUTIONS

##### Mutual Holding Company Reorganization

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-1-05	North Penn Bank Scranton Lackawanna County	Scranton	Effective
Represents reorganization into a mutual holding company to be known as North Penn Mutual Holding Company, Scranton, PA, a newly formed Pennsylvania mutual holding company and 100% owner of North Penn Bancorp, Inc., Scranton, PA, a newly formed Pennsylvania stock holding company. North Penn Bank will be a wholly owned subsidiary of North Penn Bancorp, Inc.			

##### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-1-05	North Penn Bank Scranton Lackawanna County	Scranton	Effective
Represents conversion from a State-chartered mutual savings bank to a State-chartered stock savings bank in conjunction with the reorganization into a mutual form of ownership listed previously.			
6-1-05	The First National Bank of Canton Canton Bradford County	Canton	Filed
<i>To:</i> Bank of Canton Canton Bradford County			
Application represents conversion from a National association to a Pennsylvania State-chartered commercial bank.			
6-3-05	Vartan National Bank Harrisburg Dauphin County	Harrisburg	Application Withdrawn
<i>To:</i> Vartan Bank Harrisburg Dauphin County			
Application was for the conversion of the previously mentioned bank from a National banking association to a Pennsylvania State-chartered bank.			

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-24-03	Earthstar Bank Southampton Bucks County	48 West Skippack Pike Broad Axe Whitpain Township Montgomery County	Opened
6-6-05	Bucks County Bank Doylestown Bucks County	2084 Street Road Bensalem Bucks County	Filed
6-6-05	Northwest Savings Bank Warren Warren County	Route 228 Commercial Center Cranberry Township Butler County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-1-05	Northwest Savings Bank Warren Warren County	<i>To:</i> 200 West Beaver Avenue State College Centre County  <i>From:</i> 201 West Beaver Avenue State College Centre County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-27-05	The Legacy Bank Harrisburg Dauphin County	140 Can-Do Expressway Hazleton Luzerne County	Effective
6-1-05	First Commonwealth Bank Indiana Indiana County	511 Pine Grove Road State College Centre County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
6-1-05	CNB Community Bank Clarion Clarion County	Amendment to Article 1 of the Articles of Incorporation provides for a change in corporate title from CNB Community Bank to Clarion County Community Bank.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 05-1178. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Community Development Block Grant Disaster Recovery Funds Program Guidelines; Proposed Amendments

The Department of Community and Economic Development (Department) proposes two minor amendments to the Commonwealth's Action Plan for Federal Fiscal Year (FFY) 2005 and the Program Year that starts on January 1, 2005. The 2005 Action Plan is an update of the

Commonwealth's Consolidated Plan for FFY 2004-2008. These amendments: 1) revise how the Commonwealth will utilize HOME funds in the 2005 Action Plan and updates documents previously submitted to the United States Department of Housing and Urban Development (HUD); and 2) summarize the method of distribution for special disaster recovery funds the Department proposes to administer through the Community Development Block Grant (CDBG) program.

*HOME Program*

The Department, under a subrecipient agreement, will reserve a greater portion of the 2005 HOME allocation for distribution by PHFA for homebuyer projects (12.4%) and existing owner occupied rehabilitation housing activities (40%) in addition to the portion previously allocated for

rental housing development (35%). Additionally, the allocation of 2005 American Dream Downpayment Initiative funds and any unallocated prior year funds will be provided for distribution by PHFA. During the first 6 months of this change, PHFA will not alter the priorities, goal statements or method of distribution of HOME funds. PHFA will operate in collaboration with the Department to award funds consistent with the process as the Department has been or would have awarded those funds.

*CDBG Disaster Recovery Grant*

The Department has applied to HUD for \$2,528,243 in CDBG Disaster Recovery Grant funds to assist communities in recovering from a series of severe storms, flooding, Tropical Storms and Tropical Depressions that affected this Commonwealth between September 15, 2003, and October 1, 2004. This funding is administered under a special Congressional appropriation of CDBG program funds and subsequent regulations that were published at 69 FR 72100 (December 10, 2004).

Notice of availability of this funding was announced at 35 Pa.B. 1589 (March 5, 2005), through the Department's website and e-mail to a large number of potential applicants. The Department developed guidelines to evaluate applications, established priority activities and established a scoring system. This process identified activities to repair and rehabilitate housing as priority activities. Twenty applications for funding consideration were received. If the Department is awarded this funding from HUD, the Department will contract with ten municipalities which have submitted applications which were determined to have identified the greatest disaster recovery need.

These minor amendments are anticipated to become effective as of July 1, 2005.

Individuals who wish to comment on these amendments may send those comments to Karen Smith, Department of

Community and Economic Development, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA, 17120.

DENNIS YABLONSKY,  
*Secretary*

[Pa.B. Doc. No. 05-1179. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, June 29, 2005, at 9 a.m. in the Harmony Room, Split Rock Resort, One Lake Drive, Lake Harmony, PA.

Questions concerning this meeting or agenda items should be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 05-1180. Filed for public inspection June 17, 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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0012149	Dixon Ticonderoga Company Route 61 Deer Lake, PA 17961	West Brunswick Township Schuylkill County	Pine Creek Watershed 3A CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0086461 (Sewage)	Pinch Pond Campground 3075 Pinch Pond Road Manheim, PA 17545	Lancaster County Rapho Township	Chickies Creek/7-G	Y
PA0083526 (Industrial Waste)	RH Sheppard Co., Inc. 101 Philadelphia Street Hanover, PA 17331	York County Hanover Township	UNT Oil Creek/7-H	Y
PA0083160 (Sewage)	Anchor Mobile Estates Peifer & Gross, Inc P. O. Box 506 Elizabethtown, PA 17022	Adams County Butler Township	Willoughby Run/13-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0020800	White Deer Township Sewer Authority	White Deer Township Union County	UNT West Branch Susquehanna River (SWP 10C)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0033839	Blair's Green Acres Mobile Court 6350 U.S. Route 322 Franklin, PA 16323	Cranberry Township Venango County	UNT to East Sandy Creek 16-G	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0025356	Mercer Borough 147 North Pitt Street Mercer, PA 16137	Mercer Borough Mercer County	Neshannock Creek 20-A	Y

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## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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### III. WQM Industrial Waste and Sewerage Applications Under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 6705403**, Sewerage, **Northeastern York County Sewer Authority**, P. O. Box 516, 175 Chestnut Street Extended, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction/operation of the Rentzel Pumping Station for a proposed 227 single-family residential subdivision.

**WQM Permit No. 3105402**, Sewerage, **Smithfield Township**, 202 South 13th Street, Huntingdon, PA 16652. This proposed facility is located in Smithfield Township, **Huntingdon County**.

Description of Proposed Action/Activity: Construction/operation of the Smithfield Commercial Park development which includes sewer extensions and a pump station.

**WQM Permit No. 0105402**, Sewerage, **Lake Meade Municipal Authority**, 59 Curtis Drive, East Berlin, PA 17316. This proposed facility is located in Reading Township, **Adams County**.

Description of Proposed Action/Activity: Construction/operation for an upgrade to the Lake Meade Wastewater Facility.

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

**WQM Permit No. 0478210-A1**, Industrial Waste, **Koppel Steel Corp.**, P. O. Box 750, Beaver Falls, PA 15010. This proposed facility is located in Koppel Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for installation and operation of a pH adjustment system at Outfall 002.

**WQM Permit No. 6305402**, Sewerage, **Blaine Township.**, P. O. Box 128, 40 Main St., Taylorstown, PA 15365. This proposed facility is located in Blaine Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewage treatment plant to serve 112 single-family homes.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania'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. 3305403**, Sewerage, **Brookville Municipal Authority**, 30 Darrah Street, Brookville, PA 15825. This proposed facility is located in Borough of Brookville, **Jefferson County**.

Description of Proposed Action/Activity: This project is for the proposed expansion of an existing siphon system adding an additional 258 foot, 8 inch siphon giving a total capacity of 0.825 mgd.

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## IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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## V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010905001	Commerce Bank, NA Proposed Commerce Bank Building 1100 Atrium Way Mt. Laurel, NJ 08054	Bucks	Doylestown Borough	Cooks Creek (WWF-MF)



<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011503072-A1	Cardile Mushroom Inc. Cardile Mushroom Facility 540 Church Road Avondale, PA 19311	Chester	New Garden Township	East Branch White Clay Creek (EV)
PAI011505030	Culbertson Realty Assoc, LP 1595 Paoli Pike, Suite 202 P. O. Box 1906 West Chester, PA 19380-0133	Chester	West Brandywine Township	Culbertson Run (HQ-TSF-MF)
PAI011505031	Harkins Property, LLC 242 Winged Foot Drive Blue Bell, PA 19422	Chester	West Bradford Township	Broad Run (EV-MF)
PAI011505032	Frazer/Exton Development, Inc. Whiteland Village Development 508 Brandywine Parkway West Chester, PA 19380	Chester	East Whiteland Township	Valley Creek (EV) West Valley Creek (CWF)
PAI011505033	Lafayette & Hibernia Investments Co 300 Cabot Boulevard West Suite 200 Langhorne, PA 19047	Chester	West Brandywine Township	UNT West Branch Brandywine Creek (HQ-TSF-MF)
PAI011505034	Archdiocese of Philadelphia St. Peter's Church 1080 North Manor Road Honey Brook, PA 19344-9610	Chester	West Brandywine Township	West Branch Brandywine Creek (HQ-TSF) Beaver Creek (TSF-MF)
PAI011505035	Gen Terra Corporation Candleford Subdivision 65 Dowlin Forge Road Exton, PA 19341	Chester	West Nantmeal Township	East Branch Brandywine Creek (HQ)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505013	Joshmor Inc. HC Box 405A Brodheads ville, PA 18322	Monroe	Chestnuthill and Jackson Township	McMichaels Creek EV

*Lackawanna County Conservation District: 1300 Old Plank Rd., Mayfield, PA 18433, (570) 281-9495.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023505001	Christopher Speicher Laurel Ridge Development LLC 1710 Madison Ave. Dunmore, PA 18509	Lackawanna	Jefferson Township	East Branch of Wallenpaupack Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905018	Frank & Kate E.M. Tercha 1919 Tercha Rd. Fogelsville, PA 18051	Lehigh	Weisenberg Township	Little Lehigh Cr. HQ-CWF

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

*Washington County Conservation District: 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056305004	84 Lumber Company/Pierce Hardy Limited Partnership 1019 Route 519 Eighty-Four, PA 15330	Washington	North Strabane Township	Little Chariters Creek (HQ-CWF)

*Washington County Conservation District: 602 Courthouse Square, Washington, PA 15301. (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056305005	Eighty-Four Development Corp. 1600 Route 136 Washington, PA 15301	Washington	South Strabane Township	Little Chariters Creek (HQ-WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI064204002	Bradford Regional Airport 212 Airport Road Suite E Lewis Run PA 16738	McKean	Lafayette Township	Tributary East Branch Tunungwant Creek and Tributaries to Threemile Run HQ-CWF
PAI064205002	Bradford Regional Airport 212 Airport Road Suite E Lewis Run PA 16738	McKean	Lafayette Township	Tributary East Branch Tunungwant Creek and Tributaries to Threemile Run HQ-CWF

*Elk County Conservation District: Elk County Courthouse Annex, 300 Center Street, P. O. Box 448, Ridgway, PA 15853.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062405002	United States Army Corps of Engineers Baltimore District 10 South Howard Street City Crescent Bldg., Baltimore, MD 21203	Elk	Benezette Township	UNT Porcupine Hollow 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)

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

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

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

<b>Permit No. 4805502, Public Water Supply</b>	
Applicant	<b>Lehigh Township Municipal Authority</b>
Township or Borough	Lehigh Township
County	<b>Northampton</b>
Responsible Official	Jeffrey Lentz, Chairperson
Type of Facility	Public Water System
Consulting Engineer	Spotts, Stephens & McCoy MacArthur Office Plaza Suite 401 3722 Lehigh Street Whitehall, PA
Application Received Date	May 18, 2005

Description of Action The replacement of a surface water source with a new well.

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 0605507**, Public Water Supply.

Applicant **Valley Run Water System**  
 Municipality Washington Township  
 County **Berks**  
 Responsible Official Randy S Eddinger, Consultant/PADEP operator 1697 Swamp Pike Gibertsville, PA 19525

Type of Facility Public Water Supply  
 Consulting Engineer George W Ruby, P. E. Ruby Engineering P. O. Box 127 Rexmont, PA 17085-0127

Application Received Date 5/12/2005

Description of Action Addition of Well No. 4 and associated treatment and storage facilities located on the Gehringer Farm Tract to the Valley Run Water System.

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

**Permit No. 3097501-A2**, Public Water Supply.

Applicant **Southwestern Pennsylvania Water Authority**  
 P. O. Box 187 Jefferson, PA 15344

Township or Borough West Bethlehem and East Bethlehem Townships and Marianna Borough

Responsible Official Joseph Simatic, Manager Southwestern Pennsylvania Water Authority P. O. Box 187 Jefferson, PA 15344

Type of Facility Water treatment plant  
 Consulting Engineer Bankson Engineer, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051

Application Received Date May 4, 2005

Description of Action Installation of an emergency interconnection vault with existing W. Bethlehem Township water distribution system, installation of meter vault at existing interconnection between Marianna Borough's and W. Bethlehem Township's water distribution systems, the replacement of two horizontal split case pumps and disinfection at the SPWA's existing Washington County Pump Station.

**MINOR AMENDMENT**

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

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

**Application No. Minor Amendment.**

Applicant **Nature's Way Purewater Systems, Inc.**  
 Township or Borough Dupont Borough, Luzerne County  
 Responsible Official Sandy Insalaco, Sr. President/CEO Nature's Way Purewater Systems, Inc. 164 Commerce Road Dupont, PA 18641

Type of Facility Bottled Water Facility  
 Consulting Engineer James Palumbo, P. E. Quad Three Group, Inc. 72 Glenmaura National Boulevard Moosic, PA 18507

Application Received Date June 3, 2005

Description of Action The applicant proposes the removal of the Linesville Spring (BH1 and BH2) from their existing PWS Permit No. 2406411.

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

**Application No. 5605501**, Minor Amendment.

Applicant **United Mobile Homes, Inc.**  
 1275 Forman Drive Morgantown, WV 26508

Township or Borough Somerset Township  
 Responsible Official Jeff Yorick, Vice President of Engineering United Mobile Homes, Inc. 1275 Forman Drive Morgantown, WV 26508

Type of Facility Somerset Estates Mobile Home Park  
 Consulting Engineer The EADS Group 450 Aberdeen Drive Somerset, PA 15501

Application Received Date May 27, 2005

Description of Action Installation of a 2" waterline approximately 1,600 feet in length between the existing Well No. 1 and the existing Well No. 2 for a single entry point.

**WATER ALLOCATIONS**

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

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**WA 22-303I, Water Allocations. United Water Pennsylvania, Dauphin County.** The applicant is requesting the right to withdraw a maximum of 17.0 million mgd from Stony Creek, a maximum of 17.0 mgd from the Susquehanna River and a maximum of 4.0 mgd from Swatara Creek with a total combined maximum withdraw of 21.5 mgd from all sources. Consulting Engineer: Jason D. Wert, Herbert Rowland & Grubic Inc. Date Application Received: 8/5/2004.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Dauphin Oil Company, Carlisle Borough, Cumberland County.** Environmental Remediation & Recovery, Inc., 5719 Route 6N, Edinboro, PA 16412 on behalf of Dauphin Oil Company, 815 Newville Road, Carlisle, PA 17013, submitted a Notice of Intent to Remediate site soils contaminated with a petroleum product during closure of storage tanks and a floor drain. The applicant proposes to remediate the site to meet Statewide Health Standard requirements. The site will be redeveloped as a retail drug store.

*Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.*

**Borough of Emporium (former Waste Disposal Area), Emporium Borough, Cameron County, GTE Operations Support Inc., 600 Hidden Ridge Drive, Irving, TX 75038** has submitted a Notice of Intent to Remediate soil and groundwater contaminated with VOCs and organics. This site is being remediated to meet a Site-Specific Standard.

**Charles Weyandt Property, Huston Township, Centre County,** has submitted a Notice of Intent to Remediate soil and groundwater contaminated with fuel oil. This site is being remediated to meet a Statewide Health Standard.

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

**National Institute for Occupational Safety and Health (NIOSH), Pittsburgh Research Laboratory (Pittsburgh) Landfill Site or NIOSH—Pittsburgh Landfill Site, South Park Township, Allegheny County.** S.B. Lal, P. E., Diversified Consulting Engineers, 1624 Citation Drive, South Park, PA 15129-8831 on behalf of Barbara M. Heirendt, United States Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, Pittsburgh Research Laboratory, P. O. Box 18070, Cochran Mills Road, Pittsburgh, PA 15236-0070 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with inorganics, chlorinated solvents and PAHs. Contamination resulted from disposal of fill material from offsite sources and waste generated from research conducted on coal. Planned remediation includes Engineering Controls such as cap construction to eliminate pathways for exposure and deed restrictions to prevent groundwater use. Future planned use of the site is nonresidential for roads and parking lots.

**AIR QUALITY**  
**PLAN APPROVAL AND OPERATING PERMIT**  
**APPLICATIONS**  
**NEW SOURCES AND MODIFICATIONS**

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

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

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

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

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

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

**PLAN APPROVALS**

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

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

**39-318-113: Oak Street USA, LLC** (1949 South Fifth Street, Allentown, PA 18103) for construction of a paint

spray system and associated air cleaning devices at their facility in Allentown, **Lehigh County**.

**35-302-116: Keystone Sanitary Landfill, Inc.** (P. O. Box 249, Dunmore, PA 18512) for modification of a boiler to utilize landfill gas as a fuel at their facility in Throop and Dunmore Boroughs, **Lackawanna County**.

**40-309-037C: Polyglass USA, Inc.** (555 Oakridge Drive, Hazleton, PA 18201) for installation (replacement) of an air-cleaning device to capture emission from an asphalt application process at their facility in Hazle Township, **Luzerne County**.

**40-317-024: Mission Foods—GRUMA Corp.** (15 Elmwood Avenue, Mountaintop, PA 18707) for construction of a snack food processing operation and associated air cleaning device at their facility in Wright Township, **Luzerne County**.

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

**05-03003A: Chestnut Ridge School District** (3281 Valley Road, Fishertown, PA 15539-9846) for installation of two bituminous coal fired boilers at Chestnut Ridge Middle School in East Saint Clair Township, **Bedford County**. Regenerative centrifugal collectors will control particulate emissions. These units will replace two similarly sized coal fired boilers.

**67-05046D: United Defense, LP** (1100 Bairs Road, York, PA 17404) for installation of two new paint booths and curing ovens at their Ground Systems Division in West Manchester Township, **York County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**63-00027A: Jessop Steel Co.—Allegheny Ludlum Corp.** (100 River Road, Brackenridge, PA 15014) for installation of a natural gas-fired reheat furnace at their Washington Facility in Washington City, **Washington 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.*

**46-0248: Pottstown Borough Authority** (100 East High Street, Pottstown, PA 19464) for installation of an indirect thermal sludge dryer at their existing wastewater treatment plant in Pottstown Borough, **Montgomery County**. This facility is a State-only facility. The installation causes de minimis emission increase, except NOx, which are 3.56 tons. The Plan Approval and Operating Permit will contain operating requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0200: John Middleton, Inc.** (418 West Church Road, King of Prussia, PA 19406-3134) for installation of a tobacco flavoring process (top dressing) with a total enclosure emission capture system and regenerative thermal oxidizer at their facility in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V State-only facility. The facility will be removing one of

three existing uncontrolled rotary drums and replacing it with this new process. This process will have its VOC emissions controlled and reduced by 98%. The process will increase capacity by 8 times and the potential VOC emissions from this new dryer shall not exceed 3.1 tons per year. Annual VOC emissions from the three rotary drums are currently permitted at 18.83 total tons per year as an aggregate for the top dressing processes. This limit will not change, as there will be no increase in potential VOC emissions. NOx emissions will increase by less than 1 ton per year. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0037X: Cabot Supermetals** (County Line Road, P. O. Box 1608, Boyertown, PA 19512-1608) for installation of a metal powder packaging unit, a pin crusher, two speed mills and two wet dust collectors at their Boyertown facility in Douglass and Colebrookdale Townships, **Montgomery and Berks Counties**. This facility is a Title V facility. The change will result in particulate matter emission increase of 1.84 tons per year. The Plan Approval and Operating Permit will contain recordkeeping requirements 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.*

**48-304-032: Victaulic Co. of America** (4901 Kesslerville Road, Easton, PA 18045) for installation of a single air cleaning device (replacement of two smaller units) to capture particulate emissions from the existing sand handling and finishing areas at their facility in Forks Township, **Northampton County**. The particulate emissions generated by the existing sand handling and finishing areas, will be controlled by the new fabric collector. The expected particulate emission rate from the baghouse filter will be less than 0.02 grain/dscf and will result in a reduction of particulate emissions of 90 tons per year at the facility. The company will operate the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Title V Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**36-05137: B and S Woodcrafts** (722 Truce Road, Quarryville, PA 17566) for installation of two spray paint booths in their Providence Township, **Lancaster County** facility. This facility has a potential to emit 74 tons per year of VOCs without limits. B & S Woodcrafts is limiting their operations to 2,800 hours per year to keep their potential to emit below 24 tons per year of VOCs. Actual emissions are expected to be 14 tons per year of VOC's. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

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

**37-027C: IA Construction** (River Road, West Pittsburg, PA 16160) for modification of a plan approval to burn alternative fuels including Nos. 2 and 4-6, biodiesel

and reprocessed/recycled fuel oil or any combination of Nos. 2 and 4-6 biodiesel, and reprocessed/recycled fuel oil at their West Pittsburg plant in Taylor Township, **Lawrence County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for modification of a plan approval to burn alternative fuels including Nos. 2 and 4-6, biodiesel and reprocessed/recycled fuel oil or any combination of Nos. 2 and 4-6 biodiesel, and reprocessed/recycled fuel oil at their West Pittsburg plant in Taylor Township, Lawrence County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

**10-027F: Penreco** (138 Petrolia Street, Karns City, PA 16041) for installation of a replacement 13,500 gallon spent acid storage tank that is vented to an existing scrubber in Fairview/Karns City Township, **Butler County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the conditions in their current Title V Operating permit, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 823-7584.*

**AMS 04281: E. I. DuPont de Nemours and Co.** (3401 Grays Ferry Ave., Philadelphia, PA 19146) for installation of four new spray booths to replace three exiting spray booths, three less than or equal to 1.2 mmBTU/hr natural gas fired air handling units to replace three existing units, replacement of an exhaust fan and the establishment of a facility-wide VOC emission cap of 3 tons/month and 18 tons/year for all spray booths. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

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**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.**

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

**28-05040: Industrial Power Generating Corp.** (2250 Dabney Road, Richmond, VA 17011) for their electric generating facility in Peters Township, **Franklin County**. The facility's major sources of emissions include fugitive particulate matter and landfill gasses. The primary emissions include combustion products from the engines, which primarily emit NOx and CO gasses as well as VOCs. This facility's emissions will be limited to: 249 tpy of CO, 99 tpy of NOx, 25 tpy of a combination of HAPs, 19 tpy of VOCs, 15 tpy of SO2 and 12 tpy of particulate matter. The Title V Operating Permit, number 28-05040, will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**07-05040: Lumax Industries, Inc.** (P. O. Box 991, Chestnut and Fourth Street, Altoona, PA 16603) for operation of their manufacturing facility in the City of Altoona, **Blair County**. The facility has the potential to emit 90 tons per year of VOCs and 20 tons per year of hazardous air pollutants. The facility-wide (State-only) operating permit will limit volatile organic compound emissions to less than 30 tons per year, single hazardous air pollutant emissions to less than 10 tons per year and combined hazardous air pollutant emissions to less than 25 tons per year. The operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701 Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**53-00012: Patterson Lumber Co., Inc.** (92 West Street, Galeton, PA 16922-0235) for operation of a sawmill facility in West Branch Township, **Potter County**.

The facility incorporates a 16 mmBtu per hour wood-fired boiler, a 9.6 mmBtu per hour natural gas-fired boiler, 12 lumber kilns and 4 lumber predryers, various pieces of sawmill and other woodworking equipment and lumber marking and end sealing operations. The PM emissions from the wood-fired boiler are controlled by a multicyclone collector and the particulate matter emissions from some of the sawmill and other woodworking equipment are controlled by two fabric collectors. The air contaminant emissions from the facility are not expected to exceed 22.98 tons of PM (including PM<sub>10</sub>), 27.15 tons of NO<sub>x</sub>, 44.88 tons of CO, 12.03 tons of VOCs, 1.0 ton of volatile hazardous air pollutants and .49 ton of SO<sub>x</sub> per year.

The respective facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to the emission of air contaminants as well as the conditions previously existing in Operating Permit 53-302-002A issued on June 22, 1995, for the facility's wood-fired boiler. These previously-existing conditions include a requirement that the particulate matter emissions from the wood-fired boiler be controlled by a multicyclone at all times.

The Department additionally proposes to incorporate into the operating permit to be issued a condition limiting the particulate matter emissions from one of the facility's two fabric collectors to .01 grain per dry standard cubic foot of effluent gas volume, a condition limiting the VOC and volatile hazardous air pollutant emissions resulting from the use of lumber marking paint to 10.0 and 1.0 tons, respectively, in any 12 consecutive month period, a condition limiting the materials to be used for end sealing lumber to materials which contain no VOCs or volatile hazardous air pollutants and conditions requiring the maintenance of records of the amount of lumber processed through the kilns and predryers each month as

well as the identity and amount of lumber end sealing and lumber marking materials used each month.

**41-00066: Sunoco, Inc.—R and M** (Post Road and Blueball Avenue, Marcus Hook, PA 19061) to operate a soil vapor extraction system and associated biofilter at their former Atlantic Terminal in Armstrong Township, **Lycoming County**.

The soil vapor extraction system is used to remove petroleum products vapors from soil. The air contaminant emissions from the soil vapor extraction system are controlled by a biofilter. The resultant VOC emissions to the atmosphere are not expected to exceed 3.6 tons per year, a portion of which will also be hazardous air pollutants.

The respective facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to the emission of air contaminants as well as the conditions previously established in Plan Approval 41-330-004 issued by the Department on December 2, 2003. These previously-established conditions include requirements that the biofilter contain at least 213 cubic yards of bed material, have a bed surface area of at least 900 square feet and handle no more than 600 cubic feet per minute of gases at any time, a requirement that the VOC destruction efficiency of the biofilter be at least 92% (by weight), a requirement that the resultant VOCs emissions to the atmosphere be no greater than 3.6 tons in any 12 consecutive month period and a requirement that the biofilter inlet gas flow, influent gas humidity, bed temperature, inlet air contaminant concentration, outlet air contaminant concentration and visual bed appearance be monitored and recorded at least twice per month and the data reported to the Department on a monthly basis.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson Facilities Permitting Chief, (814) 332-6940.*

**25-00037: Joseph McCormick Construction Co., Inc. - Wesleyville Plant** (1507 Wesley Avenue, Erie, PA 16510-1675) for a Natural Minor Permit to operate a hot mix asphalt plant in Wesleyville Borough, **Erie County**. The significant sources are batch asphalt plant with dryer, material conveyors and baghouse.

**25-00943: Safety-Kleen Corp.** (1606 Pittsburgh Avenue, Erie, PA 16505) a natural minor operating permit for distribution and collection of organic solvents used in degreasing operations. This facility is located in the City of Erie, **Erie County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 823-7584.*

**N05-005: LaFrance Corp.** (8425 Executive Avenue, Philadelphia PA 19153) for operation of their zinc die casting facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three combustion units each at three mmBtu/hr or less, five spray booths with dry panel filters, one roller coat and two silk screen machines.

The operating permit will be reissued under the 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 who wish to file a protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. 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 number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

*Coal Applications Received*

*Effluent Limits*

The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Franklin Township, **Greene**

**County** for clean coal batch weigh system as extension of existing loading facility. Surface Acres Proposed 11.5. No additional discharges. Application received March 17, 2005.

**30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company**, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in Morris Township, **Washington County** to install airshafts, boreholes, and portal facilities. Surface Acres Proposed 62.2. Receiving Stream: UNT to Short Creek, classified for the following use: TSF. Application received May 16, 2005.

**63831302 and NPDES Permit No. PA0213608, Eighty Four Mining Company**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the



permit for the Mine No. 84 in South Strabane Township, **Washington County** to add subsidence control plan area acres for development mining. SCP Acres Proposed 90.0. No additional discharges. Application received May 16, 2005.

**32803712 and NPDES Permit No. PA0092142, Keystone Coal Mining Corporation**, (P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774), to renew the permit for the Lewisville Recovery Plant in Young Township, **Indiana County** and related NPDES permit for reclamation only. Application received May 23, 2005.

**17743702 and NPDES Permit No. PA0215490, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to renew the permit for Penfield Collieries, LLC, Stott No. 1 Mine—Coal Refuse and Related NPDES Permit, to transfer the permit and change the operation name to Lady Jane Plant, and to revise the permit for the Lady Jane Plant in Huston Township, **Clearfield County** to add surface acreage for the coal preparation activity area and the coal refuse disposal area. Surface Acres Proposed 43.0, CRDP Support Acres Proposed 14.2, CRDP Refuse Disposal Acres Proposed 23.7. No additional discharges. Application received April 14, 2005.

**32881301 and NPDES Permit No. PA0215538, AMFIRE Mining Company, LLC**, (One Energy Place, Latrobe, PA 15650), to renew the permit and related NPDES permit and to revise the permit for the Penn Run Mine in Cherryhill Township, **Indiana County** to delete 1,386.7 subsidence control plan area acres. No additional discharges. Application received April 20, 2005.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56050106 and NPDES No. PA0249807, Marquise Mining Corporation**, 3889 Menoher Boulevard, Johnstown, PA 15905, commencement, operation and restoration of a bituminous surface-auger permit mine in Shade Township, **Somerset County**, affecting 122.5 acres. Receiving streams: Dixie Run; UNT to Dixie Run classified for the following uses: CWF. Encroachment activities are proposed within 100 feet of UNT "A" to Dixie Run, located approximately 4,000 feet southeast of the intersection of SR 0403 and SR 1014. Encroachment activities are to occur within 100 feet of the tributary approximately 50 feet upstream from SR 1014. The encroachment area is to disturb less than 1/2 acre for construction of a sedimentation pond. There are no potable water supply intakes within 10 miles downstream. Application received May 27, 2005.

**Permit No. 32980111 and NPDES Permit No. PA 0234885, Kraynak Coal Company**, 3124 Firetower Road, Mahaffey, PA 15757, permit revision—land use change on Thomas A. and Helen L. Green and Bernard and Donna J. Green property from forest to pasture or land occasionally cut for hay in Green Township, **Indiana County**, affecting 97.6 acres. Receiving streams: UNTs to Dixon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received on May 4, 2005.

*Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.*

**10010112 and NPDES Permit No. PA0242039, T. C. Mining** (252 Lower Hayes Run Road, Kittanning, PA 16201) Revision to an existing bituminous surface strip and auger operation in Clay and Concord Townships, **Butler County** affecting 186.7 acres. Receiving streams: UNT to South Branch Slippery Rock Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revi-

sion to add 5 acres to the permit area on the Billie Lou Gordon property. Application received: May 31, 2005.

**16050107 and NPDES Permit No. PA0257931, T. C. Mining** (252 Lower Hays Run Road, Kittanning, PA 16201). Commencement, operation, and restoration of a bituminous surface strip operation in Madison Township, **Clarion County** affecting 111.7 acres. Receiving streams: UNT to Catfish Run and UNT to Allegheny River, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company. Application received: May 4, 2005.

**33900105 and NPDES Permit No. PA0207837, Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838). Renewal of an existing bituminous surface strip, auger and beneficial use of a co-product operation in Snyder Township, **Jefferson County** affecting 650.2 acres. Receiving streams: UNTs to Little Toby Creek and UNTs to Mill Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: May 6, 2005.

**1642-10010112-E-1, T.C. Mining** (252 Lower Hayes Run Road, Kittanning, PA 16201). Application to revise a stream encroachment to remove and reestablish a portion of an UNT to the South Branch of Slippery Rock Creek in Clay and Concord Townships, **Butler County** affecting 186.7 acres. Receiving streams: UNT to South Branch Slippery Rock Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: May 31, 2005.

**1642-10010112-E-2, T. C. Mining** (252 Lower Hayes Run Road, Kittanning, PA 16201). Application for a stream encroachment to construct erosion and sedimentation controls and conduct mining operations within the 100 foot stream barrier of an UNT in Clay and Concord Townships, **Butler County** affecting 186.7 acres. Receiving streams: UNT to South Branch Slippery Rock Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: May 31, 2005.

**33040102 and NPDES Permit No. PA0242519, MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801). Revision to an existing bituminous surface strip operation in Union Township, **Jefferson County** affecting 35.0 acres. Receiving streams: UNT 1 to Little Millcreek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision for an incidental boundary correction to add 4.5 acres to the permit area. Application received: June 1, 2005.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200*

**17870129 and NPDES Permit No. PA0116190, Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849), revision to an existing bituminous surface mine permit for a road variance to mine within 100 feet of the eastern side of Township Road T-680, Hill Road. The variance begins approximately 4,600 feet north of T-680/SR 53 intersection and extends north for a distance of approximately 5,000 feet. Receiving streams: Emigh Run, a tributary to Moshannon Creek; UNT to Laurel Run; tributary to Moshannon Creek. Application received: April 11, 2005.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**40763204R2. Northampton Fuel Supply Co., Inc.**, (1 Horwith Drive, Northampton, PA 18067), renewal of an existing coal refuse reprocessing operation in Newport Township, **Luzerne County** affecting 61.2 acres, receiving stream: none. Application received May 27, 2005.

**49803201R4 and NPDES Permit No. PA0595978. Reading Anthracite Co.**, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite coal refuse reprocessing operation in Zerbe Township, **Northumberland County** affecting 176.0 acres, receiving stream: Zerbe Run. Application received May 31, 2005.

**49803202R4 and NPDES Permit No. PA0592960. Reading Anthracite Co.**, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite coal refuse reprocessing operation in Zerbe Township, **Northumberland County** affecting 45.0 acres, receiving stream: Zerbe Run. Application received May 31, 2005.

<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 <sup>1</sup> pH <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The 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.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32052802. Penn Run Quarry**, 456 Weston Road, Penn Run, PA 15765, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Cherryhill Township, **Indiana County**, affecting 6.8 acres. Receiving streams: UNT to Penn Run. Application received May 25, 2005.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**4875SM2A2C4 and NPDES Permit No. PA0119563. Glen-Gery Corporation**, (P. O. Box 7001, Wyomissing, PA 19610), correction to an existing quarry operation for an incidental boundary correction and update NPDES Permit for discharge of treated mine drainage affecting 156.3 acres, receiving stream: Fox Run. Application received May 26, 2005.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08000810. Donald E. Johnson, Jr.** (R. R. 2, Box 48H, Wysox, PA 18854), transfer of an existing small industrial minerals (bluestone) permit from Donald E. Johnson, Sr., located in Warren Township, **Bradford County** affecting 5 acres. Receiving streams: UNT, tributary to Wappasening Creek and Pendleton Creek. Application received: March 25, 2005.

**08050803. Anthony P. Bennett** (R. R. 4, Box 4056, Wyalusing, PA 18853). Commencement, operation and restoration of a small industrial minerals (flagstone/shale) permit in Herrick Township, **Bradford County**, affecting 5 acres. Receiving streams: UNT, tributary to Camp Creek. Application received: April 11, 2005.

**54763207R4. Gilberton Coal Company**, (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing coal refuse reprocessing and surface mine operation in Mahanoy Township, **Schuylkill County** affecting 25.9 acres, receiving stream: none. Application received May 6, 2005.

**40940206R2. Heavy Media, Inc.**, (160 Nesbitt Street, Plymouth, PA 18651), renewal of an existing anthracite coal refuse reprocessing operation in Larksville Borough, **Luzerne County** affecting 15.9 acres, receiving stream: none. Application received May 9, 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:

**08052801. Daggett Sand & Gravel, Inc.** (R. R. 2, Box 258, Millerton, PA 16936). Commencement, operation and restoration of a small industrial minerals (sand and gravel) permit in Wells Township, **Bradford County** affecting 5 acres. Receiving streams: Seeley Creek, tributary to Chemung River. Application received: April 12, 2005.

**08940807. Nancy S. Preston** (R. R. 1, Box 20A1, Wyalusing, PA 18853), transfer of an existing small industrial minerals (flagstone) permit from John Preston. The permit is located in Waylusing Township, **Bradford County** and affects 5 acres. Receiving streams: Wyalusing Creek, tributary to the Susquehanna River. Application received: April 11, 2005.

**08010820. Gary E. Benjamin** (105 Walnut Street, Athens, PA 18810), transfer of an existing small industrial minerals (bluestone) permit from Gary R. Bartholomew. The permit is located in Sheshequin Township, **Bradford County** and affects 3 acres. Receiving streams: UNT, tributary to the Susquehanna River. Application received: May 3, 2005.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person

commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E45-479. Precision Homes, Inc.,** P. O. Box 191, Mount Pocono, PA 18344, in Coolbaugh Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in a de minimus area of wetlands equal to 0.04 acre for the purpose of constructing a single family dwelling and driveway on Lot 2336 of Section H-II of Stillwater Lake Estates. The project also includes the installation of a 2-inch diameter PVC sanitary sewer line under the driveway and a private recreational floating dock having a surface area of approximately 134 S. F. in Sunset Lake. The site is located along Nadine Boulevard on the north side of Sunset Lake, approximately 0.3 mile east of SR 0380 (Tobyhanna, PA Quadrangle N: 1.9 inches; W: 2.9 inches).

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E18-391. Department of Transportation, Engineering District 2-0,** Bridge Replacement SR 4005, Section A01, 1924-30 Daisy Street, Clearfield, PA 16830 in Chapman Township, **Clinton County**, ACOE Baltimore District (Renovo East, PA Quadrangle N: 22.2 inches; W: 10.31 inches).

To remove the existing single span, two lane bridge with a clear span of 50 feet on a skew angle of 60 degrees and to construct and maintain a prestressed concrete box beam bridge with concrete abutments and wing walls. The proposed single span structure has a clear span normal to the channel of 58 feet and 60 feet along the centerline of roadway. The minimum vertical underclearance of the structure is 9.67 feet. Rock, Class R-6, will be permanently placed along both abutments and all wing walls and choked with R-4. A temporary stream crossing is proposed for maintenance and protection of traffic

during construction. No wetlands will be affected by the project other than stream bed and banks. Natural stream bottom will be replaced and rock lining added to the disturbed bank areas for stabilization following removal of the temporary stream crossing and construction of the bridge substructure. The Left Branch of Young Womans Creek is classified as a HQ-CWF, naturally reproducing trout.

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

**E02-1497. John Bourlogianis,** 2338 South Hampton Drive, Pittsburgh, PA 15241. To place fill in wetlands and construct an outfall structure in Upper St. Clair Township, **Allegheny County**, Pittsburgh ACOE District. (Bridgeville, PA Quadrangle N: 11 inches; W: 11.66 inches and Latitude: 40° 18' 38"—Longitude: 80° 5' 1"). The applicant proposes to place and maintain fill in a de minimus area of wetlands (0.05 acre) associated with an UNT to Brush Run (WWF) and to place and maintain fill in approximately 625.0 linear feet of an UNT to Brush Run (WWF) for the purpose of constructing the Forestbrook Estates Plan of Lots. The project is located just southwest from the intersection of Forest Brook Drive and Rossmoor Drive and will impact 0.77 acre of wetlands and 625.0 linear feet of stream channel. A 30-inch diameter outfall structure will also be constructed and an existing 15-inch diameter outfall structure will be replaced with an 18-inch diameter outfall structure.

**E02-1498. Walnut Street Partners,** 3285 Jacks Run Road, White Oak, PA 15131. To construct a culvert in the City of McKeesport, **Allegheny County**, Pittsburgh ACOE District. (McKeesport, PA Quadrangle N: 13.4 inches; W: 12.4 inches and Latitude: 40° 19' 25"—Longitude: 79° 50' 21"). The applicant proposes to construct and maintain an open bottom culvert with a span of 22 feet and underclearance of 15 feet approximately 540 feet long over Long Run (TSF) for a proposed development. The culvert will be an extension of an existing culvert located under Walnut Street (SR 148). The project is located on the west side of Walnut Street (SR 148) at its intersection with Long Run Road (SR 048). The proposed project impact is 540' to Long Run.

**E02-1499. Township of Collier,** 2418 Hilltop Road, Presto, PA 15142. To construct a pedestrian bridge in Collier Township, **Allegheny County**, Pittsburgh ACOE District. (Oakdale, PA Quadrangle N: 3.4 inches; W: 2.4 inches and Latitude: 40° 23' 28"—Longitude: 80° 08' 33"). The applicant proposes to construct and maintain a bridge having a span of 59.0 feet with a minimum under clearance of 5.0 feet across the channel of Robinson Run (WWF) for the purpose of constructing a walking path. The project is located approximately 800 feet south from the intersection of Sunnyside Avenue and Home Avenue and will impact 20.0 linear feet of stream channel. Stream bank protection (approximately 20 linear feet on both banks) and a temporary stream crossing will also be constructed.

**E02-1502. Township of Upper St. Clair,** 1820 McLaughlin Run Road, Upper St. Clair, PA 15241. To fill wetland in Upper St. Clair Township, **Allegheny County**, Pittsburgh ACOE District. (Bridgeville, PA Quadrangle N: 15.38 inches; W: 15.22 inches and Latitude: 40° 20' 04"—Longitude: 80° 06' 34"). The applicant proposes to place and maintain fill in 0.221 acre of wetland in the watershed of Chartiers Creek (WWF) for the purpose of developing Boyce Mayview Park located along Mayview Road.

**E02-1505. J. West Corporation**, 222 Oxford Boulevard, Allison Park, PA 15101. To construct a stormwater detention pond in the Township of McCandless, **Allegheny County**, Pittsburgh ACOE District. (Emsworth, PA Quadrangle N: 15.5 inches; W: 7.1 inches and Latitude: 40° 35' 06"—Longitude: 80° 03' 05"). The applicant proposes to excavate and maintain an UNT to Pine Creek (CWF) for the purpose of constructing a stormwater detention pond for the proposed Cooper's Run single family residential development. The project is located on the east side of Grossick Road, approximately 500 feet northeast from the intersection of Grossick Road and Donna Drive and will impact 350 linear feet of stream channel.

**E03-429. Worthington-West Franklin Joint Municipal Authority**, 102 West Main Street, Worthington, PA 16262. To construct an outfall in Worthington Borough and West Franklin Township, **Armstrong County**, Pittsburgh ACOE District. (Worthington, PA Quadrangle N: 15.6 inches; W: 3.4 inches and Latitude: 40° 40' 08"—Longitude: 79° 38' 58"). The applicant proposes to construct and maintain as part of construction of a comprehensive sanitary sewerage system: 1) A sewage pump station and a sewage treatment plant along the left bank of Buffalo Creek (HQ-TSF); 2) An outfall for the effluent of the proposed treatment plant in the left bank of the Buffalo Creek; 3) Three pipe culverts across a proposed access road, these structures qualify for the Department Waiver 105.12(a)(2) and three storm water outfall structures on the left bank of Buffalo Creek.; and 4) Fifty-two sanitary sewer line crossings under the bed and across the channel of the Buffalo Creek and its UNTs.

**E03-431. Department of Transportation, Engineering District 10**, P. O. Box 429, 2550 Oakland Avenue, Indiana, PA 15701-0429. To impact wetland in Plumcreek Township, **Armstrong County**, Pittsburgh ACOE District. (Whitesburg, PA Quadrangle N: 12.3 inches; W: 5.2 inches and Latitude: 40° 41' 34"—Longitude: 79° 24' 45"). The applicant proposes to impact 0.23 acre of wetland for the purpose of construction of approximately 3.00 acres of wetland habitat within wetland banking service area located on SR 2005 and along Cherry Run (CWF).

**E11-309. Cambria County Commissioners**, 200 South Center Street, Ebensburg, PA 15931. To construct a bridge in Allegheny Township, **Cambria County**, Pittsburgh ACOE District. (Ashville, PA Quadrangle N: 9.8 inches; W: 8.3 inches and Latitude: 40° 33' 15"—Longitude: 78° 33' 36"). The applicant proposes to remove the existing structure and to construct and maintain a 33-foot wide single span bridge having a normal span of 38.3 feet and a minimum underclearance of 4 feet across Beaverdam Run (CWF) for the purpose of improving transportation safety and roadway standards. The project is located on Township Road T-488 at Station 12+72.33. The project will also impact 0.01 acre of de minimis wetlands.

**E65-873. Links Development Company, Inc.**, Murry Professional Building, 1060 Corporate Lane, Murry Corporate Park, Export, PA 15632. To impact wetlands in Penn Township, **Westmoreland County**, Pittsburgh ACOE District. (Irwin, PA Quadrangle N: 19.72 inches; W: 1.86 inches and Latitude: 40° 21' 31"—Longitude: 79° 38' 18"). The applicant proposes to impact 0.29 acre of wetlands and approximately 285 feet of an UNT to Bushy Run (TSF) as part of a proposed 124 unit residential development referred to as Penn's Forest and its associated roadways, utilities and stormwater management basin. The project is located off of Bushy Run Road (SR 0993), approximately 3,000 feet east of its intersection with SR 0130.

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

**E27-078. Seneca Resources**, 286 Old 36 Road, Sigel, PA 15860. Warrant 5158 Bridge across Ellsworth Run, in Green Township, **Forest County**, ACOE Pittsburgh District (Marienville West, PA Quadrangle N: 14.7 inches; W: 15.2 inches).

To maintain a bridge over Ellsworth Run (CWF) installed under general permit number GP082704601 in August 2004 having an instream length of approximately 15 feet and an underclearance of 2 feet located in Warrant 5158 on a private road 0.1 mile west of SR 2007 approximately 1.3 miles south of the intersection of SR 2007 and SR 3004.

**E37-167. Donald Dickinson**, 705 Harlansburg-Eastbrook Road, New Castle, PA 16105. Dickinson Bridge Over Hottenbaugh Run, in Scott Township, **Lawrence County**, ACOE Pittsburgh District (Harlansburg, PA Quadrangle N: 7.4 inches; W: 15.9 inches).

To construct and maintain a 12 foot long concrete bridge having a clear span of 16 feet and underclearance of 6 feet across Hottenbaugh Run (TSF) on a private driveway extending south from SR 1010 at 705 Harlansburg-Eastbrook Road approximately 1,500 feet downstream of Grange Hall Road.

**E43-322. Universal Development**, 1607 Motor Inn Drive, Girard, OH 44420. Shenango Valley Freeway Condominiums, in City of Hermitage, **Mercer County**, ACOE Pittsburgh District (Sharon East, PA Quadrangle N: 19.7 inches; W: 12.4 inches).

To fill a total of 1.03 acres of three wetlands (1.02 acres PFO and 0.01 acre PEM) for the construction of Shenango Valley Freeway Condominiums buildings, associated grading and roadway on property extending north of SR 62 approximately 1 mile west of SR 18. Project proposes creation of 1.76 acres of replacement wetland (1.03 acres PEM and 0.73 acre PSS) on property bounded by Stateline Road, Ohio Street and the Shenango River and within the flood plain of the Shenango River in the City of Hermitage and Wheatland Borough (Sharon West, PA-OH Quadrangle N: 12.7 inches; W: 0.75 inch).

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## ACTIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and

92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## **I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0051632	City of Easton One South Third Street Easton, PA 18042	Northampton County City of Easton	Delaware River (1F)	Y
PA0036102	Lehigh County Authority P. O. Box 3348 Allentown, PA 18106	Lehigh County Heidelberg Township	UNT to Mill Creek (2C)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0024627	McClure Municipal Authority Ulsh Gap Road P. O. Box 138 McClure, PA 17841	Snyder County McClure Borough	Penns and Middle Creek (6A)	Y
PA003565	Morgan Advanced Materials & Technology Pure Carbon Division 1118 East Second Avenue Coudersport, PA 16915	Potter County Eulalia Township	Potato and Oswayo Creeks (16)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0002038	OMG Americas, Inc. P. O. Box 111 Franklin, PA 16323-0111	Sugarcreek Borough Venango County	Allegheny River Two Mile Run 16-E	Y
PA0222879	Hickory Creek Wilderness Ranch 158 Main Street P. O. Box 93 Tidioute, PA 16351	Limestone Township Warren County	UNT to Camp Run 16-F	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**PA0228885**, Sewage, **Burnside Borough Council**, P. O. Box 208, Burnside, PA 15721. This proposed facility is located in Burnside Borough, **Clearfield County**.

Description of Proposed Activity: Construction of a proposed treatment facility.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan watershed 8B and is classified for: WWW. The nearest downstream public water supply intake for Shawville Power Plant is located on West Branch Susquehanna River and is 56.29 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.040 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum mg/l</i>
CBOD <sub>5</sub>	25	40		50
TSS	30	45		60
Fecal Coliforms			200/100 ml as a geometric mean	
pH			6.0 to 9.0 at all times	
Total Nitrogen			Monitor and Report	
Total Phosphorous			Monitor and Report	
Transmissivity			Monitor and Report	

## 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.*

**WQG Permit No. 01360501**, Sewerage, **Steve E. Riehl**, 143 North Ronks Road, Ronks, PA 17572-9702. This proposed facility is located in Leacock Township, Lancaster County.

Description of Proposed Action/Activity: Construction and operation of a Small Flow Treatment Facility.

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

**WQG Permit No. 016107**, **Robert Storm**, 597 Storm Road, Loretto, PA 15940. This proposed facility is located in Allegheny Township, **Cambria County**.

Description of Proposed Action/Activity: Small flow sewage treatment plant.

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

**WQM Permit No. WQG018370**, Sewerage, **John T. Afton, Jr.**, 7856 Knoyle Road, Wattsburg, PA 16442. This proposed facility is located in Venango Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018371**, Sewerage, **John T. Afton, Jr.**, 7856 Knoyle Road, Wattsburg, PA 16442. This proposed facility is located in Venango Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018369**, Sewerage, **John T. Afton, Jr.**, 7856 Knoyle Road, Wattsburg, PA 16442. This proposed facility is located in Venango Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018360**, Sewerage, **Pleasant Acres Golf Course SFTF**, 240 Tower Road, Jamestown, PA 16134. This proposed facility is located in Greene Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve a golf course.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAI132241	Vandling Borough 634 Hillside St. Vandling, PA 18421	Lackawanna	Vandling Borough	Lackawanna River HQ-CWF	Y
PAI132242	Scott Township R. R. 1, Box 438 Olyphant, PA 18447	Lackawanna	Scott Township	Lackawanna River HQ-CWF Hull Creek CWF	Y

**V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010905006	O & B Builders 1765 Canary Road Subdivision P. O. Box 973 Worcester, AP 19490	Bucks	Milford Township	Schmoultz/Unami Creek (HQ-TSF)
PAI011503066	Toll RA VI, LP The Datner Tract P. O. Box 514 Uwchland, PA 19380	Chester	West Bradford Township	UNT West Branch Brandywine Creek (EV)
PAI011504084	ONB, Inc. Dunsmore Subdivision 1195 McDermott Drive West Chester, PA 19380	Chester	East Fallowfield Township	UNT West Branch Brandywine Creek (EV, MF)
PAI011505018	BK Campbell, Inc. Shoppes at Lower Oxford— Phase I 402 Bayard Road, Suite 100 Kennett Square, PA 19348	Chester	Lower Oxford Township	UNT Leech Run (TSF-MF) UNT Big Elk Creek (HQ-TSF-MF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021304004	Carbon Lehigh Holding Co. 7785 Spring Creek Rd. Macungie, PA 18062	Carbon	Penn Forest Township	Sony Creek and Bear Creek HQ-CWF
PAI023905001	John F. Folck 2968 Boger Stadt Rd. New Tripoli, PA 18066	Lehigh	Weisenberg Township	Lyon Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106-1 Revision 29	Rob Cooper PSU—Office of Physical Plant 101P Physical Plant Bldg. University Park, PA 16802	Centre	College Township	Slab Cabin Run 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 &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
West Whiteland Township Chester County	PAG2001504116	Coley Pontiac/Buick/GMC 421 West Lincoln Highway Exton, PA 19341	Valley Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG2001505007	Chatham Financial Corporation 576 Rosedale Road Kennett Square, PA 19348	Red Clay Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Brandywine Township Chester County	PAG2001505021	EVP Development ARC 111 Westwood Place Suite 200 Brentonwood, NJ 37027	UNT Beaver Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Bradford Township Chester County	PAG2001505025	Bradford Plaza Investment 5755 New King Court Troy, MI 48098	UNT Taylor Run (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Marlborough Township Chester County	PAG2001504124	Blakburn Realty Assoc, LP 1595 Paoli Pike Suite 202 P. O. Box 1906 West Chester, PA 19380	UNT Red Clay Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Delaware County	PAG2002305001	County of Delaware 201 West Front Street Media, PA 19063	Crum Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG2004605054	The Blue Bell Inn 601 Skippack Pike Blue Bell, PA 19422	Stony Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Norristown Borough Montgomery County	PAG2004604196	SEPTA Norristown Transportation Cntr 1234 Market Street 12th Floor Philadelphia, PA 19107	Schuylkill River/Stony Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900



## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Dublin Township Montgomery County	PAG2004605049	Liberty Property Limited Prtshp. 5 Walnut Grove Drive Suite 200 Horsham, PA 19044	Pine Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG2004604077	Heritage Building Group, Inc. 3326 Old York Rd. Suite A-100 Furlong, PA 18925	Swamp Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Greenville Township Montgomery County	PAG2004605014	East Greenville Associates, LP 310 Schoolhouse Rd. Suite 1 Souderton, PA 18964	Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004605029	Methacton School District 1001 Kriebler Mill Road Norristown, PA 19408	UNT Mine Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAR10T547R	Sal Lapio Homes, Inc. 104 Mill Road Sellersville, PA 18960	Swamp Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cheltenham Township Montgomery County	PAG2004604188	Nassimi Realty Corporation 370 Seventh Avenue Suite 1700 New York, NY 10001	Rock Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pottstown Borough Montgomery County	PAG2004605038	Mount Olive Baptist Church 399 North Evans Street Pottstown, PA 19464	Schuylkill River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG2004605019	Stephen Varehorst Architects 1100 East Hector Street Conshohocken, PA 19428	UNT Mill Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG2004605047	Glaxo Smith Kline 5 Moore Drive Research Triangle Park NJ	Schuylkill River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Gwynedd Township Montgomery County	PAG2004604099	David Cutler 5 Sentry Parkway W., Suite 100 Blue Bell, PA 19422	Trewellyn Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Moreland Township Montgomery County	PAG2004604223	Toll Brothers, Inc. 3103 Philmont Avenue Huntingdon Valley, PA 19006	Pennypack Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bridgeport Borough Montgomery County	PAG2004605011	MBC Development, LP 950 E. Main St. P. O. Box 472 Schuylkill Haven, PA 17972	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Pottsgrove Township Montgomery County	PAG2004603021	Pottstown Area Police Ath. Leg. 2093 East High Street Pottstown, PA 19464	Goose Run (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Moreland Township Montgomery County	PAG2004604201	First Baptist Church of Huntingdon Valley 245 Murray Avenue Huntingdon Valley, PA 19006	Pennypack Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004603023-1	Line Lexington Management 768 North Bethlehem Pk. Lower Gwynedd, PA 19002	Tributary West Branch of Neshaminy Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004603075-1	McGrath Homes 1262 Wood Lane Suite 207 Langhorne, PA 19047	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105010	Dale Corporation Lucien E. Blackwell Homes 70 Limekiln Pike Glenside, PA 19038	Delaware River (WWF) City of Philadelphia WWTF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105012	HE.R.B., CDC Cecil B. Moore Homeownership 1510 Cecil B. Moore Ave. Suite 300 Philadelphia, PA 19121	City of Philadelphia WWTF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cressona Borough Schuylkill County	PAG2005405017	Keepsake Homes P. O. Box 2181 Sinking Spring, PA 19608	West Branch of Schuylkill River CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Summit Hill Borough Carbon County	PAG2001305005	Panther Valley School District 11 E. Bertsch St. Lansford, PA 18232	Panther Creek CWF	Carbon Co. Cons. Dist. (610) 377-4894
Jessup Borough Lackawanna County	PAG2003505005	Pat Dempsey D.L.P. Ventures L.P. Sunset Drive 49 Moosic Lakes Lake Ariel, PA 18436	Sterry Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
City of Pottsville Palo Alto Borough Port Carbon Borough Mount Carbon Borough Schuylkill County	PAG2005405001	Greater Pottsville Area Sewer Authority 401 Centre St. Pottsville, PA 17901	Schuylkill River CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Upper Saucon Township Lehigh County	PAG2003905008	Eagle Custom Bldrs., Inc. P. O. Box 170 Coopersburg, PA 18036	Tumble Brook CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Clinton County Wayne Township	PAG2001805001	Fred Beury Hunters Archery 68 Beury Lane Lock Haven, PA 17745	W. Br. Susquehanna River WWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17754 (570) 726-3798
Columbia County Town of Bloomsburg	PAG2001905005	Bloomsburg University Buckingham Maintenance Center 400 E. 2nd St. Bloomsburg, PA 17815	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Rd. Suite 204 Bloomsburg, PA 17815 (570) 784-1310

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Armstrong County Manor Township	PAG2000305004	Western Pennsylvania Chapter of Outlaws, Inc. P. O. Box 77 McGrann, PA 16238	UNT to Garretts Run (WWF)	Armstrong County CD (724) 548-3425
Beaver County Franklin Township	PAG2000405012	Ellwood Investors, LLC c/o James A. Gallagher 103 Crystal Springs Dr. Cranberry Township, PA 16066	UNT to Connequenessing Creek (WWF)	Beaver County CD (724) 378-1701
Indiana County Burrell Township	PAG2003205006	Jeffrey Harlich Prudential Realty Co. 3700 South Water St. Indiana, PA 1570-1	UNT to Blacklick Crk. (CWF)	Indiana County CD (724) 463-8547
Indiana County Conemaugh Township	PAG2003205008	Charles Merlo Charles Merlo, Inc. 234 Merlo Road Mineral Point, PA 15701	Blackleggs Creek (CWF)	Indiana County CD (724) 463-8547
Washington County Smith, Robinson, Mt. Pleasant Townships and Midway Borough	PAG2006305014	Washington County Commissioners 100 West Beau Street Suite 701 Washington, PA 15301	Robinson Run (WWF)	Washington County CD (724) 228-6774
Butler County Jackson Township	PAG2001005027	Glick Fire Equipment Co., Inc. 350 Mill Creek Road Bird-In-Hand, PA 16525	Breakneck Creek WWF	Butler Conservation District, 122 McCune Drive Butler, PA 16001-6501

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Franklin County Antrim Township	PAR113508	Grove U. S., LLC 1565 Buchanan Trail East Shady Grove, PA 17256	UNT to Conococheague Creek/WWF Marsh Run/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Rush Township Centre County	PAR604826	Jim Verost Used Cars & Trucks 846 N. Ninth Street Phillipsburg, PA 16866	Moshannon Creek TSF	NorthCentral Regional Office 208 West Third Street Williamsport, PA 17701-6448 (570) 327-3664
City of Washington Washington County	PAR126103	Coca Cola Bottling Co. of Eastern Great Lakes 124 West Maiden Street Washington, PA 15301	Catfish Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lancaster County Leacock Township	PAG043727	Steve E. Riehl 143 North Ronks Road Ronks, PA 17572-9702	Pequea Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Allegheny Township	PAG043527	Michael A. Maher 1029 Mahers Lane Duncansville, PA 16635-5801	UNT to Blair Gap Run TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Cumberland County Lower Mifflin Township	PAG043617	Mark Lehman 694 Center Road Newville, PA 17241	7B	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Cambria County Allegheny Township	PAG046298	Robert Storm 597 Storm Road Loretto, PA 15940	UNT of Beaverdam Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Venango Township Erie County	PAG049163	John T. Afton, Jr. 7856 Knoyle Road Wattsburg, PA 16442	UNT to Alder Brook	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Venango Township Erie County	PAG049164	John T. Afton, Jr. 7856 Knoyle Road Wattsburg, PA 16442	UNT to Alder Brook	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Venango Township Erie County	PAG049162	John T. Afton, Jr. 7856 Knoyle Road Wattsburg, PA 16442	UNT to Six Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Freehold Township Warren County	PAG048313	Elsie I. Mitchell R. R. 1, Box 32 Columbus, PA 16405	Pine Valley Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greene Township Mercer County	PAG049152	Pleasant Acres Golf Course 240 Tower Road Jamestown, PA 16134	UNT to Shenango River 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8*

<i>Facility Location &amp; County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Beauty Road Clearfield, PA Lawrence Township Clearfield County	PAG084817	Clearfield Municipal Authority 107 East Market St. Clearfield, PA 16830	Clearfield Wastewater Treatment Facility Beauty Road Clearfield, PA	Northcentral Regional Office (570) 327-3636

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Contact Office &amp; Phone No.</i>
Bedford County Hopewell Borough	PAG083508	Hopewell Borough Wastewater Treatment Plant P. O. Box 160 Hopewell, PA 16650-0160	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing

Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

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

**Operations Permit** issued to: **Lehigh County Authority—Central Lehigh Division**, P. O. Box 3348, Allentown, PA 18016 (PWSID 3390073), Upper Macungie Township, **Lehigh County** on May 31, 2005 for the operation of facilities approved under construction permit Minor Amendment of December 22, 2004.

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

**Permit No. 4105501—Construction**, Public Water Supply.

Applicant	<b>Meadow Brook Mobile Home Park</b>
Township or Borough	Muncy Creek Township
County	<b>Lycoming</b>
Responsible Official	Donald DeBlase, Manager Pocono, LLC 100 Linden Oaks, Suite 103 Rochester, NY 14623
Type of Facility	Public Water Supply—Construction
Consulting Engineer	James J. Oberst, P. E. 202 Milburn Street Rochester, NY 14607
Permit Issued Date	6/1/05
Description of Action	Installation of a barium removal system for Well No. 3 at Meadow Brook Mobile Home Park. This includes two Culligan Hi-Flo 3 water softeners connected in parallel, a 1,500 gallon Norwesco waste brine tank, a Well-Rite model WR100 hydropneumatic tank and a 600 pound brine pot.

**Permit No. Minor Amendment—Operation**, Public Water Supply.

Applicant	<b>Millville Borough Council</b>
Township or Borough	Millville Township
County	<b>Columbia</b>
Responsible Official	Roy Bower, President Millville Borough Council P. O. Box 30, 136 Morehead Ave. Millville, PA 17846-0030
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Britt Bassett, P. E. Bassett Engineering, Inc. 1440 Broad Street Montoursville, PA 17754
Permit Issued Date	6/1/05
Description of Action	Addition of Aqua-Mag for corrosion control to the existing system.

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

**Permit No. 3204507**, Public Water Supply.

Applicant	<b>Green Township Municipal Authority Barr Slope Water Treatment Plant</b> P. O. Box 129 77 Musser Street Commodore, PA 15729
Borough or Township	Green Township
County	<b>Indiana</b>
Type of Facility	Water treatment plant
Consulting Engineer	Keller Engineers 420 Allegheny Street P. O. Box 61 Hollidaysburg, PA 16648
Permit to Construct Issued	May 16, 2005

**Permit No. 1103503MA**, Public Water Supply.

Applicant	<b>Northern Cambria Municipal Authority</b> 1202 Philadelphia Avenue Northern Cambria, PA 15714
Borough or Township	Susquehanna Township, North Cambria Borough
County	<b>Cambria</b>
Type of Facility	Reservoir
Consulting Engineer	Stiffler, McGraw & Associates, Inc. 19 N. Juniata Street P. O. Box 462 Hollidaysburg, PA 16648
Permit to Construct Issued	May 23, 2005

**Permit No. 2605501**, Public Water Supply.

Applicant	<b>Indian Creek Valley Water Authority</b> P. O. Box 486 Indian Head, PA 15446
Borough or Township	Saltlick Township
County	<b>Fayette</b>

Type of Facility      Pritts Spring Slow Sand Filtration Plant

Consulting Engineer      Bankson Engineer, Inc. 267 Blue Run Road P. O. Box 200, Indianola, PA 15051

Permit to Construct Issued      May 26, 2005

**Permit No. 4871-A8**, Public Water Supply.

Applicant      **Municipal Authority of the Borough of Derry** 620 Chestnut Stree Derry, PA 15627

Borough or Township      Derry Borough

County      **Westmoreland**

Type of Facility      Pretreatment chemicals and filter improvements

Consulting Engineer      Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street P. O. Box 853 Latrobe, PA 15650

Permit to Construct Issued      June 6, 2005

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Palmer Township	3 Weller Place Palmer, PA 18043	Northampton

*Plan Description:* The Plan Update provides for: (1) extension of the existing Shoeneck Creek Interceptor north to serve the Danforth Drive pumping station service area and elimination of the Danforth Drive pumping station; (2) replacement of the Sheridan Drive and Stone Crossing pumping stations; and (3) continuation of the program to identify and remove excessive infiltration/inflow from the sanitary sewer system. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required 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>
Hanover Township	2072 State Route 168 Georgetown, PA 15043	Beaver

*Plan Description:* The approved plan provides for construction of a 1,200-gallon per day small flow sewage treatment plant to serve three residential lots under the ownership of Michael Heinlein. The property is located along SR 168 in Hookstown, PA. The proposed discharge point is to a tributary of Aunt Claras Fork Kings Creek, classified as a CWF. Any required NPDES Permits or WQM Permits must be obtained in the name of the applicant as appropriate. The Department's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
New Sewickley Township	233 Miller Road Rochester, PA 15074	Beaver

*Plan Description:* The approved plan provides for construction of a 400 gallon per day single residence sewage treatment plant to repair the existing malfunctioning septic system at the single-family home of Donald Farris. The property is located at 107 Twin Creek Lane. The proposed discharge point is to Crows Run, classified as a warm water fishery. Any required NPDES Permits or WQM Permits must be obtained in the name of the applicant as appropriate. The Department's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

*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>
Greene Township	9333 Tate Road Erie, PA 16509	Erie

*Plan Description:* The approved plan provides for the construction of a new .390 mgd wastewater treatment plant in Greene Township and the construction of a

**WATER ALLOCATIONS**

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

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

**WA65-111E, Water Allocations. Municipal Authority of Westmoreland County,** Southwest Corner U. S. Route 30 West and South Greengate Road, P. O. Box 730, Greensburg, PA 15601, **Westmoreland County.** Modification order to sell 50,000 gallons per day, as a peak month, to the Pennsylvania-American Water Company.

**WA2-200F, Water Allocations. Pennsylvania-American Water Company,** 300 Galley Road, McMurray, PA 15317, **Allegheny County.** The applicant was granted the right to purchase 50,000 gallons per day, as a peak month, from the Municipal Authority of Westmoreland County.

**WA2-200E, Water Allocations. Pennsylvania-American Water Company,** 300 Galley Road, McMurray, PA 15317, **Allegheny County.** The applicant was granted the right to purchase 12 million gallons of water per day, on an emergency basis, from the Pittsburgh Water & Sewer Authority.

**WA2-131A, Water Allocations. Pittsburgh Water & Sewer Authority,** 441 Smithfield Street, Pittsburgh, PA 15222, **Allegheny County.** Modification order to sell 12 million gallons of water per day, on an emergency basis, to the Pennsylvania-American Water Company.

**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.*

sanitary sewer collection/conveyance system to serve on existing 925 equivalent dwelling units within the study area. 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>
West St. Clair Township	P. O. Box 92 Alum Bank, PA 15521	Bedford

*Plan Description:* The approved plan provides for the subdivision of residential lot No. 6 of Karl and Rena Kaufman to be served by a small flow treatment facility with stream discharge. 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.

## 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.*

**Weigle Residence**, Huntington Township, **Adams County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Ron and Jean Weigle, 3509 Carlisle Road, Idaville, PA 17337, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report was submitted within 90 days of a release and is intended to document remediation of the site to the Statewide Health standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Jersey Shore Coastal Mart**, Jersey Shore Borough, **Lycoming County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, has submitted a Final Report concerning groundwater contaminated with gasoline. This Final Report is intended to demonstrate attainment of the Statewide Health Standard.

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

**Molycorp Washington Site**, Canton Township, **Washington County**. Alan Shuckrow, Malcolm Pirnie Inc., 1603 Carmody Court, Sewickley, PA 15143 (on behalf of Ray Chermiske, Molycorp, Inc., P. O. Box 469, Questa, NM 87556) has submitted a Risk Assessment Report concerning remediation of site soil and groundwater contaminated with VOC and semivolatile organics, metals and cyanide. The report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard

selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report 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.*

**Kerrigan and Heller Residences**, Tyrone Township, **Adams County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Raymond and Lois Kerrigan, 630 Game Lands Road, Aspers, PA 17304 and Environmental Products & Services, Inc., 5140 Paxton Street, Harrisburg, PA 17111, submitted a Final Report concerning remediation of site soils contaminated with home heating oil. The final report demonstrated attainment of the Statewide Health standard, and was approved by the Department on May 31, 2005.

**Laurel Center II**, City of Reading and Cumru Township, **Berks County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Greater Berks Development Fund, 19 North Sixth Street, Suite 200, P. O. Box 8621, Reading, PA 19603-8621 and Cambridge-Lee Industries, Inc., P. O. Box 14026, Reading, PA 19612-4026, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with PHCs, PCBs, metals and solvents. The combined report demonstrated attainment of the Statewide Health and Site-Specific standards, and was approved by the Department on June 2, 2005.

**Laurel Pipeline Company Site**, Sinking Spring Borough, **Berks County**. Laurel Pipeline Company, LP, P. O. Box 368, Emmaus, PA 18049-0368 submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The final report demonstrated attain-

ment of the Statewide Health standard, and was approved by the Department on June 2, 2005.

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

**Westinghouse Air Brake Technology Company**, Borough of Wilmerding **Allegheny County**. Bruce Shaw, American Geosciences Inc., 3925 Reed Blvd., Suite 400, Monroeville, PA 15668-1848 on behalf of Westinghouse Air Brake Technology Company, 1001 Air Brake Avenue, Wilmerding, PA 15148 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with heavy metals, solvents, BTEX and PHCs. The Remedial Investigation Report was approved by the Department on June 1, 2005.

**Flint Ink**, Borough of Sharpsburg **Allegheny County**. Martin Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of Norfolk-Southern RR, 425 Holiday Drive, Pittsburgh, PA 15220, and Flint Ink, 4600 Arrowhead Drive, Ann Arbor, MI 48105 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with lead and heavy metals. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on May 10, 2005.

**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.

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

**Housing & Neighborhood Development Svc.**, City of Warren, **Warren County**. Shay L. Meinzer, Housing & Neighborhood Development Svc., 502 East 12th Street, Erie PA 16503 on behalf of Mark Patterson, Patterson-Erie Corp., 1250 Tower Lane, Erie PA 16505 has submitted a Final Report concerning the remediation of site Soil and Groundwater contaminated with Organics and Inorganics. The Final report demonstrated attainment of the residential standards and was approved by the Department on May 26, 2005.

**Castle Brand Former**, City of New Castle, **Lawrence County**. J. Scott Whipkey, RAR Eng Group, 1135 Butler Ave., New Castle PA 16101 on behalf of Leonard L. Lastoria, New Castle Area Transit Authority, 311 Mahoning Ave., New Castle PA 16101 has submitted a Baseline Environmental Report concerning the remediation of site soil contaminated with Boron and Lead and dissolved Lead, Pentachlorophenol and Trichlorethene in the groundwater. The report is intended to document remediation of the site to meet the Special Industrial Standards.

**Pennzoil Quaker State Plant 2**, Oil City, Cornplanter Township, **Venango County**. Brad Zewe, CP Environmental Group, 1092 Fifth Avenue, New Kensington PA 15068 on behalf of Harry Perrine, Pennzoil-Quaker State Co. d/b/a Shell OPUS, 260 Elm Street, Oil City PA 16301 has submitted a Remedial Investigation/Site Characterization Report concerning the remediation of site soil and groundwater contaminated with petroleum based separate phase liquid, benzene and



1,3 5-trimethylbenzene. The reports are intended to document remediation of the site to meet the Site Specific Standards.

#### MUNICIPAL WASTE GENERAL PERMITS

**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 municipal waste regulations for a general permit to operate municipal waste processing facilities and the beneficial use of municipal waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGM031. Waste Management and Processors, Inc.,** Main Street, P. O. Box K, Frackville, PA 17951.

General Permit Numbered WMGM031 is for the processing and beneficial use by blending: (1) Class B biosolids; (2) Gilberton Coal Ash; and (3) other odor absorbing materials (such as, pulp and paper mill sludge, woodchips or sawdust) for land application for mine reclamation purposes at the Reading Anthracite Buck Run Strip Mine. The general permit was issued by Central Office on June 2, 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.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

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

**Permit No. 101076. Lower Merion Township,** 75 E. Lancaster Ave., Ardmore PA, 19003-2323, Lower Merion Township, **Montgomery County.** This permit was issued to allow for the short-term, continued operation of the Lower Merion Township Transfer Station during the review of the facility's 10-year renewal application. The permit was issued by the Southeast Regional Office on May 31, 2005.

**Permit No. 101662. Conshohocken Rail LLC,** 1025 Bundy Rd., Youngstown OH, 44509, Plymouth Township, **Montgomery County.** This permit is for reissuance of the solid waste permit from ADC Recycling Corporation to Conshohocken Rail, LLC for the construction and demolition waste transfer facility located in Plymouth Township, Montgomery County. The permit was issued by the Southeast Regional Office on May 26, 2005.

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 101571. Mostoller Landfill, Inc.,** 7095 Glades Pike, Somerset, PA 15501. A major permit modification for leachate collection and treatment plant

design at a municipal waste landfill in Brothersvalley and Somerset Townships, **Somerset County,** was issued in the Regional Office on June 6, 2005.

**Bond Release under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 400689. Multiple Hearth Incinerator, Merck & Co., Inc.,** P. O. Box 600, Danville, PA 17821. Request for bond release for closed residual waste processing facility approved by Northcentral Regional Office on May 26, 2005.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### MUNICIPAL WASTE GENERAL PERMITS

**Department Initiated General Permit Issued Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGM030.** The Department of Environmental Protection, Bureau of Land Recycling and Waste Management, authorizes, under General Permit WMGM030, yard waste composting facilities that do not exceed 15 acres in size. This proposed general permit was originally published in draft at 34 Pa.B. 5953 (October 30, 2004). This is a Department initiated Statewide municipal waste general permit.

Persons interested in obtaining more information, or obtaining copies of 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, Rachel Carson State Office Building, 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.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP3-06-03131: Brubacher Excavating, Inc.** (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507) on May 31, 2005, for a Portable Nonmetallic Mineral Processing Plant under GP3 in the Borough of Wyomissing, **Berks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**GP3-41-03: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on May 31, 2005, to construct and operate a portable stone crushing plant under the General Plan Approval and General Operating Permit for Nonmetallic Mineral Processing Plants (BAQ-GPA/GP3) at their Montoursville Asphalt Plant No. 15 in Loyalsock Township, **Lycoming County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**GP1-65-00921: North Side Foods Corp.** (2200 Rivers Edge Drive, Arnold, PA 15068) on June 1, 2005 to renew permit (GP-1) effective June 3, 2005 to allow the operation of one Cleaver Brooks, Model No. CBLE700-400-150, natural gas-fired Boiler with Flue Gas Recirculation rated at 13.39 mmBtu/hr in Arnold, **Westmoreland County**.

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

**GP-42-194: Glenn O. Hawbaker, Inc.—Shinglehouse** (497 Horserun Road, Shinglehouse, PA 16748) on May 25, 2005, to operate of a portable nonmetallic mineral processing plant in Ceres Township, **McKean County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**45-318-032: Tobyhanna Army Depot** (11 Hap Arnold Boulevard, Tobyhanna, PA 18466) on May 26, 2005, to modify their VOC emission limit in Coolbaugh Township, **Monroe County**.

**48-318-137: Victaulic Co. of America** (4901 Kesslersville Road, Easton, PA 18040) on May 23, 2005, to construct a paint dip operation at their facility in Forks Township, **Northampton County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**14-00014B: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on May 11, 2005, to construct a recycled asphalt pavement crusher and two associated conveyors in an asphalt plant, a screen in an asphalt plant, a crusher and two associated conveyors in a primary stone crushing operation, a stone railcar unloading operation and to install an air cleaning device (a fabric collector) on a secondary stone crushing operation at their Pleasant Gap Plant in Spring Township, **Centre County**.

**18-315-002: First Quality Products, Inc.** (P. O. Box 331, McElhattan, PA 17748) on May 24, 2005, to con-

struct 22 absorbent products manufacturing (converting) lines in their Clinton County Industrial Park in Wayne Township, **Clinton 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.*

**15-0094: Metallurgical Products Co.** (P. O. Box 598, West Chester, PA 19380) on June 1, 2005, to operate a bag filter dust collector in West Goshen Township, **Chester County**.

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

**38-03035A: V and S Lebanon Galvanizing, LLC** (1000 Buckeye Park Road, Columbus, OH 43207-2509) on May 29, 2005, to construct a surface preparation and coating operation in Union Township, **Lebanon County**. This plan approval was extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**47-00001A: PPL Montour, LLC** (18 McMichael Road, Washingtonville, PA 17884) on June 3, 2005, to operate two bituminous coal-fired utility boilers (Units 1 and 2) and associated air cleaning devices (two electrostatic precipitators, two selective catalytic reduction systems and two flue gas injection systems) on a temporary basis until October 1, 2005, at their Montour Steam Electric Station in Derry Township, **Montour County**. The plan approval has been extended.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**15-00013: Huhtamaki Flexibles, Inc.** (2400 Continental Boulevard, Malvern, PA 19355) on June 2, 2005, to operate a facility Title V Operating Permit in Tredyffrin Township, **Chester 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.*

**46-00108: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on June 2, 2005, to operate a Synthetic Minor Operating Permit in Marlborough Township, **Montgomery County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**19-00025: Ciba Specialty Chemicals Corp.** (920 Seventh Avenue, Berwick, PA 18603) on May 31, 2005, to operate a starch modification facility in Berwick Borough, **Columbia County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**04-00434: Blackhawk School District** (500 Blackhawk Road, Beaver Falls, PA 15010) on May 31, 2005, to operate their space heating boiler at Blackhawk High School in Chippewa Township, **Beaver County**.

**04-00218: NF and M International, Inc.** (1729 Pennsylvania Avenue, Monaca, PA, 15061-1852) on May 31, 2005, to operate their major sources of emissions which include various saws, abrasive and grinding wheels, two annealing furnaces, a pickling tank, sanders and a shot blaster at their Monaca plant in Monaca Borough, **Beaver County**.

**32-00197: Purchase Line School District** (16559 Route 286 Highway E, Commodore, PA 15729-8309) on May 31, 2005, to operate two coal fired boilers at their high school in Green Township, **Indiana County**.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00122: Unisys Corp.** (Township and Union Meeting Roads, Blue Bell, PA 19424) on June 2, 2005, to modify the operation of a Synthetic Minor Operating Permit in Whitpain Township, **Montgomery County**.

**46-00127: Verizon Pennsylvania, Inc.** (1050 Virginia Drive, Fort Washington, PA 19034) on June 1, 2005, to change the required frequency of monitoring for odors, visible emissions, and fugitive particulate emissions from the facility to once per day when either/both generator(s) is/are operating, in Upper Dublin Township, **Montgomery County**. This is an Administrative Amendment to State-Only (Synthetic Minor) Operating Permit No. SMOP-46-00127.

Administrative Amendment of State Only Operating Permit No. SMOP-46-00127 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**46-00128: Verizon Pennsylvania, Inc.** (100 Greenwood Avenue, Jenkintown, PA 19046) on June 1, 2005, to change the required frequency of monitoring for odors, visible emissions, and fugitive particulate emissions from the facility to once per day when the generator is operating in Jenkintown Borough, **Montgomery County**. This is an Administrative Amendment to State-Only (Synthetic Minor) Operating Permit No. SMOP-46-00128.

Administrative Amendment of State Only Operating Permit No. SMOP-46-00128 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**15-00105: Buckeye Pipe Line Transportation LLC—Malvern Station** (8 South Malin Road, Frazer, PA 19355) on June 2, 2005, for an Administrative Amendment to Title V Operating Permit No. TVOP-15-00105 in East Whiteland Township, **Chester County**. The previously issued Title V Operating Permit (TVOP) has been amended to correct the Tax ID No. to 37-1504935.

Administrative Amendment of Title V Operating Permit No. TVOP-15-00105 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**17-399-012A: Allegheny Clearfield, Inc.** (114 Appalachian Drive, Clearfield, PA 16830) on June 3, 2005, via the minor operating permit modification requirements of 25 Pa. Code Section 127.462, to use additional lubricants in the parts processed through the facility's powdered metal parts sintering furnaces, to use up to 1.0% organic lubricant in the parts processed through all of the facility's sintering furnaces and to incorporate sintering furnaces Nos. 81-84 in Lawrence Township, **Clearfield County**.

**59-00004: Ward Manufacturing, Inc.** (115 Gulick Street, Blossburg, PA 16912-1001) on June 3, 2005, by means of the minor operating permit modification requirements of 25 Pa. Code § 127.462, to remove an iron melting cupola blast air recordkeeping requirement, modify a cupola flue gas reagent injection requirement and reflect the existence of two 5.2 million Btu per hour burners in the cupola's air pollution control system in Blossburg Borough, **Tioga County**.

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**De Minimis emissions increases authorized under 25 Pa. Code § 127.449.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**SOOP-46-00024: McNeil Consumer and Specialty Pharmaceuticals** (7050 Camp Hill Road, Fort Washington, PA 19034) for operation of a pharmaceutical preparation plant in Whitmarsh Township, **Montgomery County**. The permit is for a non-Title V State-only facility. De Minimis particulate matter emissions will result from installation of a new tablet compression machine (associated with Source ID 201 Solid Dose Operations). Particulate emissions will be routed to a dust collector; PM emissions are estimated to be 0.13 ton per year. The permit will include monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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**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).**

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*Coal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**11040101 and NPDES Permit No. PA0249661. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, commencement, operation and restoration of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 69.0 acres. Receiving streams: UNTs to/and Powell Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 19, 2004. Permit issued May 27, 2005.

**32990110 and NPDES Permit No. PA0235164. KMP Associates, Inc.**, 1094 Lantz Road, Avonmore, PA 15618, permit renewal for the continued operation and restoration of a bituminous surface-auger mine and refuse removal in Young Township, **Indiana County**, affecting 41.3 acres. Receiving streams: UNTs to Harpers Run and Harpers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 24, 2005. Permit issued June 1, 2005.

**Permit No.11950101 and NPDES No. PA0213080. L & J Energy Company Inc.**, P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface and auger mine in Susquehanna Township, **Cambria County**, affecting 9.0 acres. Receiving stream: UNT to Moss Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 5, 2005. Permit issued: May 11, 2005.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49870201R2. Susquehanna Coal Company** (P. O. Box 27, Nanticoke, PA 18634), renewal of an existing coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 206.0 acres, receiving stream: none. Application received August 2, 2004. Renewal issued June 1, 2005.

**54991302R and NPDES Permit No. PA0223972. Snyder Coal Company** (66 Snyder Lane, Hegins, PA 17938), renewal of an existing anthracite underground mine operation in Barry, Foster and Hegins Townships, **Schuylkill County** affecting 9.5 acres, receiving stream: tributary to Hans Yost Creek. Application received February 2, 2005. Renewal issued June 2, 2005.

*Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601 (724) 925-5500.*

**63823020 and NPDES Permit No. PA0616621. Robert B. Goodall** (275 Midway Candor Road, Bulger, PA 15019). Renewal permit for continued mining of and existing bituminous surface mine, located in Robinson Township, **Washington County**, affecting 39 acres. Receiving stream: UNT to Little Raccoon Creek. Renewal application received: June 3, 2004. Renewal permit received: May 13, 2005.

*Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.*

**33930107 and NPDES Permit No PA0211621. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Revision to an existing bituminous strip to change the postmining land use from forestland to unmanaged natural habitat on the Clarion Timber Company, LP property in Pinecreek and Warsaw Townships, **Jefferson County**. Receiving streams: UNT of Laurel Run and UNT to Little

Mill Creek, all to Mill Creek; three UNTs of Mill Creek. Application received: March 14, 2005. Permit Issued: May 10, 2005.

**33940105 and NPDES Permit No. PA0212121. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Revision to an existing bituminous strip to change the postmining land use from forestland to unmanaged natural habitat on the Clarion Timber Company, LP property in Pinecreek Township, **Jefferson County**. Receiving streams: Two UNTs to Five Mile Run and Mill Creek. Application received: March 14, 2005. Permit Issued: May 10, 2005.

**33980103 and NPDES Permit No. PA0227722. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Revision to an existing bituminous strip to change the postmining land use from forestland to unmanaged natural habitat on the Clarion Timber Company, LP property in Warsaw Township, **Jefferson County**. Receiving stream: UNT to Mill Creek. Application received: March 14, 2005. Permit Issued: May 10, 2005.

*Noncoal Permits Actions*

*Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.*

**3374SM58T and NPDES Permit No. PA0591688. Coolspring Mining, Inc.** (P. O. Box 1328, Uniontown, PA 15401). NPDES renewal issued for continued treatment of discharges at a noncoal surface mining site (limestone quarry) located in North Union Township, **Fayette County**, affecting 146.6 acres. Receiving streams: UNT to Coolspring Run and Coolspring Run to Shutes Run to Cove Run to Redstone Creek to the Monongahela River. Application received: March 24, 2005. NPDES renewal issued: June 1, 2005.

*Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.*

**37990302 and NPDES Permit No. PA0241547. Cemex, Inc.** (840 Gessner, Suite 1400, Houston, TX 77002). Renewal of an existing limestone operation in Shenango and Wayne Townships, **Lawrence County** affecting 798.0 acres. Receiving streams: UNTs to Snake Run, UNTs to Beaver River and Snake Run. Application received: January 28, 2005. Permit Issued: May 11, 2005.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**52050801. Randy S. Miller, Inc.** (HC 1 Box 1220, Tafton, PA 18464), commencement, operation and restoration of a quarry operation in Blooming Grove Township, **Pike County** affecting 5.0 acres, receiving stream: none. Application received March 14, 2005. Permit issued June 3, 2005.

**64052801. Bucks Cove Rod & Gun Club, Inc.** (P. O. Box 729, Honesdale, PA 18431), commencement, operation and restoration of a quarry operation in Texas and Palmyra Townships, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received March 1, 2005. Permit issued June 3, 2005.

**7274SM1A1C5 and NPDES Permit No. PA0595161. Lehigh Asphalt Paving & Construction Company** (P. O. Box 549, Tamaqua, PA 18252), renewal and correction of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Penn Township, **Schuylkill County**, receiving stream: UNT to Lizard Creek. Application received March 14, 2005. Renewal issued May 9, 2005.

**58040826. Kevin W. Ralston** (R. R. 2 Box 41-A, New Milford, PA 18834), commencement, operation and restoration of a Bluestone Quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received May 3, 2004. Permit issued May 12, 2005.

**58050807. James E. Rogers** (R. R. 1 Box 1122, Hop Bottom, PA 18824), commencement, operation and restoration of a bluestone quarry operation in Lenox Township, **Susquehanna County** affecting 5.0 acres. Receiving streams: Millard Creek. Application received February 22, 2005. Permit issued May 12, 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.**

*Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.*

**26054003. DemTech, Inc.** (65 Bald Mountain Road, Dubois, WY 82513). Permit issued for a bridge replacement project on Route 40 in Markleysburg, **Fayette County**, with an expected duration of one year. Permit issued: May 16, 2005.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**41054001. Great Lakes Geophysical, Inc.** (P. O. Box 127, Williamsburg, MI 49690), for oil and gas exploration blasting, located in Cummings, Watson, Cogan House, Anthony, Snow Shoe, Boggs, Morris and Graham Townships, **Lycoming, Centre and Clearfield Counties**, with an expected duration of 208 days. Permit issued: May 6, 2005.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**36054119. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Lakeview Country Estates in Mt. Joy Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued May 9, 2005.

**46054115. Newville Construction Services, Inc.** (408 Mohawk Road, PA 17241), construction blasting for Douglass Township Sewer Project in Douglass Township, **Montgomery County** with an expiration date of May 30, 2006. Permit issued May 9, 2005.

**28054117. Geological Technologies, Inc.** (P. O. Box 70, Falling Waters, WV 25419), construction blasting for a home in Waynesboro Borough, **Franklin County** with an expiration date of September 30, 2005. Permit issued May 10, 2005.

**28054118. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Greene Valley Estates in **Greene Township**, Franklin County with an expiration date of December 31, 2005. Permit issued May 10, 2005.

**39054103. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510), construction blasting for Integrated Health Campus in South Whitehall, Upper Macungie and Washington Townships, **Lehigh County** with an expiration date of May 2, 2006. Permit issued May 10, 2005.

**45054115. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for a home in Pocono Township, **Monroe County** with an expiration date of November 30, 2005. Permit issued May 5, 2005.

**46054116. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Jonah's Estates in Polk and Penn Forest Townships, **Monroe and Carbon Counties** with an expiration date of June 30, 2006. Permit issued May 10, 2005.

**64054103. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Wal-lenpaupack Estates in Paupack Township, **Wayne County** with an expiration date of June 30, 2006. Permit issued May 10, 2005.

**01051409. Newville Construction Services, Inc.** (408 Mohawk Road, PA 17241), construction blasting for Risser Building in Straban Township, **Adams County** with an expiration date of May 30, 2006. Permit issued May 12, 2005.

**01054110. Newville Construction Services, Inc.** (408 Mohawk Road, PA 17241), construction blasting for Gettysburg Battlefield Resort in Cumberland Township, **Adams County** with an expiration date of May 30, 2006. Permit issued May 12, 2005.

**21054131. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a pool on Honeysuckle Drive in Silver Spring Township, **Cumberland County** with an expiration date of May 30, 2005. Permit issued May 12, 2005.

**21054132. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Cella Development in Penn Township, **Cumberland County** with an expiration date of May 31, 2006. Permit issued May 12, 2005.

**28054119. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting for a home in Guilford Township, **Franklin County** with an expiration date of May 31, 2006. Permit issued May 12, 2005.

**28054120. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting for a home in Shippensburg Borough, **Franklin County** with an expiration date of May 30, 2006. Permit issued May 12, 2005.

**28054121. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting for Guilford-Siloam Water Main Extension in Greene Township, **Franklin County** with an expiration date of May 10, 2006. Permit issued May 12, 2005.

**36054120. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for a pool on Lititz Run Road in Warwick Township, **Lancaster County** with an expiration date of December 31, 2005. Permit issued May 12, 2005.

**46054116. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Providence Chase in Upper Providence Township, **Montgomery County** with an expiration date of December 23, 2005. Permit issued May 12, 2005.

**67054108. Newville Construction Services, Inc.** (408 Mohawk Road, PA 17241), construction blasting for West Manchester Sewer in West Manchester Township, **York County** with an expiration date of April 30, 2006. Permit issued May 12, 2005.

**52054107. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono

Ranch Lands in Lehman Township, **Pike County** with an expiration date of May 11, 2006. Permit issued May 13, 2005.

**40054002. Lagana Plumbing & Heating, Inc.** (146 Airport Road, Suite 3, Hazleton, PA 18202) and Bernard J. Hasara (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at the Upper Lehigh Sewer Project in Butler Township, **Luzerne County** with an expiration date of August 31, 2005. Permit issued May 31, 2005.

**21054136. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a pool/pond on Kent Road, Lower Allen Township, **Cumberland County** with an expiration date of July 30, 2005. Permit issued June 1, 2005.

**36054126. Gerlach's Drilling & Blasting** (172 Bend Mill Road, Lancaster, PA 17603), construction blasting for Sweetbrier Sewer Extension in Manheim Borough and Penn Township, **Lancaster County** with an expiration date of June 1, 2006. Permit issued June 1, 2005.

**67054111. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Orchard Hills Development in Springettsbury Township, **York County** with an expiration date of May 25, 2006. Permit issued June 1, 2005.

**15054002. Explo-Craft, Inc.** (P. O. Box 1332, West Chester, PA 19380), construction blasting at Timberlane Site in Valley and East Fallowfield Townships, **Chester County** with an expiration date of July 1, 2006. Permit issued June 2, 2005.

**38054002. ABEL Construction Company, Inc.** (3925 Columbia Avenue, Mountville, PA 17554) and **J. Roy's, Inc.** (P. O. Box 125, Bowmansville, PA 17507), construction blasting at Arbor Greene Phases 2 and 3 in North Londonderry Township, **Lebanon County** with an expiration date of March 31, 2006. Permit issued June 2, 2005.

**23054103. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241), construction blasting for a pool in Radnor Township, **Delaware County** with an expiration date of June 30, 2006. Permit issued June 2, 2005.

**36054127. Gerlach's Drilling & Blasting** (172 Bend Mill Road, Lancaster, PA 17603), construction blasting for Manor Corporate Center in Manor Township, **Lancaster County** with an expiration date of June 10, 2006. Permit issued June 2, 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

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

**E15-736. Honey Brook Township.** P. O. Box 1281, 495 Suplee Road, Honey Brook, PA 19344-1281, Honey Brook Township, **Chester County**, ACOE Philadelphia District.

To maintain an existing 88-inch span by 56-inch rise reinforced concrete elliptical culvert carrying Todd Road across West Branch of Brandywine Creek. The site is located approximately 50 feet southeast of the intersection of River Road (SR 0032) and Dale Road (Honey Brook, PA, USGS Quadrangle N: 19.0 inches; W: 4.8 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E46-970. Toll brothers, Inc.,** Regency @ Northampton, 445 St. Leonards Road, Holland, PA 18966, Lower Moreland Township, **Montgomery County**, ACOE Philadelphia District.

To perform grading activities and to construct and maintain an approximately 1,200-linear foot long concrete retaining wall within the 100-year floodway of Pennypack Creek (TSF, MF) and Mill Race Creek (TSF, MF) associated with the proposed Huntingdon Valley Club Condominiums. This work includes the construction and maintenance of a storm water basin and its associated intake/outfall structures, an outfall structure associated with the

collection system and interior drainage of this project, and an 8-inch PVC sanitary sewer line. The site is located just northwest of the intersection of Huntingdon Pike (SR 0232) and Welsh Road (SR 0063) (Frankford, PA USGS Quadrangle N: 21.8 inches; W: 9.8 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E09-882. Bucks County Board of Commissioners**, 55 East Court Street, Doylestown, PA 18901, Perkasie Borough, **Bucks County**, ACOE Philadelphia District.

To reissue and amend permit E09-656 for the removal of the existing Walnut Street Bridge No.13 and to reconstruct and maintain a new three span bridge over the East Branch of Perkiomen Creek (TSF). The proposed bridge has three clear spans measuring 68.5 feet, 69 feet and 68.5 feet with the proposed low point on the bridge superstructure at elevation 311.5 feet. This work will also include the following activities:

1. To remove and reconstruct portions of an existing concrete check dam as required to construct new bridge abutments and new bridge piers. Size and location of new construction will match the existing condition.

2. To remove and reconstruct a paved concrete channel, at the same location, measuring approximately 180 linear feet long, which conveys a minor tributary of the East Branch Perkiomen Creek. Size and location of new construction will match the existing condition.

3. To install a temporary bypass pipe and cofferdams within the East Branch of Perkiomen Creek to facilitate reconstruction of the paved concrete channel and construction of the proposed abutment and piers.

This site is located on Walnut Street approximately 200 feet northwest of the intersection of Walnut Street and Constitution Avenue (Telford, PA-DE, Quadrangle N: 21.3 inches; W: 5.15 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E54-318. Pine Grove Joint Treatment Authority**, P. O. Box 426, Pine Grove, PA 17963. Pine Grove Township, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To construct and maintain:

- (1) A wastewater treatment facility including the placement of fill within approximately 1.8 acres of the floodplain along the right bank of Swatara Creek (CWF), including the placement of fill in wetlands.

- (2) A 36-inch effluent line crossing of wetlands.

- (3) A 36-inch effluent outfall along the right bank of Swatara Creek.

- (4) An 8-inch sanitary sewer line crossing of a tributary to Swatara Creek.

- (5) A multiple utility line (dual 15-inch PVC or 16-inch D.I. sewer force main, and 8-inch water line) crossing of wetlands.

- (6) A multiple utility line (dual 15-inch PVC or 16-inch D.I. sewer force main, and 8-inch water line) crossing of a tributary to Swatara Creek and adjacent wetlands.

- (7) A multiple utility line (dual 15-inch PVC or 16-inch D.I. sewer force main, and 8-inch water line) crossing of wetlands.

- (8) A permanent access road crossing of wetlands.

The total permanent wetland impact is approximately 0.02 acre, and the total temporary wetland impact is approximately 0.32 acre. A previous design and location for the wastewater treatment facility was authorized under Permit E54-306, but was not constructed. The project is located east of SR 0081 and south of SR 0443 (Pine Grove, PA Quadrangle N: 5.8 inches; W: 4.6 inches). (Subbasin: 7D)

**E54-314. Tremont Borough**, 19 North Pine Street, P. O. Box 55, Tremont, PA 17981. Tremont Borough, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To authorize the following water obstructions and encroachments associated with the Good Spring Creek Restoration Project:

1. To construct and maintain a stream restoration project in a 925-foot reach of Good Spring Creek (CWF) using natural stream channel design with work consisting of narrowing the channel; widening the floodplain; installing rock vanes, cross vanes and habitat structures; and planting a riparian buffer.

2. To construct and maintain bank stabilization along 95 feet of the left bank of a tributary to Good Spring Creek with work consisting of removing an existing retaining wall, constructing an 18-foot long, 6-foot high precast concrete block retaining wall, and regrading and stabilizing 77 feet of bank with erosion control matting.

3. To construct and maintain a temporary road crossing of a tributary to Good Spring Creek consisting of a 21-inch diameter pipe and clean rock fill.

4. To construct and maintain a temporary ford crossing of Good Spring Creek consisting of clean rock fill.

The project begins at East Line Street and continues downstream to the railroad crossing. (Tremont, PA Quadrangle N: 0.25 inches; W: 1.75 inches) in Tremont Borough, Schuylkill County. (Subbasin: 7D)

**E54-319. Neal W. and Alberta E. Brensinger**, 243 Lutz Valley Road, Schuylkill Haven, PA 17972. Wayne Township, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To construct and maintain a private bridge having a single span of 15.5 feet and an underclearance of approximately 4.5 feet across a tributary to Little Swatara Creek (CWF). The project is located on the north side of Township Road T670 (Lutz Valley Road), approximately 1.5 miles west of its intersection with SR 0183. (Friedensburg, PA Quadrangle N: 12.8 inches; W: 15.0 inches). (Subbasin: 7D)

**E48-352. Signature Homes**, 610 Farm Lane, Doylestown, PA 18901. Forks Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a 30-inch diameter R.C.P. stormwater outfall structure and associated energy dissipator in the floodway of Bushkill Creek (HQ-CWF). This work is associated with a proposed 26-lot planned residential development, known as Upstream Estates, located on the east side of SR 2019 (Bushkill Drive), south of its intersection with Newlins Mill Road. (Easton, PA-NJ Quadrangle N: 19.0 inches; W: 17.0 inches). (Subbasin: 1F)



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

**E08-423: Columbia Natural Resources**, 900 Pennsylvania Avenue, P. O. Box 6070, Charleston, WV 25362. Athens Township, **Bradford County**. United States Army Corps of Engineers, Baltimore District (Sayre, PA 7.5' Quadrangle N: 11 inches; W: 11 inches).

To place and maintain fill in 0.035 acre of palustrine emergent wetlands for the purpose of improving an access road that will serve a gas well drilling pad. Since this encroachment falls under the de minimus amount of an avoidable impact, 0.05 acre, no compensation will be required. The project is located south of T-817 approximately 1.8 miles northwest of the intersection of SR 4018 (Wolcott Hollow Road) and T-817 (Sunnyfield Road).

**E12-154. Bucktail Rod and Gun Club**, 590 Old N. Creek Road, Emporium PA, 15834. Pedestrian Bridge in Shippen Township, **Cameron County**, ACOE Baltimore District (Emporium, PA Quadrangle N: 14.1 inches; W: 11.4 inches).

This permit authorizes removal of the existing bridge structure and to construct, operate and maintain a single span wooden footbridge and associated wooden abutments over Sizer Run. This crossing is located three-fourths mile on Sizer Run Road from the intersection with SR 155. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E26-325. Department of Transportation, Engineering District 12-0**, P. O. Box 459, Uniontown, PA 15401. To extend and maintain an existing box culvert in South Union Township, **Fayette County**, Pittsburgh ACOE District. (Uniontown, PA Quadrangle N: 0.9 inch; W: 16.8 inches and Latitude: 39° 52' 48"—Longitude: 79° 44' 41"). 1) To extend and maintain, with matching span and rise, an existing 214.0-foot long, 9.0-foot wide by 6.0-foot high box culvert 103.0 feet at the upstream end and 273.0 feet at the downstream end in an UNT to Coal Lick Run (WWF) (SR 0119 Station 379+15); 2) To relocate approximately 290.0 linear feet of an UNT to Coal Lick Run (WWF) at the upstream end of the box culvert and 70 linear feet at the downstream end (southbound on-ramp Station 8+10 to Station 11+0); 3) To construct and maintain concrete lining in the invert of an existing 496.0-foot long, 10.5-foot diameter corrugated metal pipe in an UNT to Coal Lick Run (SR 3009 Station 72+32); and 4) To construct and maintain a 125.0-foot long, 48-inch diameter reinforced concrete pipe in an UNT to Coal Lick Run (Northbound off-ramp Station 34+20). This structure qualifies for Department waiver § 105.12(a)(2).

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

**E10-401. Department of Transportation, District 10-0**, 2550 Oakland Ave. P.O. Box 429, Indiana, PA 15701-0429. SR 0019 and SR 3022 over Coal Run, in Cranberry Township, **Butler County**, ACOE Pittsburgh District. (Mars, PA Quadrangle 40° 41' 30" N; 80° 6' 15" W).

To construct and maintain a roadway improvements project consisting of: (1) a 10' 2" roadway/bridge deck extension with appurtenances to the downstream side of the existing CIP Concrete Slab Bridge having a clear span of 21' 2", a roadway width of 83' 8" and a minimum underclearance of 6' 9" at a point along SR 0019 over

Coal Run (WWF); (2) extending the north side by 17' 4" and south side 11' 4" with associated appurtenances of the existing CIP Concrete Slab Bridge having a clear span of 22' 0", a roadway width of 42' 8" and a minimum underclearance of 8' 4" at a point along Rochester Road (SR 3022) over Coal Run (WWF); (3) fills within the floodway of Coal Run (WWF) to facilitate roadway widening/resurfacing activities associated with this project all of which are located near the intersection of SR 0019 and SR 3022.

**E10-403, Slippery Rock University Foundation**, 1 Morrow Way, Slippery Rock, PA 16057. Slippery Rock University Student Housing Project, in Slippery Rock Township, **Butler County**, ACOE Pittsburgh District (Slippery Rock, PA Quadrangle N: 11.6 inches; W: 5.8 inches).

To place fill within 0.1 acre of emergent wetlands and to impact 865 linear feet of two UNTs to Slippery Rock Creek (CWF) on grounds of Slippery Rock University in the vicinity of Rocket Drive. The permittee is required to replace 0.10 acre of wetlands as a part of this project.

**E10-404, Butler County**, P. O. Box 1208, Butler, PA 16003-1208. Cunningham Bridge No. 120 Replacement Project, in Clinton Township, **Butler County**, ACOE Pittsburgh District (Curtisville, PA Quadrangle N: 8.9 inches; W: 10.75 inches).

To remove the existing truss bridge having a clear span of 36' 0", a curb to curb width of 12' 7" and a maximum underclearance of 9' 5" and to construct and maintain a steel girder bridge w/concrete deck having a clear span of 43' 0", a curb to curb width of 24' 0" and a maximum underclearance of 10' 0" at a point approximately 300' east of Saxonburg Boulevard along Anderson Road (T-572) over Bull Creek (TSF).

**E20-540, Lloyd Akins and John Zinnamosca**, 12515 Culvert Lane, Conneaut Lake, PA 16316. Storage Building, in Summit Township, **Crawford County**, ACOE Pittsburgh District (Harmonsburg, PA Quadrangle N: 4.9 inches; W: 8.3 inches).

The applicant proposes to construct and maintain a storage building involving to fill approximately 0.02 acre (de minimis) of PSS wetlands (Harmonsburg, PA Quadrangle N: 4.9 inches; W: 8.3 inches) in Summit Township, Crawford County approximately 200 feet northeast of the intersection of SR 18 and T-567 (Phelps Road).

**E43-316, Mercer County Conservation District**, 747 Greenville Road, Mercer, PA 16137. Stream Restoration of UNT to Powdermill Run in French Creek Township, **Mercer County**. ACOE Pittsburgh District (New Lebanon, PA Quadrangle N: 18.9 inches; W: 1.7 inches).

To construct and maintain a natural channel design stream restoration project impacting a total reach of approximately 2,950 feet of an UNT to Powdermill Run (WWF) beginning at the outlet of an existing culvert under SR 322 approximately 400 feet north of the intersection of Fejes Road and Hollabaugh Road and extending downstream to its confluence with Powdermill Run approximately 1,000 feet downstream of Hollabaugh Road including realignment of the stream channel, regrading to establish bankfull and flood prone width and depth along the entire reach, the replacement of the existing culvert under Hollabaugh Road and impact to 0.1 acre of wetland (PEM/PSS) associated with realignment/grading of the stream channel in French Creek Township, Mercer County. Replacement of 0.1 acre of impacted



wetland will be constructed with the elimination of a breached off-stream pond near the confluence of Powdermill Run.

**E62-404, Conewango Township Supervisors, 4** Firemans Street, Warren, PA 16365. T-465 (Creamery Road) Bridge Replacement, in Conewango Township, **Warren County**, ACOE Pittsburgh District (Russell, PA Quadrangle N: 5.1 inches; W: 15.5 inches).

The applicant proposes remove the existing bridge and to construct and maintain a prestressed concrete box beam bridge having a clear span of 48 feet and an underclearance of approximately 7.19 feet on a 73° skew across Jackson Run on Creamery Road approximately 800 feet SW of the intersection of SR 69 and Creamery Road. Project includes de minimis impact of 0.015 acre of EV wetlands and installation of riprap to fill an existing scour hole and provide scour protection. The project

proposes to directly impact 0.015 acre of EV wetland and approximately 50 linear feet of stream.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D13-027EA. Bureau of Waterways Engineering,** P. O. Box 8460, Harrisburg, PA 17105-8460. Borough of Palmerton, **Carbon County**, ACOE Philadelphia District.

Project proposes to breach and remove Diversion Dam located across the Lehigh River (TSF) to eliminate a threat to public safety and to restore the stream to a free flowing condition. The dam is located adjacent to SR 248, approximately 1,000 feet downstream of Bowman Island, 1 mile southwest of the Town of Palmerton (Lehighon, PA Quadrangle N: 7.6"; W: 1.4").

#### STORAGE TANKS

##### SITE-SPECIFIC INSTALLATION PERMITS

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
05-28-002	Ken West Alex C. Fergusson, Inc. 5000 Letterkenny Road Chambersburg, PA 17201	Franklin	Letterkenny Township	10 Asts storing regulatd substances	55,500 gallons

#### SPECIAL NOTICES

##### Certification to Perform Radon-Related Activities in this Commonwealth

In the month of May 2005 the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Chad Albright	3810 Broad Avenue Altoona, PA 16601	Testing
Alpha Detection & Control	98 Porter Avenue Scottdale, PA 15683	Testing
Arick Amspacker	3262 Reeve Drive Bethlehem, PA 18020	Testing
David Artigliere	P. O. Box 4475 Reading, PA 19606	Testing
Brian Bacchus	251 Fox Meadow Drive Wexford, PA 15090	Testing
Jay Bauder	3 Yoder Lane Newmanstown, PA 17073	Mitigation
Benchmark Professional Home Inspection, Inc.	219 W. Grove Street Clarks Summit, PA 18411	Testing
Thomas Biebel	2820 West 23rd Street Erie, PA 16506	Testing
Robert Blanchfield	2830 Stephens Street Easton, PA 18045	Testing
Deborah Buck	P. O. Box 699 Saylorsburg, PA 18353	Testing
Robert Cunningham	R. R. 7, Box 7051 Saylorsburg, PA 18353	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Bernard Curley	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Lois Distenfeld	4326 Crestview Road Harrisburg, PA 17112	Testing and Laboratory
Mark Dolph	R. R. 8, Box 8320 Moscow, PA 18444	Testing
Kevin Dunkle	P. O. Box 211 Worthington, PA 16262	Testing
Susan Fella	316 Hard Hill Road Hamburg, PA 19526	Testing
Todd Giddings & Associates, Inc.	3049 Enterprise Drive State College, PA 16801	Testing
John Jenkins, Jr.	72 Glenmaura National Blvd. Moosic, PA 18507	Testing
Wendy McCorkel EMG	11011 McCormick Road EMG Hunt Valley, MD 21031	Testing
Robert Meyer, Jr.	2843 North Front Street Harrisburg, PA 17110	Mitigation
Patrick Moran	4601 Locust Lane Suite 303 Harrisburg, PA 17109	Testing
James Nase Moyer & Son, Inc.	P. O. Box 64198 113 E. Reliance Road Souderton, PA 18964	Testing
John Platz	2006 West 51st Street Erie, PA 16509	Testing
Brian Reuss HouseMaster Home Inspections	9125 Marshall Road Suite B12 Cranberry Township, PA 16066	Testing
Troy Rudy	1604 Lititz Avenue Lancaster, PA 17601	Testing
Mark Salasky Landauer, Inc.	2 Science Road Glenwood, IL 60425	Laboratory
Reid Stever	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
ValueGuard USA, Inc.	44 West Lancaster Avenue Suite 220 Ardmore, PA 19003	Testing
Terry Wilver	1015 Green Street Milton, PA 17847	Testing
Jeffrey Yocum	4351 Vera Cruz Road Center Valley, PA 18034	Testing
John Zym	330 S. Whitfield Street Nazareth, PA 18064	Testing

#### **Pennsylvania Wetland Replacement Project Public Notice**

The Department of Environmental Protection (Department) has approved the following wetland restoration projects for funding under the Pennsylvania Wetland Replacement Project (PWRP). The PWRP is a jointly managed fund between the Department and the National Fish and Wildlife Foundation established to offset wetland losses. Construction for the following projects is anticipated to begin in the Spring, 2005. Contact Alissa Myers, Department of Environmental Protection, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775, (717) 787-6827 or [almyers@state.pa.us](mailto:almyers@state.pa.us) for further information.

*Project No. S09A58-001*

The primary objective of the John Erich and Ducks Unlimited sponsored 1.5 acre wetland creation in Subbasin 9 (the Central West Branch Susquehanna River Watershed) is to provide habitat for waterfowl and improve water quality in the Hills Creek Watershed by intercepting, filtering and cleansing runoff from adjacent cultivated areas. The project is located on John Erich's property in Charleston Township, Tioga County. (Crooked Creek, PA Quadrangle, N: 6.23 inches, W: 9.2 inches)

*Project No. S07A50-002*

Sponsored by Jim Morrison and Natural Resources Conservation Service, the primary objective of the 2.5-acre wetland restoration in Subbasin 7 (the Lower Susquehanna River Watershed) is to provide wildlife habitat and to improve water quality in the Shermans Creek by intercepting runoff from upland slopes and trapping nutrients and sediment. The project is located on Jim Morrison's property in Tyrone Township, Perry County. (Landisburg, PA Quadrangle, N: 16.3 inches, W: 12.3 inches)

*Project No. O16C53-002*

The primary objective of this wetland project is to create two wetland sites totaling 2.0 acres. The project is sponsored by the Bureau of Forestry and Natural Resources Conservation Service and is in Subbasin 16 (the Upper Allegheny River Watershed) and will provide an aquatic feature in a primarily forested area. The project is located in the Susquehannock State Forest, Roulette Township, Potter County. (Coudersport, PA Quadrangle, N: 2.5 inches, W: 12.8 inches)

[Pa.B. Doc. No. 05-1181. Filed for public inspection June 17, 2005, 9:00 a.m.]

**Certification Program Advisory Committee 2005 Meetings**

The Certification Program Advisory Committee (Committee) will hold regular meetings in 2005 on the following dates:

- June 27, 2005
- July 25, 2005
- November 7, 2005

These meetings will be held in the Rachel Carson State Office Building and will begin at 10 a.m. Agendas and materials will be available prior to these meetings on the Committee's website at [www.dep.state.pa.us/dep/subject/advcoun/Certi\\_Prog/certi\\_prog.htm](http://www.dep.state.pa.us/dep/subject/advcoun/Certi_Prog/certi_prog.htm).

Persons who have questions concerning this meeting should contact Lynn Rice at (717) 787-5236 or [mlrice@state.pa.us](mailto:mlrice@state.pa.us).

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 772-4785 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. 05-1182. Filed for public inspection June 17, 2005, 9:00 a.m.]

**Recycling Fund Advisory Committee Meeting Cancellation**

The Recycling Fund Advisory Committee meeting scheduled for Thursday, July 14, 2005, has been cancelled.

Questions concerning this meeting should be directed to Lawrence E. Holley, (717) 787-7382, [lholley@state.pa.us](mailto:lholley@state.pa.us).

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 787-7382 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. 05-1183. Filed for public inspection June 17, 2005, 9:00 a.m.]

**DEPARTMENT OF HEALTH**

**Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices**

Under 28 Pa. Code § 1103.4(5) (relating to selection criteria for authorization and reauthorization), the WIC Program publishes notice of the maximum allowable prices. Effective July 1, 2005, through September 30, 2005, the maximum allowable prices the Department of Health will pay for a WIC allowable food are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat, or Skim	\$2.26
12 oz. Evaporated Milk	\$1.13
16 oz. Dry Milk	\$5.22
1 qt. Lactose Reduced Milk	\$2.07
1/2 gal. Kosher Milk	\$2.93
4 oz. Kosher Infant Juice	\$0.69
8 oz. Kosher Infant Cereal	\$1.92
1 doz. Grade A Eggs	\$1.30
1 lb. Fresh Carrots	\$1.14
14 to 16 oz. Canned Carrots	\$1.14
1 lb. Cheese	\$6.12
1 lb. Kosher Cheese	\$8.32
1 lb. Dry Beans or Peas	\$1.63
1 oz. Adult WIC Cereal	\$0.39
8 oz. Gerber Infant Cereal	\$1.92
15 to 18 oz. Peanut Butter	\$2.46
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.51
6 oz. Cans Juice	\$1.56
6 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.02
4 oz. Gerber Infant Juice	\$0.69
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.32
16 oz. Alimentum Advance Powder Formula	\$26.82
12.8 oz. EnfaCare LIPIL w/ Iron Powder Formula	\$13.21
13 oz. Isomil Advance Concentrate Formula	\$4.70
32 oz. Isomil Advance Ready-to-Feed Formula	\$5.80
12.9 oz. Isomil Advance Powder Formula	\$14.64
12.9 oz. Isomil 2 Advance Powder Formula	\$12.98
13 oz. Isomil with Iron Concentrate Formula	\$4.36
12.9 oz. Isomil with Iron Powder Formula	\$13.29
32 oz. Isomil DF Ready-to-Feed Formula	\$6.22
13 oz. Nutramigen Lipil Concentrate Formula	\$7.04

<i>Description</i>	<i>Maximum Allowable Price</i>
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$8.87
16 oz. Nutramigen Lipil Powder Formula	\$24.42
8 oz. Pediasure Ready-to-Feed Formula	\$2.13
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.23
13 oz. Similac Advance Concentrate Formula	\$4.38
32 oz. Similac Advance Ready-to-Feed Formula	\$6.20
12.9 oz. Similac Advance Powder Formula	\$13.66
12.9 oz. Similac 2 Advance Powder Formula	\$12.30
13 oz. Similac with Iron Concentrate Formula	\$4.07
32 oz. Similac with Iron Ready-to-Feed Formula	\$5.39
12.9 oz. Similac with Iron Powder Formula	\$12.95
13 oz. Similac Lactose Free Advance Concentrate Formula	\$4.81
32 oz. Similac Lactose Free Advance Ready-to-Feed Formula	\$5.92
12.9 oz. Similac Lactose Free Advance Powder Formula	\$14.74
12.8 oz. Similac Neosure Advance Powder Formula	\$15.65

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

Persons with a disability who require an alternative format of this listing of maximum allowable prices (for example, large print, audiotope or Braille) should contact Chris Harr, Department of Health, Division of WIC, Room 604, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289, for a speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-1184. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them or their firm, or any firms, corporations or partnerships in which these contractors, or either one of them or their firm, have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Clark Construction Company and John M Clark (Fed. ER I.D. No. 25-1460370)	R. D. 5, Box 228 Titusville, PA 16354	May 18, 2005

STEPHEN M. SCHMERIN,  
*Secretary*

[Pa.B. Doc. No. 05-1185. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Medical Assistance Program Fee Schedule Revisions; Addition of HCPCS Codes to Medical Assistance Program Fee Schedule

This notice announces revisions to the Medical Assistance (MA) Program Fee Schedule. The MA Program Fee Schedule does not list several Healthcare Common Procedure Coding System (HCPCS) codes created by the Centers for Medicare and Medicaid Services (CMS) when it updated the HCPCS codes in 2004. The Department of Public Welfare (Department) is adding these codes to the MA Program Fee Schedule to enable providers to use these codes in place of the HCPCS codes that the Department end-dated effective February 7, 2005, as a result of the 2004 CMS HCPCS update. See 35 Pa.B. 803 (February 5, 2005).

The following HCPCS procedure codes are being added to the MA Program's Fee Schedule effective for dates of service on or after February 7, 2005:

<i>Code</i>	<i>Modifiers</i>	<i>Terminology</i>
E0950	NU, RR	Wheelchair accessory, tray, each
E0952	NU, RR	Toe loop/holder, any type, each
E0959	NU, RR	Manual wheelchair accessory, adapter for amputee, each
E0961	NU, RR	Manual wheelchair accessory, wheel lock brake extension (handle), each
E0966	NU, RR	Manual wheelchair accessory, headrest extension, each
E0967	NU, RR	Manual wheelchair accessory, hand rim with projections, any type, replacement only, each
E0972	NU, RR	Wheelchair accessory, transfer board or device, each
E0974	NU, RR	Manual wheelchair accessory, anti-rollback device, each
E0992	NU, RR	Manual wheelchair accessory, solid seat insert
E0995	NU, RR	Wheelchair accessory, calf rest/pad, each
E1226	NU, RR	Wheelchair accessory, manual fully reclining back, (recline greater than 80°), each
E1810	RT, LT, 50	Dynamic adjustable knee extension/flexion device, includes soft interface material

Fees for the added procedure codes will be published in a *Medical Assistance Bulletin* (MAB) that will be issued

to providers. Items of durable medical equipment priced at \$100 or higher, which are subject to prior authorization under section 443.6(b)(2) of the Public Welfare Code (62 P. S. § 443.6(b)(2)) regarding reimbursement for certain MA items and services, will be identified in the MAB.

#### *Fiscal Impact*

The fiscal note was prepared under section 612 of The Administrative Code of 1929 (71 P. S. § 232).

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision to the fee schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Services by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-429. No fiscal impact; (8) recommends adoption. The fees for the new codes remain the same as those for the obsolete codes that they are replacing.

[Pa.B. Doc. No. 05-1186. Filed for public inspection June 17, 2005, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania \$100,000 Hold 'Em Poker 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 \$100,000 Hold 'Em Poker.

2. *Price:* The price of a Pennsylvania \$100,000 Hold 'Em Poker instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania \$100,000 Hold 'Em Poker instant lottery game ticket will contain one play area consisting of "DEAL 1," "DEAL 2," "DEAL 3" and "DEAL 4." Each "DEAL" is played separately. Each "DEAL" features a "YOUR 2 CARDS" area, a "THEIR 2 CARDS" area, and a "COMMUNITY CARDS" area. The black play symbols located in the "YOUR 2 CARDS" area, the "THEIR 2 CARDS" area and the "COMMUNITY CARDS" area are: 2 of Spades (TWS), 3 of Spades (THS), 4 of Spades (FRS), 5 of Spades (FVS), 6 of Spades (SXS), 7 of Spades (SNS), 8 of Spades (ETS), 9 of Spades (NIS), 10 of Spades (TNS), Jack of Spades (JKS), Queen of Spades (QNS), King of Spades (KGS), Ace of Spades (ACS), 2 of Clubs (TWC), 3 of Clubs (THC), 4 of Clubs (FRC), 5 of Clubs (FVC), 6 of Clubs (SXC), 7 of Clubs (SNC), 8 of Clubs (ETC), 9 of Clubs (NIC), 10 of Clubs (TNC), Jack of Clubs (JKC), Queen of Clubs (QNC), King of Clubs (KGC) and Ace of Clubs (ACC). The red play

symbols located in the "YOUR 2 CARDS" area, the "THEIR 2 CARDS" area and the "COMMUNITY CARDS" area are: 2 of Diamonds (TWD), 3 of Diamonds (THD), 4 of Diamonds (FRD), 5 of Diamonds (FVD), 6 of Diamonds (SXD), 7 of Diamonds (SND), 8 of Diamonds (ETD), 9 of Diamonds (NID), 10 of Diamonds (TND), Jack of Diamonds (JKD), Queen of Diamonds (QND), King of Diamonds (KGD), Ace of Diamonds (ACD), 2 of Hearts (TWH), 3 of Hearts (THH), 4 of Hearts (FRH), 5 of Hearts (FVH), 6 of Hearts (SXH), 7 of Hearts (SNH), 8 of Hearts (ETH), 9 of Hearts (NIH), 10 of Hearts (TNH), Jack of Hearts (JKH), Queen of Hearts (QNH), King of Hearts (KGH) and Ace of Hearts (ACH).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" area of each "DEAL" are: \$5<sup>00</sup> (FIV DOL), \$7<sup>00</sup> (SVN DOL), \$10<sup>00</sup> (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$100 (ONE HUN), \$500 (FIV HUN), \$2,100 (TWYONEHUN), WSOP (PRZPKG), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are \$5, \$7, \$10, \$14, \$21, \$100, \$500, \$2,100, World Series of Poker Prize Package, \$50,000 and \$100,000. The player can win up to 4 times on a ticket.

6. *Second Chance Drawing:* The Pennsylvania Lottery will conduct a Second Chance Drawing for nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets as provided for in section 11.

7. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania \$100,000 Hold 'Em Poker instant lottery game.

#### 8. *Determination of Prize Winners:*

(a) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$50,000 (FTY THO) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of WSOP (PRZPKG) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a World Series of Poker Prize Package as described in section 12(a). Only one claimant per ticket allowed. Claimant must be 18 years of age or older, and must be at least 21 years of age to claim a seat in the World Series of Poker Tournament. The winner of a World Series of Poker Prize Package may opt for a cash prize of \$20,000, less required Federal withholding, in lieu of the prize package.

(d) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS," and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$2,100

(TWYONEHUN) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$2,100.

(e) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$500 (FIV HUN) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$100 (ONE HUN) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$21\$ (TWY ONE) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$21.

(h) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand,

resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$14 (FORTN) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$14.

(i) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$7<sup>00</sup> (SVN DOL) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$7.

(k) Holders of tickets on which the player's best 5-card hand, resultant from combining "YOUR 2 CARDS" and the "COMMUNITY CARDS," beats the best 5-card hand, resultant from combining "THEIR 2 CARDS" and the "COMMUNITY CARDS," and a prize symbol of \$5 (FIV DOL) appears in the "PRIZE" area for that "DEAL," on a single ticket, shall be entitled to a prize of \$5.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Your Best 5 Card Hand Beats Their Best 5 Card Hand Win With Prize(s) of:*

<i>Prize(s)</i>	<i>Win:</i>	<i>Odds of 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$5	\$5	10	720,000
\$7	\$7	15	480,000
\$5 × 2	\$10	60	120,000
\$10	\$10	60	120,000
\$7 × 2	\$14	120	60,000
\$14	\$14	120	60,000
\$7 × 3	\$21	200	36,000
\$7 + \$14	\$21	200	36,000
\$21	\$21	150	48,000
\$5 × 2 + \$21 × 2	\$52	120	60,000
\$21 × 2 + \$10	\$52	120	60,000
\$100	\$100	239.04	30,120
\$500	\$500	9,231	780
\$2,100	\$2,100	120,000	60
WSOP	\$20,000	480,000	15
\$50,000	\$50,000	1,440,000	5
\$100,000	\$100,000	1,440,000	5

WSOP = World Series of Poker Prize Package

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second Chance Drawing Requirements:*

(a) To be eligible for the Second Chance Drawing, players must mail exactly three (3) nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets in an envelope no larger than 4 1/8 inches by 9 1/2 inches addressed to Pennsylvania Lottery, \$100,000 Hold 'Em Poker Second Chance Drawing, P. O. Box 999, Middletown, PA 17057-0999. The player shall affix proper postage to the entry.

(b) Envelopes containing less than or more than three (3) nonwinning Pennsylvania \$100,000 Hold 'Em Poker

instant lottery tickets shall be disqualified.

(c) Nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets received in an envelope larger than 4 1/8 inches by 9 1/2 inches shall be disqualified. The only exception is for nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets received in a United States Post Office "damaged-in-mail- process" envelope.

(d) Winning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets submitted to the \$100,000 Hold 'Em Poker Chance Drawing address will not be paid or honored. Second Chance Drawing entries containing win-

ning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets will be disqualified.

(e) The back of each nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery ticket entered in the Second Chance Drawing must be completed by the same player in a legible manner, including the player's name, street address, city, state, zip code, telephone number and signature. Only one claimant per ticket allowed. Claimant must be 18 years of age or older, and must be at least 21 years of age to claim a seat in the World Series of Poker Tournament. Incomplete tickets shall be disqualified.

(f) To be eligible for the Second Chance Drawing, nonwinning Pennsylvania \$100,000 Hold 'Em Poker instant lottery tickets must be received by the Pennsylvania Lottery no later than April 7, 2006.

#### 11. *Second Chance Drawing Procedures:*

(a) The Second Chance Drawing will be held at Lottery Headquarters the week of April, 10, 2006. The odds of an entry being selected in the Second Chance Drawing depend upon the number of entries received.

(b) To be eligible for the Second Chance Drawing, a player must have complied with the requirements of section 10.

(1) The Lottery will make a reasonable effort to ensure that each Second Chance entry is entered into the Second Chance Drawing. The Lottery assumes no responsibility for a lost or misplaced entry not entered into the Second Chance Drawing.

(2) If a Second Chance entry is rejected during or following the Second Chance Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

#### (c) Manner of conducting the Second Chance Drawings.

(1) All entries received at Lottery Headquarters on or before April 7, 2006, will be placed in numbered containers, each containing approximately 500 envelopes.

(2) A computer-generated randomizer or mechanical device may be used to select the numbered containers from which the winners will be selected, one from each container. If used, the randomizer will not be programmed to eliminate the possibility of the same container being selected more than once.

(3) One envelope will be randomly drawn from each of the selected numbered containers. As each entry envelope is selected, its contents will be qualified according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. Once a qualified entry has been selected, further validation will take place by verifying the status of the tickets contained in the entry envelope drawn by entering the ticket information into the computerized instant ticket database. The first qualified and validated entry from each of the designated containers will entitle its owner to the \$100,000 Hold 'Em Poker Prize Package.

(4) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(d) The payment of a prize awarded in the Second Chance drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code §§ 811.16 (relating to prizes payable after death of a prize winner).

#### 12. *Second Chance Prize Description:*

(a) \$100,000 Hold 'Em Poker Prize Package. Each prize package will have a value of \$20,000 and consist of the following: One entry into a World Series of Poker Tournament at the winner's choice of locations within the continental United States, including the payment of up to a maximum of \$10,000 buy-in to the World Series Poker Game, round-trip airfare for two, 6 nights/7 days hotel accommodations (double occupancy) at a first-class hotel selected by the Lottery, lessons from a professional poker player, payment of all required Federal withholding taxes and \$1,000 in cash. In the event that the cost of the prize package, as described previously, is less than \$20,000, the winner will receive the difference in cash. The winner of a World Series of Poker Prize Package may opt for a cash prize of \$20,000, less required Federal withholding, instead of the prize package.

13. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$100,000 Hold 'Em Poker instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

14. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$100,000 Hold 'Em Poker, prize money from winning Pennsylvania \$100,000 Hold 'Em Poker 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 \$100,000 Hold 'Em Poker 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.

15. *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.

16. *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 \$100,000 Hold 'Em Poker or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 05-1187. Filed for public inspection June 17, 2005, 9:00 a.m.]

## Pennsylvania \$275 Million Cash Extravaganza 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 \$275 Million Cash Extravaganza.

2. *Price:* The price of a Pennsylvania \$275 Million Cash Extravaganza instant lottery game ticket is \$20.

3. *Play Symbols:* Each Pennsylvania \$275 Million Cash Extravaganza instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS"

area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THRFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THRFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Safe Symbol (SAFE), Gold Bar Symbol (GBAR) and 5X Symbol (5TIMES).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO), \$20,000 (TWY THO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are \$10, \$20, \$25, \$40, \$50, \$100, \$200, \$400, \$500, \$1,000, \$5,000, \$20,000 and \$1,000,000. (The \$1,000,000 top prize is paid as a lump-sum, cash payment.) A player can win up to 20 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 19,200,000 tickets will be printed for the Pennsylvania \$275 Million Cash Extravaganza instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1MILL (ONE MIL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20,000 (TWY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$1,000 (ONE THO) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$5,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the

"WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$1,000 (ONE THO) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$500 (FIV HUN) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$200 (TWO HUN) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$500 (FIV HUN) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$500.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$100 (ONE HUN) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$200 (TWO HUN) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$400.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$200 (TWO HUN) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$200.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$100 (ONE HUN) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$200.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$40\$ (FORTY) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$200.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol



of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$50\$ (FIFTY) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$100.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$20\$ (TWENTY) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$100.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$50\$ (FIFTY) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$50.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X Symbol (5TIMES), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the 5X Symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$50.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$25\$ (TWY FIV) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$50.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$40\$ (FORTY) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$40.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$20\$ (TWENTY) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$40.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$25\$ (TWY FIV) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$25.

(cc) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(dd) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe Symbol (SAFE), and a prize symbol of \$20\$ (TWENTY) appears under the Safe Symbol (SAFE) on a single ticket, shall be entitled to a prize of \$20.

(ee) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar Symbol (GBAR), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Gold Bar Symbol (GBAR) on a single ticket, shall be entitled to a prize of \$20.

(ff) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Any of the Winning Numbers, Win With Prize (s) of:</i>	<i>Win</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. Winners Per 19,200,000 Tickets</i>
\$10 × 2	\$20	30	640,000
\$10 w/Gold Bar	\$20	30	640,000
\$20 w/Safe	\$20	30	640,000
\$20	\$20	30	640,000
\$25 w/Safe	\$25	30	640,000
\$25	\$25	30	640,000
\$10 × 4	\$40	75	256,000
\$20 × 2	\$40	75	256,000
\$20 w/Gold Bar	\$40	75	256,000
\$40 w/Safe	\$40	75	256,000
\$40	\$40	75	256,000
\$10 × 5	\$50	150	128,000
\$25 w/Gold Bar	\$50	150	128,000
\$10 w/5X	\$50	150	128,000
\$50 w/Safe	\$50	150	128,000
\$50	\$50	150	128,000

When Any of Your Numbers  
Match Any of the Winning  
Numbers, Win With Prize (s) of:

	Win	Approximate Odds of 1 In:	Approximate No. Winners Per 19,200,000 Tickets
\$10 × 10	\$100	250	76,800
\$20 × 5	\$100	250	76,800
\$20 w/5X	\$100	250	76,800
\$50 w/Gold Bar	\$100	250	76,800
\$100	\$100	300	64,000
\$10 × 20	\$200	1,600	12,000
\$20 × 10	\$200	1,600	12,000
\$25 × 8	\$200	1,600	12,000
\$40 w/5X	\$200	1,600	12,000
\$100 w/Gold Bar	\$200	1,600	12,000
\$100 × 2	\$200	1,600	12,000
\$200 w/Safe	\$200	1,600	12,000
\$200	\$200	1,600	12,000
\$25 × 20	\$500	4,800	4,000
\$25 × 10 + \$50 × 5	\$500	4,800	4,000
\$50 × 10	\$500	4,800	4,000
\$100 × 5	\$500	4,800	4,000
\$200 w/Gold Bar + \$100	\$500	4,800	4,000
\$100 w/5X	\$500	4,800	4,000
\$500 w/Safe	\$500	4,800	4,000
\$500	\$500	4,800	4,000
\$50 × 20	\$1,000	12,000	1,600
\$50 × 10 + \$100 × 5	\$1,000	15,000	1,280
\$100 × 10	\$1,000	15,000	1,280
\$200 × 5	\$1,000	15,000	1,280
\$200 w/5X	\$1,000	15,000	1,280
\$500 × 2	\$1,000	15,000	1,280
\$500 w/Gold Bar	\$1,000	15,000	1,280
1,000 w/Safe	\$1,000	20,000	960
\$1,000	\$1,000	20,000	960
\$200 × 10 + \$500 × 5 + \$100 × 5	\$5,000	60,000	320
\$500 × 10	\$5,000	60,000	320
\$1,000 × 5	\$5,000	60,000	320
\$1,000 w/5X	\$5,000	60,000	320
\$5,000	\$5,000	120,000	160
\$20,000	\$20,000	120,000	160
\$1,000,000	\$1,000,000	960,000	20

Safe = Win prize automatically.

Gold Bar = Win double the prize shown.

5X = Win 5 times the prize shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$275 Million Cash Extravaganza instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$275 Million Cash Extravaganza, prize money from winning Pennsylvania \$275 Million Cash Extravaganza 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 \$275 Million Cash Extravaganza instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$275 Million Cash Extravaganza or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 05-1188. Filed for public inspection June 17, 2005, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

Quality Distribution, Inc. and Quality Carriers, Inc.  
v. DEP; EHB Doc. No. 2005-107-K

Quality Distribution, Inc. and Quality Carriers, Inc.  
have appealed the issuance by the Department of Envi-

ronmental Protection of an NPDES permit equivalent to Quality Carriers, Inc. for a facility in West Caln Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,  
*Chairperson*

[Pa.B. Doc. No. 05-1189. Filed for public inspection June 17, 2005, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Proposed Change to List of Class A Wild Trout Waters; Cross Fork, Potter County

The Fish and Boat Commission (Commission) is considering a change to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

At its meetings on July 18 and 19, 2005, the Commission intends to consider removing the following water from the current list of Class A Wild Trout Streams: Cross Fork, Section 03, Potter County, which extends for a distance of 5.4 miles from the confluence with Rhulo Hollow downstream to 440 yards downstream of the T-416 Bridge. This section of stream was determined to be a Class A wild brown trout water by Commission staff based on a trout population survey in 1981. In September 1999, the Commission formally designated the existing list of Class A Wild Trout Waters, including Cross Fork, Section 03.

According to 58 Pa. Code 57.8a, a stream must meet the following criteria to be classified as a Class A wild brown trout water: (1) total brown trout biomass must be at least 40 kg/ha (35.6 lbs/acre); (2) total biomass of brown trout less than 15 cm (5.9 inches) in total length must be at least 0.1 kg/ha (0.089 lbs/acre); and (3) brown trout biomass must comprise at least 75% of the total trout biomass. For a water to be removed from the Class A Wild Trout Streams designation, total trout biomass

must be documented below the set criteria for two consecutive stream examinations.

Commission staff conducted time series monitoring of the trout population within Cross Fork, Section 03, on an annual basis from 1996 to 2003. Overall, the trout failed to meet the minimum biomass criteria for Class A Wild Trout Waters during each of these surveys. Although this section was identified in the past as a Class A Wild Trout Water, eight consecutive surveys have confirmed that the section now supports a Class B wild trout biomass. Accordingly, the Commission proposes that Cross Fork, Section 03, be removed from the list of Class A Wild Trout Streams. This change will allow for stocking to occur at a low rate and encourage more angling activity on the stream.

Persons with comments, objections or suggestions concerning the removal are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/fish/regcomments](http://www.state.pa.us/fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 05-1190. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Proposed Special Regulation Designations and Redesignations

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meetings on July 18 and 19, 2005, the Commission will consider designating or redesignating the following stream sections as waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2006:

#### *58 Pa. Code § 65.3. Heritage Trout Angling Program*

The Commission will consider adding the following stream section to the list of waters regulated and managed under the Heritage Trout Angling Program under 58 Pa. Code § 65.3:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Franklin	Falling Spring Branch	From 672 feet upstream of the Briar Lane bridge downstream to a wire fence crossing the Thomas L. Geisel property, a distance of 2.5 miles. (Note: This is an extension of the 2.4 mile section of Falling Spring Branch—from Briar Lane bridge downstream to a wire fence crossing the Thomas L. Geisel property—that the Commission currently manages in its Heritage Trout Angling Program)

*58 Pa. Code § 65.5. Catch-and-Release Areas*

The Commission will consider removing the following stream section from the list of Catch-and-Release Areas regulated and managed under 58 Pa. Code § 65.5:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Potter	East Fork Sinnemahoning Creek	From the confluence of Wild Boy Run downstream to the confluence with Camp Run, a distance of 2.9 miles

*58 Pa. Code § 65.6. Delayed Harvest Artificial Lures Only (DHALO) Areas*

The Commission will consider designating the following stream section as a DHALO Area to be regulated and managed under 58 Pa. Code § 65.6:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Dauphin	Wiconisco Creek	From the foot bridge located behind the Ned Smith Center for Nature and Art downstream to the power line crossing 1.7 miles upstream from the mouth, a distance of 0.74 mile

At this time, the Commission is soliciting public input concerning the designations and redesignations. Persons with comments, objections or suggestions concerning the designations and redesignations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/reg-comments](http://www.state.pa.us/Fish/reg-comments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 05-1191. Filed for public inspection June 17, 2005, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### Program to Reimburse Homeowners Without Title Insurance for Costs Incurred Associated With Litigation Arising From Certain Native American Tribal Land Claims

At 35 Pa.B. 1940 (March 26, 2005), the Housing Finance Agency (Agency) published a notice announcing the opening of an application period for reimbursement for homeowners without title insurance for costs incurred by them associated with litigation arising from claims under section 12 of the former act of March 3, 1799 (1 Stat. 743), known as the Trade and Intercourse Act of 1799, involving the alienation of Native American tribal lands. The application deadline was May 31, 2005.

The Agency is extending the application deadline to June 30, 2005. Applications must be received by 5 p.m. on that date. The Agency will consider, for reimbursement, costs incurred after that date (subject to the availability of funds) but only with respect to applications received by the deadline.

Applications should be sent to the Housing Finance Agency, Attention: Chief Counsel, 211 North Front Street, P. O. Box 8029, Harrisburg, PA 17105-8029. The application form can be found on the Agency's website at [www.phfa.org](http://www.phfa.org).

For further information or assistance, contact John F. Goryl, Associate Counsel, Housing Finance Agency, (717) 780-3880, [jgoryl@phfa.org](mailto:jgoryl@phfa.org).

BRIAN A. HUDSON, SR.,  
*Executive Director*

[Pa.B. Doc. No. 05-1192. Filed for public inspection June 17, 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 case:

*Doris Folmar v. Moshannon Valley Citizens, Inc. d/b/a Philipsburg Area Hospital, Doc. No. E100573D, PHRC Case No. 200100574 (Pennsylvania Human Relations Commission, May 24, 2005)*

Sex-based discrimination with regard to determining which employees to retain after positions are consolidated

Ruling for complainant, 7-0 decision and 2 abstention  
45 pages

The final order in the previously listed cases is subject to appeal to Commonwealth Court, and if appealed is 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 (the number of pages in the opinion is set forth at the end of the case listing), 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](http://www.phrc.state.pa.us).

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 05-1193. Filed for public inspection June 17, 2005, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulations. The final-form regulations must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
106-8	Environmental Hearing Board Practice and Procedure 35 Pa.B. 2107 (April 9, 2005)	5/9/05	6/8/05
54-61	Pennsylvania Liquor Control Board Revisions to Codify Practices and Procedures Resulting from Legislative Amendments 35 Pa.B. 2112 (April 9, 2005)	5/9/05	6/8/05
2-147	Department of Agriculture Nutrient Management Certification 35 Pa.B. 2101 (April 9, 2005)	5/9/05	6/8/05

**Environmental Hearing Board Regulation #106-8  
(IRRC #2472)  
Practice and Procedure  
June 8, 2005**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Environmental Hearing Board (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 9, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. Section 1021.2. Definitions.—Clarity.**

The definition of "Department" references "other boards, commissions or agencies whose decisions are appealable to the Board." Clarity would be improved by specifically listing the applicable "boards, commissions or agencies."

**2. Section 1021.53. Amendments to appeal or complaint.—Reasonableness; Need; Clarity.**

Under Subsection (b) an appeal may be amended if the amendment satisfies one of the following three conditions:

1. It is based upon specific facts, identified in the motion, that were discovered during discovery of hostile witnesses or Departmental employees.

2. It is based upon facts, identified in the motion, that were discovered during preparation of appellant's case, that the appellant, exercising due diligence, could not have previously discovered.

3. It includes alternate or supplemental legal issues, identified in the motion, the addition of which will cause no prejudice to any other party or intervenor.

The Board is amending Subsection (b) to delete these standards and allow amendments to appeals or complaints after the initial 20-day period merely upon a showing that "no undue prejudice will result to the opposing parties." In a comment included in the proposal, the Board acknowledges that the new standard is "contrary to the apparent holding in *Pennsylvania Game Commission v. Department of Environmental Resources*, 509 A.2d 877 (Pa. Cmwlth. 1986), affirmed, 555 A.2d 812 (1989)." In that case, Commonwealth Court ruled that an amendment to an appeal may only be allowed upon a showing of good cause. In view of this precedent, we believe it is unreasonable to replace the current standards with a more liberal standard.

In addition, since only the responding party can prove undue prejudice, the proposed amendments will unfairly shift the burden of proving undue prejudice to the responding party. Therefore, the Board should retain the existing standards for allowing amendment, or explain why the undue prejudice standard is reasonable and necessary.

Finally, we agree with the Department of Transportation that the new standard will hinder the speedy resolution of litigation. This is especially important when construction deadlines hang in the balance.

**3. Comments included within the regulation.—  
Need; Reasonableness.**

The Board has inserted several “comments” throughout the proposed regulation. Some of these comments contain substantive provisions. However, these provisions are not enforceable because “comments” are not regulatory mandates. Therefore, we recommend the following revisions:

1. *Section 1021.51.* Delete the comment and include a cross-reference to Sections 1021.21 and 1021.22 in Subsection (i). (Subsection (k) already cross-references these sections.)

2. *Section 1021.54.* Delete the comment and add a Subsection (c) which indicates that the prepayment of penalties will be placed in an escrow account.

3. *Section 1021.94a.* Delete the comment and include these provisions as subsections under Section 1021.94a. Replace “should” with “shall,” and replace “should not” with “may not.”

**Pennsylvania Liquor Control Board Regulation  
#54-61 (IRRC #2468)**

**Revisions to Codify Practices and Procedures  
Resulting from Legislative Amendments**

**June 8, 2005**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Pennsylvania Liquor Control Board (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 9, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**CHAPTER 11. PURCHASES AND SALES**

**1. Section 11.176. Renewal.—Economic impact; Reasonableness; Need**

*Subsection (b)*

Under 47 P. S. § 4-406(a)(3), a Sunday sales permit is permissible if “. . . sales of food and nonalcoholic beverages are equal to thirty per centum or more of the combined gross sales of both food and alcoholic beverages . . . .” In existing regulation (40 Pa. Code § 11.172(a)(4)), the Board established that this 30% limit must be met for “. . . at least 90 consecutive days during the 12 months immediately preceding the date of application . . . .” Proposed Subsection (b) establishes the procedure for a licensee to apply for a new Sunday sales permit if the licensee cannot meet the 30% limit and therefore does not qualify for renewal of the existing permit.

We agree that the regulation should address how a licensee can reapply for a Sunday sales permit. However, this proposed subsection adds a 120-day waiting period for licensees to reapply after the expiration of the previous permit. As demonstrated by the example, a licensee whose application does not meet the 30% ratio would lose its Sunday sales permit from March 1 until the reapplication is approved, presumably sometime in July.

We have the following concerns with the 120-day waiting period:

- A licensee could meet the statutory 30% ratio for 90 consecutive days during the several months between the date of application (November 30, 2003 in the example) and prior to expiration of the permit (February 28, 2004 in the example). Yet, the regulation would prohibit use of this data until the 120-day period expires (July 1, 2004 in the example).

- The 120-day waiting period would extend well into the summer tourist season.

- Since no Sunday sales of alcoholic beverages occur during the 120-day period, a licensee who remains open on Sundays would accumulate a higher overall ratio of nonalcoholic beverage and food sales.

- Renewal under this circumstance is considered differently than a new application.

We recommend that the regulation allow a licensee to reapply as soon as it can demonstrate 90 consecutive days of compliance with the 30% ratio in the most recent 12 months. Alternatively, the Board should explain why the 120-day waiting period is reasonable.

*Subsection (c)*

This subsection states:

When the licensee delays its renewal application, sales during the prior Sunday sales permit may not be used to qualify the applicant for a new Sunday sales permit.

Once again, it is not clear why a renewal in this circumstance is considered differently from a new application. We recommend that the regulation allow a licensee to reapply as soon as it can demonstrate 90 consecutive days of compliance with the 30% ratio in the most recent 12 months. Alternatively, the Board should explain why sales during the prior Sunday sales permit need to be excluded and why this is reasonable.

If the Board believes this provision is needed and reasonable, the language should be revised. The point where a licensee is considered to have delayed its renewal application is pivotal, but is not clear in the regulation. In the example immediately following this subsection, the licensee would apply on November 30, 2003 to renew a permit that expires February 28, 2004. Would a renewal application be considered delayed if it was filed after November 30, 2003 or after February 28, 2004? This will determine whether the “prior sales permit” would be the permit that expired in 2003 or 2004. This provision should clearly explain when a renewal application is “delayed” and thus what sales may not be included.

**CHAPTER 13. PROMOTIONS**

**2. Section 13.27. Board participation in wine events.—Statutory Authority; Reasonableness.**

We have two concerns with this section. First, we question the statutory authority for the reference to Board approval in Subsections (c) and (d). Section 2-215(e) of the Liquor Code (47 P. S. § 2-215(e)) provides that the Board is authorized to participate in or sponsor wine events, not “approve” them. What does the Board contemplate by approval?

Second, concerning Subsection (d), we question the Board’s statutory authority to prohibit appeal of its decision to disapprove. Section 702 of the Administrative Agency Law (2 Pa.C.S. § 702) provides that “any person aggrieved by an adjudication of a Commonwealth agency who has a direct interest in such adjudication shall have the right to appeal . . . .” The Board should remove this prohibition or explain why this provision is exempt from the appeal process.

### 3. Miscellaneous Clarity.

- Section 5.121(a) cross references “Section 494(14) of the Liquor Code (47 P. S. § 4-494(14)).” This reference should be corrected to Section 4-493(14).
- Section 11.13 references all of Section 305 of the Liquor Code (47 P. S. § 3-305). It appears that only Subsection (h) of the Code applies to gift cards. If so, the reference in the regulation should be more specific by referencing 47 P. S. § 3-305(h).
- Section 11.172(a)(4) is being amended to state “. . . at least 30%. . .” To be consistent with 47 P. S. § 4-406(a)(3) and Section 11.171(b) of existing regulation, this provision should be amended to state “equal to 30% or more.”
- The example in Section 11.176 does not specify which subsection it demonstrates. It is placed after Subsection (c), but it appears to demonstrate Subsection (b). The regulation should clearly state which provision is being demonstrated.
- The terms “wine event” and “event” are used interchangeably in Section 13.27. The term “wine event” should be defined and used consistently.
- The amendments to Section 13.51(a) replace specific references to exceptions with general language. The Board should retain the specific reference to exceptions.
- Section 17.15(a) states when petitions to intervene may be filed. It should also include where they must be filed.

### Department of Agriculture Regulation #2-147 (IRRC #2473)

#### Nutrient Management Certification

June 8, 2005

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Department of Agriculture (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 9, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

#### 1. Section 130b.2. Definitions.—Consistency with the statute; Clarity.

This section defines the terms, “BMP—Best management practice,” “Nutrient,” and “Nutrient management plan” differently than they are defined in the Nutrient Management Act (Act).

We question the need for the regulatory definitions of the above terms which differ from the definitions contained in the Act. If the Department does not reference the statutory definitions in the final regulation, it should justify the changes.

#### 2. Section 130b.3. Fees.—Fiscal impact; Consistency with the statute; Reasonableness.

Both Subsections (a) and (b) establish a process for the Department to set certification and examination fees by publishing notice of the fees or fee changes in the *Pennsylvania Bulletin*. This is contrary to Section 7(a) of the Act (3 P. S. § 1707(a)), which provides: “The Department of Agriculture shall *by regulation* establish such fees

and terms and conditions of certification as it deems appropriate . . . ” (emphasis added). We have three concerns.

First, establishing fees or fee changes merely by publication in the *Pennsylvania Bulletin* is not consistent with the clear statutory directive that fees be established by regulation. Therefore, the proposed regulation should follow the same approach as the existing regulation and include the fees.

Second, it is unnecessary to include the cost of “enforcing this chapter” as a basis for both the certification and examination fees. Therefore, the phrase “and enforcing this chapter” should be deleted from Section 130b.3(b).

Third, if the final-form regulation does not contain the specific fees, then there is no certainty concerning the fee levels for different types of certification. In the existing regulation, the fees vary depending on the type of certification (commercial, public or individual). Will the Department continue to apply different fee levels? Does the practice of charging different fee levels also coincide with the policy of basing fees on the costs of administering and enforcing the chapter? If specific fees are not set forth in the final-form regulation, then the formula or process used to apportion the fees for different types of certification should be included in the final-form regulation.

#### 3. Section 130b.11. Determination of competence.—Implementation procedure; Clarity.

*Subsection (a) Commercial nutrient management specialist.*

*Subsection (b) Public nutrient management specialist.*

These subsections include the phrase: “It may also include other course work related to requirements set forth in the nutrient management regulations which are determined by the Department to be necessary and appropriate.” These subsections also contain descriptions of requirements that are very similar to the requirements for each position in Subsection (g) (relating to final certification requirements). We have three concerns.

First, the final-form regulation should include examples of the types of “other course work” that would be necessary in response to changes in the science or technology of nutrient management. In addition, what process will be used to determine what is “necessary and appropriate”?

Second, to improve clarity, the word “It” should be replaced with the phrase: “The precertification requirements.”

Third, it is unnecessary for these two subsections to include requirements similar to those set forth in Subsection (g). These requirements involve the development or review of nutrient management plans by certificate holders and determinations by the Department or its designee that these plans are adequate. It is our understanding that the successful development or review of these plans is a requirement for final certification, not for precertification. To improve clarity and avoid repetition, the descriptions of these final certification requirements should be deleted from Subsections (a) and (b).

*Subsection (d) Examination.*

The following phrase has been added to the areas of the examination administered by the Department:

(9) Other areas related to requirements in the nutrient management regulations, as determined appropriate by the Department.

The concerns with this subsection are similar to those identified above in Subsections (a) and (b) regarding examples of "other areas" and determining what is "appropriate." In addition, the final-form regulation should specify that new "areas" added to the examination will also be included in the required course work in Subsections (a) and (b).

*Subsection (h) Public nutrient management specialist to commercial nutrient management specialist.*

The first sentence of this subsection should read, "The Commission with the consent of the Department . . ."

#### 4. Section 130b.12. Final certification.—Clarity.

Subsection (a) requires that, "[T]he appropriate fee shall accompany the application for final certification." It is our understanding that an "appropriate fee" is a "certification fee." Certification fees are described in Section 130b.3(a) as "nonrefundable" and as established by the Department for each level of certification via publication in the *Pennsylvania Bulletin*. The final-form regulation should include the word "certification" between "appropriate" and "fee" and a reference to Section 130b.3(a) in this subsection. If the final-form regulation includes a schedule of fees similar to the existing regulation as recommended in Issue #2, then this subsection should reference the provisions that set forth the appropriate certification fees.

#### 5. Section 130b.41. General.—Clarity.

Subsection (c) stipulates the requirements a commercial nutrient management specialist must meet to have reciprocity in this Commonwealth. Is there a time frame in which an applicant must submit the required plans to the Department or its designee for approval? If so, the time frame should be included in this subsection.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-1194. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of the regulation, contact the promulgating agency.

#### *Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
47-11	Milk Marketing Board Transactions Between Dealers and Customers; Dealer Inducements	6/3/05

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-1195. Filed for public inspection June 17, 2005, 9:00 a.m.]

## INSURANCE DEPARTMENT

### State Farm Fire and Casualty Company; Homeowners Program; Rate Filing

On June 3, 2005, the Insurance Department (Department) received from State Farm Fire and Casualty Company a filing for a rate revision for homeowners insurance.

The company requests an overall 0.7% decrease amounting to \$2.381 million annually, to be effective November 15, 2005, for new business and January 15, 2006, for renewal business.

Unless formal administrative action is taken prior to August 2, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is 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 Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1196. Filed for public inspection June 17, 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*

Administrative Circular No. 05-06—Closing Instruction No. 2, 2004-05 Fiscal Year; Preclosing at May 31, 2005, Amended May 24, 2005.

Administrative Circular No. 05-07—Closing Instruction No. 3, Prior Fiscal Year Appropriations Subject to Act 146 Waivers; Encumbrances Carried Forward From Prior Fiscal Years (Including Contracted Repairs), Amended May 24, 2005.



Administrative Circular No. 05-08—Conversion to SAP Account Codes, Amended May 24, 2005.

MARY JANE PHELPS,  
Director  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 05-1197. Filed for public inspection June 17, 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 July 11, 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-00121825. Philadelphia Ambulance, Inc. t/d/b/a Ameriheart Ambulance** (13440 Damar Drive, Unit G, City and County of Philadelphia, PA 19116), a corporation of the Commonwealth—persons in paratransit service, between points in the City and County of Philadelphia, and the Counties of Montgomery and Bucks.

**A-00121832. AAA Alpine Taxicab Company, LLC** (P. O. Box 1524, Harrisburg, Dauphin County, PA 17105-1524), a limited liability company of the Commonwealth—persons, upon call or demand, in the City of Harrisburg, Dauphin County, and within an airline distance of 10 statute miles of the limits of the said city.

**A-00121811. John Henry Briggs, III** (4803 Summer Street, Erie, Erie County, PA 16509)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the Counties of Crawford and Erie, 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 household goods as described under the application.**

**A-00121822. P. M. J. K. Management Group, Inc.** (1846 Rose Tree Lane, Havertown, Delaware County, PA 19083), a corporation of the Commonwealth—household goods in use, between points in the Counties of Delaware, Chester, Montgomery, Bucks and the City and County of Philadelphia.

**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-00121828. Anthony J. Bekavac** (221 Second Street, Elizabeth, Allegheny County, PA 15037)—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-00120302 to Katherine Andrews, subject to the same limitations and conditions. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228-1925.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1198. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Telecommunications Service

**A-311014F0002AMA. Armstrong Telecommunications, Inc.** Application of Armstrong Telecommunications, Inc. to amend its certificate of public convenience to offer, render, furnish or supply telecommunications services as a facilities-based competitive local exchange carrier to the public in the service territory of Citizens Telephone Company of Kecksburg.

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 July 5, 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:* Armstrong Telecommunications, Inc.

*Through and By Counsel:* D. Mark Thomas, Esquire; Michael L. Swindler, Esquire; Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1199. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Water Service

**A-212285F0125. Pennsylvania-American Water Company.** Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in portions of New Beaver and Big Beaver Boroughs, Beaver 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 July 5, 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:* Pennsylvania-American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hersheypark Drive, P. O. Box 888, Hershey, PA 17033-0888

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1200. Filed for public inspection June 17, 2005, 9:00 a.m.]

### Water Service

**A-213550F0020, A-212010F5000 and A-212010F2000. The York Water Company and Mt. View Water Company.** Application of The York Water Company and Mt. View Water Company for approval of: 1) the transfer by sale of certain public water facilities and rights from Mt. View Water Company to the York Water Company; 2) the approval of a corporate reorganization of Mt. View Water Company immediately prior to the sale whereby all of the stock of Mt. View Water Company will be transferred from the estate and heirs of Mt. View Water Company to Richard H. Waltersdorff, Inc. (Waltersdorff Construction); and 3) the abandonment by Mt. View Water Company of water service to the public in Conewago Township, York 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 July 5, 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:* The York Water Company and Mt. View Water Company

*Through and By Counsel:* Michael W. Gang, Esquire; Michael W. Hassell, Esquire; Morgan, Lewis & Bockius, LLP, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101-1904

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1201. Filed for public inspection June 17, 2005, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-042.1, Inshore Yard Paving, Pier 82 South, until 2 p.m. on Thursday, July 14, 2005. The bid documents can be obtained from the

Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available June 28, 2005. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is non-refundable. PRPA is an equal opportunity employer. Contractor 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 mandatory prebid job site meeting will be held July 7, 2005, at 10 a.m. at Pier 82 S., Columbus Blvd. and at first gate north of Snyder Ave., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-1202. Filed for public inspection June 17, 2005, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

September 28, 2005    Dennis Clark    1 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. 05-1203. Filed for public inspection June 17, 2005, 9:00 a.m.]

# STATE TAX EQUALIZATION BOARD

## 2004 Common Level Ratio

The State Tax Equalization Board (Board) has established a common level ratio for each county in this Commonwealth for the calendar year 2004. The ratios were mandated by the act of December 13, 1982 (P. L. 1158, No. 267).

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the

2004 common level ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2004.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by 4. Using these computed limits, the Board has utilized the valid sales, rejecting those sales which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the common level ratio for each county for 2004.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 2004 of 100% will utilize valid sales from 1% to 200%.

The common level ratios for 2004 are listed as follows:

### 2004 Common Level Ratios

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>RATIO</i>
ADAMS	30.5	ELK	19.0	*MONTGOMERY	60.4
*ALLEGHENY	91.3	*ERIE	88.5	MONTOUR	8.5
ARMSTRONG	39.0	*FAYETTE	91.0	NORTHAMPTON	36.4
BEAVER	31.0	FOREST	22.9	NORTHUMBERLAND	12.3
*BEDFORD	20.0	*FRANKLIN	13.0	*PERRY	86.2
*BERKS	80.0	*FULTON	45.4	PHILADELPHIA	29.7
BLAIR	8.4	*GREENE	82.4	PIKE	21.0
BRADFORD	41.1	HUNTINGDON	14.7	*POTTER	39.5
BUCKS	2.8	INDIANA	13.0	SCHUYLKILL	41.4
BUTLER	10.1	JEFFERSON	17.2	SNYDER	15.9
CAMBRIA	14.0	*JUNIATA	15.6	SOMERSET	38.1
CAMERON	35.6	*LACKAWANNA	18.6	*SULLIVAN	84.2
CARBON	39.7	*LANCASTER	75.9	SUSQUEHANNA	39.0
CENTRE	32.9	*LAWRENCE	91.2	*TIOGA	84.6
*CHESTER	60.8	LEBANON	8.0	UNION	14.6
CLARION	19.6	LEHIGH	36.6	*VENANGO	90.9
CLEARFIELD	19.5	LUZERNE	6.5	WARREN	35.6
CLINTON	26.8	LYCOMING	60.4	WASHINGTON	14.3
COLUMBIA	30.7	MCKEAN	23.5	WAYNE	7.6
CRAWFORD	34.8	*MERCER	28.1	*WESTMORELAND	20.5
*CUMBERLAND	85.2	MIFFLIN	47.8	WYOMING	22.8
*DAUPHIN	80.4	MONROE	16.3	*YORK	75.0
*DELAWARE	72.5				

\*Counties with a predetermined assessment ratio of 100%

JAMES A. ZURICK, Esq.,  
*Chairperson*

[Pa.B. Doc. No. 05-1204. Filed for public inspection June 17, 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.

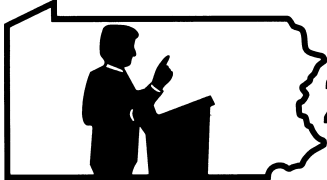
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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

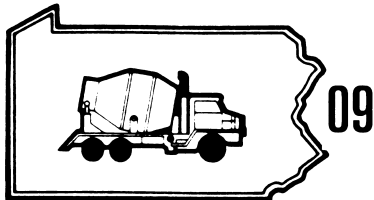
## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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*

## SERVICES



### Construction & Construction Maintenance

**1142-27501** Loose, Dry, Course Solar Salt. Must range from 99.4% to 99.6% and be dried to at least 425 Degrees F to remove excess Surface Moisture. Salt particles size specifications must be = 0.25" to 12 mesh to insure optimum dissolution rate. Licensed Mechanical personnel will complete all service and repair. Maintenance and service will be at no cost to the institution. Contact person for the State Corrections will be Mr. Hartman @ 717-737-4531 Ext. 4273.

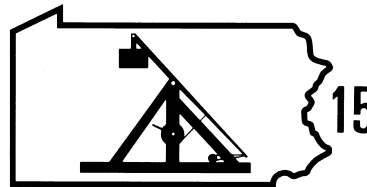
**Department:** Corrections  
**Location:** SCI Camp Hill, 2500 Lisburn Road, Camp Hill, PA 17011  
**Duration:** July 1, 2005 through June 30, 2006 With Option to Renew for additional years if requested.  
**Contact:** Michelle Ryan, (717) 975-5267

**SU-2004/22** Invitation To Bid - Shippensburg University SU-2004/22.4: Rowland and Shearer Halls Telecom Upgrade Shippensburg University of the PA State System of Higher Education invites Electrical Contractors to request bid documents for this project. Work includes all work necessary to for Telecom upgrade. The Prospective Bidders may obtain project plans for a non refundable fee of \$25.00, check made payable to H.F. Lenz Company, 1407 Scalp Avenue, Johnstown, PA 15904, ATTN: Joel Shumaker at Tel: 814-269-9300, FAX: 814-269-9301. Pre-Bid meeting with site visit immediately to follow will be held on June 28, 2005 at 10:00 AM in the Reed Operations Center Conference Room at Shippensburg University. Bids Due: July 12, 2005 at 4:00 PM, Old Main Room 300. Public Bid Opening: July 13, 2005 at 2:00 PM, Old Main Room 203A. Contracts, MBE/WBE apply. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Shippensburg University  
**Duration:** Within 60 days after receipt of Notice to Proceed  
**Contact:** Deborah K. Martin, (717) 477-1121

**DGS A 555-70** PROJECT TITLE: Refurbish Steam Boiler Controls System. BRIEF Refurbish steam boiler controls system including all monitors, sensors, wiring, hardware, software, conduits and cables, for boiler operation and emission control. This will replace obsolete and broken controls at the plant. Provide new electric supply to connect new devices. ESTIMATED RANGE: \$100,000 TO \$500,000. HVAC 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, July 13, 2005 at 1:00 PM. All Bidders must be registered to secure plans and specifications. Register at: [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us).

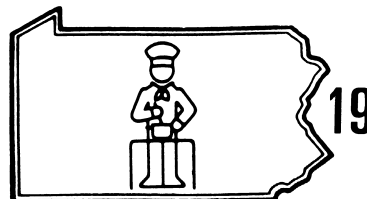
**Department:** Public Welfare  
**Location:** Hamburg Center, Hamburg, Berks County, PA  
**Duration:** 180 Calendar Days from Date of Initial Job Conference  
**Contact:** Contract and Bidding, (717) 787-3923



### Environmental Maintenance Service

**D63-113-101.1** Wheeling Creek Watershed Commission Dam PA-648, Debris Removal and Fence Repair. The principal item of work for this Lump Sum contract is Trash Rack Debris Removal and Fence Repair. This project issues on June 17, 2005 and bids will be opened on July 7, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. Please note that this contract must be completed by September 10, 2005.

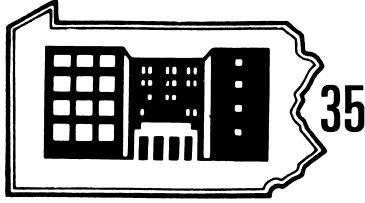
**Department:** Environmental Protection  
**Location:** West Findlay Township, Washington County  
**Duration:** 20 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, (717) 787-7820



### Food

**15023** The State Correctional Institution at Fayette will be soliciting for Milk Products. Issuance of bid proposals will be made on a quarterly basis. Bids will be solicited on a quarterly basis or more often if deemed necessary by the institution. Pricing to be consistent with the PA Milk Marketing Board. Delivery will be required twice per week or more often if necessary. Vendor must be registered with the State of Pennsylvania and have a SAP vendor number to receive bid solicitations.

**Department:** Corrections  
**Location:** State Correctional Institution at Fayette, 50 Overlook Drive, LaBelle, PA 15450  
**Duration:** July 1, 2005 - June 30, 2006  
**Contact:** Nancy Keller, (724) 364-2200



### Real Estate Services

**93860** LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Office of Attorney General with 23,749 useable square feet of office space within a three mile radius of the Newtown-Yardley Exit of I-95, Newtown, Bucks County, PA. For more information on SFP #93860 which is due on July 18, 2005 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click on Real Estate to download an SFP document or call (717) 787-0952.

**Department:** Attorney General

**Location:** 505 North Office Building, Harrisburg, PA 17125

**Contact:** Cynthia T. Lentz, (717) 787-0952

**93853** LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Probation and Parole Board with 7,440 useable square feet of office space in Montgomery County, PA. with a minimum parking for 8 vehicles, within the City Limits of Norristown. For more information on SFP #93853 which is due on August 1, 2005 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click on Real Estate to download an SFP document or call (717) 787-4396.

**Department:** Probation and Parole Board

**Location:** 505 North Office Building, Harrisburg, PA 17125

**Contact:** John Hocker, (717) 787-4396

[Pa.B. Doc. No. 05-1205. Filed for public inspection June 17, 2005, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [55 PA. CODE CHS. 3040 AND 3041]

#### Subsidized Child Care Eligibility

The Department of Public Welfare (Department), under the authority of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703), deletes Chapter 3040 and adds Chapter 3041 (relating to subsidized child care eligibility) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 34 Pa.B. 5044 (September 11, 2004).

#### *Purpose of Final-Form Rulemaking*

The purpose of the final-form rulemaking is to help families of low income more easily obtain affordable, accessible and quality child care. The Department intends to create a fairer and more equitable child care system that supports families in their efforts to achieve and maintain financial self-sufficiency. The final-form rulemaking provides families increased and easier access to this Commonwealth's subsidized child care system and allows working families of low income who might not have qualified previously to become eligible for subsidized child care benefits.

The Department's goal is to develop a "user-friendly" child care system that is accessible to eligible families who need help finding and paying for quality child care that is responsive to their needs. The final-form rulemaking supports families and children by promoting the following goals:

- (1) Healthy child development by increasing access to high quality child care for infants, toddlers, preschool and school-age children and by reducing administrative processes that may cause interruption in services or frequent change of provider.
- (2) Family self-sufficiency by giving parents reliable child care so they can work or improve their skills and earning potential through education or training while working.
- (3) Parent choice by providing parents with a broad range of child care options and empowering them to make their own decisions on the child care that best meets the needs of the child and the family.

Chapter 3041 replaces Chapter 3040 in its entirety.

#### *Affected Individuals and Organizations*

The final-form rulemaking affects children who receive subsidized child care, parents who apply for or receive subsidized child care, child care providers (providers) and eligibility agencies.

Children and parents are affected by the requirements in the final-form rulemaking that specify the eligibility conditions, verification and reporting requirements that they must meet to access subsidized child care. Providers are affected by the simplified requirements that apply to the families receiving child care services. Eligibility agencies are affected since the final-form rulemaking changes the process and requirements regarding the eligibility determination and redetermination procedures. Waiting lists may be increased since more children will be eligible for subsidized child care.

#### *Accomplishments and Benefits*

The final-form rulemaking benefits children and families of low income by allowing easier access to affordable, quality child care. Improvements include: simplifying the verification requirements to make it easier for families to apply and qualify for child care, recognizing that participation in education and training is an effective way to support job advancement and self-sufficiency and allowing families to make their own child support arrangements, rather than requiring pursuit of court-ordered child support as a prerequisite for receiving subsidized child care. A new provision supports continuity of quality child care for children in school-district sponsored prekindergarten programs that support families who need extended hours of care. Simplification of the final-form rulemaking makes the eligibility process easier to understand for parents and eligibility agencies.

#### *Fiscal Impact*

The final-form rulemaking will result in no additional costs to parents receiving subsidized child care, providers, eligibility agencies or local government. The Department's budget for Fiscal Year (FY) 2005-2006 includes \$10.25 million, which is a combination of \$8.635 million in Federal Child Care and Development Block Grant funds and \$1.615 million in the Child Care Services State Appropriation. The final-form rulemaking will result in the Department expanding access to serve an estimated 3,388 additional children annually. The final-form rulemaking allows children to be served by a subsidized child care program that is designed to be fair and equitable within the funding that is available.

#### *Paperwork Requirements*

The final-form rulemaking results in reduced paperwork and recordkeeping for parents and eligibility agencies. The final-form rulemaking reduces initial paperwork for parents by providing additional options for verification, including self-certification, self-declaration and collateral contacts. In addition, the Department will be implementing a new enhancement of the Child Care Management Information System (CCMIS), a computerized management system to be used by all eligibility agencies. The new enhancement of the CCMIS will reduce paperwork for parent and eligibility agencies. Written notices and most of the other forms that families must use for the eligibility determination process will be standardized and automated in the CCMIS.

#### *Public Comment*

The Department has worked closely with families who access the subsidized child care program, child development and community service advocates, providers, eligibility agencies and other interested stakeholders to listen and respond to the needs, concerns and suggestions of these groups. The final-form rulemaking is the result of an ongoing, inclusive process between the child care community and the Department.

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of proposed rulemaking. A total of 40 comment letters, including e-mail and faxes, were received by the Department in response to the proposed rulemaking. The Department received comments from every sector of the community that will be affected by the rulemaking, including families who

access subsidized child care, child development and community service advocates, eligibility agencies, one university and local government.

The comments submitted by the Pennsylvania Child Care Campaign (PCCC) included support for the rulemaking by 32 child development, provider and community service advocacy organizations, such as United Way agencies, Pennsylvania Association of Child Care Agencies, Community Legal Services, Community Justice Project, Pennsylvania Partnerships for Children and Success Against All Odds, that joined together to show their collective support. Although the letter from PCCC was one comment letter, the letter represents 45% of the commentators on this rulemaking.

#### *Discussion of Major Comments and Major Changes*

Following is a summary of the major comments received within the public comment period following publication of proposed rulemaking and the Department's response to the comments. A summary of the major changes from the proposed rulemaking is also included.

#### *General—Costs to eligibility agencies*

The Independent Regulatory Review Commission (IRRC) noted that the proposed rulemaking may increase the administrative duties of eligibility agencies and the costs of operating the subsidized child care program, based on recordkeeping and verification. Should administrative expenses increase, IRRC questioned how the eligibility agencies will be reimbursed.

#### *Response*

The simplification of the verification process will reduce paperwork and permit time now spent in administrative tasks to be redirected to support more focused counseling and time with families, such as assisting families with verification. In addition, the Department will be implementing a new enhancement of the CCMIS. The enhancement will automate additional steps of the eligibility determination process including producing written notices to families, producing automated forms for the redetermination process, making provisions to automatically track the dates for eligibility agencies when information is due from parents and calculating income for families.

#### *General—Funding*

Several commentators and IRRC questioned if additional funding is needed to serve the children currently enrolled in the subsidized child care program and how these costs will be funded.

#### *Response*

The Department is budgeting sufficient carry forward funds for FY 2005-2006 to serve the same number of children as served during the previous year.

#### *General—Promoting family self-sufficiency and impact on the waiting list*

Several commentators and IRRC questioned the goal of promoting family self-sufficiency and how access to care will increase if waiting lists are expanded.

#### *Response*

Allowing families to include education and training in their hours of work promotes self-sufficiency. Adults with higher levels of education have greater earning potential and long-term job security. This final-form rulemaking provides families with incentives to continue to make progress in achieving economic independence. The past practice of permitting families with income up to 200% of the Federal Poverty Income Guidelines (FPIG) to enter

the program and sustain participation up to 235% of the FPIG is continued. Once a participating family reaches 235% of the FPIG, the family is more able to cover the costs of purchasing child care.

The removal of access barriers, the simplification of the approach to eligibility and the focus on fairness allows families to more efficiently access subsidized child care so families can more appropriately focus on meeting and retaining employment, which promotes self-sufficiency.

The demand for subsidized child care has always exceeded the resources available because the Department strives to offer subsidy to meet the child care needs of as many working families as possible to allow families to maintain self-sufficiency. Although there may be an increase in the waiting list, the Department will continually realign resources to assure that all available funds are directed to families on the waiting list.

Some of the eligibility requirements that were implemented in prior years are restored to assure that more working families have the support of subsidized child care needed to maintain employment and reduce barriers that result in the loss of continuous care for the child. Child care is most effective when it is consistent and reliable.

The Department will manage the program to minimize the waiting list. For example, the Department makes monthly adjustments in the allocations for the funds for subsidized child care in order to minimize waiting and to move families as quickly as possible from eligibility into the subsidized child care program. The waiting list is likely to be smaller than in many other states. This Commonwealth has been able to continue to keep pace with demand. This Commonwealth's current waiting list is 3,247. Some examples of states with much larger waiting lists include California, 280,000; Georgia, 35,743; Florida, 46,315; Maryland, 14,412; Massachusetts, 16,077; New Jersey, 14,668; North Carolina, 24,576; and Texas, 26,518. New York establishes waiting lists by county and does not have a statewide total.

#### *General—Minimum wage*

Several commentators and IRRC questioned removing the minimum wage requirement from the current regulation. Four commentators, including PCCC, supported removing the minimum wage requirement.

#### *Response*

Minimum wage requirements for employees are enforced by the Department of Labor and Industry. Removing the minimum wage requirement eliminates a barrier to access for parents who are self-employed or who work on commission with fluctuating income.

#### *General—Child support*

Eleven commentators, including PCCC, supported excluding the child support requirement from the current regulation. Two commentators opposed removing the child support requirement, stating it causes parents to lose resources and releases noncustodial parents from financial responsibility.

#### *Response*

During the use and application of the current regulation, the Department received ongoing, numerous comments requesting that the Department take steps to remove the child support requirement. Mandatory child support cooperation was recognized as a substantial barrier to needy families accessing the subsidized child care program. Parents provided input about the disruption caused by the mandatory child support cooperation



in their access to voluntary support involving both economic and personal resources for their children. Research and analysis of this issue was completed. Under the final-form rulemaking, the eligibility agencies will provide information to parents regarding the benefits of child support in general and court-ordered child support in particular. Eligibility agencies will inquire about, promote and accept any voluntary child support arrangements.

*General—Caps on service*

Several commentators and IRRC suggested that removing the 50-hour per week cap on service during hours of work and 12-hour per week cap on service during hours of training from the current regulation will allow families currently enrolled in the subsidized child care program to qualify for more hours of care. Several commentators, including PCCC, supported the removal of the 50-hour per week and 12-hour per week caps on service from the current regulation.

*Response*

There are very few instances when families now use more than 50 hours per week of child care during hours of work and training. This change provides the flexibility needed to authorize subsidized child care under the extraordinary circumstance that a parent is consistently working or training for more than 50 hours per week.

**GENERAL PROVISIONS**

*§ 3041.3. Definitions—Caretaker*

Many commentators, including PCCC, supported the definition of “caretaker.” Two commentators oppose removing “legal custody” from the definition.

*Response*

The Department clarified the issue of legal custody by simplifying the definition to include an individual who has legal custody of the child, a foster parent, a grandparent, an aunt or an uncle who lives with and exercises care and control of a child.

*§ 3041.3. Definitions—Disability*

Several commentators, including PCCC, requested clarification of disability as used in this rulemaking.

*Response*

A definition of “disability” was added.

*§ 3041.3. Definitions—Eligibility redetermination*

One commentator opposed retaining the semiannual review and suggested that an annual review is sufficient.

*Response*

Every 6 months, determination of “assistance” is required by section 432.2(c) of the Public Welfare Code (62 P. S. § 432.2(c)). The definition of “assistance” in section 402 of the Public Welfare Code (62 P. S. § 402) includes “money and services,” which covers basically all assistance programs, including subsidized child care. The scope of the redetermination will be limited to key eligibility factors and a simplified process that the parent or caretaker should find less time-consuming than a full review of eligibility status.

*§ 3041.3. Definitions—Family*

Three commentators opposed excluding live-in companion from the definition of “family.” Two commentators, including PCCC, supported the exclusion of the income of a live-in companion from the description of family composition. One commentator suggested the definition of “family” should include permanent legal custodian. IRRC

questioned the use of biological or adoptive parent or stepparent and notes these terms differ from parent or caretaker used throughout the rulemaking. IRRC recommended the consistent use of parent.

*Response*

A live-in companion is not legally responsible for care of the child and therefore is not included in the definition of “family.” A permanent legal custodian who lives with the child and exercises care and control of the child meets the definition of “caretaker” and is therefore included in the definition of “family.” “Biological, adoptive, foster or stepparent” was deleted and “parent” was added for consistency in wording throughout the final-form rulemaking.

*§ 3041.3. Definitions—Fiscal year (redesignated as § 3041.85. Record retention)*

The definition was moved to § 3041.85 (relating to record retention) because the term appears only in this section.

*§ 3041.3. Definitions—Income*

IRRC requested clarification regarding earned and unearned income.

*Response*

This clarification was made.

*§ 3041.3. Definitions—Net profit from self-employment (redesignated as § 3041.65. Verification of income)*

The definition was moved to § 3041.65 (relating to verification of income) because the term appears only in this section.

*§ 3041.3. Definitions—Parent*

IRRC questioned the use of “biological” or “adoptive parent or stepparent” and noted these terms differ from parent or caretaker used throughout the rulemaking. IRRC recommended the consistent use of parent.

*Response*

Changes were made throughout the final-form rulemaking to reflect the consistent use of “parent” as defined.

*§ 3041.3. Definitions—Partial redetermination*

Clarification was made to explain that the partial redetermination occurs in between the scheduled 6-month redetermination dates.

*§ 3041.3. Definitions—Payment rate (redesignated as § 3041.102. Department’s payment)*

The definition was moved to § 3041.102 (relating to Department’s payment) because the term appears only in this section.

*§ 3041.3. Definitions—Prospective employment*

The definition was revised to include work instead of employment. The timeframe for prospective work was revised from 30 to 60 calendar days following loss of current employment.

*§ 3041.3. Definitions—Self-certification*

IRRC questioned whether families may obtain subsidized child care for which they are not eligible since self-certification does not require follow-up documentation. Several commentators, including PCCC, supported self-certification.

*Response*

The most critical factors to establish eligibility are income and work hours. The factors that a family may

self-certify are items the parent may have difficulty submitting to the eligibility agency and that are unlikely to change between redeterminations. It is burdensome for parents to provide documentation at each redetermination. Accepting the parent's word helps establish a partnership and mutual trust between the eligibility agency and the parent. The basic principle for self-certified factors is to reduce barriers for parents who access subsidized child care.

*§ 3041.3. Definitions—TANF—Temporary Assistance for Needy Families Program*

PCCC suggested that, for purposes of clarity, the definition of "TANF" include extended TANF.

*Response*

Extended TANF was added to the definition.

*§ 3041.12(b). Provision of subsidized child care*

Eighteen commentators requested that children who are under 15 years of age be permitted to receive subsidized child care.

*Response*

The upper age limit for receipt of subsidized child care cannot be changed. The age limit is dictated by Federal regulation that establishes the upper age limit at 13 years of age, unless the child has a special physical or mental limitation and needs child care.

Consistent with the Federal Child Care and Development Block Grant, subsidized child care will continue to be available to a child who is 13 years of age or older but under 19 years of age and who is incapable of caring for himself.

*§ 3041.12(c). Provision of subsidized child care*

PCCC suggested that the verification requirement appear in a separate verification section.

*Response*

The proposed requirement for documentation of a child's physical or mental inability to care for himself was relocated to § 3041.76 (relating to verification of a child's incapability of caring for himself).

*§ 3041.13(a). Parent choice*

The House Children and Youth Committee (House Committee) and two commentators questioned if this provision limits parent choice and prohibits a parent from sending a child to a faith-based or another child care facility that is operating without a certificate of compliance, but which is not exempt from certification in this Commonwealth.

The House Committee and one commentator stated that the requirement for nonprofit child care facilities to receive a certificate of compliance from the Department exceeds the Department's statutory authority.

One commentator stated that this provision is inconsistent with Federal law that promotes parent choice and recent Federal law changes regarding references to state licensing.

One commentator suggested that to permit the selection of child care in a family home serving one, two or three children that legally operates without Departmental regulation and certification is not consistent with the requirement to require selection of a certified child care center.

*Response*

Under current regulation, as well as under this final-form rulemaking, families may choose and use child care programs that are operated by religious schools and other faith-based entities. Parental selection and use of faith-based child care is permitted and encouraged in the Head Start expansion and the prekindergarten programs, as well as in all child care subsidy services. There is no restriction or regulation as to the religious, spiritual or programmatic nature of the child care program. Parent choice is fully afforded within the provisions of Pennsylvania's governing statutes and regulations.

The Department does not exceed its statutory authority in requiring a certificate of compliance for nonprofit child care centers. The Department requires that child care subsidy be provided in legally-operated child care facilities. In accordance with sections 901—922 and 1001—1080 of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1080) and § 20.21(a) (relating to application form), both profit and nonprofit child care facilities must be certified to operate in this Commonwealth. Given the health and safety risks in both profit and no-profit child care facilities, the same substantive regulations have applied to profit and nonprofit child care facilities in this Commonwealth since 1978. Furthermore, sections 901—922 of the Public Welfare Code do not exempt faith-based facilities, whether providing child care or any other type of health or human service. Of the 3,897 certified child care centers in this Commonwealth, there are 1,777 for-profit centers (46%) and 2,120 nonprofit centers (54%). Thus, the majority of certified child care centers in this Commonwealth are nonprofit centers. Of the 2,120 nonprofit child care centers, many are operated by faith-based organizations.

This provision is consistent with the Federal statutory requirements in 42 U.S.C.A. § 9858c(c)(2)(A), regarding parental choice. As previously stated, this final-form rulemaking permits families to choose a child care program that is legally operated by a faith-based entity. There is no restriction or regulation as to the religious, spiritual or programmatic nature of the child care program. The Federal statutory requirements in 42 U.S.C.A. § 9858c(c)(2)(E) and (F) in no way limit a state's right and responsibility to regulate child care facilities. Rather, the language prohibits a state from funding child care programs that are not certified in accordance with state law. This language clarifies that the authority for state regulation and certification is not under Federal jurisdiction, but a matter for the states to govern.

The decision to permit the choice of family care in a home serving one, two or three children is entirely consistent with the decision to prohibit the use of noncertified child care centers. In accordance with sections 1070—1080 of the Public Welfare Code (62 P. S. §§ 1070—1080), the General Assembly has explicitly expressed that family homes serving one, two or three children operate legally without a certificate of registration from the Department. There is no statutory exemption for nonprofit or faith-based child care centers. Selection of a child care facility that is specifically exempt from regulation and certification by the Department, including in-home care for one, two or three children, is permitted.

*§ 3041.14(a). Subsidy benefits*

One commentator requested that the terms "payments for child care" be replaced by "child care benefits." Three commentators, including PCCC, supported allowing subsidized child care for the parent during hours of travel time

and uninterrupted sleep time when the parent's shift ends between 12 a.m. and 9 a.m. One commentator opposed allowing subsidized child care during hours of uninterrupted sleep time.

*Response*

This section was revised to clarify that a family may receive child care benefits during the hours that the child needs care if the parent or caretaker is employed or attending education or training.

Subsidized child care may occur during travel time and uninterrupted sleep time that is necessary to retain work or attend education or training. This permits consistency with the TANF program, since families who formerly received TANF benefits may receive subsidized child care during hours of travel and uninterrupted sleep time.

*§ 3041.14(b). Subsidy benefits*

IRRC questioned the use of biological or adoptive parent or stepparent and notes these terms differ from parent or caretaker used throughout the rulemaking. IRRC recommended the consistent use of parent.

PCCC opposed including a live-in companion as an available caregiver because of lack of a legal relationship to the child.

Two commentators supported allowing subsidized child care in a two-parent family, if one of the parents has a disability or a need for treatment and cannot provide child care.

Five commentators requested clarification regarding the availability of a parent to care for the child and question if the intent is to subsidize a child in child protective services.

*Response*

Changes were made throughout the final-form rulemaking to reflect the consistent use of "parent" as defined.

A live-in companion is considered a caretaker only when he is the parent of a child or has legal custody of a child.

The requirement allowing subsidized child care in a two-parent family, if one of the parents has a disability or a need for treatment and cannot provide child care was revised and relocated to § 3041.48(b) (relating to eligibility of households including a parent or caretaker with a disability).

The requirement regarding the availability of a parent to care for the child is deleted because the intent is not to subsidize a child in child protective services.

*§ 3041.16. Subsidy limitations*

IRRC suggested adding a cross-reference to proposed § 3041.71 (relating to verification of permanent inability to work).

One commentator opposed permitting 30 calendar days to select a provider when funding is available and suggested that the allowable time should be 20 days with a 10-day adverse action period.

*Response*

Proposed subsection (d) was revised and relocated at § 3041.48(b). Proposed subsection (f) was revised and relocated to subsection (e). A cross-reference was added to § 3041.48(a).

Under current regulation, parents have 30 days to select a provider. This has been effective and beneficial to parents.

*§ 3041.19. Absence*

Clarification was added regarding the days that do not count in the 10 consecutive day absence period because of a child's illness, injury or impairment that precludes a child from attending child care. The timeframe was clarified regarding termination of subsidized child care following the tenth consecutive absence of a child from care.

*§ 3041.20. Subsidy continuation during breaks in work, education or training*

Two commentators opposed permitting 60 calendar days of continued eligibility following the date a strike begins, the date of loss of work or graduation. Four commentators, including PCCC, supported allowing 60 calendar days.

Three commentators, including PCCC, supported expanding family leave from 56 to 84 days. IRRC suggested clarification that maternity leave is included in the allowable family leave.

One commentator requested clarification of the 30-day limitation regarding regular breaks and suggested that subsidized child care should continue during scheduled breaks other than summer breaks. Two commentators, including PCCC, supported continuation of subsidized child care during regularly scheduled breaks.

*Response*

Clarification was made to explain that eligibility, as well as payment, continues during the time periods specified.

Based on the importance of locating work that leads to self-sufficiency, the 60-day period was retained. This allows a reasonable time period for the parent to find work.

Clarification was made to explain that maternity leave is included in the allowable family leave.

The 30-day limitation is retained. Subsidized child care is suspended during regularly scheduled breaks that exceed 30 calendar days.

*§ 3041.21. Subsidy suspension*

Subsection (a)(6) was revised to clarify that subsidized child care is suspended when the parent needs to locate another provider because the current provider cannot meet the parent's child care needs.

Subsection (a)(8) was added to clarify that subsidized child care is suspended when a parent has a break in work, education or training that exceeds 30 calendar days, but is no more than 90 calendar days.

The requirement in subsection (b) was deleted. Subsection (c) was revised and relocated to subsection (b) to clarify that a child is not eligible for subsidy or payment when the child continues to be absent from care for a period exceeding 90 calendar days.

*§ 3041.22. Subsidy disruption*

IRRC questioned the reasonableness of basing disruption of subsidy solely on income level. PCCC suggested that the intent is to first disrupt care for children whose family's income is at the highest percentage of the FPIG.

*Response*

Subsection (b) was revised to clarify that when a child loses care due to the provider's loss of the Department's certification or registration or another reason that prevents the child's continued care at that facility, the child's subsidy is suspended, regardless of whether funding is immediately available, until the parent selects another provider and funding is available.

The language in subsection (c)(1) was amended to clarify that service will be disrupted first to families whose income is at the highest percentage of the FPIG.

*§ 3041.32. Income counted*

IRRC questioned the use of "biological or adoptive parents or stepparents" and notes these terms differ from parent or caretaker used throughout the rulemaking. IRRC recommended the consistent use of "parent."

One commentator, including PCCC, supported excluding the income of the live-in companion in calculating family income. Three commentators opposed excluding the income of the live-in companion. One commentator suggested that the stepparent deduction be applied to the income of a live-in companion.

*Response*

"Biological or foster or adoptive parents or stepparents" was deleted and "parent" was added for consistency in wording throughout the final-form rulemaking.

The live-in companion is not legally or financially responsible for the support of the child of the other parent and therefore the income of the live-in companion is excluded.

Clarification was added that the income of all children in the family should be counted, not just the income of the child receiving subsidy.

*§ 3041.33(5). Income adjustment*

One commentator suggested that the stepparent deduction apply to grandparents who must raise their grandchildren.

*Response*

The language and process regarding stepparent deduction was clarified. Grandparents are not included in the stepparent deduction to assure consistency for working families of low income and families who formerly received TANF.

*§ 3041.41. Financial eligibility*

One commentator opposed the requirement that entry level annual family income must be less than 200% of the FPIG at initial application, stating that a caretaker who leaves the program voluntarily after making more than 200% FPIG, but less than 235% FPIG, is unfairly penalized because the family would be ineligible upon accessing the program again. One commentator suggested increasing entry-level income eligibility from 200% of the FPIG to 235%.

*Response*

If a parent voluntarily leaves the subsidized child care program before the family income exceeds 235% of the FPIG, the parent will be informed by the eligibility agency that a subsequent application will be viewed as a new, initial application upon accessing the program again.

The upper income limit of 200% of the FPIG is retained. The child care community and advocates gener-

ally view the existing FPIG limit as a fair standard for eligibility, particularly in light of the nonentitlement status of the program.

*§ 3041.43(a). Work, education and training*

Six commentators oppose decreasing the work hour requirement from 25 to 20 hours per week. Ten commentators, including PCCC, support the reduction.

*Response*

The 20-hour work requirement reduces barriers to subsidized families because many employers offer employment of fewer than 25 hours per week to assure that the work is considered part-time. Many providers offer part-time child care to accommodate part-time work. The Department's goal is to accommodate persons who are working part-time.

*§ 3041.43(c). Work, education and training (redesignated as § 3041.43(3))*

Ten commentators, including PCCC, supported permitting 10 of the 20 hours to be spent in training. One commentator questioned whether a parent will be permitted to work for 10 hours and participate in training for 50 hours. The same commentator questioned whether there is a limit on the amount of time a parent is permitted to work for 10 hours and participate in training for 10 hours.

*Response*

A parent's circumstances and need for training change along with variables in the job market. Therefore, there is no limit on the total number of hours a parent is permitted to participate in training per week, providing the parent continues to work a minimum of 10 hours.

Subsection (c) was revised and relocated to paragraph (3) to clarify that the work requirement is met when a parent attends training and works at least 10 hours per week.

*§ 3041.43(d). Work, education and training (redesignated as § 3041.43(c))*

IRRC requested clarification regarding how long a parent may remain eligible for subsidized child care when the parent's normal work schedule reflects an average of, or fewer than, 20 hours per week. IRRC suggested the section is vague and may make it difficult for eligibility agencies to administer consistently and uniformly throughout this Commonwealth. IRRC requested clarification of temporary work slow-down and emergency.

*Response*

The language was clarified to reflect that a parent will remain eligible for subsidized child care if the parent is currently scheduled to work for an average of 20 hours per week. Temporary work slow-down was deleted from the final-form rulemaking and "emergency" was defined. The intent is to assure that only work closures or urgent situations within the family are reasons for not meeting the 20-hour work requirement.

*§ 3041.45. Anticipating income*

One commentator opposed waiving the co-payment for applicants who report prospective work, stating that the requirement does not encourage self-sufficiency.

One commentator opposed assessing co-payment based on anticipated income, stating that it results in additional work for the eligibility agencies because parents often change jobs.

*Response*

Subsection (a) was revised to clarify the parent must notify the eligibility agency of the actual amount of income no later than 10 calendar days after receiving the first income for work. Subsection (b) was relocated to § 3041.103(c) (relating to adjusted co-payment for prospective work) to clarify how the family co-payment is determined when a single parent who applies for subsidy and reports prospective work. Subsection (c) was relocated to § 3041.103(d) to clarify how the family co-payment is determined when a single parent who receives subsidy involuntarily loses work and reports prospective work.

Waiving the co-payment for parents who report prospective work benefits parents who are seeking work for the first time. The period of time the co-payment is waived is limited since a parent must notify the eligibility agency of the actual amount of income no later than 10 calendar days after receipt of the first income. In addition, this change assures consistency for families of low-income and families who formerly received TANF.

Anticipating income benefits parents who receive subsidized child care and change jobs. A co-payment assessed based on anticipated income is effective for a limited period of time since a parent must notify the eligibility agency of the actual amount of income no later than 10 calendar days after receipt of the first income. In addition, this change assures consistency for families of low-income and families who formerly received TANF.

*§ 3041.46(a)(2). Immunization*

PCCC requested deleting the requirement for documentation by a physician and suggested relocating this requirement in the section regarding verification.

*Response*

The language regarding a physician's documentation was deleted. The requirement was relocated at § 3041.63 (relating to self-certification). A parent is permitted to self-certify immunization as well as exemptions from immunization.

*§ 3041.46(c). Immunization (redesignated as § 3041.63. Self-certification)*

IRRC questioned if a child will be allowed to enter care without documentation of immunizations. IRRC suggested cross-referencing the applicable certification regulations regarding immunizations. PCCC suggested relocating this requirement in the section regarding verification.

*Response*

In accordance with §§ 3270.131, 3280.131 and 3290.131 (relating to health assessment), children in certified child care facilities must have updated immunizations within 60 days following enrollment. Therefore, self-certification by the parent for purposes of eligibility is sufficient. The intent of the requirement is to avoid duplication of paperwork that already exists at the certified facility. Cross-references to the certification requirements were added to § 3041.46(a) (relating to immunization). "Age-appropriate" was clarified to mean as recommended by the American Academy of Pediatrics. This subsection was relocated to § 3041.63(b).

*§ 3041.48. Eligibility of households including a parent or caretaker with a disability*

A section was added to clarify how the eligibility requirements for one- and two-parent families when a parent has a disability.

*§ 3041.51. Head Start expansion program*

Four commentators, including PCCC, supported the Head Start expansion program. One commentator suggested including Early Head Start. Three commentators opposed the Head Start expansion program, stating that parents with unlimited resources can access the program regardless of parent income. Several commentators questioned disregarding family income and uncontested eligibility with regard to maintaining income and calculating co-payment.

*Response*

A definition of "Head Start" was added to subsection (a). Early Head Start is excluded from the program because the intent of the Head Start Supplemental Assistance legislation was to limit the program to traditional Head Start children who are old enough for a preschool program on a school year calendar. Head Start includes at-risk children, 3 years of age or older but under 5 years of age.

The requirements of the Head Start expansion program are specified in the act of December 23, 2003 (P. L. 304, No. 48) (24 P. S. §§ 15-1501-D—15-1506-D), known as the Head Start Supplemental Assistance Program Law. The program assures that the child enrolled in Head Start is permitted to complete the program year and benefit from the quality services provided by Head Start. The objective is to assure that children who are enrolled in Head Start receive these same services, if needed by virtue of parental employment, during an expanded Head Start day. The Federal Head Start income guidelines set the core eligibility income standard at 100% of the FPIG with minor exceptions primarily designed to serve children with disabilities.

*§ 3041.51(b). Head Start expansion program*

Clarification was made to explain that a child who is enrolled in a Head Start program, whose parent needs extended hours or days of care beyond the hours or days provided by the Head Start program to work, is eligible for subsidy.

*§ 3041.51(d). Head Start expansion program*

One commentator disagreed with the provision in subsection (d) allowing other children in the family to be eligible for the Head Start expansion program.

*Response*

The provision allowing other children in the family to be automatically eligible for the Head Start expansion program was deleted.

Clarification was made to assure consistency with the employment requirements for other parents who access subsidized child care.

*§ 3041.51(e). Head Start expansion program*

One commentator questioned if the provision in subsection (e) limits parent choice.

*Response*

This provision does not limit parent choice. A parent may select a child care facility among those that are legally operating in this Commonwealth.

*§ 3041.51(f). Head Start expansion program*

Two commentators opposed permitting families to pay the lowest co-payment, regardless of family size and income.

*Response*

The language was amended to assure that co-payment is assessed based on family size and income. Clarification was added that the parent must report work loss within 10 days following the loss. Clarification was that a parent must report when a child is no longer enrolled in Head Start within 10 calendar days following the end of enrollment.

*§ 3041.51(h). Head Start expansion program*

Clarification was added to permit the family to remain in the program for 60 calendar days following the loss of work.

*§ 3041.51(i). Head Start expansion program*

Clarification was added to allow the parent or a reliable source confirmed by the eligibility agency to report the end of a child's Head Start enrollment, in addition to the Head Start program.

*§ 3041.52. Prekindergarten program*

Six commentators, including PCCC, support the prekindergarten program. Four commentators oppose the prekindergarten program, stating parents with unlimited resources may access this program regardless of parent income.

*Response*

The prekindergarten program has proven to be a successful school-readiness program. It is beneficial to parents and children to receive full-day continuation of the quality services that the child receives in the prekindergarten program.

*§ 3041.52(a). Prekindergarten program*

Two commentators questioned if this provision limits parent choice. The House Committee and one commentator stated the requirement for nonprofit child care centers to receive a certificate of compliance from the Department exceeds the Department's statutory authority. One commentator questioned if the requirement excludes in-home care. One commentator suggested that the requirement to select a licensed private academic school is not in accordance with the Private Academic Schools Act (act) (24 P. S. §§ 6701—6721) that exempts religious schools from licensure by the Department of Education.

*Response*

This requirement does not limit parent choice. A parent may select a child care center among those that are legally operating in this Commonwealth. The Department does not exceed its statutory authority in requiring a certificate of compliance for nonprofit child care centers. The Department requires that child care subsidy be provided in legally-operated child care centers. In accordance with sections 901—922 and 1001—1080 and the Public Welfare Code and § 20.21(a), both profit and nonprofit child care centers must be certified to operate in this Commonwealth.

This requirement excludes in-home care since such homes do not provide prekindergarten programs.

The requirement to select a licensed private academic school is not in violation of the act that exempts religious schools from licensure by the Department of Education. The Department acknowledges that in accordance with section 5 of the act, a bona fide religious school is exempt from licensure as a private academic school. However, for the same reason that a religious school for kindergarten

through grade 12 cannot be granted public funding, a religious prekindergarten program cannot be granted public funding.

*§ 3041.52(d). Prekindergarten program*

Clarification was added that the parent must report work loss within 10 days following the loss. Clarification was added that a parent must report when a child is no longer enrolled in prekindergarten within 10 calendar days following the end of enrollment. Additional clarifications were made to make this section comparable with § 3041.51 (relating to Head Start expansion program).

*§ 3041.52(g). Prekindergarten program*

Clarification was added to permit the family to remain in the program for 60 calendar days following the loss of work.

*§§ 3041.61—3041.71. Verification (redesignated as §§ 3041.61—3041.78. Self-certification and verification)*

Nine commentators, including PCCC, supported the simplification of verification requirements that make documentation easier for parents. One commentator suggested requiring verification of the child's age and the child's relationship to the parent from verification requirements.

*Response*

A child's age is self-certified in § 3041.63(b)(1).

Section 3041.63 and §§ 3041.72 and 3041.78 (relating to verification of family size and composition; and verification of care and control) were added to clarify acceptable verification.

With the addition of § 3041.63, several subsequent sections were renumbered as §§ 3041.64—3041.67. Proposed §§ 3041.67 and 3041.68 were deleted. Section 3041.68 (relating to verification of involuntary loss of work, education or training) was added. Proposed §§ 3041.70 and 3041.71 were combined into § 3041.70 (relating to verification of inability to work due to a disability). Sections §§ 3041.71—3041.78 were added.

*§ 3041.61. General verification requirements*

One commentator questioned the requirement that the eligibility agency must help the parent obtain verification, stating that the parent's responsibility to submit verification will become the responsibility of the eligibility agency.

*Response*

The parent is the primary source of verification. If a parent is unable to obtain verification, the eligibility agency should assist the parent in obtaining the verification necessary to establish or maintain eligibility.

Clarification was added in subsection (d) that the eligibility agency may not impose more strict verification requirements during initial determination or redetermination of eligibility for subsidized child care. Subsection (e) was deleted because the intent of the requirement is stated at § 3041.127(a) (relating to parent and caretaker report of change). Subsection (e) was added to clarify that the eligibility agency must obtain consent from the parent and the parent's spouse permitting the eligibility agency to obtain verification of eligibility information. Subsection (f) was revised and relocated to new subsection (i). Subsection (f) was added to clarify that the eligibility agency must retain a signed consent in the family's file. Subsection (g) was revised and relocated to new subsection (h). Subsection (g) was added to clarify the consent remains in effect for as long as the family receives

subsidy. Subsection (h) was deleted for clarity. Subsection (i) was revised and relocated to § 3041.64(b) (relating to self-declaration).

§ 3041.62. *Collateral contact*

Clarification was added to subsections (b) and (g) to clarify sources of collateral contact and to verify care and control of a child in a family headed by an aunt, uncle or grandparent.

§ 3041.63. *Self-declaration (redesignated at § 3041.64)*

This section was revised and relocated to § 3041.64. Changes were made to clarify the options of self-certification or self-declaration.

§ 3041.63. *Self-certification (new on final-form)*

This section was added to relocate and consolidate the eligibility requirements that a parent may self-certify for clarity and ease of use.

§ 3041.64. *Verification of income (redesignated at § 3041.65)*

Four commentators suggested using 4 weeks of pay stubs.

*Response*

The section was amended to use 4 weeks of pay stubs, which will result in more accurate computation for parents who are paid monthly, semimonthly or biweekly.

§ 3041.65. *Verification of residence (redesignated at § 3041.66)*

IRRC suggested that a parent self-declare residency status.

*Response*

The section was revised from allowing a parent to self-certify to requiring a parent to self-declare residency status.

§ 3041.67. *Verification of immunization (redesignated at § 3041.63(b)(3))*

This requirement was revised to allow a parent to self-certify a child's immunization status.

§ 3041.68. *Verification of citizenship (redesignated at § 3041.63(b)(2))*

This requirement was revised to allow a parent to self-certify a child's citizenship.

§ 3041.68. *Verification of involuntary loss of work, education or training (new on final-form)*

Section 3041.68 was added to clarify acceptable verification of involuntary loss of work, education or training.

§ 3041.70. *Verification of temporary inability to work (retitled as Verification of inability to work due to a disability)*

This section was revised to clarify acceptable verification of inability to work due to a disability.

§ 3041.71. *Verification of permanent inability to work (redesignated as § 3041.70)*

This section was combined with proposed § 3041.70, placing in one section all provisions for verification of inability to work due to a disability.

§ 3041.85. *Record retention*

Two commentators opposed increasing the record retention period from 4 years to 7 years, indicating that the

requirement increases the burden on eligibility agencies to obtain additional storage space. IRRC questioned the reason for the increase.

*Response*

The record retention requirement was reduced by 1 year. Records must be retained for 6 years from the end of the fiscal year in which the record was created or was last effective. This record retention requirement is necessary for compliance with Federal regulations implementing the Health Insurance Portability and Accountability Act of 1996, specifically 45 CFR 164.530(j) (relating to administrative requirements). This requirement is consistent with other Department requirements regarding retention of records.

The definition of "fiscal year" was relocated from § 3041.3 because the term appears only in this section.

§§ 3041.91—3041.94. *Domestic violence waivers*

Four commentators supported the provisions for families dealing with domestic violence. PCCC requested a new section regarding verification of domestic violence.

*Response*

Section 3041.75 (relating to verification of domestic violence) was added.

§ 3041.91. *General requirements (retitled as General domestic violence waiver requirements)*

Subsection (d) was deleted since it is duplicative of proposed subsection (f). Subsection (g) was deleted because it conflicts with the requirements in new subsection (e). Subsection (h) was deleted since it is not necessary to verify the reasons for granting a domestic violence waiver. A parent can provide a court order, a third party verification or a self-affirmation.

§ 3041.94. *Notice of waiver determination*

Subsection (a) was revised and language was added to clarify that, at the request of the parent, the eligibility agency must mail the notice to an alternate address or hand-deliver the notice to the parent.

§ 3041.101. *General co-payment requirements*

IRRC noted inconsistencies between subsection (e), which states that a co-payment is due on the first day of the family's first full service week, and § 3041.104(f) (relating to parent or caretaker co-payment requirements) which states that a co-payment is due on the first day of the service week.

*Response*

Subsection (e) was revised to clarify that the family co-payment is due on the first day of the service week and each week thereafter, regardless of the day the parent enrolls the child.

§ 3041.102. *Department's payment*

One commentator opposed a family being ineligible for care if the weekly payment to the provider is less than \$5, stating this may place an unnecessary burden on the eligible family to pay the extra amount or to choose another provider.

*Response*

The definition of "payment rate" was relocated from § 3041.3 for clarity because the term appears only in this section.

This provision is consistent with the current regulation and has proven to be effective and nonburdensome on the family.

*§ 3041.103. Adjusted co-payment for prospective work, education or training (retitled as Adjusted co-payment for prospective work)*

One commentator opposed the requirement that a partial redetermination must be conducted within 10 calendar days following notification and suggested that the time period should be extended until the parent has received 1 month to 6 weeks of pay.

*Response*

If the partial redetermination is delayed, a potential exists for an 8-week period in which the parent would not make a co-payment. Payment of a co-payment contributes to the cost of child care and is an essential element of the subsidized child care system.

Language was revised and added to subsection (c) from § 3041.45(a) (relating to anticipating income) to clarify how the family co-payment is determined when a single parent who applies for subsidy and reports prospective work. Language was revised and added to subsection (d) from § 3041.45(b) to clarify how the family co-payment is determined when a single parent who receives subsidy involuntarily loses work and reports prospective work.

*§ 3041.106. Eligibility agency responsibilities (retitled as Eligibility agency responsibilities regarding co-payment)*

One commentator suggested clarification that care will continue without interruption when a delinquent co-payment is paid by the date in the notice. One commentator opposed the requirement permitting a parent to reapply when delinquent co-payments have been satisfied in full.

*Response*

Subsection (c) was revised to clarify that service will be terminated following the report of a delinquent co-payment, unless the delinquent co-payment is paid by the date set forth on the written notice.

Enrollment will not be authorized until delinquent co-payments are paid, although the parent may reapply at any time.

Subsection (f) was added to clarify that the eligibility agency must provide a handbook explaining the rights and responsibilities of the subsidized child care program to each parent who applies for subsidized child care.

*§ 3041.108(a)(2). Co-payment for families headed by a parent*

One commentator opposed waiving a co-payment, stating that all families should pay the minimum co-payment in all circumstances.

*Response*

A parent who begins work does not have the resources to pay a co-payment until the parent receives his first pay.

*§ 3041.109. Co-payment for families headed by a caretaker*

One commentator supported the requirement. Two commentators stated there is an inequity with the requirement for families headed by a parent and that all co-payments must be assessed based on family size and income.

*Response*

This section has been revised. Co-payments for all families will be determined in accordance with Appendix B (relating to co-payment chart family co-payment scale).

*§ 3041.122(c). Initial determination of eligibility*

Clarification was added that a family is eligible retroactive to the date the family submitted a signed application if the eligibility agency has received all information necessary to complete the application and the verification provided by the parent establishes eligibility.

*§ 3041.123. Effective date of coverage*

One commentator opposed making eligibility and payment for child care retroactive to the date of the signed application, stating the date of the signed application does not indicate that the parent is working or is otherwise eligible on that date.

*Response*

The date the parent signed the application is the date that the parent certified a need for care and retroactive authorization is permissible only when the parent has submitted all information needed to establish eligibility.

*§ 3041.126. Face-to-face interview*

One commentator suggested permitting a family to claim an extension from the face-to-face timeframe requirement based on hardship and suggested increasing the time period to more than 30 days for all families.

*Response*

The majority of parents come to the eligibility agency within the initial 30-day time period. The provision for a 30-day extension benefits the limited number of parents who are unable to meet the time frame. Subsections (a) and (d) were revised to clarify the timeframes related to a face-to-face interview and the hardship extension for the face-to-face interview.

*§ 3041.127. Parent and caretaker report of change*

Subsection (a)(3) was deleted and clarification was added that a parent must report a change in the number of days or hours for which subsidy is needed.

*§ 3041.128. Review of changes*

The language was revised to clarify that when a parent reports a change that may result in a decrease in the family co-payment, the eligibility agency must review the change and complete a partial redetermination.

*§ 3041.129(a). Partial redetermination based on reported changes*

Clarification was added that a co-payment is not reassessed during a partial redetermination.

*§ 3041.130. Redetermination of eligibility*

The House Committee suggested a phase-out program when an applicant is no longer eligible for subsidized child care. The House Committee suggested that when a parent is determined ineligible for subsidized child care, eligibility would continue for another 6-month period with a decreasing co-payment that is phased-out over a period of time. This would provide a more user-friendly system that would support family self-sufficiency.

Several commentators, including PCCC, opposed the requirement for 6-month redeterminations of eligibility and stated that a 12-month redetermination process would reduce barriers and paperwork for parents.

*Response*

Although a phase-out program would be consistent with the policy framework underlying the final-form rule-making and would help to ease transition, a phase-out program would violate the CCDF guidelines, due to the Federal requirement to base the co-payment on family



size and income. The Department would be in violation of the established FPIG published in the Department's regulation. The FPIG is used to determine the family co-payment, based on Federal guidelines for family size and income. In addition, a phase-out as recommended would not benefit the family because the family should pay a higher co-payment to ease transition to the actual cost of care when the family is no longer eligible for subsidized child care. If the parent pays a lower co-payment, the parent would face a larger increase in child care costs once the parent no longer receives subsidized child care.

Determination of eligibility for "assistance" is required every 6 months in section 432.2(c) of the Public Welfare Code. The definition of "assistance" in section 402 of the Public Welfare Code includes "money and services," which includes subsidized child care. The scope of the semi-annual review will be limited to key eligibility factors and a simplified process that is less time-consuming than a full review of eligibility status.

*§ 3041.130(b). Redetermination of eligibility*

Paragraph (1)(vi) is deleted to assure confidentiality for a parent who reports domestic and other violence. The Department will not list the reasons for granting or denying a domestic violence waiver on a form that is prepopulated by the computerized eligibility system. Paragraph (3)(iv) is deleted for clarity because all parents are required in § 3041.127 to report a change in address within 10 calendar days following the date of the change.

*§ 3041.133. Waiting list*

One commentator opposed permitting the parent 30 calendar days to locate a provider and complete enrollment, saying that the period is too long and causes a hardship to families waiting to receive care.

*Response*

Thirty days is a reasonable period for a parent to locate care suitable to the family's needs, especially since a suitable facility may have a waiting list.

*§ 3041.141. General provisions (retitled as General former TANF families provisions)*

One commentator suggested an extension of the 183-day time limitation when TANF benefits end for a family that has a child in foster care placement, so that the family's status will not be jeopardized when the child returns to his natural family. The commentator suggested that priority status should be given to a family whose child returns to the natural family from foster care, to a parent in the adoptive process and to a caretaker in the process of obtaining permanent legal custody of a child.

*Response*

Subsection (a) was revised to clarify that a family that is no longer eligible for TANF or a family that voluntarily leaves TANF and meets the eligibility requirements may qualify for subsidy. Priority status may not be given to a family when a foster child returns to a former TANF family. However, new subsection (f) allows the child to receive child care service at any time without waiting because the child is part of the family unit.

*§ 3041.142. General requirements for former TANF families.*

The section was revised to clarify the conditions a family must meet during the 183-day period after eligibility for TANF ends or after the family voluntarily left TANF.

*§ 3041.143. Notification*

The section was revised to clarify the notification requirements for a family that formerly received TANF.

*§ 3041.144. Face-to-face interview for former TANF families*

The section was revised to clarify the timeframes related to a face-to-face interview and the hardship extension for the face-to-face interview for a family that formerly received TANF.

*§ 3041.145. Self-declaration and reporting (retitled as Verification and reporting)*

IRRC requested clarification of the verification requirements for a family who does not immediately transfer from TANF to the subsidized child care.

*Response*

When a family who formerly received TANF transfers to the subsidized child care program, the follow-up verification is unnecessary because extensive records are maintained by the TANF program. These records transfer to the eligibility agency. Therefore, the parent need only self-certify the information continues to be correct at the time of transfer.

Language was added to clarify the verification requirements for a family who formerly received TANF. The verification requirements differ depending upon when the family contacts the eligibility agency following the date TANF benefits end. A family that contacts the eligibility agency within 60 calendar days may self-certify verification requirements. A family that does not contact the eligibility agency within 60 calendar days must self-declare verification requirements to assure that information is current.

*§ 3041.150. Expiration of TANF benefits*

Clarification was made to explain that a parent or caretaker who has exhausted the 5-year limit on TANF cash assistance is eligible for 60 calendar days of subsidized child care to seek work.

*§ 3041.162. Notice of right to appeal*

Paragraph (6) was added stating the eligibility agency's responsibility to provide instructions about how to appeal.

*§ 3041.174. Parent or caretaker rights and responsibilities*

One commentator requested clarification regarding the parent's responsibility to reimburse the Department for the cost of subsidized child care if care continues during the appeal process and the hearing officer finds in the Department's favor. One commentator requested clarification to specify that the parent has 30 days to appeal.

*Response*

Clarification was added in subsection (a) that the parent has 30 days to file an appeal.

*§ 3041.183. Delaying recoupment*

The section was revised to clarify that recoupment is delayed until after a hearing decision if the family files an appeal of the overpayment decision.

*§ 3041.188(b)(1). Collection for a family whose child is no longer in care*

One commentator requested clarification that repayment may be in a single payment or under a payment plan agreed to by the parent and the Department.

*Response*

This change was made.

*Appendix A, Part II. Income Deductions*

One commentator requested the addition of a deduction on income for health insurance that is paid by the parent.

*Response*

A deduction for health insurance paid by the parent was not added. Deductions are not permitted in order to maintain conformity to other Departmental assistance programs.

*Appendix A, Part II(P). Income Exclusions*

One commentator suggested that the list of exclusions should include payments to permanent legal custodians in addition to the exclusion of foster care payments and adoption assistance payments by a county children and youth agency.

*Response*

This change was made.

*Appendix C. Stepparent Deduction Chart*

An appendix was added to clarify stepparent deduction and to assure consistency for working families of low income and families who formerly received TANF.

*Additional Changes*

In addition to the major changes previously discussed, the Department made several changes in preparation of the final-form rulemaking to correct typographical errors; reformat language for enhanced readability; revise language for improved clarity; retitle, reorganize and redesignate sections as appropriate and conform to the changes previously discussed.

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 7, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5044, to IRRC and the Chairpersons of the House Committee and the Senate Public Health and Welfare Committee 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.1) and (j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.1) and (j.2)), on April 26, 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 27, 2005, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) The public notice of intention to adopt the administrative regulations by this order has been 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2

(2) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

*Order*

The Department, acting under the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code, are amended by adding §§ 3041.1—3041.3, 3041.11—3041.22, 3041.31—3041.34, 3041.41—3041.48, 3041.51, 3041.52, 3041.61—3041.78, 3041.81—3041.86, 3041.91—3041.94, 3041.101—3041.109, 3041.121—3041.133, 3041.141—3041.150, 3041.161—3041.167, 3041.171—3041.176, 3041.181—3041.189 and Appendices A—C and by deleting §§ 3040.1, 3040.3, 3040.4, 3040.11, 3040.12, 3040.14—3040.17, 3040.19, 3040.20, 3040.28, 3040.29, 3040.31, 3040.32—3040.34, 3040.35—3040.38, 3040.40, 3040.51—3040.54, 3040.61—3040.64, 3040.71—3040.78, 3040.91—3040.94 and Appendices A—C to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

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

(d) This order shall take effect July 1, 2005.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3187 (May 28, 2005).)*

**Fiscal Note:** 14-489. (1) General Fund; (2) Implementing Year 2005-06 is \$1,615,000; (3) 1st Succeeding Year 2006-07 is \$1,615,000; 2nd Succeeding Year 2007-08 is \$1,615,000; 3rd Succeeding Year 2008-09 is \$1,615,000; 4th Succeeding Year 2009-10 is \$1,615,000; 5th Succeeding Year 2010-11 is \$1,615,000; (4) 2004-05 Program—\$60,877,000; 2003-04 Program—\$59,683,000; 2002-03 Program—\$59,683,000; (7) Child Care Services; (8) recommends adoption. Funds for 2005-06 are reflected in the proposed budget for the Department. In addition to the State funds described, \$8,635,000 in Federal Child Care and Development Block Grant funds will be used for this program in 2005-06.

**Annex A****TITLE 55. PUBLIC WELFARE****PART V. CHILDREN, YOUTH AND FAMILIES  
MANUAL****Subpart B. ELIGIBILITY FOR SERVICES****CHAPTER 3040. (Reserved).**

§ 3040.1. [Reserved].  
 § 3040.3. [Reserved].  
 § 3040.4. [Reserved].  
 § 3040.11. [Reserved].  
 § 3040.12. [Reserved].  
 §§ 3040.14—3040.17. [Reserved].  
 § 3040.19. [Reserved].  
 § 3040.20. [Reserved].  
 § 3040.28. [Reserved].  
 § 3040.29. [Reserved].  
 § 3040.31. [Reserved].  
 §§ 3040.32—3040.34. [Reserved].  
 §§ 3040.35—3040.38. [Reserved].  
 § 3040.40. [Reserved].  
 §§ 3040.51—3040.54. [Reserved].  
 §§ 3040.61—3040.64. [Reserved].  
 §§ 3040.71—3040.78. [Reserved].  
 §§ 3040.91—3040.94. [Reserved].

**CHAPTER 3041. SUBSIDIZED CHILD CARE ELIGIBILITY**

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**GENERAL PROVISIONS**

**§ 3041.1. Purpose.**

This chapter establishes the requirements for a family to receive subsidized child care. Subsidized child care is a nonentitlement benefit made available through limited Federal and State funds.

**§ 3041.2. Scope.**

This chapter applies to child care eligibility agencies, child care providers and parents and caretakers requesting or receiving subsidized child care.

**§ 3041.3. Definitions.**

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

*Adjusted family income*—Gross countable family income, minus allowable deductions.

*Annual income*—The family's adjusted monthly income, multiplied by 12 months.

*Appeal*—A written or oral request by a parent, caretaker or individual acting on behalf of a parent or caretaker for a hearing under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), indicating disagreement with a Departmental or eligibility agency action or failure to act that affects the family's eligibility for subsidized child care.

*Application*—A signed, dated request by a parent, caretaker or individual acting on behalf of a parent or caretaker for subsidized child care.

*CAO—County Assistance Office*—The local office of the Department responsible for the determination of eligibility and service delivery in the Cash Assistance, Food Stamp and Medical Assistance Programs.

*Caretaker*—An individual who has legal custody of the child, a foster parent, a grandparent, an aunt or an uncle who lives with and exercises care and control of a child.

*Child care*—Care in lieu of parental care for part of a 24-hour day.

*Collateral contact*—A form of verification in which the eligibility agency obtains information from a third party.

*Co-payment*—The weekly amount the family pays for subsidized child care.

*Department*—The Department of Public Welfare of the Commonwealth.

*Disability*—A physical or mental impairment that precludes a parent or caretaker from participating in work, education or training.

*Disqualification*—The prohibition against receipt of subsidized child care that results from fraud or an intentional program violation.

*Domestic and other violence (domestic violence)*—Includes one of the following:

(i) A physical act that results in, or threatens to result in, physical injury to the individual.

(ii) Mental abuse, including stalking, threats to kidnap, kill or otherwise harm people or property, threats to commit suicide, repeated use of degrading or coercive language, controlling access to food or sleep and controlling or withholding access to economic and social resources.

(iii) Sexual abuse.

(iv) Sexual activity involving a dependent child.

(v) Being forced as the caretaker or relative of a dependent child to engage in nonconsensual sexual acts or activities.

(vi) A threat of, or attempt at, physical or sexual abuse.

(vii) Neglect or deprivation of medical care.

*Education*—An elementary school, middle school, junior high or high school program including a general educational development program.

*Eligibility agency*—The entity designated by the Department with authority to purchase subsidized child care and determine a family's eligibility and co-payment.

*Eligibility determination*—A decision regarding whether a family qualifies for the subsidized child care program and a determination of the co-payment.

*Eligibility redetermination*—A semiannual review by the eligibility agency to determine if a family continues to qualify for subsidized child care, including a review of the co-payment.

*Employment*—Working for another individual or entity for income.

*FPIG—Federal Poverty Income Guidelines*—The income levels published annually in the *Federal Register* by the United States Department of Health and Human Services.

*Family*—The child or children for whom subsidized child care is requested and the following individuals who live with that child or children in the same household:

(i) A parent of the child.

(ii) A caretaker and a caretaker's spouse.

(iii) A biological, adoptive or foster child or stepchild of the parent or caretaker who is under 18 years of age and not emancipated by marriage or by the court.

(iv) An unrelated child under the care and control of the parent or caretaker, who is under 18 years of age and not emancipated by marriage or by the court.

(v) A child who is 18 years of age or older but under 22 years of age who is enrolled in a high school, a general educational development program or a post-secondary program leading to a degree, diploma or certificate and who is wholly or partially dependent upon the income of the parent or caretaker or spouse of the parent or caretaker.

*Fraud*—The intentional act of a parent or caretaker that results in obtaining, continuing or increasing child care subsidy for which the family is not eligible and that involves any of the following:

(i) A false or misleading statement.

(ii) The failure to disclose information.

*Income*—Includes the following:

(i) Earned income including gross wages from work, cash and in-kind payments received by an individual in exchange for services and income from self-employment.

(ii) Unearned income including cash and contributions received by an individual for which the individual does not provide a service.

(iii) Unearned benefits received periodically by an individual, such as unemployment compensation, worker's compensation or retirement benefits.

*Maximum child care allowance*—The payment ceilings set by the Department for child care services provided to families eligible for subsidized child care.

*Overpayment*—The receipt of subsidy for a child for which the family is or was not eligible or an amount in excess of the amount for which the family was eligible.

*Parent*—The biological or adoptive mother or father, stepmother or stepfather who exercises care and control of the child for whom subsidy is requested.

*Partial redetermination*—A review of eligibility that occurs before the next scheduled redetermination date and does not include a review of each eligibility factor.

*Prospective work, education or training*—Employment, education or training verified by the employer, school official or training official to begin no later than 30 calendar days following the date the parent or caretaker

signs and dates the application for subsidized child care or no later than 60 calendar days following the loss of current employment.

*Provider*—An organization or individual that directly delivers child care services.

*Published rate*—A provider's daily charge for a child who does not receive subsidized child care.

*Recoupment*—Recovery of an overpayment by increasing the co-payment or other payment arrangement.

*Self-certification*—A written statement provided by a parent or caretaker for the purpose of establishing selected factors of nonfinancial eligibility.

*Self-declaration*—A written statement provided by the parent or caretaker for the purpose of establishing financial or nonfinancial eligibility for a period of time not to exceed 30 calendar days.

*Self-employment*—Operating one's own business, trade or profession for profit.

*Subsidized child care*—Child care service paid for in part with State or Federal funds.

*Subsidy suspension*—A temporary lapse of subsidized child care that does not affect the family's eligibility status.

*TANF*—Temporary Assistance for Needy Families Program—

(i) A Federal nonentitlement program under sections 401—419 of the Social Security Act (42 U.S.C.A. §§ 601—619) that provides cash assistance to families including dependent children and an adult.

(ii) The term includes extended TANF benefits that are received beyond the 5-year TANF period.

*Training*—

(i) Instruction that provides the skills or qualifications necessary for a specific vocation or field of employment.

(ii) The term includes adult basic education, English as a second language, a 2-year or 4-year postsecondary degree program, an internship, clinical placement, apprenticeship, lab work and field work required by the training institution.

*Verification*—

(i) The process of confirming information needed to determine eligibility for subsidized child care.

(ii) The term includes documentary evidence or information obtained through collateral contacts, self-certification and self-declaration.

*Waiting list*—A record maintained by the eligibility agency of the names of families and their children determined eligible to receive subsidized child care, but for whom subsidy is not currently available.

*Work*—Employment or self-employment.

**GENERAL REQUIREMENTS AND BENEFITS**

**§ 3041.11. Nondiscrimination.**

(a) An eligibility agency may not discriminate against applicants for or recipients of Federal or State subsidized funds on the basis of age, race, sex, color, religious creed, national or ethnic origin, ancestry, sexual preference or physical or mental disability.

(b) An eligibility agency shall offer child care subsidy within the provisions of applicable civil rights laws and regulations, including the following:

(1) The Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

(2) The Age Discrimination Act of 1975 (42 U.S.C.A. §§ 6101—6107).

(3) Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000d—2000d-4a).

(4) Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000e—2000e-15).

(5) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794).

(6) The Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12210).

**§ 3041.12. Provision of subsidized child care.**

(a) Subsidized child care is provided for a child whose family meets financial and nonfinancial eligibility requirements.

(b) Subsidized child care is available to an otherwise eligible child who is under 13 years of age.

(c) Subsidized child care is available to an otherwise eligible child who is 13 years of age or older but under 19 years of age and who is incapable of caring for himself.

(d) A former TANF family is eligible for a child care subsidy under this chapter as specified in §§ 3041.141—3041.150 (relating to former TANF families).

(e) The Department, through the Department's contracts with the eligibility agency, will direct funding for various populations, including individuals who formerly received TANF benefits.

**§ 3041.13. Parent choice.**

(a) A family who is eligible for subsidized child care shall have the right to choose care from a provider who agrees to comply with the Department's standards for provider participation. Providers eligible to participate include:

(1) A child day care center certified under Chapter 3270 (relating to child day care centers).

(2) A group child day care home certified under Chapter 3280 (relating to group child day care homes).

(3) A family child day care home registered under Chapter 3290 (relating to family child day care homes).

(4) A provider specifically exempt from certification or registration under Chapters 3270, 3280 and 3290.

(b) A family eligible for Head Start expansion shall choose a child care provider as specified in § 3041.51 (relating to Head Start expansion program).

**§ 3041.14. Subsidy benefits.**

A subsidy-eligible family may receive child care during the hours that the child needs care if the parent or caretaker:

(1) Works or attends education or training, including travel between the parent's or caretaker's work, education or training and the child care facility.

(2) Requires uninterrupted sleep time because the work shift ends between the hours of 12 a.m. and 9 a.m.

**§ 3041.15. Payment of provider charges.**

(a) A provider participating in the subsidized child care program is eligible to receive payment from the eligibility agency for services provided to a subsidy-eligible child.

(b) The eligibility agency may not pay child care costs that exceed the maximum child care allowance less the family co-payment for the type of care the child received from the provider.

(c) If a parent or caretaker selects a provider whose published rate exceeds the Department's payment rate, the provider may charge the parent or caretaker the difference between these two amounts.

(d) The eligibility agency may not pay for any additional charge assessed by the provider, beyond the cost of child care.

(e) A change in a parent's or caretaker's need for child care and the resulting adjustment in the amount of payment to the provider shall begin on the date the parent or caretaker reports the change or on the date the change begins, whichever is later.

**§ 3041.16. Subsidy limitations.**

(a) A family in which a parent or caretaker is receiving funds from the TANF cash assistance program is not eligible for subsidized child care under this chapter.

(b) Subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program.

(c) If a parent or caretaker is the operator of a child day care center, group child day care home or family child day care home as specified in Chapter 3270, Chapter 3280 or Chapter 3290 (relating to child day care centers; group child day care homes; and family child day care homes) or is the operator of a home that is exempt from certification or registration under section 1070 of the Public Welfare Code (62 P.S. § 1070), and if space is available to enroll the parent's or caretaker's child at the facility operated by the parent or caretaker, that child is not eligible to receive subsidized child care.

(d) Subsidized child care is provided for a child whose family is determined eligible, up to the limits of available subsidized child care funds.

(e) A parent or caretaker is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the eligibility agency notifies the parent or caretaker that funding is available or that the family's current child care provider is ineligible to participate in the subsidized child care program.

**§ 3041.17. Prohibition of additional conditions and charges.**

The eligibility agency may not:

(1) Impose eligibility conditions other than conditions listed in this chapter.

(2) Require the parent or caretaker to select a particular provider or combination of providers as a condition of eligibility.

**§ 3041.18. Attendance.**

(a) The days for which the parent or caretaker establishes a need for child care shall be specified in writing by the parent to the eligibility agency at the time the child is enrolled in subsidized child care.

(b) A child is expected to attend child care at the provider on all days for which the parent or caretaker established a need for child care as specified in § 3041.14 (relating to subsidy benefits), unless the provisions specified in § 3041.21 (relating to subsidy suspension) apply.

**§ 3041.19. Absence.**

(a) Upon notification from the provider that a child has been absent more than 10 consecutive days for which the child is scheduled to attend child care, not including days of a child's illness, injury or impairment that precludes a child from attending child care, or other reason as specified in § 3041.21 (relating to subsidy suspension), the eligibility agency shall send the parent or caretaker an adverse action notice terminating the child's eligibility and payment to the provider.

(b) The notice shall inform the parent or caretaker of the following:

(1) The parent or caretaker shall report to the eligibility agency the date of the child's return to care.

(2) Payment will not be terminated if the child returns to care by the date set forth on the notice.

(3) If the child does not return to care by the date set forth on the notice and there are no grounds for subsidy suspension, the child's subsidy will be terminated effective the date set forth on the notice.

**§ 3041.20. Subsidy continuation during breaks in work, education or training.**

A family's eligibility and payment for subsidized child care continues for and during the following:

(1) Sixty calendar days from the date of an involuntary loss of work, the date a strike begins or the date the parent graduates from or completes education or training.

(2) A total of 84 calendar days from the first day of family leave, including maternity leave, as defined under the Family and Medical Leave Act of 1993 (29 U.S.C.A. §§ 2601—2654), provided there is a need for child care.

(3) Regularly scheduled breaks in work or breaks in education or training, if the regularly scheduled break is less than 31 calendar days.

**§ 3041.21. Subsidy suspension.**

(a) If a child is unable to attend child care for more than 10 consecutive days for which the child is scheduled to attend care, subsidy shall be suspended for up to 90 calendar days in the following circumstances:

(1) The child is visiting the noncustodial parent or caretaker.

(2) The child is ill or hospitalized, preventing the child from participating in child care.

(3) The child is absent because of family illness or emergency.

(4) The child remains at home with his parent or caretaker during family leave.

(5) The provider is closed because of failure to meet certification or registration requirements.

(6) The parent or caretaker needs to locate another provider because the current provider cannot meet the parent's or caretaker's child care needs.

(7) The parent or caretaker is on maternity or family leave, as defined under the Family and Medical Leave Act of 1993 (29 U.S.C.A. §§ 2601—2654).

(8) A parent or caretaker has a break in work, education or training that exceeds 30 calendar days but does not continue beyond 90 calendar days.

(b) The child is no longer eligible for subsidy payment or service if the child continues to be absent following 90 calendar days of suspension.

**§ 3041.22. Subsidy disruption.**

(a) If child care is disrupted due to the provider's loss of the Department's certification or registration or another reason that prevents the child's continued care at that facility, the child is eligible for subsidy at another facility.

(b) If a child loses care as a result of circumstances specified in subsection (a), the child's subsidy is suspended until the parent or caretaker selects another provider and funding is available.

(c) Subsidy to a child may be disrupted if the eligibility agency cannot continue to subsidize the number of children enrolled in subsidized child care due to insufficient State or Federal funding.

(1) Subsidy for children whose family's income is at the highest percentage of the FPIG is disrupted first.

(2) A child whose subsidy is disrupted under this subsection shall be placed on the waiting list according to the date of the initial eligibility for subsidized child care.

**DETERMINING FAMILY SIZE AND INCOME**

**§ 3041.31. Family size.**

(a) Individuals included in the definition of family shall be included in determining family size.

(b) An individual applying as a parent and a caretaker may only be counted once.

(c) An individual may not be included in more than one family unless the individual is a child who is in a shared custody arrangement between two families and both families are seeking subsidized child care.

(d) A foster child may be counted as a family of one or may be included in a family as defined in this chapter.

**§ 3041.32. Income counted.**

Income of the following family members is counted to determine financial eligibility:

(1) The parent or caretaker of the child for whom subsidy is sought.

(2) A parent's or caretaker's spouse.

(3) Children, excluding a child's earned income.

**§ 3041.33. Income adjustment.**

To determine adjusted family income the eligibility agency shall:

(1) Determine gross income as specified in Appendix A, Part I (relating to income to be included, deducted and excluded in determining gross monthly income) for each family member listed in § 3041.32 (relating to income counted).

(2) Estimate monthly income from each income source in accordance with § 3041.34 (relating to estimating income).

(3) Convert weekly, biweekly, semimonthly and other pay periods to gross monthly amounts using the Conversion Table in Appendix A, Part I.

(4) Calculate the total gross monthly income.

(5) Determine the stepparent deduction as specified in Appendix C (relating to stepparent deduction chart).

(6) Determine other allowable deductions listed in Appendix A, Part II for each source of income.

(7) Determine adjusted family income by subtracting the total monthly deductions specified in paragraphs (5) and (6) from the total gross monthly income specified in paragraph (4).

(8) Multiply adjusted family income by 12 to determine annual family income.

**§ 3041.34. Estimating income.**

(a) For the purpose of determining adjusted family income, the eligibility agency shall use its best estimate of monthly income based upon circumstances at the time of application or redetermination as specified in Appendix A, Part I (relating to income to be included, deducted and excluded in determining gross monthly income) for the table used to convert weekly, biweekly, semimonthly and other pay periods to monthly amounts.

(b) For parents or caretakers who are working and have received pay at the time they apply for subsidized child care, income shall be estimated based upon verified, actual amounts already received by the family prior to application or redetermination or verification of anticipated income.

(c) When estimating income, the eligibility agency shall use the past 30 calendar days as an indicator of future amounts, unless:

(1) A change has occurred.

(2) A change is anticipated.

(3) An unusual circumstance existed that is not expected to recur, such as overtime not likely to continue.

(d) The eligibility agency shall adjust its estimate of monthly income to take into account recent or anticipated changes and unusual circumstances.

(e) When an applicant anticipates starting work within the next 30 days or has not yet received a first paycheck, income eligibility is established based on verified anticipated income.

**ELIGIBILITY REQUIREMENTS**

**§ 3041.41. Financial eligibility.**

(a) At initial application, annual family income may not exceed 200% of the FPIG.

(b) Following an initial determination of eligibility, a family shall remain financially eligible for subsidized child care as long as the annual income does not exceed 235% of the FPIG.

(c) The eligibility agency shall inform the parent or caretaker of the annual family income that will exceed 235% of the FPIG and cause the family to be ineligible for subsidized child care.

**§ 3041.42. Residence.**

(a) Family members shall be residents of this Commonwealth.

(b) The parent or caretaker shall apply in his county of residence. In counties where there is more than one eligibility agency for the county, the parent or caretaker shall apply to the eligibility agency that is responsible for the geographic area that includes the zip code of the family's residence.

**§ 3041.43. Work, education and training.**

(a) The parent or caretaker shall work at least 20 hours per week. The eligibility agency shall average a parent's or caretaker's work hours in cases where hours of work vary from week to week.

(b) The work-hour requirement specified in subsection (a) is met under the following circumstances:

(1) A parent or caretaker under 22 years of age and attending high school.

(2) A parent or caretaker under 18 years of age, does not have a high school or general educational development diploma, but is enrolled in and attending education on a full-time basis.

(3) A parent or caretaker attends training and works at least 10 hours per week. The time spent in training counts toward the 20 hour per week work requirement.

(c) A parent or caretaker who misses work, education or training shall remain eligible for subsidy if the parent or caretaker is currently scheduled to work or participate in education or training for an average of 20 hours or more per week and one of the following applies:

(1) The parent or caretaker has an illness or injury.

(2) The parent or caretaker has a medical appointment that cannot reasonably be scheduled at a time that does not conflict with work hours.

(3) The parent's or caretaker's employer is closed.

(4) The parent or caretaker verifies domestic violence.

(5) The parent or caretaker has an emergency, such as:

(i) Illness, injury or impairment of the child that precludes the child from attending child care.

(ii) Illness, injury or impairment of a family member that requires the parent or caretaker to miss work to provide care.

**§ 3041.44. Prospective work, education and training.**

(a) A family in which a parent or caretaker has prospective work, education or training may be eligible for subsidized child care if the following requirements are met:

(1) The work, education or training will begin no later than 30 calendar days following the date of application or no later than 60 calendar days following the loss of work for a parent or caretaker who is receiving subsidized child care.

(2) Verification of prospective work, education or training is provided as specified in § 3041.67 (relating to verification of work, education and training).

(b) Subsidy may not begin until the parent or caretaker begins work, education or training.

**§ 3041.45. Anticipating income.**

The parent or caretaker shall notify the eligibility agency of the actual amount of income no later than 10 calendar days after receiving the first income for work.

**§ 3041.46. Immunization.**

(a) A child receiving subsidized child care shall have received age-appropriate immunizations as recommended by the American Academy of Pediatrics. For facilities subject to certification by the Department, immunizations shall be provided as specified in §§ 3270.131, 3280.131 and 3290.131 (relating to health assessment). Exemption from the immunization requirement shall be granted by the eligibility agency if:

(1) A child's parent or caretaker objects to immunizations on religious grounds.

(2) A parent or caretaker indicates that a child's medical condition contraindicates immunization.

(b) If an otherwise eligible child does not have age-appropriate immunizations and is not exempt from immunization, the family shall be authorized for subsidy and the parent or caretaker shall be given 90 calendar days to obtain immunizations for the child and self-certify that the child has age-appropriate immunizations or that the child is exempt from the immunization requirement.

**§ 3041.47. Citizenship.**

A child receiving subsidized child care shall be a United States citizen or an alien lawfully admitted for permanent residence or otherwise lawfully and permanently residing in the United States.

**§ 3041.48. Eligibility of households including a parent or caretaker with a disability.**

(a) Following the determination of eligibility for subsidized child care, a single parent or caretaker who becomes disabled, is unable to continue work, education or training and is unable to care for the child is excused from the work, education and training requirements for up to a maximum of 183 calendar days. The disability must be verified as specified in § 3041.70 (relating to verification of inability to work due to a disability).

(b) A two-parent or caretaker family may be eligible for subsidized child care if one parent or caretaker is working and the other parent or caretaker is unable to work or participate in education or training and is unable to care for the child for whom subsidy is requested due to a disability or the need to attend treatment for the disability. The disability must be verified as specified in § 3041.70 at the time of application or at the time the parent or caretaker becomes disabled and at each subsequent redetermination.

**SPECIAL ELIGIBILITY PROGRAMS**

**§ 3041.51. Head Start expansion program.**

(a) Head Start is a Federally-funded program designed to prepare at-risk children, 3 years of age or older but under 5 years of age, for school success. A Head Start expansion program is a program that combines the Head Start program with the subsidized child care program.

(b) A child who is enrolled in a Head Start program, whose parent or caretaker needs extended hours or days of child care beyond the hours or days provided by the Head Start program to work, is eligible for subsidized child care under this section, if the parent or caretaker meets the eligibility requirements for subsidized child care as specified in subsection (f).

(c) The parent or caretaker shall obtain from the Head Start program and provide to the eligibility agency verification that the Head Start expansion program meets the Federal Head Start standards.

(d) If a child in the family as specified in § 3041.31 (relating to family size) is enrolled in the Head Start expansion program, the family co-payment is based on family size and income. If additional children in the family are enrolled in subsidized child care, the family co-payment is based on family size and income.

(e) If extended hours or days of care are provided beyond the Head Start program hours or days, the extended hours and days of care shall be provided by a facility that has a certificate of compliance or registration by the Department as a child day care facility.

(f) Upon program entry and continuation in the Head Start expansion program, a parent or caretaker shall meet the following conditions:



(1) Verification, at the time of application, of a minimum of 20 hours of work per week as specified in § 3041.43 (relating to work, education and training).

(2) Verification that extended hours and days of child care are needed to work as specified in subsection (b).

(3) Compliance with the waiting list conditions specified in § 3041.133 (relating to waiting list).

(4) Payment of the co-payment as specified in § 3041.101(a)—(e) (relating to general co-payment requirements).

(5) Report loss of work within 10 calendar days following the date work ended as specified in § 3041.127(b) (relating to parent and caretaker report of change).

(6) Report when a child is no longer enrolled in Head Start within 10 calendar days following the date the Head Start enrollment ended.

(g) Subsidy for a child receiving care under this section may be suspended during summer school breaks.

(h) A parent or caretaker whose child receives subsidized child care and is enrolled in a Head Start program is not required to report changes in circumstances during the period of the child's Head Start enrollment, unless the parent or caretaker loses work. If the parent or caretaker involuntarily loses work, the family remains eligible for the Head Start expansion program for up to 60 calendar days following the loss of work. If the parent or caretaker is unemployed for more than 60 calendar days, the family is ineligible for subsidized child care.

(i) The eligibility agency may not require a parent or caretaker whose child receives subsidized child care and is enrolled in a Head Start program to complete a partial redetermination or redetermination until the child's Head Start program, the parent or caretaker or a reliable source confirmed by the eligibility agency reports to the eligibility agency that the child is no longer enrolled in the Head Start program.

**§ 3041.52. Prekindergarten program.**

(a) A child who is 3 or 4 years of age and who is enrolled in a prekindergarten program operated by a school entity or a certified child day care center or licensed private academic school serving children 3 or 4 years of age operating under contract with a school entity, whose parent or caretaker needs extended hours or days of child care to work, is eligible for subsidized child care under this section, if the parent or caretaker meets the eligibility requirements for subsidized child care as specified in this section.

(b) The eligibility agency shall verify that the prekindergarten program is operated by a school entity or by a certified child day care center or licensed private academic school operating under contract with a school entity.

(c) If extended hours or days of care are provided beyond the prekindergarten program's hours or days, the extended hours and days of care shall be provided by a facility that has a certificate of compliance or registration by the Department as a child day care facility.

(d) Upon program entry and continuation in the prekindergarten program, a parent or caretaker shall meet the following conditions:

(1) Verification, at the time of application, of a minimum of 20 hours of work per week as specified in § 3041.43 (relating to work, education and training).

(2) Verification, at the time of application, of income eligibility for subsidized child care as specified in § 3041.41 (relating to financial eligibility).

(3) Verification that extended hours and days of child care are needed to work as specified in subsection (c).

(4) Compliance with the waiting list conditions specified in § 3041.133 (relating to waiting list).

(5) Payment of the co-payment as specified in § 3041.101 (relating to general co-payment requirements).

(6) Report loss of work within 10 calendar days following the date work ended as specified in § 3041.127 (relating to parent and caretaker report of change).

(7) Report when a child is no longer enrolled in a prekindergarten program within 10 calendar days following the date the prekindergarten enrollment ended.

(e) A parent or caretaker whose child participates in a prekindergarten program shall meet the conditions specified in this chapter, except as specified in subsections (f), (g) and (h).

(f) Subsidy for a child receiving care under this section may be suspended during summer school breaks.

(g) A parent or caretaker whose child receives subsidized child care and is enrolled in a prekindergarten program is not required to report changes in circumstances during the period of the child's prekindergarten enrollment, unless the parent or caretaker loses work. If the parent or caretaker involuntarily loses work, the family remains eligible for the prekindergarten program for up to 60 calendar days following the loss of work.

(h) The eligibility agency may not require a parent or caretaker whose child receives subsidized child care and is enrolled in a prekindergarten program to complete a partial redetermination or redetermination until the child's prekindergarten program, the parent or caretaker or a reliable source confirmed by the eligibility agency reports to the eligibility agency that the child is no longer enrolled in the prekindergarten program.

(i) A school entity is a public school, school district, intermediate unit or area vocational-technical school as defined in 22 Pa. Code § 49.1 (relating to definitions).

**SELF-CERTIFICATION AND VERIFICATION**

**§ 3041.61. General verification requirements.**

(a) The parent or caretaker shall be the primary source of verification in establishing and maintaining eligibility for subsidized child care.

(b) The eligibility agency shall inform each parent and caretaker that the eligibility agency is available to assist in obtaining verification that the parent or caretaker is unable to obtain.

(c) The eligibility agency shall assist parents and caretakers who request assistance in obtaining verification.

(d) The eligibility agency may not impose requirements for verification beyond the requirements of this chapter.

(e) At the time of application for subsidized child care, the eligibility agency shall obtain consent from the parent or caretaker and the parent's or caretaker's spouse permitting the eligibility agency to obtain verification of eligibility information.

(f) The eligibility agency shall retain the signed consent in the family's file.

(g) The consent shall remain in effect for as long as the family receives subsidy.

(h) The eligibility agency may not deny or terminate subsidy to a family when the parent or caretaker has cooperated in the verification process and needed verification is pending or cannot be obtained due to circumstances beyond the parent's or caretaker's control.

(i) The eligibility agency may not require a parent or caretaker to reverify information unless the eligibility agency has information that indicates the subsidy status of the family has changed.

**§ 3041.62. Collateral contact.**

(a) The eligibility agency shall make a collateral contact on behalf of the parent or caretaker if any of the following occurs:

(1) The parent or caretaker has made a reasonable effort to obtain documentary evidence without success.

(2) Documentary evidence is unavailable.

(3) The eligibility determination process must be expedited to avoid unnecessary hardship to the parent or caretaker or to ensure that the time frame for an eligibility determination is met.

(4) The verification provided by the parent or caretaker requires additional clarification.

(5) The eligibility agency suspects that the parent or caretaker is withholding information or has falsified the information given.

(b) The eligibility agency shall make a collateral contact in person, by consulting public records, by mail, electronic communication, facsimile or by telephone with a source of reliable information.

(c) Sources of reliable collateral contact information include the following:

(1) Public records, such as domestic relations or other courthouse records.

(2) An employer, a friend, a neighbor, a relative, a landlord, a government agency, a community social service agency or a child care provider.

(d) The eligibility agency shall obtain from the parent or caretaker a list of reliable sources of information who would serve as collateral contacts.

(e) The eligibility agency shall cooperate with a source who acts as a collateral contact.

(f) The eligibility agency may not contact an alleged abuser or former abuser in a domestic violence situation.

(g) Sources of reliable collateral contact information regarding verification of care and control in a family headed by an aunt, uncle or grandparent as specified in § 3041.78 (relating to verification of care and control) include one of the following who has knowledge of the circumstances:

(1) A school teacher or principal.

(2) A regulated child care provider.

(3) A health care professional.

(4) A social service worker or counselor.

(5) A religious professional.

(6) An attorney.

**§ 3041.63. Self-certification.**

(a) The eligibility agency shall inform the parent or caretaker in writing that self-certification is made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) The eligibility agency shall accept the statement of the parent or caretaker as sufficient proof of the following eligibility factors:

(1) Age of the child.

(2) Citizenship or immigration status.

(3) Immunization status or exemption from the immunization requirement.

(4) Days and hours for which the child needs care, as specified in § 3041.145 (relating to verification and reporting).

(5) Status of an individual who formerly received TANF, as specified in § 3041.145.

(6) Face-to-face time frame extension based on hardship, as specified in §§ 3041.126(d) and 3041.144(a) (relating to face-to-face interview; and face-to-face interview for former TANF families).

**§ 3041.64. Self-declaration.**

(a) If attempts to verify eligibility by documentary evidence or collateral contact are unsuccessful, the eligibility agency shall proceed without delay to determine the family's eligibility based upon a self-certification as specified in § 3041.63 (relating to self-certification) or by written self-declaration by the parent or caretaker.

(b) The eligibility agency shall instruct the parent or caretaker that a written self-declaration shall be made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(c) The eligibility agency shall accept a parent's or caretaker's self-declaration statement, unless evidence contradicts the statement.

(d) If a parent or caretaker uses self-declaration as verification, the eligibility agency shall require the parent or caretaker to provide another form of acceptable verification no later than 30 calendar days following the date the written self-declaration is accepted by the eligibility agency unless otherwise specified in this chapter.

**§ 3041.65. Verification of income.**

(a) Acceptable verification of earned income from employment includes one of the following:

(1) Pay stubs reflecting earnings for 4 weeks in the most recent 6-week period, the Department's Employment Verification form reflecting actual or anticipated earnings, the Internal Revenue Service form used for reporting tips, an employer statement of anticipated earnings and hours or other document that establishes the parent's or caretaker's earnings or anticipated earnings from employment.

(2) A collateral contact, as specified in § 3041.62 (relating to collateral contact).

(3) A written self-declaration by the parent or caretaker as specified in § 3041.64 (relating to self-declaration).

(b) Acceptable verification of income from self-employment includes one of the following:

(1) Tax returns, business records or other documents establishing profit from self-employment.

(2) A collateral contact, as specified in § 3041.62.

(3) A written self-declaration by a parent or caretaker of net profit from self-employment, reflecting gross earnings, less the cost of doing business, as specified in § 3041.64.

(c) Acceptable verification of unearned income includes one of the following:

(1) A copy of a current benefit check, an award letter that designates the amount of a grant or benefit, such as a letter from the Social Security Administration stating the amount of the Social Security benefit, a bank statement, a court order, or other document or database report that establishes the amount of unearned income.

(2) A collateral contact, as specified in § 3041.62.

(3) A written self-declaration by the parent or caretaker, as specified in § 3041.64.

(d) If a family receives or pays child support, the eligibility agency shall verify the amount of support received or paid by the family by requesting this information from the Department, whether the information is found in the Pennsylvania Child Support Enforcement System or in another source.

**§ 3041.66. Verification of residence.**

Acceptable verification of residence includes any of the following:

(1) Mail received by the parent or caretaker, a copy of a lease, utility bill, deed, driver's license, rental agreement or other document establishing residence.

(2) A collateral contact, as specified in § 3041.62 (relating to collateral contact).

(3) A written self-declaration, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.67. Verification of work, education and training.**

Acceptable verification of hours of work, education, training or enrollment in education or training includes one of the following:

(1) A document provided by the parent or caretaker as verification of earned or anticipated earned income, provided this verification indicates or can be used to compute the number of hours the parent or caretaker worked, is normally scheduled to work or in cases when hours vary, the average number of hours worked.

(2) A copy of a work schedule signed by the employer.

(3) A copy of the class or training schedule from an education or training representative.

(4) Another document that establishes hours of work or anticipated hours of work, education or training.

(5) A collateral contact, as specified in § 3041.62 (relating to collateral contact).

(6) A written self-declaration by the parent or caretaker that indicates the parent or caretaker works or will work at least 20 hours per week, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.68. Verification of involuntary loss of work, education or training.**

Acceptable verification of involuntary loss of work, education or training includes any of the following:

(1) A written statement from the employer or an education or training representative.

(2) A school record.

(3) A collateral contact, as specified in § 3041.62 (relating to collateral contact).

(4) A written self-declaration, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.69. Verification of identity.**

Acceptable verification of identity includes one of the following:

(1) Employer identification card.

(2) Military photo-identification card.

(3) Passport.

(4) Other verifiable photo-identification.

(5) Driver's license with or without a photograph.

(6) State-issued birth certificate.

(7) Certificate of naturalization.

(8) Certificate of United States citizenship.

(9) Registration receipt card.

(10) Valid or expired Pennsylvania learner's permit.

(11) Social Security card.

(12) Marriage license, divorce decree or court order for a name change.

(13) Marriage record that contains the date of birth.

(14) Voter's registration card.

(15) A collateral contact as specified in § 3041.62 (relating to collateral contact).

(16) A written self-declaration by the parent or caretaker, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.70. Verification of inability to work due to a disability.**

Acceptable verification of inability to work due to a disability includes:

(1) In a single or two-parent or caretaker family, verification of the parent's or caretaker's disability shall include an assessment by a physician or psychologist that states the following:

(i) The condition causing the inability to work or to participate in education or training.

(ii) The manner in which the condition causing the disability prevents the parent or caretaker from providing care for the child.

(iii) The date the parent or caretaker is expected to return to work or resume participation in education or training or the date the parent or caretaker will be able to care for the child.

(2) In a two-parent or caretaker family, if the parent or caretaker with a disability submits written verification of disability payments from Social Security, Supplemental Security Income (SSI), Worker's Compensation, 100% of Veterans Disability or 100% of another type of work-related disability, that verification shall serve as permanent verification of the parent's or caretaker's inability to work.

**§ 3041.71. Verification of reasons for subsidy continuation or suspension.**

Acceptable verification of reasons for subsidy continuation or suspension as specified in §§ 3041.20 and 3041.21

(relating to subsidy continuation during breaks in work, education or training; and subsidy suspension) includes one of the following:

- (1) The Department's form for verifying work, education or training.
- (2) A written statement from the employer or the education or training representative or school records.
- (3) A child support order.
- (4) A medical record or a written statement from a physician.
- (5) A collateral contact, as specified in § 3041.62 (relating to collateral contact).
- (6) A written self-declaration by the parent or caretaker, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.72. Verification of family size and composition.**

Acceptable verification of family size and composition includes one of the following:

- (1) A birth certificate.
- (2) A custody order.
- (3) A medical record or a written statement from a physician.
- (4) A written statement from the parent indicating that the caretaker has care and control of the child for whom subsidized child care is requested.
- (5) A school record.
- (6) A collateral contact, as specified in § 3041.62 (relating to collateral contact).
- (7) A written self-declaration by the parent or caretaker, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.73. Verification of transfer of TANF benefits.**

Acceptable verification of transfer of TANF benefits within the state or from another state is documentation by the eligibility agency that indicates the date TANF benefits ended within the State or in another State, as specified in § 3041.149(b) (relating to transfer from other states).

**§ 3041.74. Verification of expiration of TANF benefits.**

Acceptable verification of expiration of TANF benefits is documentation by the eligibility agency that indicates the date TANF benefits expired within the state or in another state, as specified in § 3041.150(b) (relating to expiration of TANF benefits).

**§ 3041.75. Verification of domestic violence.**

Acceptable verification of domestic violence is the Department's form, which provides for verification by documentary evidence, third party statement or self-certification.

**§ 3041.76. Verification of a child's incapability of caring for himself.**

Acceptable verification of a child's incapability of caring for himself as specified in § 3041.12(c) (relating to provision of subsidized child care) is documentation by a licensed physician or psychologist.

**§ 3041.77. Verification of maternity and family leave.**

Acceptable verification of family leave includes one of the following:

- (1) A birth certificate.
- (2) The Department's medical assessment form.
- (3) A written statement or other documentation completed by a licensed physician that describes the inability to work or participate in education or training and includes a date of anticipated return to work.
- (4) A written statement from the employer or an education or training representative.
- (5) A collateral contact, as specified in § 3041.62 (relating to collateral contact).
- (6) A written self-declaration by the parent or caretaker, as specified in § 3041.64 (relating to self-declaration).

**§ 3041.78. Verification of care and control.**

Acceptable verification of care and control in a family headed by an aunt, uncle or grandparent includes one of the following:

- (1) A school record.
- (2) A medical record.
- (3) A social service record.
- (4) A religious record.
- (5) A Domestic Relations Services support order.
- (6) A court order.
- (7) A rental or lease agreement.
- (8) A notarized written statement from the parent or caretaker.
- (9) A collateral contact, as specified in § 3041.62 (relating to collateral contact).
- (10) A written self-declaration by the parent or caretaker, as specified in § 3041.64 (relating to self-declaration).

**ELIGIBILITY AGENCY RESPONSIBILITIES**

**§ 3041.81. Eligibility agency.**

(a) The eligibility agency shall manage the subsidized child care program in part of a county, a single county or several counties.

(b) The eligibility agency may be either a prime contractor or a subcontractor designated in a prime contract.

**§ 3041.82. Eligibility determination.**

(a) The eligibility agency shall determine eligibility for subsidized child care as specified in this chapter.

(b) The eligibility agency may not impose eligibility conditions other than the conditions listed in this chapter.

(c) The eligibility agency may not require the parent or caretaker to select a particular provider or combination of providers as a condition of eligibility.

**§ 3041.83. Confidentiality.**

(a) The eligibility agency and its employees shall keep confidential the information in the family file and use that information only for purposes directly connected to the administration of their duties.

(b) Agents of the United States, the Commonwealth and the Department who are responsible for eligibility

review, evaluation or audit functions shall have access to, and the right to the use and disclosure of, information on applicants or recipients of subsidized child care. This use and disclosure is confined to the agent's responsibility to carry out review, evaluation or audit functions.

(c) Disclosure of information beyond the scope of review, evaluation or audit functions performed by the agents requires the parent's or caretaker's informed and written consent.

(d) Information in the family file may be disclosed to the local CAO when necessary to ensure that funds are authorized appropriately.

(e) The eligibility agency shall assure the confidentiality of an individual who files an appeal or complaint about a family's receipt of subsidized child care for a child.

**§ 3041.84. Family file.**

(a) An eligibility agency shall establish and maintain a separate file for the family of each parent or caretaker who applies for subsidized child care.

(b) The family file shall contain documents pertaining to eligibility determination, redetermination, subsidized child care authorization, co-payment agreements and copies of written notices required by this chapter.

(c) A parent or caretaker or an authorized representative has a right to examine the family file.

**§ 3041.85. Record retention.**

(a) An eligibility agency shall retain family files, completed application forms, written notices, books, records and other fiscal and administrative documents pertaining to subsidized child care.

(b) Records shall be maintained for at least 6 years from the end of the fiscal year in which subsidized child care has been provided or until an audit or litigation is resolved.

(c) The fiscal year is a period of time beginning July 1 of any calendar year and ending June 30 of the following calendar year.

**§ 3041.86. Child abuse reporting.**

The eligibility agency shall immediately report suspected child abuse in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services).

**DOMESTIC VIOLENCE WAIVERS**

**§ 3041.91. General domestic violence waiver requirements.**

(a) The eligibility agency shall grant a domestic violence waiver to a parent or caretaker who is the victim of past or present domestic violence or the threat of domestic violence.

(b) A domestic violence waiver shall be granted if compliance with a requirement of this chapter would either make it more difficult for a family or household member to escape domestic violence or place a family or household member at risk of domestic violence.

(c) The following requirements of this chapter may not be waived:

(1) Age of the child as specified in § 3041.12(b) and (c) (relating to provision of subsidized child care).

(2) Income limits as specified in § 3041.41 (relating to financial eligibility).

(3) Pennsylvania residency as specified in § 3041.42 (relating to residence).

(4) The minimum number of hours of work, education or training as specified in § 3041.43 (relating to work, education and training), except for a parent or caretaker who meets the hours of work, education or training at the time of application. The parent or caretaker shall continue to participate in some but not all hours of work, education or training.

(d) A waiver of the verification of the amount of income as specified in § 3041.65 (relating to verification of income) may not exceed 60 days.

(e) Except as specified in subsection (c), the eligibility agency may grant a domestic violence waiver for a maximum of 183 days.

**§ 3041.92. Alternate address or telephone number.**

A parent or caretaker who is a victim of domestic violence may use an alternate address for receipt of mail or telephone number for receipt of telephone calls.

**§ 3041.93. Time frame for waiver determinations.**

The eligibility agency shall act on a parent's or caretaker's waiver request no later than 15 calendar days following the date the parent or caretaker requests the waiver.

**§ 3041.94. Notice of waiver determination.**

(a) The eligibility agency shall provide written notice to the parent or caretaker regarding the eligibility agency's determination to grant or deny a waiver request. At the request of the parent or caretaker, the notice shall be mailed to an alternate address or hand-delivered to the parent or caretaker.

(b) If the waiver is granted, the notice must include the following:

(1) The basis for granting the waiver.

(2) A statement that the eligibility agency will review the waiver circumstances every 183 days.

(c) If the waiver is denied, the notice must include the following:

(1) The basis for the denial.

(2) The right to appeal the decision and how to appeal as specified in §§ 3041.162 and 3041.171 (relating to notice of right to appeal; and appealable actions).

(3) The verification the parent or caretaker shall submit for the eligibility agency to grant the waiver and the time frames in which the parent or caretaker shall submit the verification.

(4) The evidence or information needed to substantiate the waiver request and the time frames in which the parent or caretaker shall provide the information.

**CO-PAYMENT AND PAYMENT BY THE DEPARTMENT**

**§ 3041.101. General co-payment requirements.**

(a) The eligibility agency shall determine the amount of the parent's or caretaker's co-payment during the eligibility process based on the parent's or caretaker's actual or verified anticipated income and family size.

(b) A co-payment is established at an initial determination of eligibility for subsidized child care and reestablished at each successive redetermination of eligibility.

(c) The co-payment covers each child in the family who is receiving subsidized child care.

(d) The co-payment includes each day of the week for which the family establishes a need for child care.

(e) The co-payment is due on the first day of the service week and each week thereafter regardless of the day the parent or caretaker enrolls the child.

**§ 3041.102. Department's payment.**

(a) The payment rate is the daily amount paid to a child care provider for services delivered to a child who is eligible for subsidized child care.

(b) If the co-payment does not exceed the payment rate for care, the difference between the payment rate and the weekly co-payment is the Department's payment for subsidized child care.

(c) If the Department's weekly payment to the provider is less than \$5, the family is not eligible for subsidized child care with that provider.

**§ 3041.103. Adjusted co-payment for prospective work.**

(a) Upon notification by the parent or caretaker of receipt of payment for employment, the eligibility agency shall:

(1) Complete a partial redetermination no later than 10 calendar days following notification.

(2) Adjust the family co-payment, if applicable, no later than 20 calendar days following the date the parent or caretaker reports the receipt of payment from employment.

(3) Provide notice to the parent or caretaker of the planned change in the co-payment.

(b) The parent or caretaker shall begin paying the adjusted co-payment starting the first day of the service week following the date the written notice is postmarked or hand-delivered to the parent or caretaker by the eligibility agency.

(c) A single parent or caretaker who applies for subsidized child care and who reports prospective work is not required to pay a co-payment until the parent or caretaker receives income from work.

(d) A single parent or caretaker who receives subsidy, has involuntarily lost work and reports prospective work, is assessed the minimum co-payment based on family size until the parent or caretaker receives income from work.

**§ 3041.104. Parent or caretaker co-payment requirements.**

(a) Except as provided in subsection (b), a parent or caretaker whose child is authorized for subsidy is required to pay a co-payment and an equivalent advance co-payment to the provider prior to enrollment in the subsidized child care program. Only the co-payment is due thereafter.

(b) A parent or caretaker who transfers from TANF shall pay a co-payment and an equivalent advance co-payment to the provider. The advance co-payment shall be paid by the time of the first redetermination.

(c) If the co-payment is decreased as the result of a redetermination or partial redetermination, the parent or caretaker will begin paying the reduced co-payment on the first day of the service week following the date of the redetermination or partial redetermination.

(d) If the co-payment is decreased as the result of a redetermination or partial redetermination, the provider will refund to the parent or caretaker the difference

between the current advance co-payment and the decreased co-payment on the first day of the service week following the redetermination or partial redetermination.

(e) If the co-payment is increased as the result of a redetermination or partial redetermination, the parent or caretaker shall begin paying the increased co-payment on the first service day of the week following the notification specified in § 3041.161(a) (relating to general notification requirements) advising the parent or caretaker of the co-payment increase. The parent or caretaker shall also pay an increased advance co-payment, which is the difference between the current and the increased co-payment.

(f) The co-payment is due on the first day of the service week and each week thereafter, regardless of the day the parent or caretaker enrolls the child.

(g) The advance co-payment is refunded upon termination of subsidy if the parent or caretaker has met applicable requirements in this chapter.

**§ 3041.105. Delinquent co-payment.**

(a) A co-payment is delinquent if it is not paid by the last day of the service week.

(b) On the day the provider reports the co-payment is delinquent, the eligibility agency shall notify the parent or caretaker in writing that action will be taken to terminate subsidy for the child.

(c) If a co-payment is delinquent, the first payment paid during a week is applied to the current week's co-payment. Subsequent payments during a week are applied to the delinquent co-payment.

**§ 3041.106. Eligibility agency responsibilities regarding co-payment.**

(a) The eligibility agency shall generate notices based on delinquent co-payments.

(b) The eligibility agency shall send the provider a copy of each notice issued to a parent or caretaker whose child is enrolled with the provider.

(c) When a co-payment is reported to the eligibility agency as delinquent, the eligibility agency shall mail a notice to the parent or caretaker, on a form provided by the Department. The notice must state that service will be terminated on a date set forth on the notice, which shall be the first day after 10 calendar days following the date of the written notice, unless the delinquent co-payment is paid by that date.

(d) A family whose subsidy is terminated for failure to make required co-payments may not be reauthorized for subsidy until all outstanding co-payments have been paid in full.

(e) The eligibility agency shall retain a copy of the termination notice.

(f) The eligibility agency shall distribute, to each parent or caretaker who applies for subsidized child care, a handbook of parent's rights and responsibilities in the subsidized child care program provided by the Department.

**§ 3041.107. Availability and use of the Federal Poverty Income Guidelines.**

(a) The FPIG are used to determine the income limits and co-payments for subsidized child care.

(b) Following annual publication of the FPIG, the Department will publish an updated co-payment chart in Appendix B (relating to co-payment chart family co-

payment scale based on the 2005 FPIGs) through a notice in the *Pennsylvania Bulletin*.

(c) Except for child care provided under § 3041.51 (relating to Head Start expansion program), the eligibility agency shall inform each parent or caretaker of the dollar amount that is equivalent to 235% of FPIG as specified in Appendix B and shall explain that 235% and the specific dollar figure are the highest annual income amount permitted to receive subsidized child care.

**§ 3041.108. Co-payment for families headed by a parent.**

(a) For families headed by a parent, the family co-payment shall be determined based on the following:

(1) The family size and family income, as specified in §§ 3041.31–3041.34 (relating to determining family size and income).

(2) The co-payment shall be at least \$5, unless waived as specified in §§ 3041.44(a) and 3041.91(c) (relating to prospective work, education and training; and general domestic violence waiver requirements).

(3) The family’s annual co-payment may not exceed 11% of the family’s annual income.

(4) If the family’s annual income is 100% of FPIG or less, the annual co-payment may not exceed 8% of the family’s annual income.

(b) The eligibility agency shall determine the co-payment by using the co-payment chart in Appendix B (relating to co-payment chart family co-payment scale based on the 2005 FPIGs). The co-payment is calculated in \$5 increments for each \$2,000 of annual income.

(c) If a family has only one child who is enrolled in school and who receives a total of fewer than 5 hours daily of before or after-school care, the family shall pay one-half the weekly co-payment specified in Appendix B.

(d) If the co-payments for 1 month are equal to or exceed the monthly payment for care, the family is not eligible for subsidized child care with that provider.

**§ 3041.109. Co-payment for families headed by a caretaker.**

(a) If a family is headed by a parent who is also the caretaker for another child for whom subsidy is requested, the eligibility agency shall determine the family co-payment as specified in § 3041.108(a) (relating to co-payment for families headed by a parent).

(b) If the co-payments for 1 month are equal to or exceed the monthly payment for care, the family is not eligible for subsidized child care with that provider.

**ELIGIBILITY DETERMINATION AND REDETERMINATION**

**§ 3041.121. Application.**

(a) The eligibility agency shall make applications for subsidized child care available to any person upon request.

(b) A signed application for subsidized child care under this chapter may be filed by a parent or caretaker on any day and at any time that the eligibility agency is open for business.

(c) A parent or caretaker may submit an application by mail, hand-delivery, facsimile or electronically.

**§ 3041.122. Initial determination of eligibility.**

(a) The eligibility agency shall stamp the date of receipt on the signed application on the same day the

eligibility agency receives the application by mail, hand-delivery, facsimile or electronically.

(b) The eligibility agency shall determine a family’s eligibility and authorize payment for subsidized child care no later than 10 calendar days following verification of all factors of eligibility. The eligibility agency may not delay a determination of eligibility beyond 30 calendar days following receipt of a signed application from the parent or caretaker.

(c) The eligibility agency shall determine a family eligible retroactive to the date the family submitted a signed application if the eligibility agency has received all information necessary to complete the application and the verification provided by the parent or caretaker establishes eligibility.

**§ 3041.123. Effective date of coverage.**

(a) If the eligibility agency determines a family eligible for subsidized child care and if funding is available, coverage of child care costs is retroactive to the date the family submitted a signed application.

(b) If the eligibility agency places a child on a waiting list following the determination of eligibility, coverage of child care costs must begin on the date funding is available.

**§ 3041.124. Notification of parent, caretaker and child care provider.**

(a) The eligibility agency shall notify the parent or caretaker of the family’s eligibility status within 30 calendar days of receiving a signed application.

(b) If the eligibility agency determines a family eligible for subsidized child care, the eligibility agency shall notify the family’s child care provider of the family’s eligibility status.

**§ 3041.125. Period of eligibility.**

A family receiving subsidy remains eligible until determined ineligible.

**§ 3041.126. Face-to-face interview.**

(a) If the eligibility agency determines a family eligible for subsidized child care and if funding is available, the parent or caretaker shall attend a face-to-face interview with the eligibility agency no later than 30 calendar days following the date the eligibility agency notifies the family of eligibility for subsidized child care.

(b) If the eligibility agency determines a family eligible for subsidized child care and if funding is not available at the time of the eligibility determination, the parent or caretaker shall attend a face-to-face interview with the eligibility agency no later than 30 calendar days following the date the first child from a family is enrolled in subsidized child care.

(c) The eligibility agency shall accommodate the parent’s or caretaker’s work hours in scheduling the interview.

(d) The eligibility agency may extend the 30-day time frame for the face-to-face interview if, on or before the 30th calendar day, the parent or caretaker claims hardship due to conflicts with the parent’s or caretaker’s working hours, transportation problems or illness of the parent or caretaker or another family member. At the time the parent or caretaker claims hardship, the eligibility agency may grant an additional 30 days from the date the hardship is claimed for the interview.

**§ 3041.127. Parent and caretaker report of change.**

(a) A parent or caretaker may report a change in circumstances whenever a change occurs.

(b) A parent or caretaker shall report the following changes to the eligibility agency no later than 10 calendar days following the date of the change:

- (1) Loss of work, including layoffs or strikes.
- (2) Decrease in the hours of work, education or training below an average of 20 hours per week.
- (3) A change in the number of days or hours for which subsidized child care is needed.
- (4) Onset of maternity, paternity or adoption leave and return to work following leave.
- (5) Onset of a disability and return to work following disability.
- (6) Change of address.
- (7) Change in family composition.

**§ 3041.128. Review of changes.**

If the parent or caretaker reports a change that may result in a decrease in the family co-payment, the eligibility agency shall review the change and complete a partial redetermination as specified in § 3041.129 (relating to partial redetermination based on reported changes).

**§ 3041.129. Partial redetermination based on reported changes.**

(a) The eligibility agency shall complete a partial redetermination of eligibility if the parent or caretaker reports a change as specified in § 3041.127 (relating to parent and caretaker report of change). A co-payment is not reassessed during a partial redetermination.

(b) The partial redetermination shall be completed by the eligibility agency no later than 10 calendar days from the date the parent or caretaker reports and verifies a change.

(c) The eligibility agency shall establish a new redetermination date to review eligibility if the information obtained during a partial redetermination indicates one of the following:

- (1) The family's financial or nonfinancial status is expected to change in a manner that affects eligibility or co-payment.
- (2) A parent or caretaker has a disability and the disability is anticipated to end prior to the family's redetermination date.
- (3) A parent's or caretaker's work is seasonal or temporary.
- (4) A parent's or caretaker's education ends prior to the family's redetermination date.
- (5) A parent or caretaker begins maternity, paternity or adoption leave or a parent's or caretaker's maternity, paternity or adoption leave changes or ends prior to the family's redetermination date.
- (6) A waiver of eligibility or verification requirement is granted due to domestic violence as specified in § 3041.91 (relating to general domestic violence waiver requirements).

(d) If a parent or caretaker reports a change in the factors affecting financial or nonfinancial eligibility that does not cause a change in the co-payment or in the eligibility determination, the eligibility agency is not required to complete a partial redetermination.

(e) The eligibility agency shall retain in the family file the information used in the partial redetermination.

(f) If the parent or caretaker reports a change that results in the family or a child in the family becoming ineligible for subsidy, the eligibility agency shall take the necessary steps to terminate the subsidy with proper notification to the family, under § 3041.165 (relating to notice of adverse action).

**§ 3041.130. Redetermination of eligibility.**

(a) The eligibility agency shall complete a redetermination of eligibility every 6 months and establish the family's next redetermination date.

(b) Prior to the redetermination, the eligibility agency shall do the following:

(1) Provide the parent or caretaker with the Department's form listing the following information last reported for each parent or caretaker or child in the family:

- (i) Earned income.
- (ii) Unearned income.
- (iii) Hours of work, education and training.
- (iv) Family composition.
- (v) Address.

(2) Request that the parent or caretaker verify the family's current earned income.

(3) Verify the following factors only if the parent or caretaker reports a change:

- (i) Unearned income.
- (ii) A decrease in hours of work, education or training to fewer than 20 hours per week.
- (iii) Family composition.

**§ 3041.131. Procedures for redetermination.**

(a) No earlier than 6 weeks prior to redetermination, the eligibility agency shall send the family a form that lists the factors that will be reviewed for the redetermination of eligibility and explain the verification that will be needed to complete the redetermination.

(b) If the parent or caretaker submits only some of the required verification elements prior to the redetermination, the eligibility agency shall request in writing that the parent or caretaker submit the additional verification no later than the family's redetermination date.

(c) The eligibility agency shall retain a copy of the notification in the family file.

(d) The eligibility agency shall send a written notice to the parent or caretaker regarding failure to provide required verification only after the family's redetermination date.

(e) The eligibility agency shall require the parent or caretaker to complete, sign and either mail, hand-deliver or fax the applicable form at each redetermination.

**§ 3041.132. Voluntary request to terminate subsidized child care.**

(a) A parent or caretaker may request the eligibility agency to terminate subsidy.

(b) Upon receipt of a request to terminate subsidy, the eligibility agency shall take steps to terminate the family's eligibility.



(c) The eligibility agency shall notify the parent or caretaker as specified in § 3041.166 (relating to notice confirming voluntary withdrawal).

**§ 3041.133. Waiting list.**

(a) If funds are not available to enroll a child following determination of the family's eligibility for subsidy, the eligibility agency shall place an eligible child on a waiting list on a first-come, first-served basis. Placement on the waiting list must be determined by the date and time eligibility for the child was determined.

(b) If a parent or caretaker requests subsidized child care for an additional child following the date the family was initially determined eligible for subsidized child care, the additional child shall be placed on the waiting list according to the date and time that the parent or caretaker requests care for the additional child.

(c) If a parent or caretaker does not select an eligible provider and enroll the child for child care no later than 30 calendar days following the date funding is available, the child will not be eligible for subsidy and will be removed from the waiting list.

(d) If a family was determined eligible and placed on the waiting list more than 6 months prior to the date that funding became available to enroll the child in subsidized child care, the eligibility agency shall complete a redetermination prior to enrollment and confirm that the family is eligible for subsidized child care.

**FORMER TANF FAMILIES**

**§ 3041.141. General former TANF families provisions.**

(a) A family that is no longer eligible for TANF cash assistance benefits or a family that voluntarily left TANF and meets the eligibility requirements specified in this chapter may qualify for subsidized child care.

(b) The eligibility agency shall review the information received from the CAO about a parent or caretaker who formerly received TANF benefits.

(c) The eligibility agency shall determine the date TANF benefits ended and establish the 183-day period after eligibility for TANF ends, within which the parent or caretaker may receive child care benefits.

(d) Eligibility shall begin the day following the date TANF benefits ended and shall continue for 183 consecutive days.

(e) The parent or caretaker may request child care benefits at any time during the 183-day period after eligibility for TANF ended.

(f) A child should not be placed on a waiting list if a former TANF parent or caretaker requests subsidized child care for a child any time prior to 184 calendar days after TANF benefits ended.

**§ 3041.142. General requirements for former TANF families.**

(a) During the 183-day period after eligibility for TANF benefits ended or after a family voluntarily left TANF, a parent or caretaker shall meet only the following conditions:

(1) The parent or caretaker shall meet the work requirements as specified in § 3041.43 (relating to work, education and training). The minimum work-hour requirement does not apply if the loss of TANF benefits was due to earnings from work in excess of the income limit for the TANF program.

(2) The parent's or caretaker's annual income may not exceed 235% of the FPIG.

(3) The parent or caretaker shall select an eligible child care provider as specified in § 3041.13(a) (relating to parent choice).

(4) The parent or caretaker shall make timely payment of the co-payment as specified in § 3041.101 (relating to general co-payment requirements).

(b) A former TANF parent or caretaker who is transferred to the eligibility agency by the CAO or who applies for subsidized child care during the 183-day period after eligibility for TANF ended as specified in subsection (a), should not be placed on a waiting list.

(c) On the 184th day after eligibility for TANF ended, the period of former TANF eligibility ends and the parent or caretaker shall meet the requirements of this chapter.

(d) No later than the 184th calendar day after TANF benefits ended, the eligibility agency shall complete a redetermination of eligibility and establish the family's next redetermination date.

**§ 3041.143. Notification.**

(a) If the eligibility agency determines that a parent or caretaker met the requirements in § 3041.142 (relating to general requirements for former TANF families) and was receiving child care on the date TANF benefits ended, the eligibility agency shall notify the parent or caretaker and the provider by letter of the following:

(1) The parent or caretaker is eligible for subsidized child care benefits on or before the 183-day period after TANF benefits ended, but will be subject to a redetermination of eligibility no later than the 184th day after TANF benefits ended.

(2) The parent or caretaker shall contact the eligibility agency to establish that the parent or caretaker continues to need child care.

(b) If the eligibility agency determines that a parent or caretaker was not receiving child care or cannot determine whether the parent or caretaker was receiving child care on the date TANF benefits ended, the eligibility agency shall notify the parent or caretaker by letter of the following:

(1) The parent or caretaker may be eligible for child care benefits.

(2) The parent or caretaker may contact the eligibility agency if child care is needed during the 183-day period after TANF benefits ended.

(3) Eligibility for subsidized child care is assured if the minimum requirements specified in § 3041.142 (a) (relating to general requirements for former TANF families) are met.

**§ 3041.144. Face-to-face interview for former TANF families.**

(a) When the parent or caretaker contacts the eligibility agency in response to the letter specified in § 3041.143(a) (relating to notification) and within 183 days after TANF benefits end, the eligibility agency shall inform the parent or caretaker of the requirement to attend a face-to-face interview with the eligibility agency. The face-to-face interview shall occur no later than 30 calendar days following the date of the letter unless on or before the 30th day, the parent or caretaker claims hardship. At the time the parent or caretaker claims

hardship, the eligibility agency may grant an additional 30 days from the date the hardship is claimed for the interview.

(b) When the parent or caretaker contacts the eligibility agency in response to the letter specified in § 3041.143(b), the eligibility agency shall schedule a face-to-face interview with the parent or caretaker. The eligibility agency may substitute a telephone contact for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent or caretaker losing work time.

(c) To maintain continuous child care payment from the day following the date TANF benefits ended, the parent or caretaker shall attend a face-to-face interview or participate in a telephone contact with the eligibility agency as specified in § 3041.145 (relating to verification and reporting).

**§ 3041.145. Verification and reporting.**

At the time of the parent's or caretaker's face-to-face interview with the eligibility agency and within the 183-day period after TANF benefits end or at the time of telephone contact by the eligibility agency with the parent or caretaker, the eligibility agency shall:

(1) Require the parent or caretaker who contacts the eligibility agency within 60 calendar days following the date TANF benefits end to self-certify the following:

(i) The need for child care in order to work or attend education or training and the days and hours for which the child needs care.

(ii) The name of the employer, education or training.

(iii) The hours the parent or caretaker works or attends education or training.

(iv) The accuracy of the facts in the TANF transfer information regarding family address, size and income.

(v) Financial eligibility as specified in § 3041.142(a) (relating to general requirements for former TANF families).

(2) Require the parent or caretaker who does not contact the eligibility agency within 60 calendar days following the date TANF benefits end to self-declare the following:

(i) The need for child care in order to work or attend education or training and the days and hours for which the child needs care.

(ii) The name of the employer, education or training.

(iii) The hours the parent or caretaker works or attends education or training.

(iv) The accuracy of the facts in the TANF transfer information regarding family address, size and income.

(v) Financial eligibility as specified in § 3041.142(a).

(3) Advise the parent or caretaker to report the following:

(i) Loss of work.

(ii) Change in family composition.

(iii) Increase in monthly or annual gross family income.

(4) Advise the parent or caretaker that an eligibility determination or redetermination shall be completed by the eligibility agency.

(5) Collect information regarding the parent's or caretaker's choice of provider or help the parent or caretaker to locate an eligible provider.

**§ 3041.146. Failure to contact the eligibility agency.**

(a) If a parent or caretaker who was receiving child care on the date TANF benefits ended fails to contact the eligibility agency in response to the letter specified in § 3041.143(a) (relating to notification), the eligibility agency shall contact the parent or caretaker by telephone no later than 31 calendar days following the date of the letter.

(b) When the eligibility agency contacts the parent or caretaker as specified in subsection (a), the eligibility agency shall determine the following:

(1) The parent's or caretaker's choice to meet the contact requirement using a telephone contact or participating in a face-to-face interview.

(2) The parent's or caretaker's continuing need for child care.

(c) If the eligibility agency determines that the parent or caretaker was not receiving child care or cannot determine whether the parent or caretaker was receiving child care on the date TANF benefits ended, the eligibility agency may not authorize payment for child care benefits until the date the parent or caretaker contacts the eligibility agency and requests benefits.

(d) If a parent or caretaker who was receiving child care on the date TANF benefits ended does not attend a face-to-face interview as specified in § 3041.144(a) (relating to face-to-face interview for former TANF families), the eligibility agency shall contact the parent or caretaker by telephone no later than the day following the date the parent or caretaker failed to attend the face-to-face interview to determine the information specified in subsection (b).

**§ 3041.147. Payment authorization.**

(a) The eligibility agency shall review a request from a parent or caretaker to authorize child care payment at any time during the 183-day period after eligibility for TANF benefits ended.

(b) The eligibility agency shall authorize child care payment at any time during the 183-day period after eligibility for TANF ended.

(c) The eligibility agency may not pay child care costs that exceed the maximum child care allowance less the family co-payment for the type of care the child received from the provider.

**§ 3041.148. Retroactive payment.**

(a) If the eligibility agency authorizes payment for a parent or caretaker who was receiving child care on the date TANF benefits ended, the authorization shall be retroactive to the day following the date TANF benefits ended.

(b) If the eligibility agency determines that the parent or caretaker was not receiving child care or cannot determine whether the parent or caretaker was receiving child care on the date TANF benefits ended, the eligibility agency shall require the parent or caretaker to submit verification of child care costs incurred during the 183-day period after eligibility for TANF ended.

(c) The eligibility agency shall authorize payment for the parent or caretaker specified in section (b) retroactive to the date the parent or caretaker first incurred child care expenses.

(d) The eligibility agency shall inform the parent or caretaker that the parent or caretaker shall select an eligible provider within 30 calendar days as specified in

§ 3041.13 (relating to parent choice), if the parent or caretaker had selected an ineligible provider.

**§ 3041.149. Transfer from other states.**

(a) A parent or caretaker who received TANF program benefits in another state and applies for subsidized child care is eligible if the parent or caretaker meets the following conditions:

(1) The parent or caretaker applies within 183 days after TANF benefits ended.

(2) The parent or caretaker meets the requirements specified in § 3041.142 (relating to general requirements for former TANF families).

(b) The eligibility agency shall determine the date TANF benefits ended in the other state and establish eligibility for the 183-day period after eligibility for TANF ended as specified in § 3041.141 (relating to general former TANF families provisions).

**§ 3041.150. Expiration of TANF benefits.**

(a) A parent or caretaker who has exhausted the 5-year limit on TANF benefits is eligible for 60 calendar days of subsidized child care to seek work.

(b) The eligibility agency shall determine the date TANF benefits ended and establish the period of former TANF eligibility as specified in § 3041.141 (relating to general former TANF families provisions).

(c) The parent or caretaker may apply at any time during the 183-day period after eligibility for TANF ended.

(d) Notwithstanding subsection (a), the maximum period of eligibility under this section is 183 days.

**NOTIFICATION AND RIGHT TO APPEAL**

**§ 3041.161. General notification requirements.**

(a) The eligibility agency shall notify the parent or caretaker in writing no later than 10 calendar days prior to taking an action that affects the family's eligibility status for subsidized child care or a change in the amount of the family's subsidized child care benefit.

(b) Following the preparation of a written notice, the eligibility agency shall:

(1) Mail or hand-deliver within 1 working day of preparation, the original and one copy of the notice to the parent or caretaker.

(2) Notify the family's child care provider as soon as the family is determined eligible or ineligible for subsidized child care.

(3) Retain a copy of the notice in the family file as specified in § 3041.84 (relating to family file).

**§ 3041.162. Notice of right to appeal.**

The following information shall be included in the notice of the right to appeal:

(1) The statement regarding the parent's or caretaker's right to appeal.

(2) The time frame associated with filing a timely appeal as specified in §§ 3041.174(d) and 3041.176(b) (relating to parent or caretaker rights and responsibilities; and hearing procedures).

(3) The time frame associated with subsidy continuation as specified in § 3041.173 (relating to subsidy continuation during the appeal process).

(4) The consequence of filing an appeal untimely.

(5) The responsibility to repay if subsidy continues and the parent or caretaker does not win the appeal.

(6) Instructions regarding how to appeal.

**§ 3041.163. Notice of eligibility.**

(a) The notice of eligibility shall be on a form provided by the Department.

(b) If the eligibility agency determines a family eligible for subsidy upon initial application, at the time of redetermination or at a review of a reported change, the written notification shall include the following:

(1) The amount of the co-payment.

(2) The parent's or caretaker's responsibility to pay the co-payment as specified in § 3041.101(e) (relating to general co-payment requirements).

(3) The parent's or caretaker's responsibility to pay an equivalent advance co-payment.

(4) The parent's or caretaker's responsibility to report changes as specified in § 3041.127 (relating to parent and caretaker report of change).

(5) The name, address and telephone number of the local legal services office where the parent or caretaker may obtain free legal representation.

(6) The right of the parent or caretaker to appeal the decision and how to appeal as specified in §§ 3041.162 and 3041.171 (relating to notice of right to appeal; and appealable actions).

**§ 3041.164. Notice of ineligibility.**

(a) The notice of ineligibility must be on a form provided by the Department.

(b) If the eligibility agency determines a family ineligible for subsidy, the written notification shall include the following:

(1) The decision.

(2) The reason for the decision.

(3) A citation, and brief explanation in simple, nontechnical language, of the applicable section of this chapter or other applicable law that was the basis for the decision.

(4) The name, address and telephone number of the local legal services office where the parent or caretaker may obtain free legal representation.

(5) The right of the parent or caretaker to appeal the decision and how to appeal as specified in §§ 3041.162 and 3041.171 (relating to notice of right to appeal; and appealable actions).

**§ 3041.165. Notice of adverse action.**

(a) The eligibility agency shall send a notice to a parent or caretaker currently receiving subsidy when the eligibility agency proposes to terminate, suspend or disrupt subsidy payment or to increase the family co-payment.

(b) The eligibility agency shall prepare a notice of adverse action on a form provided by the Department.

(c) The notice of adverse action must include:

(1) The decision or proposed action.

(2) The date the action will occur.

(3) The reason for the decision or proposed action and information about how to become eligible.

(4) A citation, and brief explanation in simple, nontechnical language, of the applicable section of this chapter or other applicable law that is the basis for the decision or proposed action.

(5) The name, address and telephone number of the local legal services office where the parent or caretaker may obtain free legal representation.

(6) The right of the parent or caretaker to appeal the decision and how to appeal as specified in §§ 3041.162 and 3041.171 (relating to notice of right to appeal; and appealable actions).

**§ 3041.166. Notice confirming voluntary withdrawal.**

The eligibility agency shall, by written notice to the parent or caretaker, confirm the parent's or caretaker's voluntary withdrawal of a child from subsidized child care.

**§ 3041.167. Notice of overpayment.**

(a) The eligibility agency shall notify the parent or caretaker in writing of an overpayment.

(b) The notice of overpayment must include the following:

(1) The reason for the overpayment as specified in § 3041.181 (relating to overpayment).

(2) The period of the overpayment.

(3) The amount of the overpayment.

(4) An explanation of how the overpayment was calculated.

(5) The repayment methods as specified in § 3041.186 (relating to collection).

(6) The right of the parent or caretaker to appeal the decision on the overpayment and how to appeal as specified in §§ 3041.162 and 3041.171 (relating to notice of right to appeal; and appealable actions).

**APPEAL AND HEARING PROCEDURES**

**§ 3041.171. Appealable actions.**

A parent or caretaker has the right to appeal a Departmental or eligibility agency action or failure to act, including the following:

(1) Denial of subsidy.

(2) Termination of subsidy.

(3) Computation of the co-payment.

(4) Denial of a request for waiver of a requirement of this chapter based on domestic violence as specified in § 3041.91 (relating to general domestic violence waiver requirements).

(5) Failure of the eligibility agency to act upon a request for subsidy within the time limits specified in this chapter.

(6) Subsidy suspension, as specified in § 3041.21 (relating to subsidy suspension).

(7) Subsidy disruption, as specified in § 3041.22 (relating to subsidy disruption).

**§ 3041.172. Discontinuation of subsidy.**

Subsidy is not continued pending a hearing decision if the parent or caretaker appeals the disruption of subsidy when the eligibility agency lacks funding to continue subsidy to a child as specified in § 3041.22 (relating to subsidy disruption).

**§ 3041.173. Subsidy continuation during the appeal process.**

(a) Subsidy continues at the prior level until the appeal is heard and a final decision is made by the Department, if the parent or caretaker does both of the following:

(1) Files an appeal that is postmarked or received no later than 10 calendar days after the date of the written notice.

(2) Appeals for a reason other than disruption of subsidy or a lack of funding.

(b) If subsidy continues as specified in subsection (a), the parent or caretaker shall continue to make timely payment of the co-payment that was in effect prior to issuance of the notice of adverse action until a final decision is made by the Department, as specified in § 3041.101 (relating to general co-payment requirements).

(c) If subsidy continues during the appeal process and the hearing officer finds in favor of the eligibility agency or the Department, the parent or caretaker shall reimburse the Department for the amount of the subsidy or increase in subsidy paid for child care from the proposed effective date of the adverse action until the date subsidy is terminated or decreased, based on the final administrative action order.

**§ 3041.174. Parent or caretaker rights and responsibilities.**

(a) A parent or caretaker appealing an adverse action shall submit a written request to the eligibility agency in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) within 30 days following notification. The parent or caretaker shall specify the reason for the appeal, the current address and a telephone number, if possible, where the parent or caretaker can be reached during the day.

(b) A parent or caretaker may orally appeal. The eligibility agency shall document the date of the oral appeal in the case file. The parent or caretaker shall confirm the oral appeal in writing to the eligibility agency no later than 7 calendar days following the date the parent or caretaker orally requested an appeal.

(c) A parent or caretaker may authorize an adult to represent him at the hearing.

(d) If the parent or caretaker wants subsidy to continue pending a hearing decision, subject to § 3041.173 (relating to subsidy continuation during the appeal process), the parent or caretaker shall submit a written appeal no later than 10 calendar days following the date the written notice is postmarked or hand-delivered to the parent or caretaker by the eligibility agency.

(e) If the parent or caretaker requests that subsidy continue pending a hearing decision, the parent or caretaker shall make timely payment of the co-payment that was in effect prior to issuance of the notice of adverse action until a final decision is made by the Department, as specified in § 3041.101 (relating to general co-payment requirements).

**§ 3041.175. Eligibility agency responsibilities regarding appeal.**

(a) If the parent or caretaker is unable to prepare a written appeal, the eligibility agency shall assist the parent or caretaker in preparing a written appeal. The parent or caretaker shall sign the appeal request.

(b) When the eligibility agency receives an appeal that is timely postmarked or delivered, the eligibility agency shall date-stamp the appeal, the envelope and the attachments with the date of receipt and retain copies of all original appeal information.

(c) The eligibility agency shall keep a copy and forward the original appeal along with the postmarked envelope to the Department's Bureau of Hearings and Appeals no later than 3 working days following the date the appeal is received by the eligibility agency.

(d) The eligibility agency may not take the proposed adverse action until 10 calendar days following the date the written notice is postmarked or hand-delivered to the parent or caretaker and then only if the parent or caretaker has not filed an appeal. Subsidy may be continued at the prior level only if the parent or caretaker meets the requirements in § 3041.173 (relating to subsidy continuation during the appeal process).

(e) The eligibility agency may take the proposed adverse action before 10 calendar days following the date a provider closes for financial difficulties or loss of certification or registration or if funding is not available to continue subsidized care to the child.

**§ 3041.176. Hearing procedures.**

(a) Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) applies to hearings that are held under this chapter, except as specifically superseded by this chapter.

(b) An appeal postmarked or received after 30 calendar days from the date the written notice is postmarked or hand-delivered to the parent or caretaker will be dismissed as untimely without a hearing, unless one of the provisions allowing for appeals after 30 calendar days applies as specified in § 275.3(b)(2) and (3) (relating to time limitations on right to appeal).

(c) The hearing may be conducted by a telephone conference call with the parties to the appeal, including the parent or caretaker, the authorized representative of the parent or caretaker, the eligibility agency, the Department and the hearing officer.

(d) The parent or caretaker has the right to request a face-to-face hearing instead of a telephone hearing. Face-to-face hearings will be held in locations specified by the Department.

(e) If a parent or caretaker does not withdraw an appeal, the eligibility agency or the Department, if appropriate, will take part in the scheduled hearing to justify the action to which the parent or caretaker objects.

(f) If the eligibility agency or the Department fails to appear at the hearing and the parent or caretaker appears, the parent's or caretaker's appeal will be sustained.

(g) If the parent or caretaker fails to appear for the hearing, regardless of whether the eligibility agency or the Department appears, the appeal is considered abandoned and the decision of the eligibility agency or the Department will be sustained.

(h) The Department will notify the eligibility agency and the parent or caretaker, in writing, when disposition of the appeal is made.

(i) The eligibility agency shall implement the final administrative action within the time limit ordered by the Department or on the first day child care is needed in the week following receipt of the final administrative action order.

**OVERPAYMENT AND DISQUALIFICATION**

**§ 3041.181. Overpayment.**

The parent or caretaker may not be required to repay an overpayment except for an overpayment resulting from one of the following:

- (1) Fraud.
- (2) Failure to comply with this chapter.
- (3) Subsidy continuation pending an appeal when the parent or caretaker did not win the appeal.

**§ 3041.182. Eligibility agency responsibilities regarding overpayment.**

(a) The eligibility agency shall inform a parent or caretaker who files an appeal and requests subsidy continuation pending appeal, that if the hearing decision is in favor of the eligibility agency or the Department, the parent or caretaker shall reimburse the amount of the overpayment unless the hearing officer determines a hardship.

(b) The eligibility agency shall pursue possible overpayments in active and closed cases, including those that were voluntarily closed.

(c) The following are the responsibilities of the eligibility agency when exploring possible overpayments:

- (1) Determination of whether the overpayment is the result of one of the conditions specified in § 3041.181 (relating to overpayment).
- (2) Written assurance that the methods of exploring overpayments are appropriate to the particular situation and to the different eligibility factors.
- (3) Assurance that the methods of exploring overpayments do not infringe on the civil liberties of individuals or interfere with the due process of law.
- (4) Investigation of a credible complaint that a parent or caretaker is erroneously receiving subsidized child care.
- (5) Identification and documentation of the causes of the overpayment.
- (6) Computation of the amount of the overpayment.
- (7) Referral of suspected fraud cases to the Office of Inspector General.

(8) Submission of an overpayment notice to the parent or caretaker as specified in § 3041.167 (relating to notice of overpayment).

**§ 3041.183. Delaying recoupment.**

Recoupment shall be delayed until after a hearing decision, if the family files an appeal of the overpayment decision no later than 10 calendar days after the date the written notice is postmarked or hand-delivered to the parent or caretaker by the eligibility agency.

**§ 3041.184. Notifying the Department.**

The eligibility agency shall notify the Department when recoupment stops before the overpayment is fully recouped.

**§ 3041.185. Repayment.**

The parent or caretaker shall repay the eligibility agency or Department the full amount of the overpayment.

**§ 3041.186. Collection.**

(a) The eligibility agency shall collect the total amount of the overpayment from a family whose child continues to receive subsidized child care when the eligibility agency identifies an overpayment.

(b) If the Department, eligibility agency or other entity identifies an overpayment subject to repayment as specified in § 3041.181 (relating to overpayment) related to a family whose child continues to receive subsidized child care, the eligibility agency shall:

(1) Notify the parent or caretaker by a letter that a repayment is required, the amount of the repayment and the following repayment options:

- (i) A one-time payment of the full amount owed.
- (ii) A one-time partial payment and an increase in the co-payment to be paid until repayment is complete.
- (iii) An increase in the co-payment until the repayment is complete.

(2) Automatically implement an increase to the co-payment until the repayment is complete when the parent or caretaker does not select an option as specified in paragraph (1) no later than 10 calendar days following the date of the letter.

(3) Notify the parent or caretaker by a second letter of failure to choose a repayment option as specified in paragraph (1), the amount of the increased co-payment and the number of weeks the increased co-payment will continue.

**§ 3041.187. Co-payment increase.**

(a) A co-payment increase for the purpose of collecting an overpayment may not exceed an amount greater than 5% of the family's gross monthly income. If the parent or caretaker indicates to the eligibility agency that an increase to 5% would cause hardship to the family, the family and the eligibility agency may agree to a lesser amount.

(b) A parent or caretaker may choose to increase the co-payment beyond the amount specified in subsection (a) to repay an overpayment in a shorter period of time.

(c) The eligibility agency shall issue a written notice of adverse action as specified in §§ 3041.161 and 3041.165 (relating to general notification requirements; and notice of adverse action) before implementation of an increase in the co-payment.

**§ 3041.188. Collection for a family whose child is no longer in care.**

(a) The eligibility agency shall collect the total amount of the overpayment from a family whose child is no longer receiving subsidized child care if the eligibility agency identifies an overpayment.

(b) If the Department, eligibility agency or other entity identifies an overpayment for a family whose child is no longer receiving subsidized child care, the eligibility agency shall:

(1) Notify the Department of the subsidy termination date, the amount of the overpayment recouped and the amount outstanding. The Department will notify the parent or caretaker by letter of the overpayment, the amount of the outstanding overpayment and that repayment is required in either a single payment or under a payment plan agreeable to the parent or caretaker and the eligibility agency. The letter must state that the parent or caretaker has 10 calendar days to respond to

the Department indicating agreement or disagreement and indicating the choice of a repayment method.

(2) Send a second letter that repeats the information contained in the letter specified in paragraph (1) when the Department notifies the eligibility agency that the parent or caretaker failed to respond. The second letter must also request a response from the parent or caretaker no later than 10 calendar days following the date of the letter.

(c) The Department may institute civil legal proceedings when the parent or caretaker fails to respond to the second letter.

**§ 3041.189. Disqualification.**

(a) The parent or caretaker is disqualified from participating in the subsidized child care program if one of the following applies:

(1) A Federal or State court finds the parent or caretaker guilty of fraud in applying for or receiving subsidized child care.

(2) A hearing officer determines that the parent or caretaker committed fraud pursuant to the procedures and standards in Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(3) The parent or caretaker signs a disqualification consent agreement as part of a court's deferred adjudication process.

(b) Upon disqualification under subsection (a), a parent or caretaker and eligible children in the parent's or caretaker's family shall be prohibited from participation in the subsidized child care program:

(1) For 6 months from the date of the first conviction, hearing decision or determination.

(2) For 12 months from the second conviction, hearing decision or determination.

(3) Permanently from the date of the third conviction, hearing decision or determination.

(c) A parent or caretaker may not be granted a hearing on a court conviction or administrative disqualification hearing decision that led to the disqualification.

**APPENDIX A****INCOME TO BE INCLUDED, DEDUCTED AND EXCLUDED IN DETERMINING GROSS MONTHLY INCOME****PART I. INCOME INCLUSIONS.**

Income from the following sources is included when determining total gross monthly income:

A. Money, wages or salary earned by a parent or caretaker before deductions for taxes, Social Security, savings bonds, pensions, union dues, health insurance and similar purposes, for work performed as an employee. This includes commissions, tips, piece-rate payments and cash bonuses. Income earned by an unemancipated minor is not included.

B. Armed forces pay which includes base pay plus cash, but does not include housing subsistence, allowances or the value of rent-free quarters.

C. Voluntary and court-ordered support received for any person in the family.

D. Net income from nonresident and real property, defined as gross receipts minus the expenses for continuing the income, such as depreciation charges, business

taxes (not personal income taxes), interest on mortgages, repairs and similar expenses.

E. Social Security benefits, Supplemental Security Income, survivors' benefits and permanent disability insurance payments made by the Social Security Administration before deductions of health insurance premiums.

F. Railroad retirement, disability or survivors' benefit payments made by the United States Government under the Railroad Retirement Act, before deductions of health insurance premiums.

G. State blind pension payments made by the Department.

H. Public assistance or welfare benefits or retirement benefits.

I. Private pensions and annuities, including retirement benefits paid to a retired person or his survivors by a former employer or a union, either directly or through an insurance company.

J. Government employee pensions paid by Federal, State, county or other governmental agencies to former employees, including members of the armed forces, or their survivors.

K. Unemployment compensation received from government unemployment insurance agencies or private companies during periods of unemployment and strike benefits received from union funds.

L. Workers' compensation received from private or public insurance companies.

M. Veterans' payments, defined as money paid periodically by the Veterans Administration (VA) to disabled members of the armed forces or to the survivors or dependents of deceased or disabled veterans, subsistence allowances paid to the survivors of deceased veterans and subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-service persons as GI insurance premiums. For the disabled veteran in the Vocational Rehabilitation Program, the subsistence allowance and the veteran's disability allowance are counted as income.

N. Capital gains, profit from S-corporations and dividends, including dividends from stocks, bonds, mutual funds or from membership in an association.

O. Interest on savings and bonds.

P. Income from estates and trust funds.

Q. Net income from royalties.

R. Lump sum cash of more than \$100: inheritances, life insurance benefits; personal injury and other damage awards and settlements; retroactive benefits such as Retirement, Survivor's or Disability Insurance and delayed Unemployment, divorce settlements, gifts or Worker's Compensation.

S. Lump sum cash lottery winnings or cash prizes of more than \$100.

T. Profit from self-employment; total gross receipts minus costs of doing business. The costs of doing business include:

(1) Costs of maintaining a place of business such as rent, utilities, insurance on the business and its property and property taxes. Note: If a business is operated in a home, the costs of maintaining a place of business are only those costs identified for the part of the home used exclusively for the business.

(2) Interest on the purchase of income-producing equipment and property.

(3) Employee labor costs, such as wage, salaries, taxes, benefits, Unemployment Compensation or Worker's Compensation.

(4) Cost of goods sold, supplies and materials.

(5) Advertising costs.

(6) Accounting and legal fees.

(7) Professional licensing fees and union dues, if necessary to practice a profession or trade.

(8) Transportation costs necessary to produce income.

(9) Depreciation.

(10) Other deductions allowed by the Internal Revenue Service (IRS).

U. Net income from room rent or room and board: Gross income received minus \$10 per month for each room rented. Divide the remainder by 2. That number is the income inclusion.

*CONVERSION TABLE*

Convert weekly, biweekly, semi-monthly and other pay periods to gross monthly amounts using the following Conversion Table:

<b>Frequency of income</b>	<b>Conversion method</b>
Daily	Multiply the daily income by the number of workdays in a week, then multiply by 4.3.
Weekly	Multiply by 4.3.
Biweekly (every 2 weeks)	Divide by 2, then multiply by 4.3.
Semimonthly (twice a month)	Multiply by 2 for monthly gross income.
Monthly	Use the figure given.
Quarterly	Divide by 3.
Annually	Divide by 12.
Lump sum income	Divide by 12.

*PART II. INCOME DEDUCTIONS.*

The following are deducted when determining adjusted monthly income:

A. Voluntary or court-ordered support paid by the parent or caretaker or a family member to a present or former spouse not residing in the same household.

B. Voluntary or court-ordered child support paid by the parent or caretaker or family member to a person not residing in the same household.

C. A medical expense not reimbursed through medical insurance that exceeds 10% of the family gross monthly income. The medical expense must have been incurred within the 90-day period prior to the date the parent or caretaker notifies the eligibility agency of that expense and there must be an expectation that the expense will continue to be incurred for the 6 months following the outset of the expense. Medical expenses are based on the monthly expenses or monthly payment plan, or both. Medical expenses include bills for doctors, hospital costs, dental services, health care premiums, institutional care, medications, prosthetic devices, durable medical equipment or mental health services.

D. The stepparent deduction as shown in the Stepparent Deduction Chart in Appendix C.

*PART III. INCOME EXCLUSIONS.*

Income from the following sources is excluded in determining gross monthly income:

- A. Employment earnings of an individual who is an unemancipated minor.
- B. Tax refunds, including earned income tax credits.
- C. Withdrawals of bank, credit union or brokerage deposits.
- D. Money borrowed.
- E. Nonrecurring money (in amounts under \$100 per person per year) given as a gift, from any source.
- F. The value of benefits under the Food Stamp Act of 1977 (7 U.S.C.A. §§ 2011—2036).
- G. The value of foods donated from the United States Department of Agriculture.
- H. The value of supplemental foods assistance under the Child Nutrition Act of 1966 (42 U.S.C.A. §§ 1771—1791) and the special food service programs for children under that act.
- I. Loans and grants, such as scholarships, obtained and used for conditions that preclude their use for living costs.
- J. Any grant or loan to an undergraduate student for educational purposes, made or insured under any program administered under the Higher Education Act of 1965 (20 U.S.C.A. §§ 1001—1145-q).

K. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C.A. §§ 4601—4655).

L. Any home produce used for household consumption.

M. Any payment made on behalf of an individual for household expenses, such as rent, food and utilities.

N. Payments to Volunteers in Service to America under the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 4951—5085), which include Americorps income.

O. Earnings received by any youth under the Workforce Investment Act of 1998, as amended; Pub. L. 105—220, Aug. 7, 1998, 112 Stat. 939. (29 U.S.C. 2801 et seq.).

P. Any foster care payments by a foster care placement agency, including payments to permanent legal custodians.

Q. Stipends derived from the Foster Grandparent Programs under sections 211 and 212 of the Domestic Violence Service Act of 1973 (42 U.S.C.A. §§ 5011 and 5012).

R. Low Income Home Energy Assistance Program (LIHEAP) benefits and cash in-kind energy assistance provided by private agencies and utility companies.

S. Any adoption assistance payments by a county children and youth agency.

T. Income received from Federal student aid or participation in a Federal work-study program.

U. Payments made by the Veterans Administration to children of Vietnam veterans under The Benefits for Children of Vietnam Veterans Act (38 U.S.C. § 1823c).

**APPENDIX B**

**CO-PAYMENT CHART FAMILY CO-PAYMENT SCALE (BASED ON THE 2005 FPIGs)**

Weekly Co-pay	Family Size: Annual Income	1	Family Size: Annual Income	2	Family Size: Annual Income	3
\$5.00	Less than:	\$7,570	Less than:	\$10,830	Less than:	\$12,090
\$10.00	\$7,570.01	\$9,570	\$10,830.01	\$12,830	\$12,090.01	\$14,090
\$15.00	\$9,570.01	\$11,570	\$12,830.01	\$14,830	\$14,090.01	\$16,090
\$20.00	\$11,570.01	\$13,570	\$14,830.01	\$16,830	\$16,090.01	\$18,090
\$25.00	\$13,570.01	\$15,570	\$16,830.01	\$18,830	\$18,090.01	\$20,090
\$30.00	\$15,570.01	\$17,570	\$18,830.01	\$20,830	\$20,090.01	\$22,090
\$35.00	\$17,570.01	\$19,570	\$20,830.01	\$22,830	\$22,090.01	\$24,090
\$40.00	\$19,570.01	\$21,570	\$22,830.01	\$24,830	\$24,090.01	\$26,090
\$45.00	\$21,570.01	\$22,490	\$24,830.01	\$26,830	\$26,090.01	\$28,090
\$50.00			\$26,830.01	\$28,830	\$28,090.01	\$30,090
\$55.00			\$28,830.01	\$30,151	\$30,090.01	\$32,090
\$60.00					\$32,090.01	\$34,090
\$65.00					\$34,090.01	\$36,090
\$70.00					\$36,090.01	\$37,812
	200% FPIG	\$19,140	200% FPIG	\$25,660	200% FPIG	\$32,180



**RULES AND REGULATIONS**

**3525**

Weekly Co-pay	Family Size: 4		Family Size: 5		Family Size: 6	
	Annual Income		Annual Income		Annual Income	
\$5.00	Less than:	\$13,350	Less than:	\$14,610	Less than:	\$15,870
\$10.00	\$13,350.01	\$15,350	\$14,610.01	\$16,610	\$15,870.01	\$17,870
\$15.00	\$15,350.01	\$17,350	\$16,610.01	\$18,610	\$17,870.01	\$19,870
\$20.00	\$17,350.01	\$19,350	\$18,610.01	\$20,610	\$19,870.01	\$21,870
\$25.00	\$19,350.01	\$21,350	\$20,610.01	\$22,610	\$21,870.01	\$23,870
\$30.00	\$21,350.01	\$23,350	\$22,610.01	\$24,610	\$23,870.01	\$25,870
\$35.00	\$23,350.01	\$25,350	\$24,610.01	\$26,610	\$25,870.01	\$27,870
\$40.00	\$25,350.01	\$27,350	\$26,610.01	\$28,610	\$27,870.01	\$29,870
\$45.00	\$27,350.01	\$29,350	\$28,610.01	\$30,610	\$29,870.01	\$31,870
\$50.00	\$29,350.01	\$31,350	\$30,610.01	\$32,610	\$31,870.01	\$33,870
\$55.00	\$31,350.01	\$33,350	\$32,610.01	\$34,610	\$33,870.01	\$35,870
\$60.00	\$33,350.01	\$35,350	\$34,610.01	\$36,610	\$35,870.01	\$37,870
\$65.00	\$35,350.01	\$37,350	\$36,610.01	\$38,610	\$37,870.01	\$39,870
\$70.00	\$37,350.01	\$39,350	\$38,610.01	\$40,610	\$39,870.01	\$41,870
\$75.00	\$39,350.01	\$41,350	\$40,610.01	\$42,610	\$41,870.01	\$43,870
\$80.00	\$41,350.01	\$43,350	\$42,610.01	\$44,610	\$43,870.01	\$45,870
\$85.00	\$43,350.01	\$45,350	\$44,610.01	\$46,610	\$45,870.01	\$47,870
\$90.00	\$45,350.01	\$45,473	\$46,610.01	\$48,610	\$47,870.01	\$49,870
\$95.00			\$48,610.01	\$50,610	\$49,870.01	\$51,870
\$100.00			\$50,610.01	\$52,610	\$51,870.01	\$53,870
\$105.00			\$52,610.01	\$53,134	\$53,870.01	\$55,870
\$110.00					\$55,870.01	\$57,870
\$115.00					\$57,870.01	\$59,870
\$120.00					\$59,870.01	\$60,795
	200% FPIG	\$38,700	200% FPIG	\$45,220	200% FPIG	\$51,740

Weekly Co-pay	Family Size: 7		Family Size: 8		Family Size: 9	
	Annual Income		Annual Income		Annual Income	
\$5.00	Less than:	\$17,130	Less than:	\$18,390	Less than:	\$19,650
\$10.00	\$17,130.01	\$19,130	\$18,390.01	\$20,390	\$19,650.01	\$21,650
\$15.00	\$19,130.01	\$21,130	\$20,390.01	\$22,390	\$21,650.01	\$23,650
\$20.00	\$21,130.01	\$23,130	\$22,390.01	\$24,390	\$23,650.01	\$25,650
\$25.00	\$23,130.01	\$25,130	\$24,390.01	\$26,390	\$25,650.01	\$27,650
\$30.00	\$25,130.01	\$27,130	\$26,390.01	\$28,390	\$27,650.01	\$29,650
\$35.00	\$27,130.01	\$29,130	\$28,390.01	\$30,390	\$29,650.01	\$31,650
\$40.00	\$29,130.01	\$31,130	\$30,390.01	\$32,390	\$31,650.01	\$33,650
\$45.00	\$31,130.01	\$33,130	\$32,390.01	\$34,390	\$33,650.01	\$35,650
\$50.00	\$33,130.01	\$35,130	\$34,390.01	\$36,390	\$35,650.01	\$37,650
\$55.00	\$35,130.01	\$37,130	\$36,390.01	\$38,390	\$37,650.01	\$39,650
\$60.00	\$37,130.01	\$39,130	\$38,390.01	\$40,390	\$39,650.01	\$41,650
\$65.00	\$39,130.01	\$41,130	\$40,390.01	\$42,390	\$41,650.01	\$43,650
\$70.00	\$41,130.01	\$43,130	\$42,390.01	\$44,390	\$43,650.01	\$45,650
\$75.00	\$43,130.01	\$45,130	\$44,390.01	\$46,390	\$45,650.01	\$47,650
\$80.00	\$45,130.01	\$47,130	\$46,390.01	\$48,390	\$47,650.01	\$49,650
\$85.00	\$47,130.01	\$49,130	\$48,390.01	\$50,390	\$49,650.01	\$51,650
\$90.00	\$49,130.01	\$51,130	\$50,390.01	\$52,390	\$51,650.01	\$53,650
\$95.00	\$51,130.01	\$53,130	\$52,390.01	\$54,390	\$53,650.01	\$55,650

RULES AND REGULATIONS

\$100.00	\$53,130.01	\$55,130	\$54,390.01	\$56,390	\$55,650.01	\$57,650
\$105.00	\$55,130.01	\$57,130	\$56,390.01	\$58,390	\$57,650.01	\$59,650
\$110.00	\$57,130.01	\$59,130	\$58,390.01	\$60,390	\$59,650.01	\$61,650
\$115.00	\$59,130.01	\$61,130	\$60,390.01	\$62,390	\$61,650.01	\$63,650
\$120.00	\$61,130.01	\$63,130	\$62,390.01	\$64,390	\$63,650.01	\$65,650
\$125.00	\$63,130.01	\$65,130	\$64,390.01	\$66,390	\$65,650.01	\$67,650
\$130.00	\$65,130.01	\$67,130	\$66,390.01	\$68,390	\$67,650.01	\$69,650
\$135.00	\$67,130.01	\$68,456	\$68,390.01	\$70,390	\$69,650.01	\$71,650
\$140.00			\$70,390.01	\$72,390	\$71,650.01	\$73,650
\$145.00			\$72,390.01	\$74,390	\$73,650.01	\$75,650
\$150.00			\$74,390.01	\$76,117	\$75,650.01	\$77,650
\$155.00					\$77,650.01	\$79,650
\$160.00					\$79,650.01	\$81,650
\$165.00					\$81,650.01	\$83,650
\$170.00					\$83,650.01	\$83,778
	200% FPIG	\$58,260	200% FPIG	\$64,780	200% FPIG	\$71,300

Weekly Co-pay	Family Size: 10 Annual Income	Family Size: 11 Annual Income	Family Size: 12 Annual Income
\$5.00	Less than: \$20,910	Less than: \$22,170	Less than: \$23,430
\$10.00	\$20,910.01	\$22,170.01	\$23,430.01
\$15.00	\$22,910.01	\$24,170.01	\$25,430.01
\$20.00	\$24,910.01	\$26,170.01	\$27,430.01
\$25.00	\$26,910.01	\$28,170.01	\$29,430.01
\$30.00	\$28,910.01	\$30,170.01	\$31,430.01
\$35.00	\$30,910.01	\$32,170.01	\$33,430.01
\$40.00	\$32,910.01	\$34,170.01	\$35,430.01
\$45.00	\$34,910.01	\$36,170.01	\$37,430.01
\$50.00	\$36,910.01	\$38,170.01	\$39,430.01
\$55.00	\$38,910.01	\$40,170.01	\$41,430.01
\$60.00	\$40,910.01	\$42,170.01	\$43,430.01
\$65.00	\$42,910.01	\$44,170.01	\$45,430.01
\$70.00	\$44,910.01	\$46,170.01	\$47,430.01
\$75.00	\$46,910.01	\$48,170.01	\$49,430.01
\$80.00	\$48,910.01	\$50,170.01	\$51,430.01
\$85.00	\$50,910.01	\$52,170.01	\$53,430.01
\$90.00	\$52,910.01	\$54,170.01	\$55,430.01
\$95.00	\$54,910.01	\$56,170.01	\$57,430.01
\$100.00	\$56,910.01	\$58,170.01	\$59,430.01
\$105.00	\$58,910.01	\$60,170.01	\$61,430.01
\$110.00	\$60,910.01	\$62,170.01	\$63,430.01
\$115.00	\$62,910.01	\$64,170.01	\$65,430.01
\$120.00	\$64,910.01	\$66,170.01	\$67,430.01
\$125.00	\$66,910.01	\$68,170.01	\$69,430.01
\$130.00	\$68,910.01	\$70,170.01	\$71,430.01
\$135.00	\$70,910.01	\$72,170.01	\$73,430.01
\$140.00	\$72,910.01	\$74,170.01	\$75,430.01
\$145.00	\$74,910.01	\$76,170.01	\$77,430.01
\$150.00	\$76,910.01	\$78,170.01	\$79,430.01

**RULES AND REGULATIONS**

**3527**

\$155.00	\$78,910.01	\$80,910	\$80,170.01	\$82,170	\$81,430.01	\$83,430
\$160.00	\$80,910.01	\$82,910	\$82,170.01	\$84,170	\$83,430.01	\$85,430
\$165.00	\$82,910.01	\$84,910	\$84,170.01	\$86,170	\$85,430.01	\$87,430
\$170.00	\$84,910.01	\$86,910	\$86,170.01	\$88,170	\$87,430.01	\$89,430
\$175.00	\$86,910.01	\$88,910	\$88,170.01	\$90,170	\$89,430.01	\$91,430
\$180.00	\$88,910.01	\$90,910	\$90,170.01	\$92,170	\$91,430.01	\$93,430
\$185.00	\$90,910.01	\$91,439	\$92,170.01	\$94,170	\$93,430.01	\$95,430
\$190.00			\$94,170.01	\$96,170	\$95,430.01	\$97,430
\$195.00			\$96,170.01	\$98,170	\$97,430.01	\$99,430
\$200.00			\$98,170.01	\$99,100	\$99,430.01	\$101,430
\$205.00					\$101,430.01	\$103,430
\$210.00					\$103,430.01	\$105,430
\$215.00					\$105,430.01	\$106,761
	200% FPIG	\$77,820	200% FPIG	\$84,340	200% FPIG	\$90,860

Weekly Co-pay	Family Size: 13 Annual Income	Family Size: 14 Annual Income	Family Size: 15 Annual Income
\$5.00	Less than: \$24,690	Less than: \$25,950	Less than: \$27,210
\$10.00	\$24,690.01	\$25,950.01	\$27,210.01
\$15.00	\$26,690.01	\$27,950.01	\$29,210.01
\$20.00	\$28,690.01	\$29,950.01	\$31,210.01
\$25.00	\$30,690.01	\$31,950.01	\$33,210.01
\$30.00	\$32,690.01	\$33,950.01	\$35,210.01
\$35.00	\$34,690.01	\$35,950.01	\$37,210.01
\$40.00	\$36,690.01	\$37,950.01	\$39,210.01
\$45.00	\$38,690.01	\$39,950.01	\$41,210.01
\$50.00	\$40,690.01	\$41,950.01	\$43,210.01
\$55.00	\$42,690.01	\$43,950.01	\$45,210.01
\$60.00	\$44,690.01	\$45,950.01	\$47,210.01
\$65.00	\$46,690.01	\$47,950.01	\$49,210.01
\$70.00	\$48,690.01	\$49,950.01	\$51,210.01
\$75.00	\$50,690.01	\$51,950.01	\$53,210.01
\$80.00	\$52,690.01	\$53,950.01	\$55,210.01
\$85.00	\$54,690.01	\$55,950.01	\$57,210.01
\$90.00	\$56,690.01	\$57,950.01	\$59,210.01
\$95.00	\$58,690.01	\$59,950.01	\$61,210.01
\$100.00	\$60,690.01	\$61,950.01	\$63,210.01
\$105.00	\$62,690.01	\$63,950.01	\$65,210.01
\$110.00	\$64,690.01	\$65,950.01	\$67,210.01
\$115.00	\$66,690.01	\$67,950.01	\$69,210.01
\$120.00	\$68,690.01	\$69,950.01	\$71,210.01
\$125.00	\$70,690.01	\$71,950.01	\$73,210.01
\$130.00	\$72,690.01	\$73,950.01	\$75,210.01
\$135.00	\$74,690.01	\$75,950.01	\$77,210.01
\$140.00	\$76,690.01	\$77,950.01	\$79,210.01
\$145.00	\$78,690.01	\$79,950.01	\$81,210.01
\$150.00	\$80,690.01	\$81,950.01	\$83,210.01
\$155.00	\$82,690.01	\$83,950.01	\$85,210.01
\$160.00	\$84,690.01	\$85,950.01	\$87,210.01

RULES AND REGULATIONS

\$165.00	\$86,690.01	\$88,690	\$87,950.01	\$89,950	\$89,210.01	\$91,210
\$170.00	\$88,690.01	\$90,690	\$89,950.01	\$91,950	\$91,210.01	\$93,210
\$175.00	\$90,690.01	\$92,690	\$91,950.01	\$93,950	\$93,210.01	\$95,210
\$180.00	\$92,690.01	\$94,690	\$93,950.01	\$95,950	\$95,210.01	\$97,210
\$185.00	\$94,690.01	\$96,690	\$95,950.01	\$97,950	\$97,210.01	\$99,210
\$190.00	\$96,690.01	\$98,690	\$97,950.01	\$99,950	\$99,210.01	\$101,210
\$195.00	\$98,690.01	\$100,690	\$99,950.01	\$101,950	\$101,210.01	\$103,210
\$200.00	\$100,690.01	\$102,690	\$101,950.01	\$103,950	\$103,210.01	\$105,210
\$205.00	\$102,690.01	\$104,690	\$103,950.01	\$105,950	\$105,210.01	\$107,210
\$210.00	\$104,690.01	\$106,690	\$105,950.01	\$107,950	\$107,210.01	\$109,210
\$215.00	\$106,690.01	\$108,690	\$107,950.01	\$109,950	\$109,210.01	\$111,210
\$220.00	\$108,690.01	\$110,690	\$109,950.01	\$111,950	\$111,210.01	\$113,210
\$225.00	\$110,690.01	\$112,690	\$111,950.01	\$113,950	\$113,210.01	\$115,210
\$230.00	\$112,690.01	\$114,422	\$113,950.01	\$115,950	\$115,210.01	\$117,210
\$235.00			\$115,950.01	\$117,950	\$117,210.01	\$119,210
\$240.00			\$117,950.01	\$119,950	\$119,210.01	\$121,210
\$245.00			\$119,950.01	\$121,950	\$121,210.01	\$123,210
\$250.00			\$121,950.01	\$122,083	\$123,210.01	\$125,210
\$255.00					\$125,210.01	\$127,210
\$260.00					\$127,210.01	\$129,210
\$265.00					\$129,210.01	\$129,744
	200% FPIG	\$97,380	200% FPIG	\$103,900	200% FPIG	\$110,420

Weekly Co-pay	Family Size: 16 Annual Income	Family Size: 17 Annual Income	Family Size: 18 Annual Income
\$5.00	Less than: \$30,470	Less than: \$31,730	Less than: \$32,990
\$10.00	\$30,470.01	\$31,730.01	\$32,990.01
\$15.00	\$32,470.01	\$33,730.01	\$34,990.01
\$20.00	\$34,470.01	\$35,730.01	\$36,990.01
\$25.00	\$36,470.01	\$37,730.01	\$38,990.01
\$30.00	\$38,470.01	\$39,730.01	\$40,990.01
\$35.00	\$40,470.01	\$41,730.01	\$42,990.01
\$40.00	\$42,470.01	\$43,730.01	\$44,990.01
\$45.00	\$44,470.01	\$45,730.01	\$46,990.01
\$50.00	\$46,470.01	\$47,730.01	\$48,990.01
\$55.00	\$48,470.01	\$49,730.01	\$50,990.01
\$60.00	\$50,470.01	\$51,730.01	\$52,990.01
\$65.00	\$52,470.01	\$53,730.01	\$54,990.01
\$70.00	\$54,470.01	\$55,730.01	\$56,990.01
\$75.00	\$56,470.01	\$57,730.01	\$58,990.01
\$80.00	\$58,470.01	\$59,730.01	\$60,990.01
\$85.00	\$60,470.01	\$61,730.01	\$62,990.01
\$90.00	\$62,470.01	\$63,730.01	\$64,990.01
\$95.00	\$64,470.01	\$65,730.01	\$66,990.01
\$100.00	\$66,470.01	\$67,730.01	\$68,990.01
\$105.00	\$68,470.01	\$69,730.01	\$70,990.01
\$110.00	\$70,470.01	\$71,730.01	\$72,990.01
\$115.00	\$72,470.01	\$73,730.01	\$74,990.01
\$120.00	\$74,470.01	\$75,730.01	\$76,990.01

**RULES AND REGULATIONS**

**3529**

\$125.00	\$76,470.01	\$78,470	\$77,730.01	\$79,730	\$78,990.01	\$80,990
\$130.00	\$78,470.01	\$80,470	\$79,730.01	\$81,730	\$80,990.01	\$82,990
\$135.00	\$80,470.01	\$82,470	\$81,730.01	\$83,730	\$82,990.01	\$84,990
\$140.00	\$82,470.01	\$84,470	\$83,730.01	\$85,730	\$84,990.01	\$86,990
\$145.00	\$84,470.01	\$86,470	\$85,730.01	\$87,730	\$86,990.01	\$88,990
\$150.00	\$86,470.01	\$88,470	\$87,730.01	\$89,730	\$88,990.01	\$90,990
\$155.00	\$88,470.01	\$90,470	\$89,730.01	\$91,730	\$90,990.01	\$92,990
\$160.00	\$90,470.01	\$92,470	\$91,730.01	\$93,730	\$92,990.01	\$94,990
\$165.00	\$92,470.01	\$94,470	\$93,730.01	\$95,730	\$94,990.01	\$96,990
\$170.00	\$94,470.01	\$96,470	\$95,730.01	\$97,730	\$96,990.01	\$98,990
\$175.00	\$96,470.01	\$98,470	\$97,730.01	\$99,730	\$98,990.01	\$100,990
\$180.00	\$98,470.01	\$100,470	\$99,730.01	\$101,730	\$100,990.01	\$102,990
\$185.00	\$100,470.01	\$102,470	\$101,730.01	\$103,730	\$102,990.01	\$104,990
\$190.00	\$102,470.01	\$104,470	\$103,730.01	\$105,730	\$104,990.01	\$106,990
\$195.00	\$104,470.01	\$106,470	\$105,730.01	\$107,730	\$106,990.01	\$108,990
\$200.00	\$106,470.01	\$108,470	\$107,730.01	\$109,730	\$108,990.01	\$110,990
\$205.00	\$108,470.01	\$110,470	\$109,730.01	\$111,730	\$110,990.01	\$112,990
\$210.00	\$110,470.01	\$112,470	\$111,730.01	\$113,730	\$112,990.01	\$114,990
\$215.00	\$112,470.01	\$114,470	\$113,730.01	\$115,730	\$114,990.01	\$116,990
\$220.00	\$114,470.01	\$116,470	\$115,730.01	\$117,730	\$116,990.01	\$118,990
\$225.00	\$116,470.01	\$118,470	\$117,730.01	\$119,730	\$118,990.01	\$120,990
\$230.00	\$118,470.01	\$120,470	\$119,730.01	\$121,730	\$120,990.01	\$122,990
\$235.00	\$120,470.01	\$122,470	\$121,730.01	\$123,730	\$122,990.01	\$124,990
\$240.00	\$122,470.01	\$124,470	\$123,730.01	\$125,730	\$124,990.01	\$126,990
\$245.00	\$124,470.01	\$126,470	\$125,730.01	\$127,730	\$126,990.01	\$128,990
\$250.00	\$126,470.01	\$128,470	\$127,730.01	\$129,730	\$128,990.01	\$130,990
\$255.00	\$128,470.01	\$130,470	\$129,730.01	\$131,730	\$130,990.01	\$132,990
\$260.00	\$130,470.01	\$132,470	\$131,730.01	\$133,730	\$132,990.01	\$134,990
\$265.00	\$132,470.01	\$134,470	\$133,730.01	\$135,730	\$134,990.01	\$136,990
\$270.00	\$134,470.01	\$136,470	\$135,730.01	\$137,730	\$136,990.01	\$138,990
\$275.00	\$136,470.01	\$137,405	\$137,730.01	\$139,730	\$138,990.01	\$140,990
\$280.00			\$139,730.01	\$141,730	\$140,990.01	\$142,990
\$285.00			\$141,730.01	\$143,730	\$142,990.01	\$144,990
\$290.00			\$143,730.01	\$145,066	\$144,990.01	\$146,990
\$295.00					\$146,990.01	\$148,990
\$300.00					\$148,990.01	\$150,990
\$305.00					\$150,990.01	\$152,727
	200% FPIG	\$116,940	200% FPIG	\$123,460	200% FPIG	\$129,980

Weekly Co-pay	Family Size: 19 Annual Income	Family Size: 20 Annual Income	Family Size: 21 Annual Income
\$5.00	Less than: \$34,250	Less than: \$35,510	Less than: \$36,770
\$10.00	\$34,250.01	\$35,510.01	\$36,770.01
\$15.00	\$36,250.01	\$37,510.01	\$38,770.01
\$20.00	\$38,250.01	\$39,510.01	\$40,770.01
\$25.00	\$40,250.01	\$41,510.01	\$42,770.01
\$30.00	\$42,250.01	\$43,510.01	\$44,770.01
\$35.00	\$44,250.01	\$45,510.01	\$46,770.01
\$40.00	\$46,250.01	\$47,510.01	\$48,770.01

\$45.00	\$48,250.01	\$50,250	\$49,510.01	\$51,510	\$50,770.01	\$52,770
\$50.00	\$50,250.01	\$52,250	\$51,510.01	\$53,510	\$52,770.01	\$54,770
\$55.00	\$52,250.01	\$54,250	\$53,510.01	\$55,510	\$54,770.01	\$56,770
\$60.00	\$54,250.01	\$56,250	\$55,510.01	\$57,510	\$56,770.01	\$58,770
\$65.00	\$56,250.01	\$58,250	\$57,510.01	\$59,510	\$58,770.01	\$60,770
\$70.00	\$58,250.01	\$60,250	\$59,510.01	\$61,510	\$60,770.01	\$62,770
\$75.00	\$60,250.01	\$62,250	\$61,510.01	\$63,510	\$62,770.01	\$64,770
\$80.00	\$62,250.01	\$64,250	\$63,510.01	\$65,510	\$64,770.01	\$66,770
\$85.00	\$64,250.01	\$66,250	\$65,510.01	\$67,510	\$66,770.01	\$68,770
\$90.00	\$66,250.01	\$68,250	\$67,510.01	\$69,510	\$68,770.01	\$70,770
\$95.00	\$68,250.01	\$70,250	\$69,510.01	\$71,510	\$70,770.01	\$72,770
\$100.00	\$70,250.01	\$72,250	\$71,510.01	\$73,510	\$72,770.01	\$74,770
\$105.00	\$72,250.01	\$74,250	\$73,510.01	\$75,510	\$74,770.01	\$76,770
\$110.00	\$74,250.01	\$76,250	\$75,510.01	\$77,510	\$76,770.01	\$78,770
\$115.00	\$76,250.01	\$78,250	\$77,510.01	\$79,510	\$78,770.01	\$80,770
\$120.00	\$78,250.01	\$80,250	\$79,510.01	\$81,510	\$80,770.01	\$82,770
\$125.00	\$80,250.01	\$82,250	\$81,510.01	\$83,510	\$82,770.01	\$84,770
\$130.00	\$82,250.01	\$84,250	\$83,510.01	\$85,510	\$84,770.01	\$86,770
\$135.00	\$84,250.01	\$86,250	\$85,510.01	\$87,510	\$86,770.01	\$88,770
\$140.00	\$86,250.01	\$88,250	\$87,510.01	\$89,510	\$88,770.01	\$90,770
\$145.00	\$88,250.01	\$90,250	\$89,510.01	\$91,510	\$90,770.01	\$92,770
\$150.00	\$90,250.01	\$92,250	\$91,510.01	\$93,510	\$92,770.01	\$94,770
\$155.00	\$92,250.01	\$94,250	\$93,510.01	\$95,510	\$94,770.01	\$96,770
\$160.00	\$94,250.01	\$96,250	\$95,510.01	\$97,510	\$96,770.01	\$98,770
\$165.00	\$96,250.01	\$98,250	\$97,510.01	\$99,510	\$98,770.01	\$100,770
\$170.00	\$98,250.01	\$100,250	\$99,510.01	\$101,510	\$100,770.01	\$102,770
\$175.00	\$100,250.01	\$102,250	\$101,510.01	\$103,510	\$102,770.01	\$104,770
\$180.00	\$102,250.01	\$104,250	\$103,510.01	\$105,510	\$104,770.01	\$106,770
\$185.00	\$104,250.01	\$106,250	\$105,510.01	\$107,510	\$106,770.01	\$108,770
\$190.00	\$106,250.01	\$108,250	\$107,510.01	\$109,510	\$108,770.01	\$110,770
\$195.00	\$108,250.01	\$110,250	\$109,510.01	\$111,510	\$110,770.01	\$112,770
\$200.00	\$110,250.01	\$112,250	\$111,510.01	\$113,510	\$112,770.01	\$114,770
\$205.00	\$112,250.01	\$114,250	\$113,510.01	\$115,510	\$114,770.01	\$116,770
\$210.00	\$114,250.01	\$116,250	\$115,510.01	\$117,510	\$116,770.01	\$118,770
\$215.00	\$116,250.01	\$118,250	\$117,510.01	\$119,510	\$118,770.01	\$120,770
\$220.00	\$118,250.01	\$120,250	\$119,510.01	\$121,510	\$120,770.01	\$122,770
\$225.00	\$120,250.01	\$122,250	\$121,510.01	\$123,510	\$122,770.01	\$124,770
\$230.00	\$122,250.01	\$124,250	\$123,510.01	\$125,510	\$124,770.01	\$126,770
\$235.00	\$124,250.01	\$126,250	\$125,510.01	\$127,510	\$126,770.01	\$128,770
\$240.00	\$126,250.01	\$128,250	\$127,510.01	\$129,510	\$128,770.01	\$130,770
\$245.00	\$128,250.01	\$130,250	\$129,510.01	\$131,510	\$130,770.01	\$132,770
\$250.00	\$130,250.01	\$132,250	\$131,510.01	\$133,510	\$132,770.01	\$134,770
\$255.00	\$132,250.01	\$134,250	\$133,510.01	\$135,510	\$134,770.01	\$136,770
\$260.00	\$134,250.01	\$136,250	\$135,510.01	\$137,510	\$136,770.01	\$138,770
\$265.00	\$136,250.01	\$138,250	\$137,510.01	\$139,510	\$138,770.01	\$140,770
\$270.00	\$138,250.01	\$140,250	\$139,510.01	\$141,510	\$140,770.01	\$142,770
\$275.00	\$140,250.01	\$142,250	\$141,510.01	\$143,510	\$142,770.01	\$144,770
\$280.00	\$142,250.01	\$144,250	\$143,510.01	\$145,510	\$144,770.01	\$146,770
\$285.00	\$144,250.01	\$146,250	\$145,510.01	\$147,510	\$146,770.01	\$148,770

**RULES AND REGULATIONS**

**3531**

\$290.00	\$146,250.01	\$148,250	\$147,510.01	\$149,510	\$148,770.01	\$150,770
\$295.00	\$148,250.01	\$150,250	\$149,510.01	\$151,510	\$150,770.01	\$152,770
\$300.00	\$150,250.01	\$152,250	\$151,510.01	\$153,510	\$152,770.01	\$154,770
\$305.00	\$152,250.01	\$154,250	\$153,510.01	\$155,510	\$154,770.01	\$156,770
\$310.00	\$154,250.01	\$156,250	\$155,510.01	\$157,510	\$156,770.01	\$158,770
\$315.00	\$156,250.01	\$158,250	\$157,510.01	\$159,510	\$158,770.01	\$160,770
\$320.00	\$158,250.01	\$160,250	\$159,510.01	\$161,510	\$160,770.01	\$162,770
\$325.00	\$160,250.01	\$160,388	\$161,510.01	\$163,510	\$162,770.01	\$164,770
\$330.00			\$163,510.01	\$165,510	\$164,770.01	\$166,770
\$335.00			\$165,510.01	\$167,510	\$166,770.01	\$168,770
\$340.00			\$167,510.01	\$168,049	\$168,770.01	\$170,770
\$345.00					\$170,770.01	\$172,770
\$350.00					\$172,770.01	\$174,770
\$355.00					\$174,770.01	\$175,710
	200% FPIG	\$136,500	200% FPIG	\$143,020	200% FPIG	\$149,540

**APPENDIX C**

**STEPARENT DEDUCTION CHART**

<i>County of residence</i>	<i>Family composition/size</i>					
	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>Each additional person</i>
Adams, Allegheny, Berks, Blair, Bradford, Butler, Centre, Columbia, Crawford, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Philadelphia, Sullivan, Susquehanna, Union, Warren, Wayne, Westmoreland, Wyoming and York	\$461	\$587	\$724	\$859	\$976	\$121
Armstrong, Bedford, Cambria, Clarion, Clearfield, Fayette, Forest, Fulton, Greene, Huntingdon, Jefferson, Juniata, Northumberland, Schuylkill and Somerset	\$406	\$532	\$662	\$791	\$894	\$121
Beaver, Cameron, Carbon, Clinton, Elk, Franklin, Indiana, Lawrence, McKean, Mercer, Mifflin, Perry, Potter, Snyder, Tioga, Venango and Washington	\$444	\$573	\$698	\$829	\$943	\$121
Bucks, Chester, Lancaster, Montgomery and Pike	\$481	\$614	\$749	\$885	\$1001	\$121

[Pa.B. Doc. No. 05-1206. Filed for public inspection June 17, 2005, 9:00 a.m.]