

# PENNSYLVANIA BULLETIN

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See Part II page 6873 for the  
Pennsylvania Gaming Control Board's  
Accounting and Internal Controls;  
Draft Temporary Regulations

**Agencies in this issue:**

The Governor  
The Courts  
Department of Agriculture  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Health Care Cost Containment Council  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
Public School Employees' Retirement Board  
State Board of Cosmetology

**Detailed list of contents appears inside.**



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**No. 373, December 2005**

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# CONTENTS

## THE GOVERNOR

### Executive Orders

Commonwealth's health care reform agenda . . . . .	6740
Energy management and conservation in Commonwealth facilities . . . . .	6737
Enterprise Information Technology Governance Board . . . . .	6743

## THE COURTS

### DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment . . . . .	6747
Notice of suspension . . . . .	6747
Notice of transfer of attorneys to inactive status (2 documents) . . . . .	6747, 6748

### JUDICIAL SYSTEM GENERAL PROVISIONS

Promulgation of consumer price index and judicial salaries pursuant to Act 51 of 1995; no. 279 judicial administration; doc. no. 1 . . . . .	6746
--	------

### LOCAL COURT RULES

#### Lehigh County

Administrative order amendment to the fee schedule of the clerk of courts—civil effective January 1, 2006; no. 2005-J-48 . . . . .	6747
--	------

### SUPREME COURT

Temporary transfer of judicial proceedings; no. 278 judicial administration; doc. no. 1 . . . . .	6750
---	------

## EXECUTIVE AGENCIES

### DEPARTMENT OF AGRICULTURE

#### Proposed Rulemaking

Commercial manure hauler and broker certification . . . . .	6751
---	------

### DEPARTMENT OF BANKING

#### Notices

Action on applications (2 documents) . . . . .	6783, 6784
--	------------

### DEPARTMENT OF EDUCATION

#### Notices

Availability of 2005-2006 career and technical education child care curriculum grants . . . . .	6786
Availability of 2005-2006 career and technical education curriculum grants . . . . .	6786
Availability of 2005-2006 career and technical education equipment grants . . . . .	6786

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices . . . . .	6787
Availability of technical guidance . . . . .	6835
Submission deadline for application for reimbursement for certified host municipality inspectors . . . . .	6836

### DEPARTMENT OF GENERAL SERVICES

#### Notices

State contracts information . . . . .	6864
---------------------------------------	------

### DEPARTMENT OF HEALTH

#### Notices

##### Applications for exception:

Carbon-Schuylkill Endoscopy Center . . . . .	6836
College Heights Endoscopy Center . . . . .	6836
Elmwood Endoscopy Center, PC . . . . .	6837
Gastroenterology Consultants, Inc. . . . .	6837
Jameson Memorial Hospital . . . . .	6837
Lifecare Hospitals of Pittsburgh . . . . .	6838
Select Specialty Hospital . . . . .	6838
Sharon Regional Health System . . . . .	6838
Surgery Center of Lancaster, LP . . . . .	6839
York Hospital . . . . .	6839

Availability of plan and report required by section 1932 of the ADAMHA Reorganization Act of 1992 . . . . .	6839
---	------

Availability of traumatic brain injury grant funds to support TBI education . . . . .	6840
---	------

Requests for exception; long-term care nursing facilities . . . . .	6844
---	------

Special supplemental nutrition program for women, infants and children (WIC program); maximum allowable prices . . . . .	6844
--	------

### DEPARTMENT OF PUBLIC WELFARE

#### Notices

Nursing facility assessment program for fiscal year 2005-2006 . . . . .	6845
---	------

### DEPARTMENT OF REVENUE

#### Proposed Rulemaking

Revision of construction contractors; sales tax requirements . . . . .	6767
--	------

#### Notices

Pennsylvania Cupid Ca\$h '05 instant lottery game . . . . .	6847
Pennsylvania Triple Fortune instant lottery game . . . . .	6849

### DEPARTMENT OF TRANSPORTATION

#### Proposed Rulemaking

Flashing or revolving lights on emergency and authorized vehicles . . . . .	6769
Mechanical, electrical and electronic speed-timing devices . . . . .	6773

#### Notices

Receipt of applications for funding under the Section 5310 Program . . . . .	6851
--	------

### HEALTH CARE COST CONTAINMENT COUNCIL

#### Notices

Mandated benefits . . . . .	6852
-----------------------------	------

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Actions taken by the commission . . . . .	6852
Notice of comments issued . . . . .	6853

---

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**INSURANCE DEPARTMENT**

**Notices**

- Nationwide Mutual Fire Insurance Company; home-owners rate revision; rate filing..... 6856
- Pennsylvania Compensation Rating Bureau Workers' Compensation loss cost filing; rate filing..... 6856

**LIQUOR CONTROL BOARD**

**Notices**

- Expiration of leases..... 6857

**PENNSYLVANIA GAMING CONTROL BOARD**

**Draft Temporary Regulations**

- Accounting and internal controls; draft temporary regulations..... 6873

**Notices**

- Application schedule..... 6857

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proposed Rulemaking**

- Gas service; safety code..... 6775
- Regulation of interexchange carriers and services... 6777

**Notices**

- Interim order..... 6857
- November 2005 review of fuel cost recovery surcharge; S. P. 28208..... 6860
- Service of notice of motor carrier applications..... 6861
- Tentative order..... 6861

**PHILADELPHIA REGIONAL PORT AUTHORITY**

**Notices**

- Request for bids (2 documents)..... 6862

**PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

**Notices**

- Hearing scheduled..... 6862

**STATE BOARD OF COSMETOLOGY**

**Notices**

- Bureau of Professional and Occupational Affairs v. Joseph Nguyen t/d/b/a Kims Nail Design; doc. no. 33572-45-01..... 6862

# 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.

## 4 Pa. Code (Administration)

### Adopted Rules

1	6737
6	348, 5236, 5635, 5764, 6740, 6743
65	1663
161	3143
243	2275
249	2275

### Proposed Rules

241	4923
243	4922
249	5013

### Statements of Policy

1	358, 2116
9	20, 1223, 1584, 1775, 2315, 2414, 2753, 3147, 3426, 3946, 4198, 4925, 5811, 6248, 6325, 6438
58	5129
68	5129
114	1669

## 7 Pa. Code (Agriculture)

### Adopted Rules

130b	6504
145	5258

### Proposed Rules

128b (with correction)	3940, 4092
130b	2101
130e	6751
145	1772

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

### Statements of Policy

123	5270
-----	------

## 22 Pa. Code (Education)

### Adopted Rules

7	6510, 6658
12	6510, 6658
73	1982
215	2276
403	3662

### Proposed Rules

4	6107, 6118
31	6242
49	5988

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

86	1663, 5775
89	5775
91	5796
92	5796
93 (with correction)	1197, 1762, 1885, 5806
121	2278
211	3406
401 (with correction)	2628, 4309
901	5005

## Proposed Rules

93	4734
252	519
901	5013, 6094
1021	2107
Unclassified	5520

## Statements of Policy

16	1223, 1890
----	------------

## 28 Pa. Code (Health and Safety)

### Adopted Rules

18	14
----	----

## 31 Pa. Code (Insurance)

### Adopted Rules

89	2729
----	------

## 34 Pa. Code (Labor and Industry)

### Proposed Rules

121	3807
123	3820

## 37 Pa. Code (Law)

### Adopted Rules

42	254
91	2279
93	2279
94	2279

### Proposed Rules

203	5690
-----	------

## Statements of Policy

97	3053
----	------

## 40 Pa. Code (Liquor)

### Adopted Rules

3	3547
---	------

### Proposed Rules

5	2112
11	2112
13	2112
17	2112

## 49 Pa. Code (Professional and Vocational Standards)

### Adopted Rules

1	1763
7	6520
9	3923
13	1667, 6523
15	353
16	3019
21	6527, 6658
23	3220
25	3021
27	4711, 6531
33	2880, 2899
35 (with correction)	1567, 2630, 4711, 5119, 6532
37	4725
41	6230
42	2750

**Proposed Rules**

7 ..... 2400  
 11 ..... 1573  
 13 ..... 1208  
 15 ..... 2404  
 16 ..... 1210, 6127  
 18 ..... 1210, 5520, 6127  
 19 ..... 2408  
 21 ..... 1213, 5522  
 25 ..... 2639, 5523  
 27 ..... 1219  
 35 ..... 2411  
 37 ..... 258  
 39 ..... 2402  
 41 ..... 1582  
 47 ..... 1221, 2640, 5530  
 48 ..... 1221, 2640, 5525  
 49 ..... 1221, 2640, 5525, 5530

**Statements of Policy**

49 ..... 3150

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

53 ..... 3024  
 57 ..... 1886  
 59 ..... 1886  
 63 ..... 2289, 4597  
 101 ..... 3299

**Proposed Rules**

54 ..... 1421, 3146  
 57 ..... 1421, 3146  
 59 ..... 6775  
 63 ..... 6777  
 101 ..... 740  
 Unclassified ..... 6341

**Proposed Statements of Policy**

69 ..... 5272

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

297 ..... 1567  
 299 ..... 1567  
 1101 ..... 4309, 4811  
 1121 (with correction) ..... 4309, 4727, 4823  
 1123 ..... 4811  
 1149 ..... 4811  
 1150 ..... 4309  
 1151 ..... 4811  
 1153 ..... 4811  
 1187 ..... 4612, 5120, 6232  
 2600 (with correction) ..... 2499, 2752, 5985  
 2620 (with correction) ..... 2499, 2752  
 3040 ..... 3491  
 3041 ..... 3491

**Proposed Rulemaking**

1187 ..... 4191

**Statements of Policy**

3270 ..... 3665, 6662  
 3280 ..... 3665, 6662  
 3290 ..... 3665, 6662

**58 Pa. Code (Recreation)**

**Adopted Rules**

1 ..... 5259  
 21 ..... 5259  
 51 ..... 6434, 6533

53 ..... 5006  
 61 ..... 5007  
 63 (with correction) ..... 5006, 5008, 5261, 6434, 6533  
 65 ..... 2391, 5007, 5124, 5261, 6239, 6434  
 69 (with correction) ..... 5007, 5008, 5261  
 75 (with correction) ..... 5010, 5261  
 91 ..... 3308  
 103 ..... 6435  
 111 ..... 2392, 5125, 6435  
 133 ..... 6534  
 135 ..... 3924, 3926, 4825  
 137 ..... 6535  
 139 ..... 3927, 3928  
 141 (with correction) ..... 353, 2304, 2393, 3933, 4826, 6537  
 143 ..... 354, 3934, 3935, 4827, 6239  
 147 ..... 355, 356, 357, 2305, 2306, 3936, 6240  
 407 ..... 4828  
 423 ..... 4828

**Proposed Rulemaking**

51 ..... 3416, 3419  
 53 ..... 3416, 3419, 5683  
 61 ..... 2395  
 63 ..... 3419, 3421, 5127, 5268, 5683, 6539  
 65 ..... 2395, 2633, 2634, 3419, 5268  
 69 ..... 2395, 3421  
 75 (with correction) ..... 3425  
 77 ..... 5683  
 79 ..... 5683  
 103 ..... 3423  
 111 ..... 2394, 3423  
 133 ..... 4831  
 135 ..... 2310, 2311, 3229  
 137 ..... 4829, 6106  
 139 ..... 1766, 2312  
 141 ..... 2313, 3230, 4829  
 143 ..... 1765, 2313, 3231, 3550  
 147 ..... 1771, 3550

**Temporary Regulations**

401 ..... 4045, 5619, 6215, 6411  
 403 ..... 4045  
 405 ..... 6407  
 407 ..... 4045  
 421 ..... 4045  
 423 ..... 4045, 5619  
 427 ..... 4045, 5619  
 433 ..... 4045, 5619  
 435 ..... 4045, 6215, 6411  
 437 ..... 6411  
 439 ..... 6619  
 441 ..... 4543, 5619, 6407, 6410, 6411, 6619  
 443 ..... 4543, 5619, 6407, 6410  
 451 ..... 4045  
 461 ..... 4045, 6215  
 463 ..... 6619  
 471 ..... 4045  
 481 ..... 4045  
 491 ..... 4045  
 495 ..... 4045, 5619  
 497 ..... 4045  
 499 ..... 4045  
 501 ..... 4543, 5619

**Draft Temporary Regulations**

401 ..... 2569, 5221  
 403 ..... 2569  
 405 ..... 4699  
 407 ..... 2569  
 421 ..... 2569



423 ..... 2569  
 427 ..... 2569  
 431 ..... 2569  
 433 ..... 2569  
 435 ..... 2569, 5221  
 437 ..... 3199, 5221  
 439 ..... 5941  
 441 ..... 4699, 5221, 5621  
 443 ..... 4699  
 451 ..... 2569  
 461 ..... 2569  
 463 ..... 5621  
 465 ..... 6873  
 471 ..... 2569  
 481 ..... 2569  
 491 ..... 2569  
 495 ..... 2569  
 497 ..... 2569  
 499 ..... 2569  
 501 ..... 3199

**Statements of Policy**

**Adopted**

57 ..... 2416, 5133

**Proposed**

57 ..... 2417

**61 Pa. Code (Revenue)**

**Adopted Rules**

32 ..... 256  
 874 ..... 4187

**Proposed Rules**

31 ..... 6767  
 46 ..... 6767  
 91 ..... 6096

**64 Pa. Code (Securities)**

**Adopted Rules**

203 ..... 2307  
 303 ..... 2307  
 304 ..... 2307  
 404 ..... 2307

**67 Pa. Code (Transportation)**

**Adopted Rules**

65 ..... 6436  
 88 ..... 3938  
 171 ..... 3039

**Proposed Rules**

71 ..... 3145  
 105 ..... 6773  
 173 ..... 6769  
 491 ..... 2309

**70 Pa. Code (Weights, Measures and Standards)**

**Adopted Rules**

2 ..... 5985  
 10 ..... 5985  
 110 ..... 5985

**Proposed Rules**

2 ..... 2631  
 10 ..... 2631  
 110 ..... 2631

**201 Pa. Code (Rules of Judicial Administration)**

**Adopted Rules**

19 ..... 5518

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**

29 ..... 2095, 3542, 5091  
 71 ..... 1970, 2208, 2854, 4709  
 81 ..... 496, 497, 1972, 2386, 6640  
 82 ..... 349  
 83 ..... 1972, 2208, 3286, 5954, 6226, 6431  
 85 ..... 1656, 4301  
 87 ..... 1656, 4301  
 89 ..... 1656  
 91 ..... 1656, 4301  
 93 ..... 1656, 4301  
 99 ..... 2722  
 211 ..... 5092, 6746  
 303 (with correction) ..... 1508, 2599

**Proposed Rules**

71 ..... 6639  
 81 ..... 4300, 5638  
 83 ..... 6493  
 89 ..... 6493  
 91 ..... 6494  
 93 ..... 6493, 6494  
 303 ..... 198

**207 Pa. Code (Judicial Conduct)**

**Adopted Rules**

33 ..... 6647  
 51 ..... 6318, 6647

**210 Pa. Code (Appellate Procedures)**

**Adopted Rules**

3 ..... 3897  
 17 ..... 5768  
 33 ..... 5768  
 63 ..... 2854, 5092  
 67 ..... 1880

**Proposed Rules**

3 ..... 2602

**225 Pa. Code (Rules of Evidence)**

**Adopted Rules**

I ..... 2209  
 VIII ..... 8

**Proposed Rules**

I ..... 4179  
 IV ..... 3287  
 VI ..... 1330

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**

100 ..... 4087, 4914  
 200 ..... 500, 3289, 4087, 6318  
 1000 ..... 349, 1416, 6318  
 1900 ..... 2994  
 1910 ..... 2994, 3216, 3900, 5643  
 2250 ..... 501  
 3000 ..... 6320

**Proposed Rules**

100 ..... 2602  
 200 ..... 9  
 1300 ..... 734, 2604  
 1910 ..... 5376, 5642  
 1915 ..... 5376

1920 ..... 5376  
 1930 ..... 5376  
 3000 ..... 2603

**234 Pa. Code (Rules of Criminal Procedure)**

**Adopted Rules**

1 ..... 1331, 2210, 2855, 3901, 5239  
 2 ..... 2210, 5678, 6087  
 4 ..... 2210, 3901, 4914  
 5 ..... 2210, 3901, 6089  
 6 ..... 2868, 3917  
 7 ..... 2855, 3217, 3543  
 9 ..... 2855, 5771  
 10 ..... 3901, 4914, 5239

**Proposed Rules**

1 ..... 1556, 5676, 5768  
 2 ..... 2861  
 4 ..... 2863  
 5 ..... 1558, 2865  
 6 ..... 2867  
 10 ..... 1416

**237 Pa. Code (Juvenile Rules)**

**Adopted Rules**

1 ..... 2214  
 2 ..... 2214  
 3 ..... 2214  
 4 ..... 2214  
 5 ..... 2214  
 6 ..... 2214  
 8 ..... 2214

**Proposed Rules**

11 ..... 4561  
 12 ..... 4561  
 13 ..... 4561  
 14 ..... 4561

15 ..... 4561  
 16 ..... 4561  
 17 ..... 4561  
 18 ..... 4561

**246 Pa. Code (Minor Court Civil Rules)**

**Adopted Rules**

100 ..... 6228  
 200 ..... 10  
 300 ..... 10  
 400 ..... 3218  
 500 ..... 10

**Proposed Rules**

100 ..... 1974, 4306  
 200 ..... 1560, 2258, 5679  
 300 ..... 2258  
 400 ..... 245  
 500 ..... 2258

**249 Pa. Code (Philadelphia Rules)**

Unclassified ... 1334, 1880, 1975, 1977, 2096, 2272, 2605,  
 3290, 3404, 3658, 4088, 4179, 4182, 4186, 6091

**252 Pa. Code (Allegheny County Rules)**

Unclassified ..... 1881, 2273

**255 Pa. Code (Local Court Rules)**

Unclassified ... 12, 246, 251, 350, 501, 505, 647, 654, 736,  
 1190, 1196, 1334, 1417, 1419, 1561, 1566, 1759,  
 1882, 1883, 1978, 1979, 2097, 2099, 2390, 2618,  
 2722, 2727, 2870, 2871, 2874, 2875, 2995, 3004,  
 3014, 3018, 3290, 3291, 3660, 3921, 3922, 4088,  
 4594, 4595, 4709, 4920, 5003, 5094, 5095, 5245,  
 5378, 5518, 5772, 5773, 5954, 5982, 5983, 5984,  
 6091, 6092, 6321, 6322, 6323, 6431, 6432, 6494,  
 6502, 6656, 6747

# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER NO. 2004-12]

#### Energy Management and Conservation in Commonwealth Facilities

December 15, 2004

*Whereas*, the cost of energy continues to rise and traditional sources of non-renewable energy continue to be depleted at a rapid pace; and

*Whereas*, the Commonwealth is a leading consumer of energy throughout Pennsylvania; and

*Whereas*, the Commonwealth must demonstrate leadership in the conservation of energy by reducing the amount of energy we consume in our own facilities; and

*Whereas*, the Department of General Services has the primary responsibility for the operation of Commonwealth-owned buildings in Harrisburg and is the primary operational agency of the Commonwealth; and

*Whereas*, the Department of Environmental Protection has substantial expertise in the conservation of energy and effective energy management techniques; and

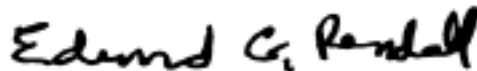
*Whereas*, the Executive Agencies of the Commonwealth are primarily responsible for energy management and conservation in the buildings they occupy; and

*Whereas*, all Executive Agencies must work together to conserve energy and reduce energy usage; and

*Whereas*, the Commonwealth currently lacks a unified approach to energy management and conservation in Commonwealth facilities; and

*Whereas*, maximum efficiency in energy management and conservation is best achieved through the implementation of a centralized energy strategy coordinated through a single agency.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby issue the following *Executive Order*.



*Governor*

**Fiscal Note:** GOV-04-10. No fiscal impact; recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

#### Subchapter PP. ENERGY MANAGEMENT AND CONSERVATION IN COMMONWEALTH FACILITIES

- Sec.  
 1.501. Responsibilities.  
 1.502. Cooperation among executive agencies and independent agencies.  
 1.503. Definitions.  
 1.504. Effective date.  
 1.505. Termination date.

**§ 1.501. Responsibilities.**

(a) The Department of General Services (Department) shall act as the centralized coordinator of the Commonwealth's energy management and conservation measures in Commonwealth facilities for the executive agencies. In this role, the Department shall:

(1) Work with all agencies of the Commonwealth on effective methods to include energy conservation as part of any new construction project or renovation project, by way of green building practices or otherwise, and work collectively to track and monitor the results of the energy conservation methods.

(2) Apply Life Cycle Cost Analysis to the selection of energy sources, systems and controls for all new construction projects and renovation projects.

(3) Implement programs to train appropriate personnel in Life Cycle Cost Analysis.

(4) Act as the centralized authority for all Energy Service Company (ESCO) Projects implemented by the Executive agencies. In this role, the Department shall:

(i) Act as the approving authority for all ESCO Projects requested by the executive agencies.

(ii) Develop standard procedures by which ESCO Projects may be awarded.

(iii) Develop a comprehensive approach to ESCO applicable to all executive agencies.

(iv) Provide advisory services and guidance to the executive agencies for the conception and implementation of ESCO Projects.

(v) Seek to develop and implement a single financing source for all ESCO Projects.

(5) Develop procedures to reduce energy use in all leased facilities, including the possible centralized purchasing of energy for Commonwealth leases and including energy conservation measures in lease specifications.

(6) Procure Energy Star® and other energy efficient products where economical and consistent with Life Cycle Cost Analysis.

(7) Research new and innovative methods of energy conservation.

(8) Benchmark best practices for energy conservation technologies with other public and private sector organizations.

(b) The Department and all other executive agencies shall:

(1) Develop no-cost or low-cost energy conservation measures for all Commonwealth-owned and leased buildings. The measures should include, at a minimum, the following:

(i) The reduction of energy use during peak demand periods.

(ii) The measures to ensure that lighting systems are turned off during nonoperating hours.

(iii) The conversion to more energy efficient systems and bulbs as existing systems and bulbs reach the end of their life cycles.

(iv) The maximum use of natural lighting whenever possible and consistent with temperature control.

(v) Measures to ensure that HVAC systems operate at reduced levels during nonoperating hours.

(vi) Measures to ensure that all equipment powered electricity, including computer equipment, is turned off when not in use and that personal computers go into "sleep" mode after 5 minutes of inactivity.

(vii) Temperature reduction for hot-water heaters in all facilities except where operational needs require a specific water temperature.

- (viii) The removal of lighting from all vending machines in lighted areas.
  - (ix) The removal or reduction of all other nonessential lighting.
  - (x) The maximum use of task lighting.
  - (xi) The setting of refrigerators to the highest temperature.
  - (xiii) The prohibition of personal space heaters except in areas where central HVAC systems cannot provide adequate heat under objective standards.
  - (xiv) The insulation of all hot water or steam pipes and hot water heaters.
  - (xv) The replacement of conventional light switches with motion-sensor switches.
  - (xvi) The replacement of incandescent lights in exit signs with LED fixtures.
  - (xvii) The maximum use of more energy efficient office equipment and turning off personal computers, printers and other office equipment during nonbusiness hours.
  - (xvii) Frequent cleaning of light fixtures.
  - (xviii) Frequent cleaning and maintenance of HVAC systems and routine replacement of filters.
  - (xix) Improved insulation of windows, doors, walls, roofs, floors and sealing of ductwork.
  - (xx) The closing of all windows during heating and cooling periods.
- (2) Develop additional energy conservation methods based upon their individual operational missions.
  - (3) Designate facilities managers with primary responsibility to ensure that energy conservation measures are developed and complied with.
  - (4) Engage janitorial crews and security forces in the implementation of energy conservation measures.
  - (5) Continue to explore the use of ESCO Projects, Energy Star® products, green building practices and other similar energy conservation measures and implement the programs where appropriate.
  - (6) Explore recommissioning or other adjusting of HVAC systems ensure maximum efficiency.
  - (7) Develop a long-range energy use and conservation plan for each executive agency.
  - (8) Develop programs to educate and train employees in energy conservation methods.
- (c) By June 13, 2005, executive agencies shall file a report with the Department setting forth all measures taken to implement this subchapter.
  - (d) The Department of Environmental Protection shall:
    - (1) Provide advice and assistance to the Department and executive agencies in developing the energy management and conservation requirement of this subchapter.
    - (2) On a continuing basis, develop and recommend additional no-cost or low-cost energy conservation measures to be implemented by the Department and the executive agencies.
    - (3) Develop long-range energy management and conservation methods to be applied in Commonwealth facilities.
  - (e) The Office of Administration shall ensure that specific energy management responsibilities are incorporated into relevant job descriptions in all executive agencies.

**§ 1.502. Cooperation among executive agencies and independent agencies.**

The Department of General Services may request and receive from any executive agency cooperation, information and data needed to properly implement the intent of this subchapter. Independent agencies not directly under the Governor's jurisdiction are also encouraged to participate in the provisions of this subchapter.

**§ 1.503. Definitions.**

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

*Energy Star® Products*—Those products that have been designated as such by the United States Environmental Protection Agency or the United States Department of Energy and therefore use less energy, save money, and help protect the environment.

*Energy Service Company (ESCO) Project*—A guaranteed energy savings contract, as defined in the Alternative Fuels Incentive Act (73 P. S. §§ 1646.1—1646.7), providing for the acquisition of comprehensive capital energy improvements and services provided by qualified energy service companies where the energy and cost savings achieved by the installed energy project cover all project costs, including financing, over a specified contract term.

*Executive agencies*—Those agencies as defined in 62 Pa.C.S. § 103 (relating to definitions).

*Green building practices*—Techniques that promote construction of buildings that are healthier for both the environment and the occupants through a variety of methods, including energy and water conservation, environmentally sensitive site planning, the use of resource efficient building materials, and superior indoor environmental quality.

*Life-Cycle Cost Analysis*—A methodology for calculating the whole cost of a system from inception to disposal.

*Peak demand periods*—The times during a given day when energy use is at its highest and costs are greatest, particularly afternoons on hot days.

**§ 1.504. Effective date.**

This subchapter takes effect immediately.

**§ 1.505. Termination date.**

This subchapter will remain in effect unless revised or rescinded by the Governor.

[Pa.B. Doc. No. 05-2303. Filed for public inspection December 16, 2005, 9:00 a.m.]

**PART I. GOVERNOR'S OFFICE**

**[4 PA. CODE CH. 6]**

**[EXECUTIVE ORDER 2003-1]**

**Commonwealth's Health Care Reform Agenda**

January 21, 2003

*Whereas*, the citizens of the Commonwealth are entitled to an accessible and affordable health care system of the highest quality; and

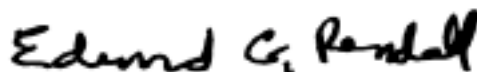
*Whereas*, the Commonwealth agencies responsible for administering and delivering health care services have over time been delegated overlapping responsibilities; and

*Whereas*, due to redundant responsibilities, the current health care system is subject to unnecessary duplication, inefficiency, and added costs; and

*Whereas*, it is the responsibility of the Commonwealth to determine how best to reform Pennsylvania's health care system and to develop sound fiscal policy so as to resolve the concerns of the Commonwealth's patients, health care providers, and insurance carriers; and

*Whereas*, the establishment of an Office of Health Care Reform and the establishment of the Governor's Health Care Reform Cabinet will coordinate and implement the Commonwealth's Health Care Reform Agenda.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby establish the Office of Health Care Reform and the Governor's Health Care Reform Cabinet. By doing so, I invest it with the necessary powers to perform the duties and functions set forth herein and to advise and counsel me in the development and operation of the Commonwealth's Health Care Reform Agenda.



Governor

**Fiscal Note:** GOV 03-1. (1) General Fund; (2) Implementing Year 2004-05 is \$1.209 million; (3) 1st Succeeding Year 2005-06 is \$1.209 million; 2nd Succeeding Year 2006-07 is \$1.209 million; 3rd Succeeding Year 2007-08 is \$1.209 million; 4th Succeeding Year 2008-09 is \$1.209 million; 5th Succeeding Year 2009-10 is \$1.209 million; (4) 2003-04 Program—\$N/A; 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; (7) General Government Operations; (8) recommends adoption.

#### Annex A

### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

#### Subchapter R. COMMONWEALTH'S HEALTH CARE REFORM AGENDA

Sec.	
6.251.	Office of Health Care Reform.
6.252.	Governor's Health Care Reform Cabinet.
6.253.	Relationship with other agencies.
6.254.	Effective date.
6.255.	Termination date.

#### § 6.251. Office of Health Care Reform.

The Office of Health Care Reform shall be managed by the Director of the Office of Health Care Reform (Director), who serves at the pleasure of, and reports directly to, the Governor. The Director, in consultation with the Office of Administration, shall determine the appropriate staffing levels and associated classifications necessary to support the operation of the Office of Health Care Reform.

(1) *Responsibilities.* The purpose of the Office of Health Care Reform is to coordinate the Commonwealth's Health Care Reform Agenda. In coordinating the Commonwealth's Health Care Reform Agenda, the Office of Health Care Reform shall:

(i) Facilitate the analysis of administrative, fiscal and regulatory policies and practices.

(ii) Oversee the redesign of operations and infrastructure.

(iii) Direct the creation and maintenance of a system to assure the accountability of designated agencies for their assigned powers, duties and responsibilities.

(2) *Authority.* The Office of Health Care Reform shall, at the direction of the Governor, direct the restructuring of the Commonwealth's health care system and the implementation of its Health Care Reform Agenda.

(3) *Reporting.* The Office of Health Care Reform will not have line responsibility for day-to-day operations of the departments, agencies, commissions and offices with a health care purview or regulatory function. Certain relevant policy and process experts from throughout the government shall be designated “on-loan” or detailed to report to the Director to aid its mission. In addition, members of the Governor’s Health Care Reform Cabinet shall report to the Office of Health Care Reform and all accountabilities related to the Commonwealth’s Health Care Reform Agenda.

(4) *Health Care Reform Advisory Council.* The Office of Health Care Reform shall establish a Health Care Reform Advisory Council (Advisory Council), consisting of stakeholder experts recommended by the Director and appointed by the Governor. The Advisory Council shall advise the Director, and the Governor’s Health Care Reform Cabinet on matters relating to health care. The Director is the Chairperson of the Advisory Council.

(i) *Terms.* The members of the Advisory Council serve at the pleasure of the Governor.

(ii) *Compensation.* Members of the Advisory Council serve without compensation for their services. The members of the Advisory Council may be reimbursed the necessary and actual expenses incurred in attending meetings of the Advisory Council and in the performance of their duties in accordance with established Commonwealth policy. See Chapter 40 (relating to travel and subsistence).

#### **§ 6.252. Governor’s Health Care Reform Cabinet.**

(a) *Responsibilities.* The Governor’s Health Care Reform Cabinet shall advise the Director of the Office of Health Care Reform (Director) and the Governor on matters related to health care reform and direct government resources in the implementation of the Health Care Reform Agenda. The Director is the Chairperson for the Governor’s Health Care Reform Cabinet.

(b) *Composition.* The Governor’s Health Care Reform Cabinet consists of the following officials and individuals:

- (1) The Director of the Office of Health Care Reform.
- (2) The Secretary of Aging.
- (3) The Adjutant General.
- (4) The Secretary of Health.
- (5) The Commissioner of Insurance.
- (6) The Secretary of Public Welfare.
- (7) The Director of the Governor’s Policy Office.

(8) Additional members as may be recommended by the Director and appointed by the Governor.

#### **§ 6.253. Relationship with other agencies.**

The agencies under the Governor’s jurisdiction shall cooperate with and provide assistance and support to the Office of Health Care Reform and the Governor’s Health Care Reform Cabinet. The Office of Health Care Reform shall also be directed and appointed by the Governor to participate in certain other commissions, panels, cabinet and initiatives.

#### **§ 6.254. Effective date.**

This subchapter takes effect immediately.



**§ 6.255. Termination date.**

This subchapter shall remain in effect unless revised or rescinded by the Governor.

[Pa.B. Doc. No. 05-2304. Filed for public inspection December 16, 2005, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE  
[4 PA. CODE CH. 6]  
[ EXECUTIVE ORDER NO. 2004-8 ]

**Enterprise Information Technology Governance Board**

April 29, 2004

*Whereas*, historically, the Commonwealth's information technology (IT) policy for the governance of IT initiatives throughout the Enterprise has been largely decentralized; and

*Whereas*, Commonwealth offices under the Governor's jurisdiction invest approximately one billion dollars annually to create and support IT infrastructure and systems; and

*Whereas*, The Administrative Code of 1929 requires administrative departments and several independent and departmental administrative boards to coordinate their work and activities with other departments, boards, and commissions; and

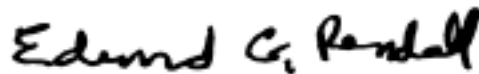
*Whereas*, IT investments and development efforts should be prioritized across the Commonwealth and coordinated across agencies to enhance information sharing, standardization, and cost-effectiveness; and

*Whereas*, coordinated technology standardization across Commonwealth agencies will increase the effectiveness of product development projects, reduce research and development investments, enable volume hardware and software purchases, and enhance system compatibility and data sharing; and

*Whereas*, an integrated IT strategy will improve organizational efficiency, streamline data collection and data sharing, and enhance the security of the Commonwealth IT infrastructure from cyber attacks; and

*Whereas*, no central IT organization currently exists to govern, evaluate, and monitor agency IT planning, research, project prioritization, investment, and effectiveness. Therefore, it is imperative to establish an Enterprise IT Governance Structure to facilitate a cost-effective, coordinated technology investment strategy that effectively leverages IT resources and data systems across Commonwealth agencies.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws do hereby establish an Enterprise Information Technology Governance Board and order and direct as follows.



*Governor*

**Fiscal Note:** GOV-04-13. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 4. ADMINISTRATION

## PART I. GOVERNOR'S OFFICE

## CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter Q. ENTERPRISE INFORMATION TECHNOLOGY  
GOVERNANCE BOARD

Sec.	Purpose.
6.241.	Purpose.
6.242.	Powers and duties.
6.243.	Composition.
6.244.	Responsibilities of the Governor's Office of Administration, Office for Information Technology.
6.245.	Communities of practice.
6.246.	Agency information technology requirements.
6.247.	Effective date.

**§ 6.241. Purpose.**

The purpose of the Enterprise Information Technology (IT) Board is to establish an Enterprise IT Governance Structure to oversee the investment and performance of information solutions across the Commonwealth's agencies and to advise and counsel the Governor on the development, operation and management of the Commonwealth's IT investments, resources and systems.

**§ 6.242. Powers and duties.**

(a) The Enterprise Information Technology (IT) Board (Board) will:

- (1) Define a strategic vision for Commonwealth IT operations.
- (2) Establish program priorities.
- (3) Approve IT planning.
- (4) Direct IT investments.
- (5) Oversee IT purchasing and policy.

(b) The Board will have the authority to resolve interagency disputes, make and implement recommendations on staffing and operational issues, monitor project performance and perform other duties as assigned by the Governor.

**§ 6.243. Composition.**

(a) The Governor will designate one person from the Enterprise Information Technology Board (Board) to serve as chairperson for the purposes of convening meetings and conducting business.

(b) The Board will be composed of the following:

- (1) Secretary of Administration.
- (2) Secretary of the Budget.
- (3) Secretary of General Services.
- (4) Governor's Chief of Staff.
- (5) Deputy Secretary for Information Technology/Office of Administration, who serve as the Commonwealth's Chief Information Officer.
- (6) Other members as deemed necessary by the Governor.

**§ 6.244. Responsibilities of the Governor's Office of Administration, Office for Information Technology.**

The Governor's Office of Administration, Office for Information Technology (IT) will be responsible for:

- (1) Implementing policy, planning and budget directives adopted by the Enterprise Information Technology Governance Board (Board), including monitoring projects approved by the Board.
- (2) Making recommendations to the Governor through the Board on IT-related budget requests; monitoring annual enterprise-wide IT spending; and reviewing and approving, prior to submission to the Department of General Services, all IT sole source requests as well as providing preissu-

ance approval for all agency requests for proposal, invitation to qualify scopes of work greater than an amount specified by the Board, and IT Emergency Contracts.

(3) Creating and maintaining a current Enterprise IT inventory.

(4) Managing a communities of practice planning process.

(5) Reviewing and approving all IT senior management appointments through the Deputy Secretary for Information Technology, who will provide a recommendation through the established senior level appointment process to the Governor's Office for all appointments to chief information officer (CIO) or information technology manager positions.

(6) Assisting in the performance appraisal of IT senior management appointments through the Deputy Secretary for Information Technology, who will co-evaluate the performance of CIOs in collaboration with the appropriate, responsible agency official.

(7) Establishing an enterprise architecture and deploy enterprise-wide technology, including establishing product standards, technical reviews of agency systems and establishing security procedures and protocols.

(8) Developing and deploying geographic information system and geospatial technology investments, including establishing data development priorities, interoperability and architecture standards for data sharing across agencies and with extended enterprise partners.

(9) Performing other IT-related activities as directed by the Board.

**§ 6.245. Communities of practice.**

The Governor's Office of Administration, Office for Information Technology (IT) will establish a communities of practice (CoP) planning process that will bring together agencies that share program and policy objectives, serve common populations or have compatible data collection and management needs. The CoP process will focus on enterprise IT planning and project prioritization to:

(1) Ensure that the IT projects funded in the Governor's budget are the most critical and are aligned with enterprise goals.

(2) Identify similar projects being addressed across multiple agencies and plan for the development of these initiatives in a collaborative, nonredundant manner.

**§ 6.246. Agency information technology requirements.**

Each executive agency under the Governor's jurisdiction shall:

(1) Establish a central information technology (IT) organization within the agency to manage IT processes.

(2) Submit an annual strategic plan to the Governor's Office of Administration, Office for Information Technology.

(3) Comply with enterprise hardware and software standards established by the Board.

(4) Comply with enterprise security policy and conduct periodic security audits.

**§ 6.247. Effective date.**

This subchapter takes effect immediately.

[Pa.B. Doc. No. 05-2305. Filed for public inspection December 16, 2005, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

#### Promulgation of Consumer Price Index and Judicial Salaries Pursuant to Act 51 of 1995; No. 279 Judicial Administration; Doc. No. 1

#### Order

*Per Curiam:*

And Now, this 5th day of December, 2005, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 2006, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq., and as authorized by Act 72 of November 16, 2005 (P. L. 385, No. 72).

#### Annex A

### TITLE 204. JUDICIAL SYSTEM PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 211. JUDICIAL SALARIES

Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 2006, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq., and as authorized by Act 72 of November 16, 2005 (P. L. 385, No. 72). See, No. 279 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending October 2005, was 3.6 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Wednesday, November 16, 2005).

The Court Administrator of Pennsylvania also reports that the following judicial salaries are adopted to implement Act 51 of 1995:

Section 2.1. Judicial salaries **effective January 1, 2006.**

(a) *Supreme Court.*—The annual salary of the Chief Justice of the Supreme Court shall be \$160,009 and the annual salary of each of the other justices of the Supreme Court shall be \$155,783.

(b) *Superior Court.*—The annual salary of the President Judge of the Superior Court shall be \$153,181 and the annual salary of the other judges of the Superior Court shall be \$150,903.

(c) *Commonwealth Court.*—The annual salary of the President Judge of the Commonwealth Court shall be \$153,181. The annual salary of each of the other judges of the Commonwealth Court shall be \$150,903.

(d) *Courts of common pleas.*—

(1) The annual salary of a president judge of a court of common pleas shall be fixed in accordance with the following schedule:

(i) Allegheny County, \$137,895.

(ii) Philadelphia County, \$138,546.

(iii) Judicial districts having six or more judges, \$136,595.

(iv) Judicial districts having three to five judges, \$135,944.

(v) Judicial districts having one or two judges, \$135,293.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$136,595.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$135,944.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$136,595.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$135,944.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$135,293.

(e) *Philadelphia Municipal Court.*—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$133,992. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$131,717.

(f) *Philadelphia Traffic Court.*—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$71,551. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$70,901.

(g) *Magisterial District Judge.*—A magisterial district judge shall receive an annual salary payable by the Commonwealth of \$66,998.

(h) *Senior judges.*—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$415 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 05-2306. Filed for public inspection December 16, 2005, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### LEHIGH COUNTY

#### Administrative Order Amendment to the Fee Schedule of the Clerk of Courts—Civil Effective January 1, 2006; No. 2005-J-48

##### Order

And Now, this 30th day of November, 2005, *It Is Ordered* that the Fee Schedule of the Lehigh County Clerk of Courts—Civil Division which has been approved and adopted effective January 1, 2006, be amended to add a Custody Contempt Fee in the amount of Twenty-Two Dollars and Seventy-Five cents (\$22.75).

The Court Administrator of Lehigh County is directed to:

1. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
4. File one (1) copy with the Clerk of Courts of the Lehigh County Court of Common Pleas.
5. Forward one (1) copy for publication in the *Lehigh County Law Journal*.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

[Pa.B. Doc. No. 05-2307. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Craig E. Parles having been disbarred by consent from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated June 21, 2005, the Supreme Court of Pennsylvania issued an Order on December 1, 2005, disbaring Craig E. Parles from the Bar of this Commonwealth, effective December 31, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 05-2308. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that George R. Hamo having been suspended from the practice of law in the State of Michigan for a period of 120 days by Order of the State of Michigan Attorney Discipline Board dated March 7, 2005, the Supreme Court of Pennsylvania issued an Order dated December 1, 2005, suspending George R. Hamo from the practice of law in this Commonwealth for a period of 120 days. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside 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. 05-2309. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that Bonnie Rivera of Las Vegas, Nevada, has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated October 24, 2005, pursuant to Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175.00. The Order became effective November 23, 2005.

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

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

[Pa.B. Doc. No. 05-2310. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated October 27, 2005, pursuant to Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175.00. The Order became effective November 26, 2005.

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

Aham-Neze, L. Obioma  
 Houston, TX

Ahn, Suzin  
 Skillman, NJ

Aho, Zachary Dale  
 Hammonton, NJ

Andreos, Roberto Alejandro  
 Sacramento, CA

Anthony Jr., Fred Paul  
 Tucker, GA

Augenbraun, Sara Lou S.  
 Wilton, CT

Bancks, Daryl Ann  
 Whippany, NJ

Bayer, Michael  
 Silver Spring, MD

Bellwoar, John M.  
 Glastonbury, CT

Bennett, Bruce Lamar  
 Little Rock, AR

Bernatavicius, Edward K.  
 Phoenix, AZ

Bitters, Holly Denise  
 Greenwich, NJ

Block, Mark Jeffrey  
 Nashville, TN

Brandt, Rebecca K.  
 Denver, CO

Braverman, Fred Ronald  
 Cherry Hill, NJ

Brown, Jan A.  
 Niskayuna, NY

Buterbaugh, Toby L.  
 Baltimore, MD

Camilli, Susan M.  
 Hartford, CT

Campbell, Jamie Eve  
 Titusville, FL

Canzius, Preston Marlon  
 Redmond, WA

Cessario, Lorraine Christie  
 Elkton, MD

Chadwick, Brian Paige  
 London, UK

Chandler Jr., Fred Clark  
 Haddonfield, NJ

Christian, Allan A.  
 St. Croix, VI

Cobb, Raymond William  
 Wilmington, DE

Coleman, Ryan Reese  
 Turnersville, NJ

Cooper II, Charles David  
 Dayton, OH

Coughlan, Kenneth James  
 Havre de Grace, MD

Crawford, Nicole Dorsena  
 Brooklyn, NY

Creelman, William J.  
 Cherry Hill, NJ

Crum, Robin M.  
 Wheeling, WV

Degnan, Laura Gerilyn  
 Lutherville, MD

DiDomenico, Tina A.  
 Mt. Laurel, NJ

Dierig, Jennifer Lynn  
 Marietta, OH

Disheroon, Cara Lynn  
 Milano, Italy

DiVecchio, Elizabeth Ann  
 Fairfax, VA

Dorris, Evanjerl  
 Washington, DC

Dutt, Christine R.  
 Boston, MA

Ebenfeld, Gregory Allen  
 Cooper City, FL

Edwards, Trevor  
 Akron, OH

Evans, Mechelle  
 South Orange, NJ

Fields, Beatrix Davis  
Washington, DC

Forrister, Derrick Lloyd  
London, UK

Gluch, James J.  
Toms River, NJ

Gozdan, Michael  
Mount Laurel, NJ

Graham, Beverly  
Atlantic City, NJ

Greene, Reginald D.  
Bowie, MD

Greenspan, Mitchell S.  
Miami, FL

Harmon, David Eric  
Camden, NJ

Henderson, Thomas J.  
Burke, VA

Hogan, Austin  
Somers Point, NJ

Hopf III, Richard H.  
Fairfax Station, VA

Hopper, John W.  
Cincinnati, OH

Kaloudis, Dionisia  
Richmond Hill, NY

Kendall, Paul F.  
Ellicott City, MD

Kern, Joshua M.  
Washington, DC

Killough, Jennifer  
Trenton, NJ

Kim, John K.  
Edgewater, NJ

Knaster, Irina  
Moscow, Russia

Kurtanich, Adrienne Diane  
New York, NY

Landron, Sandra L.  
New York, NY

Lipkowitz, Alan Howard  
Miami Beach, FL

Lockrey, Paul A.  
Shamong, NJ

Lopez-Baldrich II, Pedro Jose  
Burlington, VT

Marek, Gary M.  
Mt. Laurel, NJ

McGuire Jr., Edward D.  
Alexandria, VA

Meder, Martin G.  
Neenah, WI

Mendy, Edward Bissau  
New Orleans, LA

Messing, Carol Susan  
Silver Spring, MD

Micklin, Brad Michael  
Nutley, NJ

Migliaccio, Michael  
New York, NY

Mikkilineni, Rupa  
New York, NY

Millar, Fredrick Lloyd  
Rancho Murieta, CA

Mitchell, Andrellos Cordell  
Washington, DC

Mitlitzky, Steven Ross  
Woodmere, NY

Moughan Jr., Peter R.  
Albuquerque, NM

Musser, Nancy L.  
Novato, CA

Nassau, Arthur G.  
Ft. Lauderdale, FL

Norman, Tony  
Washington, DC

Orraca, Felix  
New York, NY

Pan, Qi  
Shanghai, China

Panzitta, Elaine M.  
Washington, DC

Pasquariello, Anthony James  
Fairfield, NJ

Peterson, Daniel J.  
Syracuse, NY

Poindexter, Obrea Otey  
Clarksville, MD

Ramsey, George Christopher  
Seattle, WA

Rednor, Howard S.  
Trenton, NJ

Richards, Sheryl Denise  
Marlton, NJ

Rosenwald Jr., Robert F.  
Miami, FL

Rudder, Suzanne  
Cherry Hill, NJ

Saetta, Christina Marie  
Mullica Hill, NJ

Schwartz, Rose Ellen  
New York, NY

Sharinn, Todd S.  
New York, NY

Steady, Jacqueline M.  
Cape May, NJ

Surenian, Jeffrey R.  
Toms River, NJ

Sweeney, Brendan  
 New York, NY  
 Taggart, Ward Shaffer  
 Trenton, NJ 08608  
 Tucker, Shelley Lane  
 Anchorage, AK  
 Walsh, Jane  
 Poland, OH  
 Wilson, William T.  
 St. Charles, IL  
 Wollett, William R.  
 Plano, TX  
 Woods, Kelly Nicole  
 North Brunswick, NJ

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

[Pa.B. Doc. No. 05-2311. Filed for public inspection December 16, 2005, 9:00 a.m.]

# SUPREME COURT

Temporary Transfer of Judicial Proceedings; No.  
 278 Judicial Administration; Doc. No. 1

## Order

*Per Curiam:*

*And Now*, this 2nd day of December, 2005, pursuant to the general supervisory powers in Article V, Section 10, of the Pennsylvania Constitution, it is hereby *Ordered* that, commencing January 2006, all judicial proceedings docketed in the Court of Common Pleas of the Thirty-Seventh Judicial District of Pennsylvania, Forest County, shall be heard in Warren County. Any jurors for cases in Forest County shall be selected from Forest County and transported to Warren County. This order shall continue for the period during which the Forest County Courthouse is being renovated.

[Pa.B. Doc. No. 05-2312. Filed for public inspection December 16, 2005, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130e]

### Commercial Manure Hauler and Broker Certification

The Department of Agriculture (Department), under the the Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. §§ 2010.1—2010.12), and under the specific authority of section 3 of the act (3 P. S. § 2010.3), regarding commercial manure hauler and broker certification program, proposes to add Chapter 130e (relating to commercial manure hauler and broker certification).

Section 3(a)(1) of the act charges the Department, in consultation with the State Conservation Commission (Commission) and the Nutrient Management Advisory Board, with the duty of establishing, "... within 18 months of the effective date of this act . . . a commercial manure hauler and broker certification program . . . The department shall by regulation establish such terms, conditions and fees for certification as it deems appropriate." With regard to the certification program, the regulations are required, at a minimum, to address laws and regulations pertaining to manure application, information necessary for understanding and following a nutrient management plan and nutrient balance sheet, training in the development and filing of a nutrient balance sheet, best management practices with respect to manure hauling and application, safety procedures, calibration of application rates for various types of equipment, setback requirements, nutrient runoff concerns, incorporation techniques, recordkeeping requirements necessary to meet the act and 3 Pa.C.S. Chapter 3 and 5 (relating to local regulation; and nutrient management and odor management). In addition, the Department has the authority to approve training and education programs developed by The Pennsylvania State University and other educational institutions or entities that meet the requirements of the act and these regulations.

The regulations are required to establish a certification program through which all persons hauling or applying manure generated by an agricultural operator can obtain the certification required by the act. The regulations set forth procedures and requirements related to the certification of commercial manure haulers and brokers, establish fees and delineate course and certification requirements, provide for various levels of certification, denote application, approval and appeal procedures for persons seeking certification, set forth criteria for approval of training and education programs developed by The Pennsylvania State University and other educational institutions or entities and detail recordkeeping requirements necessary to meet the requirements of the Nutrient Management Act and the act. It must be noted that the Nutrient Management Act has been repealed and replaced by the act of July 6, 2005 (P. L. 112, No. 38) (Act 38), codified at 3 Pa.C.S. Chapters 3 and 5 (relating to local regulation; and nutrient management and odor management), which took effect July 6, 2005.

#### Background

The proposed regulations are made necessary by and are established under the authority of, and in accordance with, the act.

The major features and amendments to the proposed regulations are summarized as follows:

#### *Summary of major features*

##### *§ 130e.1. Scope.*

This section sets forth the scope of the regulation and gives a brief synopsis of what is covered in the regulations.

##### *§ 130e.2. Definitions.*

This section defines key terms that are utilized in the regulations.

##### *§ 130e.3. Fees.*

This section establishes the certification and examination fees that will be charged by the Department for each category (commercial manure hauler or commercial manure broker) and the level of certification.

##### *§ 130e.4. Prohibitions.*

This section reiterates the general premise of the act with regard to the prohibition regarding hauling or land applying manure without being properly certified and provides a general overview of the requirements that must be met prior to a commercial manure hauler or broker hauling or land applying manure.

##### *§ 130e.5. Authority, duties and prohibitions.*

This section delineates the general authority, duties and prohibitions established by the act and the regulations regarding each category (commercial manure hauler or commercial manure broker) and the level of certification.

##### *§ 130e.6. Display of certification.*

This section establishes the requirement that every commercial manure hauler or broker prominently display on every vehicle involved in transport or land application, or both, of manure the certification number assigned by the Department. It further establishes the size of the certification number and requires that the numbers contrast with the color of the vehicle and be displayed on both sides of the vehicle. This section also sets forth the requirement that every certified commercial manure broker and certified commercial manure hauler shall carry on their person or in the vehicle being utilized to transport or land apply manure, or both, a copy of their current certificate. In addition, this section creates the rule that the certification number of the commercial manure broker or commercial manure hauler shall be included in any contract or agreement entered into by that commercial manure broker or commercial manure hauler to transport or land apply manure, or both.

##### *§ 130e.7. Notice of change in business certification.*

This section sets forth the rule that all certified commercial manure brokers and certified commercial manure haulers notify the Department in writing within 15 days of a change in information regarding their level of certification or if that person is no longer engaged in or no longer intends to be engaged in the transport or land application of manure, or both.

##### *§ 130e.11. Determination of competence.*

This section sets forth the competency requirements which must be met for a person to attain a level 1 or level 2 commercial manure broker certification. This section establishes the topics that must be addressed in a level 1

and a level 2 commercial manure broker certification orientation training course, denotes that certification does require a class-room setting for both the certification orientation training courses and the written examinations required for both levels of certification and delineates the overall criteria for the level 1 and level 2 commercial manure broker certification written examinations.

*§ 130e.12. Certification requirements.*

This section sets forth the general requirement that all commercial manure brokers obtain certification as a commercial manure broker prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. This section also addresses the requirements established by the act with regard to a commercial manure broker acting as a contract agent for an agricultural operator required by section 5 of the act (3 P. S. § 2010.5) to use a certified commercial manure hauler or certified commercial manure broker. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 1 or level 2 commercial manure broker certificate. It also addresses the process to be followed in the event an applicant is rejected and denotes the process necessary for a level 1 certified commercial manure broker to attain a level 2 certification.

*§ 130e.21. Determination of competence.*

This section sets forth the competency requirements which must be met for a person to attain a level 1 commercial manure hauler certification. The section establishes the topics that must be addressed in a level 1 commercial manure hauler certification orientation-training course, denotes that certification does not require a class-room training course or class-room setting for the written examination, but instead will be done through a training manual and a proctored test at one of various locations in the regulations. The section specifically delineates the overall criteria for the level 1 commercial manure hauler training manual and written examination.

*§ 130e.22. Certification requirements.*

This section sets forth the general requirement that all commercial manure haulers obtain some level of certification prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. It establishes the authority and prohibitions of a level 1 commercial manure hauler. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 1 commercial manure hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

*§ 130e.31. Determination of competence.*

This section sets forth the competency requirements which must be met for a person to attain a level 2 commercial manure hauler certification. The section establishes the topics that must be addressed in a level 2 commercial manure hauler certification orientation-training course, denotes that such certification does not require a class-room training course or class-room setting

for the written examination, but instead will be done through a training manual and a proctored test at one of various locations in the regulations. The section specifically delineates the overall criteria for the level 2 commercial manure hauler training manual and written examination.

*§ 130e.32. Certification requirements.*

This section sets forth the general requirement that all commercial manure haulers obtain certification as a level 2 commercial manure hauler prior to land applying manure. It establishes the authority and prohibitions of a level 2 commercial manure hauler. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 2 commercial manure hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

*§ 130e.41. Determination of competence.*

This section sets forth the competency requirements which must be met for a person to attain a level 3 commercial manure hauler certification. The section establishes the topics that must be addressed in a level 3 commercial manure hauler certification orientation-training course, denotes that such certification does require a class-room setting for both the certification orientation-training course and the written examination. The section specifically delineates the overall criteria for the level 3 commercial manure hauler written examinations.

*§ 130e.42. Certification requirements.*

This section sets forth the general requirement that all commercial manure haulers obtain certification as a level 3 commercial manure hauler prior to land applying manure without direct supervision or supervising another certified commercial manure hauler. This section also addresses the requirements established by the act with regard to a level 3 certified commercial manure hauler acting as a contract agent for an agricultural operator or a commercial manure broker. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 3 commercial manure hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

*§ 130e.51. Certification time frames and recertification requirements.*

This section establishes the time frame of validity for the different levels of commercial manure broker and commercial manure hauler certifications and sets forth the requirements for recertification at each level.

*§ 130e.52. Commercial manure broker and hauler continuing education requirements.*

This section establishes the general requirement that all certified commercial manure brokers and commercial manure haulers obtain continuing education credits. It further establishes specific continuing education interval time frames and course requirements for each level of certification. This section also sets forth the requirements for continuing education courses and credits, including the rate of accrual, credit hours and additional factors

including the consequences of not meeting the continuing education requirements. In addition, this section addresses the process to be followed in the event a commercial manure broker or commercial manure hauler fails to obtain continuing education credits. Furthermore, this section details the criteria to be utilized by the Department in determining whether to revoke or suspend a certification and sets forth the process for a commercial manure broker and commercial manure hauler to obtain certification once again.

*§ 130e.53. Continuing education credit course providers.*

This section details the review process and sets forth the criteria to be utilized by the Department in determining the eligibility of an applicant to provide continuing education courses. It establishes the parameters of the application content and the procedure for filing an application. In addition, this section addresses the process to be followed in the event the Department revokes or denies approval of a continuing education course, course provider or credit hours. It also addresses the monitoring process for a continuing education course.

*§ 130e.61. Denial, suspension and revocation of certificates.*

This section establishes the general power and authority the Department has to deny, suspend or revoke the certification of a commercial manure broker or commercial manure hauler. It further establishes specific situations in which the Department can exercise this power and authority. In addition, this section delineates the procedure for a person to appeal an order, revocation or suspension issued by the Department under this section.

*§ 130e.71. Recordkeeping.*

This section sets forth the general rule that commercial manure haulers and commercial manure brokers shall maintain records, which shall be open to inspection by the Department or its agents during regular business hours and shall be maintained for 3 years after the date of transport or land application of the manure, whichever is later. It further delineates the specific records that must be maintained by commercial manure haulers and commercial manure brokers.

*Fiscal Impact*

*Commonwealth*

The proposed regulations will impose additional fiscal impacts upon the Commonwealth for administration and enforcement. The regulations will require the Department to commit an additional amount of time and manpower to the development or overview and approval, or both, of commercial manure broker and commercial manure hauler certification orientation-training courses, training manuals, in-classroom and out of classroom examinations, development and review of continuing education courses, oversight of certification and recertification course providers, oversight of continuing education credit course providers and oversight and enforcement of the recordkeeping, certification, recertification and other general provisions of the regulations.

*Political subdivisions*

The proposed regulations will impose no additional costs and have no fiscal impact upon political subdivisions. The regulations do not impose any additional burden of enforcement of review on political subdivisions.

*Private sector*

The proposed regulations will impose additional costs on the regulated community (commercial manure brokers

and haulers), which is part of the private sector. The additional costs to the regulated community will be certification and testing fees necessary to obtain the certification requirements required by the act and the proposed regulations. In addition, the regulated community will be subject to the additional costs of attending continuing education courses and attaining the proper amount of continuing education credits required to comply with the commercial manure hauler and broker certification regulations. The regulated community will also face costs associated with the additional recordkeeping requirements established by the act and these regulations.

*General public*

The proposed regulations will impose no costs and have no fiscal impact on the general public, except that agricultural operators or exporters of manure may be subject to increased costs charged by commercial manure haulers and brokers, as a result of the certification requirements imposed by the act and the regulations.

*Paperwork requirements*

The proposed regulations will result in a substantial increase of paperwork. The Department will have to develop new application forms, training courses and training course manuals, tests booklets for every level of certification, nutrient balance sheet scenarios, sign-in forms for certification orientation training courses and testing and continuing education credit courses, as well as, recordkeeping forms and notification letters and enforcement documents.

*Public comment period*

Interested persons are invited to submit written comments regarding the proposed regulations within 30 days following publication in the Pennsylvania Bulletin.

*Regulatory review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Agriculture and Rural Affairs Committees. A copy of this material is available to the public upon request.

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

*Contact person*

Further information is available by contacting the Department of Agriculture, Commercial Manure Broker and Hauler Program, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Johan Berger (717) 772-4189.

*Effective date*

This proposed regulations will be effective upon final-form publication in the *Pennsylvania Bulletin*.

DENNIS C WOLFF,  
Secretary

**Fiscal Note:** 2-150. (1) General Fund; (2) Implementing Year 2004-05 is \$0; (3) 1st Succeeding Year 2005-06 is \$43,000; 2nd Succeeding Year 2006-07 is \$43,000; 3rd Succeeding Year 2007-08 is \$44,300; 4th Succeeding Year 2008-09 is \$45,800; 5th Succeeding Year 2009-10 is \$47,500; (4) 2003-04 Program—\$N/A; 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; (7) General Government Operations; (8) recommends adoption.

### Annex A

## TITLE 7. AGRICULTURE

### PART V. BUREAU OF PLANT INDUSTRY

#### CHAPTER 130e. COMMERCIAL MANURE HAULER AND BROKER CERTIFICATION

##### Subch.

- A. GENERAL PROVISIONS
- B. CERTIFICATION
- C. RECORD KEEPING

##### Subchapter A. GENERAL PROVISIONS

##### Sec.

- 130e.1. Scope.
- 130e.2. Definitions.
- 130e.3. Fees.
- 130e.4. Prohibition.
- 130e.5. Authority, duties and prohibitions.
- 130e.6. Display of certification.
- 130e.7. Notice of change in business or certification.

##### § 130e.1. Scope.

This chapter prescribes procedures relating to the certification of commercial manure haulers and brokers. It includes the establishment of fees, delineates the requirements for certification of commercial manure haulers and brokers, and sets forth criteria for approval of accredited certification programs.

##### § 130e.2. Definitions.

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

*Act*—The Commercial Manure Hauler and Broker Certification Act (3 P. S. §§ 2010.1—2010.12).

*Act 38*—3 Pa.C.S. §§ 313—318 and Chapter 5 (relating to nutrient management and order management).

*Act 38 of 2005 regulations*—The regulations associated with Act 38 found at 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management).

*Agricultural operation or operation*—The management and use of farming resources for the production of crops, livestock or poultry.

*Agricultural operator*—A person that has management control of an agricultural operation.

*BMP*—Best management practice—

(i) A practice or combination of practices determined by the State Conservation Commission to be effective and practicable (given technological, economic and institutional considerations) to manage nutrients to protect surface and groundwater taking into account applicable nutrient requirements for crop utilization.

(ii) The term includes:

- (A) Conservation tillage.
- (B) Crop rotation.
- (C) Soil testing.
- (D) Manure testing.
- (E) Diversions.

(F) Manure storage facilities.

(G) Stormwater management practices.

(H) Nutrient application.

(I) Practices set forth in Chapter 130b (relating to nutrient management certification)

*Board*—The Nutrient Management Advisory Board created under section 10 of Act 38 of 2005, 3 Pa.C.S. § 510.

*Certificate year*—The period from January 1—December 31

*Certification*—The completion of all requirements of a commercial manure hauler or broker contained in this chapter and final approval of the Department.

*Clean Streams Law*—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

*Commercial manure broker*—A person that is not working for or under the control of an agricultural operator and that assumes temporary control or ownership of manure from an agricultural operation and arranges for transport to and utilization at an importing operation or other location.

*Commercial manure hauler*—A person that transports or land applies manure as a contract agent for an agricultural operator or commercial manure broker under the direction of the operator or broker.

*Commission*—The State Conservation Commission established under the Conservation District Law (3 P. S. §§ 849—864).

*Competency*—Demonstrating a thorough level of knowledge and understanding of the requirements of the act and this chapter as evidenced by successfully meeting the applicable requirements of Subchapter B (relating to certification).

*Concentrated animal feeding operation*—An agricultural operation that meets the criteria established by the Department of Environmental Protection under authority of The Clean Streams Law.

*Concentrated animal operation or CAO*—An agricultural operation that meets the criteria established under the authority of Act 38 and Chapter 130b..

*Conservation district*—A county conservation district established under the Conservation District Law.

*Department*—The Department of Agriculture of the Commonwealth.

*Importer or importing operation*—A person who receives and utilizes or processes manure not produced by poultry or livestock under the management control of that person.

*Nutrient*—

(i) A substance or recognized plant nutrient, element or compound that is used or sold for its plant nutritive content or its claimed nutritive value.

(ii) The term includes livestock and poultry manures, compost used as fertilizer, commercially manufactured chemical fertilizers, sewage sludge or combinations thereof.

*Nutrient balance sheet*—A written, site-specific document, meeting the requirements established by the State Conservation Commission under the act and Act 38 used to determine appropriate manure, fertilizer and other nutrient source application rates on importing operations.

*Nutrient management plan*—A written site-specific plan that incorporates BMPs to manage the use of manure and

other plant nutrients for crop production and water quality protection consistent with the criteria established under Act 38 and Chapter 130b.

*Nutrient management specialist*—A person meeting the certification program requirements of section 8 of Act 38, 3 Pa.C.S. § 508 (relating to nutrient management certification program) and certified Chapter 130b to write or review, or both, a nutrient management balance sheet or nutrient management plan.

*Person*—An individual, sole proprietorship, partnership, association, firm, corporation, labor organization, trustee, receiver or other legal entity.

*Recertification*—The completion of all continuing education and training requirements and acquisition of the necessary continuing education credits in the manner and within the time frame set forth in this chapter.

*Secretary*—The Secretary of Agriculture of the Commonwealth.

*Volunteer operation*—An agricultural operation that voluntarily meets the requirements of Act 38.

#### § 130e.3. Fees.

(a) *Certification fees.* Certification fees are nonrefundable. The following fees for each category and level of certification apply:

(1) *Level 1 commercial manure broker.* The triennial fee for a level 1 commercial manure broker certificate is \$375.

(2) *Level 2 commercial manure broker.* The triennial fee for a level 2 commercial manure broker certificate is \$450.

(3) *Level 1 commercial manure hauler.* The biennial fee for a level 1 commercial manure hauler certificate is \$125.

(4) *Level 2 commercial manure hauler.* The biennial fee for a level 2 commercial manure hauler certificate is \$185.

(5) *Level 3 commercial manure hauler.* The triennial fee for a level 3 commercial manure hauler certificate is \$375.

(b) *Examination fees.* Examination fees are nonrefundable. The following fees apply:

(1) Level 1 commercial manure broker—\$50

(2) Level 2 commercial manure broker—\$50

(3) Level 1 commercial manure hauler—\$40

(4) Level 2 commercial manure hauler—\$40

(5) Level 3 commercial manure hauler—\$50

(c) *Disposition of fees and penalties.* Fees and penalties collected under the act and this chapter will be utilized to pay for administration of the act and this chapter. Fees and penalties collected under the act and this chapter will be deposited into an account created within the Nutrient Management Fund established by section 512 of Act 38, 3 Pa.C.S. § 512 (relating to Nutrient Management Fund).

#### § 130e.4. Prohibition.

(A) No commercial manure hauler or commercial manure broker may not transport or land apply manure in this Commonwealth on behalf of an agricultural operation, regardless of where the manure is generated, unless the hauler or broker has satisfied the following requirements:

(1) Successfully completed the certification requirements established by this chapter.

(2) Received the appropriate certification from the Department.

(3) Continued to maintain his certification as required by the act and in this chapter.

(4) Continues to have a valid certification, which has not been suspended or revoked by the Department.

(5) Continues to operate within the confines and authority of the level of certification he has received.

(b) A person who hauls or applies manure, generated by animals not under that person's management control, to land not under that person's management control, shall be certified at the proper certification level as a commercial manure hauler or broker.

#### § 130e.5. Authority, duties and prohibitions.

(a) *Commercial manure broker.*

(1) *Authority.* A person certified as a commercial manure broker under this chapter is authorized to assume temporary control or assume ownership of manure from an agricultural operation and to perform the following duties and activities:

(i) *Level 1 commercial manure broker.* A person certified under this chapter as a level 1 commercial manure broker is authorized to arrange transport of manure to and utilization of manure at an importing operation or other location. Utilization of manure at an importing operation or other location includes land application of manure on an importing operation or other location. A level 1 certified commercial manure broker is authorized to direct a level 1 commercial manure hauler under contract with the broker with regard to transportation of manure. A level 1 commercial manure broker is authorized to directly supervise a level 2 commercial manure hauler, under contract with the broker, in the land application of manure.

(ii) *Level 2 commercial manure broker.* A person certified under this chapter as a level 2 commercial manure broker is authorized to arrange transport of manure to and utilization of the manure at an importing operation or other location. Utilization of manure at an importing operation or other location includes land application of manure on an importing operation or other location. A level 2 certified commercial manure broker is authorized to direct a level 1 commercial manure hauler under contract with the broker with regard to transportation of manure. A level 2 commercial manure broker is authorized to directly supervise a level 2 commercial manure hauler, under contract with the broker, in the land application of manure. A level 2 commercial manure broker is further authorized to develop a nutrient balance sheet for the importing operation in accordance with this chapter and in accordance with the standards established by the State Conservation Commission under Act 38 and 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management).

(iii) For purposes of this section, "supervise" means direct supervision. When a level 2 certified commercial manure hauler is land applying manure on behalf of a commercial manure broker, the commercial manure broker shall have at least a level 1 certified commercial manure broker on the site where the manure is being land applied. The commercial manure broker is responsible for assuring the proper application of the manure to that site and is jointly responsible for any misapplication or violations.

(2) *Duties.*

(i) A commercial manure broker shall, when land-applying manure on behalf of an agricultural operator

required under section 5 of the act (3 P. S. § 2010.5) to utilize a certified manure hauler or certified manure broker, do so only in accordance with an approved nutrient management plan or nutrient balance sheet.

(ii) A commercial manure broker shall provide, no later than the time of transfer of the manure, copies of the nutrient balance sheet to both the importing operation and to the county conservation districts in the counties in which the importing and exporting operations are located.

(3) *Prohibition.* Certification under this chapter does not bestow authority upon a commercial manure broker to develop a nutrient management plan for another person, review that plan or make recommendations with regard to manure application that are outside the manure application standards set forth in the approved nutrient management plan or nutrient balance sheet for the particular importing operation or other location.

(b) *Commercial manure hauler.*

(1) *Authority.* A person certified as a commercial manure hauler under this chapter is authorized to transport or land apply, or both, manure as a contract agent for an agricultural operator or commercial manure broker under the direction of the operator or broker and to perform the following duties and activities:

(i) *Level 1 commercial manure hauler.* A person certified under this chapter as a level 1 commercial manure hauler is authorized to transport manure as a contract agent for and under direction of an agricultural operator or a commercial manure broker.

(ii) *Level 2 commercial manure hauler.* A person certified under this chapter as a level 2 commercial manure hauler is authorized to transport manure as a contract agent for and under direction of an agricultural operator or a commercial manure broker. A level 2 commercial manure hauler is authorized to land apply manure at an importing operation or other location only under the following conditions:

(A) Under the direct supervision of a certified commercial manure broker, as set forth in subsection (a)(1).

(B) As an employee of and under the direct supervision of a level 3 certified commercial manure hauler, as set forth in subparagraph (iii).

(C) A level 2 commercial manure hauler may not land apply manure as a contract agent for an agricultural operator, unless the level 2 commercial manure hauler has entered into an agreement with and is directly supervised by a certified commercial manure broker.

(iii) *Level 3 commercial manure hauler.* A person certified under this chapter as a level 3 commercial manure hauler is authorized to transport and land apply manure as a contracted agent for and under the direction of an agricultural operator or commercial manure broker. A level 3 certified commercial manure hauler has the authority to directly supervise land application of manure by a level 2 commercial manure hauler. For purposes of this section, "directly" supervise means supervision on the site where the manure is being land applied. When a level 2 certified commercial manure hauler is land applying manure the level 2 certified commercial manure hauler shall be directly supervised by either a level 3 certified commercial manure hauler or a level 1 or level 2 certified commercial manure broker. The supervising entity shall be responsible for assuring the proper application of the manure to that site and shall be jointly responsible for any misapplication or violations.

(2) *Duties.* A commercial manure hauler shall, when land applying manure on behalf of an agricultural operator required under section 5 of the act to utilize a certified manure hauler or certified manure broker, do so only in accordance with the provisions of an approved nutrient management plan or nutrient balance sheet.

(3) *Prohibitions.* Certification under this chapter does not bestow authority upon a commercial manure hauler to develop a nutrient management plan for another person, review that plan or make recommendations with regard to manure application that are outside the manure application standards set forth in the approved nutrient management plan or nutrient balance sheet for the particular importing operation or other location.

#### § 130e.6. Display of certification.

(a) *Vehicles.* Certified commercial manure brokers and certified commercial manure haulers shall prominently display on every vehicle involved in transport or land application, or both, of manure the certification number assigned by the Department. The certification number must be in figures at least 3 inches high, in contrasting color to the vehicle and be located on both sides of the vehicle at a readily visible location.

(b) *Possession of certificate.* Certified commercial manure brokers and certified commercial manure haulers shall carry on their person or in the vehicle being utilized to transport or landapply, or both, manure a copy of their current certificate.

(c) *Contracts.* The certification number of the commercial manure broker or commercial manure hauler shall be included in any contract or agreement entered into by that commercial manure broker or commercial manure hauler to transport or landapply, or both, manure.

#### § 130e.7. Notice of change in business or certification.

Certified commercial manure brokers and certified commercial manure haulers shall notify the Department in writing within 15 days of a change in information regarding their level of certification or if that person is no longer engaged in or no longer intends to be engaged in the transport or landapplication, or both, of manure.

### Subchapter B. CERTIFICATION

#### COMMERCIAL MANURE BROKERS

- Sec.  
130e.11. Determination of competence.  
130e.12. Certification requirements.

#### COMMERCIAL MANURE HAULER LEVEL 1

- 130e.21. Determination of competence.  
130e.22. Certification requirements.

#### COMMERCIAL HAULER LEVEL 2

- 130e.31. Determination of competence.  
130e.32. Certification requirements.

#### COMMERCIAL HAULER LEVEL 3

- 130e.41. Determination of competence.  
130e.42. Certification requirements.

#### CERTIFICATION TIME FRAMES AND RECERTIFICATION REQUIREMENTS

- 130e.51. Certification time frames and recertification requirements.  
130e.52. Commercial manure broker and hauler continuing education requirements.  
130e.53. Continuing education credit course providers.

#### DENIAL, SUSPENSION AND REVOCATION OF COMMERCIAL MANURE BROKER OR HAULER CERTIFICATES

- 130e.61. Denial, suspension and revocation of certificates.

**COMMERCIAL MANURE BROKERS****§ 130e.11. Determination of competence.**

(a) *Commercial manure broker certification.* Determination of competence for level 1 and level 2 commercial manure brokers shall be based on the successful completion of the certification orientation training course and a proctored written examination as set forth in this section. Certification requirements for a commercial manure broker include a Department-developed or approved certification orientation training course and proctored written examination, both of which shall be administered in a classroom setting. Commercial manure broker certification may also include other course work related to requirements set forth in this chapter, which are determined by the Department to be necessary and appropriate. The certification orientation-training course must cover these additional requirements or they may not be included in the written examination. The certification orientation-training course shall be completed prior to the applicant taking the written examination or the nutrient balance sheet writing course.

(b) *Additional requirements for a level 2 commercial manure broker certification.* In addition to completing the requirements for and attaining a level 1 commercial manure broker certification, an applicant for level 2 commercial manure broker certification shall be required to attend required nutrient management plan writing certification courses and then pass a proctored nutrient balance sheet examination administered or approved by the Department. The nutrient management plan writing courses have been developed under the Nutrient Management Certification Program in Chapter 130b (relating to nutrient management certification). The nutrient balance sheet examination will be developed or approved by the Department and shall be administered as a proctored classroom examination. The applicant for a level 2 commercial manure broker certification shall first complete the required nutrient management plan writing courses, before being eligible to take the Nutrient Balance Sheet Examination. The Nutrient Balance Sheet Examination must require the applicant for the level 2 commercial manure broker certification to develop a nutrient balance sheet based on an importing farm scenario developed or approved by the Department. The Department will have 30 days from the date of the examination to review and approve or reject the nutrient balance sheet developed by the level 2 commercial manure broker applicant. If the Department rejects the nutrient balance sheet the procedures in § 130e.12(e)(3)(ii) (relating to certification requirements) shall be followed.

(c) *Certification orientation training.* The certification orientation-training course must, at a minimum, address the applicant's understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions Act 38 and its attendant regulations at 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management), the Clean Streams Law and applicable regulations in 25 Pa. Code Chapter 102 (related to erosion and sedimentation control), the manure management manual and the protection of agricultural operations from nuisance suits and ordinances under the act of June 10, 1982 (P. L. 454, No. 133) (3 P. S. §§ 951—957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses must cover manure handling and testing, land application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. The courses must include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) BMPs with respect to manure hauling and land application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet the statutory and regulatory requirements of the act and Act 38.

(6) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. These courses must cover the filing requirements set forth in the act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient management plan and nutrient balance sheet and actual development of a nutrient balance sheet.

(7) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(8) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(9) Understanding emergency action plans.

(10) Proper calibration techniques and requirements for all types of equipment normally utilized to land apply manure, to assure proper application rates.

(11) Understanding of land application issues, such as incorporation, compaction and winter application.

(12) Understanding the proper placement of stacking areas and temporary storage of manure.

(13) Other areas and course work related to proper transport and land application of manure and recordkeeping as determined appropriate by the Department.

(d) *Written examination.* The Department or its designee will proctor the written examination. The Department will administer the examination at least twice per year, or more often as deemed necessary by the Department. At a minimum, the successful completion of the examination will demonstrate applicant's understanding of transport and land application of manure on agricultural operations and the applicant's technical knowledge and proficiency relating to interpretation and implementation of nutrient management plans and nutrient balance sheets, as well as, the applicant's knowledge of recordkeeping requirements. The written examination must, at a minimum, address all topics and areas required to be addressed by the certification orientation training course, as set forth in subsection (c).

(e) *Other examinations.* The Department may approve the use of written examinations other than the Pennsylvania Commercial Manure Broker and Hauler Examination, if the written examinations meet the requirements in subsection (d).

**§ 130e.12. Certification requirements.**

(a) *General.* A person shall obtain certification as a commercial manure broker prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. When acting as a contract agent for an agricultural operator required by section 5 of the act (3 P. S. § 2010.5) to use a certified commercial manure hauler or certified commercial manure broker, the commercial manure broker shall land apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or a nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified commercial manure broker.

(b) *Application for certification.* Upon completion of the requirements in § 130e.11 (relating to determination of competence), a commercial manure broker may submit an application for certification as a level 1 commercial manure broker to the Department. The Department or its designee will provide an application to all applicants, upon completion of the proctored written examination. The application will include a verification form, which shall be signed by the applicant, attesting that the applicant has attended and successfully completed the certification orientation-training course.

(c) *Application for level 2 commercial manure broker certification.* When the applicant seeks a level 2 commercial manure broker certification, the applicant shall mark the appropriate box on the application. Upon a determination by the Department that the applicant has met the criteria to receive a level 1 commercial manure broker certification, the Department will mail the level 1 commercial manure broker certificate to the applicant and notify the applicant in writing of the times and locations of the required nutrient management plan writing courses and the times and locations of the proctored nutrient balance sheet examinations. The written notification will include a verification form which must be provided to the Department prior to the level 2 commercial manure broker applicant being approved to sit for the Nutrient Balance Sheet Examination. The verification form shall be signed by the level 2 commercial manure broker applicant attesting that the applicant has completed the required nutrient management plan writing courses.

(d) *Time period for submission of application.* Applicants shall have 10 calendar days from the date of the proctored written examination to submit the application to the Department. The appropriate fee shall accompany the application for certification as a level 1 commercial manure broker. When a level 2 commercial manure broker certification is sought, the applicant shall follow the requirements in subsection (c) and shall submit a level 2 application and the fee for a level 2 commercial manure broker certification upon the completion of the additional requirements for a level 2 certification. If the applicant fails to file the required application with the Department within the prescribed 10-calendar days, that person shall again satisfy the appropriate competency requirements established in § 130e.11.

(e) *Determination of competence and issuance of certification.* Within 30-days of receiving an administratively complete, verified and signed application, the Department will review the documents and score the written test, and when applicable, the nutrient balance sheet scenario. The Department will notify each applicant in writing of the results of the Department's review.

(1) An applicant who has successfully completed the certification orientation training course and passed the written examination will be issued a level 1 commercial manure broker certification.

(2) To obtain a level 2 commercial manure broker certification, the applicant shall have successfully completed the certification orientation training course, passed the written examination, received level 1 commercial manure broker certification, attended the required nutrient management plan writing courses, and taken and passed the nutrient balance sheet examination.

(3) If an applicant is rejected, the Department will notify the applicant, in writing and specifically set forth the reasons for the rejection.

(i) When a level 1 commercial manure broker applicant is rejected, that applicant shall be allowed to take the next available level 1 commercial manure broker written examination and submit an application, in the manner required by subsection (d), to the Department without having to repeat the certification orientation training course required by § 130e.11. If the applicant fails to pass the written examination for a second time, that applicant shall be required to again meet all of the requirements established under § 130e.11 and take the next available written examination, prior to resubmission of an application for certification as a level 1 commercial manure broker.

(ii) When an applicant seeks a level 2 commercial manure broker certification and fails the Nutrient Balance Sheet examination, the applicant shall be allowed to take the next available Nutrient Balance Sheet Examination. If the applicant fails to pass the nutrient balance sheet examination for a second time, the Department will again notify the applicant, in writing of the rejection and the reason for the rejection. To again be considered for a level 2 commercial manure broker certification again, the applicant shall be required to satisfy the requirements in § 130e.11(b). The Department will have 30 days to review and accept or reject the nutrient balance sheet submitted. If the nutrient balance sheet is once again determined to be inadequate, the Department will notify the applicant of the rejection in writing and the reason for the rejection. The applicant shall be required to complete all of the requirements of § 130e.11 to be eligible to apply for a level 2 commercial manure broker certification.

(f) *Level 1 commercial manure broker to level 2 commercial manure broker.*

(1) A level 1 certified commercial manure broker may attain a level 2 commercial manure broker certification by meeting the requirements established under § 130e.11(b). To be eligible to apply, the applicant shall be currently certified as a level 1 commercial manure broker and in good standing.

(2) The Department will notify an applicant in writing of approval or rejection of an application. If the nutrient balance sheet is determined to be adequate, the written notice will include the level 2 commercial manure broker certificate. If the Department rejects the application, the Department will notify the applicant in writing and set



forth the reasons for the rejection. When the applicant wishes to reapply for a level 2 commercial manure broker certification, the procedures and steps established under subsection (e)(3)(ii) apply and shall be followed.

### COMMERCIAL MANURE HAULERS—LEVEL 1

#### § 130e.21. Determination of competence.

(a) *Level 1 commercial manure hauler.* Determination of competence for a level 1 commercial manure hauler shall be based on the successful completion of certification training as set forth in this section. Certification requirements for a level 1 commercial manure hauler must include a nonclassroom certification orientation-training course developed or approved by the Department. The nonclassroom certification orientation-training course shall include a training manual and a written examination. The written examination will be available at and must be taken at one of the following locations: a county conservation district office, a location of the educational institution or entity that developed an approved course, the Department or a regional office location of the Department. The written examination shall be completed by the applicant without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. Certification may also include other course work related to requirements in this chapter, which are determined by the Department to be necessary and appropriate. The course work must be included in the training manual, if it is to appear on the written examination.

(b) *Certification orientation training course.* A level 1 commercial manure hauler nonclassroom certification orientation-training course and the written examination must, at a minimum, address and determine the applicant's level of understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions of Act 38 and its attendant regulations in 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management), The Clean Streams Law and 25 Pa. Code Chapter 102 (related to erosion and sedimentation control) and the manure management manual and protection of agricultural operations from nuisance suits and ordinances provisions of the act of June 10, 1982 (P. L. 454, No. 133) (3 P. S. §§ 951—957).

(2) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses shall cover manure handling and testing results, land application information, setback requirements and maps contained in nutrient balance sheets and nutrient management plans. The courses must include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(3) BMPs with respect to manure hauling such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines and controlling nutrient runoff.

(4) Recordkeeping requirements necessary to meet the statutory and regulatory requirements of the act and Act 38.

(5) The following matters pertaining to manure transport and land application:

(i) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(ii) Basic awareness and understanding of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iii) Understanding emergency action plans.

(iv) Understanding the proper placement of stacking areas and temporary storage of manure.

(v) Other areas and course work related to proper transport and land application of manure and recordkeeping as determined appropriate by the Department.

#### § 130e.22. Certification requirements.

(a) *General.* To obtain a level 1 commercial manure hauler certification, a person shall request and review the level 1 orientation training course training manual and take and pass the written examination. A person shall obtain certification as a level 1 commercial manure hauler prior to transporting manure. A person certified as a level 1 commercial manure hauler shall be qualified to transport manure only. The transportation of manure shall be done as a contract agent for an agricultural operator or a certified commercial manure broker. A level 1 certified commercial manure hauler, who is the employee of a level 3 certified commercial manure hauler, may transport manure as an employee of the certified hauler, so long as the certified level 3 commercial manure hauler is acting as a contract agent for an agricultural operator or certified commercial manure broker. A level 1 certified commercial manure hauler may not land apply manure.

(b) *Application for certification.* Upon completion of the requirements in § 130e.21 (relating to determination of competence) and subsection (a), an applicant for a level 1 commercial manure hauler certification shall submit a signed and verified application for certification as a level 1 commercial manure hauler to the Department. The application shall be signed and verified by the applicant, in the presence of the proctor, immediately after taking the written examination. The proctor shall also sign the application and verification. The signed and verified application along with the completed level 1 written examination shall be given to the designated proctor at the location where the written examination is taken. The signed verification shall attest to the fact the applicant completed the written examination on his own and did so without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. The proctor shall submit the application packet, which must include the signed verification and application and the original written examination to the Department within 5 calendar days of the completion of the examination by the applicant. The appropriate fee shall accompany the application for certification as a level 1 commercial manure hauler.

(c) *Determination of competence and issuance of certification.* Within 15 days of receiving an administratively complete application, the Department will review the documents and score the written examination to determine whether the applicant has met the requirements to obtain a level 1 commercial manure hauler certification. The Department will then notify each applicant in writing of the results of the Department's review. An applicant who has successfully completed the requirements of this subchapter and passed the written examination will be issued a level 1 commercial manure hauler certification. If the applicant is rejected, the Department will

notify the applicant in writing and specifically set forth the reasons for the rejection. When an applicant is rejected, that applicant shall be required to meet the requirements established under § 130e.21 and subsection (a), prior to resubmission of an application for certification as a level 1 commercial manure hauler.

#### COMMERCIAL MANURE HAULERS—LEVEL 2

##### § 130e.31. Determination of competence.

(a) *Level 2 commercial manure hauler.* Determination of competence for a level 2 commercial manure hauler shall be based on the successful completion of a certification orientation training course and a written examination as set forth in this section. Certification requirements for a level 2 commercial manure hauler must include a nonclassroom certification orientation-training course developed or approved by the Department. The nonclassroom certification orientation-training course shall include a training manual and a written examination. The written examination shall be available at and shall be taken at one of the following locations: a county conservation district office, a location of the educational institution or entity that developed an approved course, at the Department or a regional office location of the Department. The written examination shall be completed by the applicant without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. Certification may also include other course work related to requirements in this chapter, which are determined by the Department to be necessary and appropriate. The course work shall be included in the training manual, if it is to appear on the written examination.

(b) *Certification orientation training course.* A level 2 commercial manure hauler nonclassroom certification orientation-training course and the written examination must, at a minimum, address and determine the applicant's level of understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions of Act 38 and its attendant regulations in 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management), The Clean Streams Law and 25 Pa. Code Chapter 102 (related to erosion and sedimentation control), the manure management manual and protection of agricultural operations from nuisance suits and ordinances provisions of the act of June 10, 1982 (P. L. 454, No. 133) (3 P. S. §§ 951—957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses must cover manure handling and testing, land application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. The courses must include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) BMPs with respect to manure hauling and land application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property

lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet the statutory and regulatory requirements of the act and Act 38.

(6) The following matters pertaining to manure transport and land application:

(i) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. The courses must cover the filing requirements in the act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient balance sheet and nutrient management plan.

(ii) Community relation and public image awareness, to encourage dialogue and promote cooperation .

(iii) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iv) Understanding emergency action plans.

(v) Proper calibration techniques and requirements for all types of equipment normally utilized to land apply manure to assure proper application rates.

(vi) Understanding of land application issues, such as incorporation, compaction and winter application.

(vii) Understanding the proper placement of stacking areas and temporary storage of manure.

(viii) Other areas and course work related to proper transport and land application of manure and recordkeeping as determined appropriate by the Department.

##### § 130e.32. Certification requirements.

(a) *General.* To obtain a level 2 commercial manure hauler certification, a person shall request and review the level 2 certification orientation-training course training manual and take and pass the level 2 certification written examination. A person shall obtain certification as a commercial manure hauler level 2 prior to landapplying manure. Manure land applied by a level 2 certified commercial manure hauler shall only be applied under the direct supervision of a level 1 or level 2 certified commercial manure broker or a level 3 certified commercial manure hauler acting as a contract agent for an agricultural operator or commercial manure broker. All manure landapplied by a level 2 certified commercial manure hauler shall be applied in accordance with an approved nutrient management plan developed by a certified nutrient management specialist or a nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified commercial manure broker.

(b) *Application for certification.* Upon completion of the requirements in § 130e.31 (relating to determination of competence) and subsection (a), an applicant for a level 2 commercial manure hauler certification shall submit a signed and verified application for certification as a level 2 commercial manure hauler to the Department. The application shall be signed and verified by the applicant, in the presence of the proctor, immediately after taking the written examination. The proctor shall also sign the application and verification. The signed and verified application along with the completed level 2 written

examination shall be given to the designated proctor at the location where the written examination was taken. The signed verification shall attest to the fact the applicant completed and answered the questions on the written examination on his own and did so without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. The proctor shall submit the application packet, which includes the signed verification and application and the original written examination to the Department within 5 calendar days of the completion of the examination by the applicant. The appropriate fee shall accompany the application for certification as a level 2 commercial manure hauler.

(c) *Determination of competence.* Within 15-days of receiving an administratively complete application, the Department will review the documents and score the written examination to determine whether the applicant has met the requirements to obtain a level 2 commercial manure hauler certification. The Department will then notify each applicant in writing of the results of the Department's review. An applicant who has successfully completed the requirements of this subchapter and passed the written examination shall be issued a level 2 commercial manure hauler certification. If the applicant is rejected, the Department will notify the applicant in writing and specifically set forth the reasons for the rejection. When an applicant is rejected, that applicant shall be required to meet the requirements under § 130e.31 and subsection (a), prior to resubmission of an application for certification as a level 2 commercial manure hauler.

### COMMERCIAL MANURE HAULERS—LEVEL 3

#### § 130e.41. Determination of competence.

(a) *Commercial manure hauler level 3 certification.* Determination of competence for a level 3 commercial manure hauler shall be based on the successful completion of a Department developed or approved certification orientation training course and a written examination meeting the requirements in this section. Both the certification orientation training course and the written examination shall be administered in a classroom setting. Certification may also include other course work related to requirements in this chapter, which are determined by the Department to be necessary and appropriate. The certification orientation-training course must cover the additional requirements or they may not be included in the written examination. The certification orientation-training course shall be completed prior to the applicant taking the written examination.

(b) *Certification orientation training.* The certification orientation-training course must, at a minimum, address the applicant's understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions Act 38 and its attendant regulations in 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management), The Clean Streams Law and applicable regulations in 25 Pa. Code Chapter 102 (related to erosion and sedimentation control) and the manure management manual and protection of agricultural operations from nuisance suits and ordinances provisions of the act of June 10, 1982 (P. L. 454, No. 133) (3 P. S. §§ 951—957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses must cover manure handling and testing, land application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. The courses must include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) BMPs with respect to manure hauling and land application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet the statutory and regulatory requirements of Act 38.

(6) The following matters pertaining to manure transport and land application:

(i) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. The courses must cover the filing requirements in the act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient balance sheet and nutrient management plan.

(ii) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(iii) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iv) Understanding emergency action plans.

(v) Proper calibration techniques and requirements for all types of equipment normally utilized to land apply manure to assure proper application rates.

(vi) Understanding of land application issues, such as, incorporation, compaction and winter application.

(vii) Understanding the proper placement of stacking areas and temporary storage of manure.

(viii) Other areas and course work related to proper transport and land application of manure and recordkeeping as determined appropriate by the Department.

(c) *Written examination.* The Department or its designee will proctor the written examination. The Department will administer the examination at least twice per year, or more often as deemed necessary by the Department. At a minimum, the successful completion of the examination will demonstrate an examinee's understanding of transport and land application of manure on agricultural operations and examinee's technical knowledge and proficiency relating to interpretation and implementation of nutrient management plans and nutrient balance sheets, as well as, examinee's knowledge of recordkeeping requirements. The written examination must, at a minimum, address the topics and areas required to be addressed by the certification orientation-training course, as set forth in subsection (b).

(d) *Other examinations.* The Department may approve the use of written examinations other than the Pennsylvania Commercial Manure Broker and Commercial Manure Hauler examination, if the written examinations meet the requirements in subsection (c).

**§ 130e.42. Certification requirements.**

(a) *General.* A person shall obtain certification as a commercial manure hauler level 3 prior to land applying manure without direct supervision and prior to supervising the land application of manure by another certified commercial manure hauler. A level 3 certified commercial manure hauler may transport or land apply, or both, manure as a contract agent for an agricultural operator or commercial manure broker and under the direction of that operator or broker. When acting as a contract agent for an agricultural operator required under section 5 of the act (3 P. S. § 2010.5) to use a certified commercial manure hauler or certified commercial manure broker, the commercial manure hauler shall land apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified commercial manure broker. When acting as a contract agent for a certified commercial manure broker, that has assumed temporary control or ownership of manure from an agricultural operator required by section 5 of the act to use a certified commercial manure hauler or certified commercial manure broker, the commercial manure hauler shall land apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified commercial manure broker.

(b) *Application for certification.* Upon completion of the requirements in § 130e.41 (relating to determination of competence), an applicant for a level 3 commercial manure hauler certification may submit an application to the Department. The Department or its designee will provide an application to all applicants, upon completion of the written examination. The application will include a verification form, which shall be signed by the applicant, attesting that the applicant has attended and successfully completed the appropriate certification orientation training course. The applicant shall check the box on the application indicating the level of certification sought. Applicants shall have 10 calendar days to submit the application to the Department. The appropriate fee accompany the application for certification as a level 3 commercial manure hauler.

(c) *Time period for filing application.* An application for certification shall be filed with the Department within 10-calendar days of completion of the written examination. If the applicant fails to file the application with the Department within the prescribed 10-calendar days, that person shall again satisfy the appropriate competency requirements established under § 130e.41.

(d) *Determination of competence and issuance of certification.* Within 30-days of receiving an administratively complete, verified and signed application, the Department will review the documents and score the written test. The Department will then notify each applicant in writing of the results of the Department's review.

(1) An applicant who has successfully completed the level 3 commercial manure hauler certification orienta-

tion training course and passed the written examination will be issued a level 3 commercial manure hauler certification.

(2) If an applicant is rejected, the Department will notify the applicant in writing and specifically set forth the reasons for the rejection. When a level 3 commercial manure hauler applicant is rejected, that applicant shall be allowed to take the next available written examination and submit an application, in the manner required under subsection (c), to the Department without having to repeat the certification orientation training course as required by § 130e.41. If the applicant fails to pass the written examination for a second time, that applicant shall be required to again meet the requirements established by § 130e.41 and take the next available written examination, prior to resubmission of an application for certification as a level 3 commercial manure hauler.

(e) *Level 3 commercial manure hauler to level 2 commercial manure broker.*

(1) A level 3 certified commercial manure hauler may attain a level 2 commercial manure broker certification by attending a Department-approved nutrient balance sheet writing course and then developing and submitting a nutrient balance sheet, based on a scenario generated or approved by the Department, to the Department for review and a determination of adequacy. To be eligible to apply, the applicant shall be currently certified as a level 3 commercial manure hauler and in good standing.

(2) The Department will notify an applicant in writing of approval or rejection of an application. If the nutrient balance sheet is determined to be adequate, the written notice will include the level 2 commercial manure broker certificate. If the Department rejects the application, the Department will notify the applicant in writing and set forth the reasons for the rejection. When the applicant wishes to reapply for a level 2 commercial manure broker certification, the procedures and steps related to reconsideration for a level 2 commercial manure broker certification, established under § 130e.12(d)(3)(ii) (relating to certification requirements) shall apply and shall be followed.

**CERTIFICATION TIME FRAMES AND RECERTIFICATION REQUIREMENTS**

**§ 130e.51. Certification time frames and recertification requirements.**

The following time frames apply to the different levels of commercial manure broker and commercial manure hauler certification. Recertification intervals and continuing education courses shall be based on the level of certification.

(1) *Level 1 and Level 2 commercial manure brokers.* Certification is valid for 3 years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a commercial manure broker shall again satisfy the applicable certification requirements in §§ 130e.11 and 130e.12 (relating to determination of competence; and certification requirements). The commercial manure broker shall satisfy the recertification requirements prior to the expiration of his 3 year certification. A commercial manure broker that is in good standing, meaning he has no current, pending or unsatisfied past violations of the act, Act 38 or the The Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, shall be allowed to take the

commercial manure broker written examination without having to attend the certification training course for that level of certification. A commercial manure broker not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses prior to sitting for the written examination. To retain a level 2 commercial manure broker certification, the level 2 commercial manure broker shall develop and have approved by the Department a nutrient balance sheet based on a scenario developed or approved by the Department. A level 2 commercial manure broker in good standing and current on the required continuing education credits shall be permitted to sit for the nutrient balance sheet examination without having to attend nutrient balance sheet writing courses. A level 2 commercial manure broker not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses and nutrient balance sheet writing courses prior to sitting for the level 1 written examination and then level 2 nutrient balance sheet examination.

(2) *Level 1 commercial manure hauler.* Certification is valid for 2 years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a level 1 commercial manure hauler shall again satisfy the applicable certification requirements in §§ 130e.21 and 130e.22 (relating to determination of competence; and certification requirements). The level 1 commercial manure hauler shall satisfy the requirements prior to the expiration of the hauler's 2-year certification. A level 1 commercial manure hauler shall be in good standing, meaning the hauler has no current, pending or unsatisfied past violations of the act, Act 38 or The Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, in order to be allowed to take the current level 1 commercial manure hauler written examination.

(3) *Level 2 commercial manure hauler.* Certification is valid for 2 years from the date of issuance from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a level 2 commercial manure hauler shall again satisfy the certification requirements in §§ 130e.31 and 130e.32 (relating to determination of competence; and certification requirements). The level 2 commercial manure hauler shall satisfy these requirements prior to the expiration of the hauler's 2-year certification. A level 2 commercial manure hauler shall be in good standing, meaning the hauler has no current, pending or unsatisfied past violations of the act, Act 38 or The Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, to be allowed to take the current level 2 commercial manure hauler written examination.

(4) *Level 3 commercial manure hauler.* Certification is valid for 3 years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a level 3 commercial manure hauler shall again satisfy the applicable certification requirements in §§ 130e.41 and 130e.42 (relating to

determination of competence; and certification requirements). The level 3 commercial manure hauler shall satisfy the recertification requirements prior to the expiration of the hauler's 3-year certification. A level 3 commercial manure hauler that is in good standing, meaning the hauler has no current, pending or unsatisfied past violations of the act, Act 38 or The Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, shall be allowed to take the proctored level 3 commercial manure hauler written examination without having to attend the certification training course for that level of certification. A level 3 commercial manure hauler not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses prior to sitting for the level 3 commercial manure hauler written examination.

**§ 130e.52. Commercial manure broker and hauler continuing education requirements.**

(a) *Continuing education credit requirements.* Certified commercial manure brokers and commercial manure haulers shall be required to obtain continuing education credits. The number of continuing education credits required shall be based on the level of certification. The Department will develop or may approve continuing education credit courses for each level of certification.

(1) *Level 1 and 2 commercial manure brokers and level 3 commercial manure haulers.* Every 3 calendar years, level 1 and level 2 commercial manure brokers and level 3 commercial manure haulers, shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department developed or approved training courses in the competency requirements set forth in the initial certification orientation training courses for the particular level at which the person is certified.

(i) Level 1 and level 2 certified commercial manure brokers shall receive continuing education training credits in the competency areas in § 130e.11 (relating to determination of competence). Level 2 certified commercial manure brokers shall be subject to at least one inspection and determination of competency per calendar year by the Department of any nutrient balance sheet prepared by the level 2 certified commercial manure broker.

(ii) Level 3 commercial manure haulers shall receive continuing education training credits in the competency areas established in § 130e.41 (relating to determination of competence).

(2) *Level 2 commercial manure haulers.* Every 2 calendar-years, level 2 commercial manure haulers shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department-developed or approved training courses in the competency requirements for a level 2 commercial manure hauler, which are set forth in § 130e.31 (relating to determination of competence).

(3) *Level 1 commercial manure haulers.* Every 2 calendar-years, level 1 commercial manure haulers shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department-developed or approved training courses in the competency requirements for a level 1

commercial manure hauler in § 130e.21 (relating to determination of competence).

(b) *Continuing education courses and credits.*

(1) *Continuing education.* Continuing education credits shall be obtained through attendance at Department developed or approved courses. The Department will develop or evaluate and approve continuing education courses for each level of commercial manure broker and commercial manure hauler. The Department will publish approved courses and the place, date and time for each course on the Department website and in the Department's quarterly newsletter. The Department will also notify certified commercial manure brokers and commercial manure haulers by e-mail or by fax, or both, if the commercial manure broker or commercial manure hauler has provided its contact information to the Department. The Department will endeavor to hold continuing education courses in various regions across this Commonwealth to assure reasonable access to certified commercial manure brokers and haulers across this Commonwealth.

(2) *Continuing education credits.*

(i) *Rate of accrual.* Continuing education credits accrue at the rate of 1 credit per hour of applicable instruction. Participants shall be required to sign in and sign out of each continuing education course. Participants will be asked to complete an evaluation of each session, as well as an evaluation of the course in general. Participants shall be required to attend the entire continuing education course. A participant leaving a continuing education course early shall receive no continuing education credits. The sign in and sign out sheets will be provided by the Department and shall be collected by the continuing education course provider at the end of each day of the continuing education course and mailed to the Department. The Department will record the name of each certified commercial manure broker and certified commercial manure hauler attending the continuing education course and assign the appropriate number of continuing education credits to the broker's or hauler's file. The evaluation sheet for each continuing education course shall be developed by the Department or developed by the approved course provider. Break periods such as coffee breaks, lunches, visits to exhibits, and the like will not be considered as part of the instruction period and shall be excluded from the applicable instruction hours. Question and answer sessions shall be considered part of the applicable instruction hours. Early dismissal is not allowed and credits will not accrue in any hour in which there was an early dismissal. Credits assigned shall be modified if either the content or length of the training substantially differs from the continuing education course originally approved by the Department.

(ii) *Number of continuing education credit hours required.* Certified commercial manure brokers and certified commercial manure haulers shall be required to obtain the following amount of continuing education credits in Department-approved continuing education courses:

(A) Level 1 certified commercial manure brokers and level 3 certified commercial manure haulers shall be required to attain 9 continuing education credits per certification period.

(B) Level 2 certified commercial manure brokers shall be required to attain a total of 12 continuing education credits per certification period, with 3 of those 12 continuing education credits pertaining to development of nutrient balance sheets.

(C) Level 1 and level 2 certified commercial manure haulers shall be required to attain 6 continuing education credits per certification period.

(c) *Additional recertification requirements.* To remain in good standing, certified commercial manure brokers and haulers shall comply with the following additional requirements:

(1) By January 15th of each year of certification, certified commercial manure brokers and commercial manure haulers shall send to the Department an annual summary of the amount of manure brokered, stored, transported, stacked and land applied. The summary shall be broken down by category and month.

(2) The Department may, if deemed necessary by a change in statute or regulation or when new science or technology makes it necessary, require other specific continuing education training and recertification requirements for certified commercial manure brokers or certified commercial manure haulers. If the continuing education training or recertification requirements are deemed necessary, the Department will provide written notification and educational materials to all currently certified commercial manure brokers and commercial manure haulers.

(d) *Failure to obtain continuing education credits.* If a commercial manure broker or commercial manure hauler allows his certification to expire and does not obtain the required number and types of continuing education credits in accordance with this chapter, the commercial manure broker's or commercial manure hauler's certification shall have lapsed and its privilege to broker or haul manure shall be suspended or revoked until the commercial manure broker or commercial manure hauler obtains the required continuing education credits and meets the recertification requirements of this chapter. If the commercial manure broker or hauler has failed to obtain any of the required continuing education credits, that person shall again satisfy the full certification requirements established by this chapter for the level of certification sought to be retained. The Department will send a written notice of the lapse and of suspension or revocation of certification to the commercial manure broker or hauler. The act requires certification and, therefore, a commercial manure broker or commercial manure hauler that has allowed his certification to lapse shall refrain from brokering, hauling or land applying manure until all delinquent continuing education credits are acquired or that person has again completed the appropriate certification requirements and received the Department's approval, has been removed from suspension and has been reissued a commercial manure broker or hauler certification. Failure to abide by the terms of this subsection is a violation of the act and this chapter and shall subject the violator and his employer to the penalties provisions in sections 6—9 of the act.

(e) *Revocation or suspension.* The Department's decision to revoke or suspend a commercial manure broker's or commercial manure hauler's certification shall be based on the gravity of the offense. The Department will consider the willfulness of the violation, previous violations and whether the person in question has continued to operate despite not acquiring the required continuing education credits or recertification, or both, prior to lapse of his current level of certification.

(1) *Suspended certification.* A commercial manure broker or commercial manure hauler whose certification has been suspended may not operate until all continuing

education credits or recertification requirements, or both, have been met and approved by the Department or that person has again completed the appropriate certification requirements and received the approvals, as set forth in subsection (d).

(2) *Revoked certification.* A commercial manure broker or commercial manure hauler whose certification has been revoked, may not operate until the Department has issued a new certification. To obtain certification again, the person whose certification has been revoked shall again satisfy the full certification requirements established by this chapter for the level of certification sought to be obtained.

**§ 130e.53. Continuing education credit course providers.**

(a) *Approval, denial, suspension and revocation to provide a continuing education credit course.*

(1) *Eligibility.* To be eligible to apply for approval to conduct a continuing education credit course, the applicant shall be the Pennsylvania State University or other education institution or entity.

(2) *Application content.* Persons developing and seeking approval of a continuing education credit course they have developed shall submit an application, containing details of the course components and topics, as well as the names of speakers, subject matter and topics and time allotted to each subject or topic. The application must include the name of the person developing and administering the course and a contact person, the specific locations and the proposed dates and times the course will be offered at each location. The application must state whether the courses will be open to the public and if a fee will be charged. The application must set forth which of the various levels of certification the course provider intends to address and the overall length of the program and credit hours sought to be approved.

(3) *Submission of application.* The application shall be submitted to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

(4) *Department approval, disapproval or modification.* An applicant shall receive approval from the Department prior to offering or administering a continuing education credit course. The Department will review and approve, disapprove or modify a request for approval within 30 days of receipt of an administratively complete application. An approval, denial or modification will be in writing. A denial or modification request will state the specific reasons for the denial or the specific modifications required and the reason for the modifications. An application for continuing education credit course approval must be submitted to the Department and required to have gained the approval of the Department prior to the applicant advertising the course or setting a date, place and time for the course. Upon approval, the applicant may advertise the course and begin to take applications for the course. The Department will publish the approved course on the Department's website. The publication must include the course level, hours of credits to be received and the date, time and place the course will be offered.

(5) *Criteria for approval.* At a minimum, a continuing education credit course must address the areas of competence in § 130e.11, § 130e.21, § 130e.31 or § 130e.41, required for the level of certification the course intends to address.

(6) *Revocation of course or denial or revocation of credit hours.* The Department may revoke approval of a continu-

ing education credit course or deny or revoke credit hours, or both. When the Department revokes approval of a course, the Department may also notify the course provider it is ineligible to provide continuing education credit courses for 12 months, or longer, from the date of the revocation. The following are the grounds for revocation of a course or denial or revocation of continuing education credits offered through that course:

(i) The applicant or approved continuing education credit course provider falsified or failed to disclose required information on the application or falsified or failed to disclose information with regard to course hours given or attended, type or content of material presented, attendance records of certified commercial manure brokers or haulers seeking continuing education credits or a violation of other criteria required under this section.

(ii) The approved continuing education credit course provider has failed to update materials and course content in a manner necessary to keep the course current with updates in statutes, regulations, technology or practices. In this situation, the Department will notify the course provider, in writing, of deficiencies prior to issuing a revocation. The course provider shall correct the deficiencies within 30 days. Failure to correct the deficiencies will result in a revocation of the Department's approval.

(iii) The course provider has violated or assisted a person in violating a provision of the act or this chapter.

(b) *Course monitoring.* If the Department or its designee is unable to personally monitor a continuing education credit course, the approved course provider shall be responsible for verifying attendance, including credit hours actually attended, and shall compile a list of the names of the individual certified commercial manure brokers and commercial manure haulers in attendance and their certification number. The list shall be compiled on a form provided by the Department. The forms shall be returned to the Department within 10 working days following the date the continuing education credit course was conducted.

**DENIAL, SUSPENSION AND REVOCATION OF COMMERCIAL MANURE BROKER OR HAULER CERTIFICATES**

**§ 130e.61. Denial, suspension and revocation of certificates.**

(a) *General power and authority.* The Department may, after notice, including a statement of the reasons therefore, deny, suspend or revoke the certification of a commercial manure broker or commercial manure hauler for one or more following:

(1) A violation of the act or this chapter.

(2) Failure to obtain the required continuing education credits in § 130e.52(d) and (e) (relating to commercial broker and hauler continuing education requirement).

(3) Inconsistency and demonstration of a lack of knowledge or proficiency in the proper handling, transportation or land application of manure, including violations the act, Act 38 or The Clean Streams Law.

(4) Three or more occurrences within a 3-year period of noncompliance with recordkeeping requirements, including delay or noncommunication with an agricultural operator, a conservation district or the Department in providing requested or required information or recordkeeping documentation.

(5) Falsifying information.

(6) Allowing certification to lapse.

(b) *Notice of violation and orders.* The Department may issue notices of violation and orders necessary for the enforcement of the act and this chapter. An order will take effect upon notice unless the order specifies otherwise.

(c) *Procedure.* A person may appeal an action under this section to the Secretary as follows:

(1) The appeal shall be filed within 30 days of the date of receipt of the order, revocation or suspension.

(2) The Secretary will issue a decision on the appeal within 30 days of the filing of an appeal under paragraph (1). If the Secretary does not issue a decision within 30 days, the order, revocation or suspension will be deemed withdrawn.

(3) This subsection is subject to the Administrative Agency Law, 2 Pa.C.S. Chapter 5, Subchapter A and 2 Pa.C.S. Chapter. 7, Subchapter A.

(4) The appeal must be in writing and set forth the specific reasons for the appeal. The appeal shall be sent to the Bureau of Plant Industry, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania, 17110.

### Subchapter C. RECORD KEEPING

Sec.  
130e.71. Recordkeeping.

#### § 130e.71. Recordkeeping.

(a) *Commercial manure hauler.* A commercial manure hauler shall maintain the following records, which shall be open to inspection by the Department or its agents during regular business hours and shall be maintained for 3 years after the date of transport or land application of the manure, whichever is later in time.

(1) *Agreement.* A copy of the agreement or contract between the commercial manure hauler and each agricultural operator or commercial manure broker for which the commercial manure hauler is transporting or land applying manure, or both.

(2) *Records.* The following records shall be maintained:

(i) Records setting forth the name and address of each agricultural operator or commercial manure broker for which the commercial manure hauler has or is currently transporting or land applying, or both, manure.

(ii) Records for each load of manure transported or land applied, which must detail:

(A) The name and location of the agricultural operator or commercial manure broker from which the manure was obtained or on whose behalf the manure was transported or land applied, and the date and time of the transport or application, or both, of the manure.

(B) The name and location of the agricultural operator, commercial manure broker, importing operation or facility, or all of the these entities if more than one is involved, to which the manure was transported or on whose property the manure was land applied, or both.

(C) The name, address and certification number and level of certification of each person involved in the transport or application, or both, of the manure. The record must include a verification statement and be signed by each person involved in the transport or application, or both, of the manure.

(iii) When the commercial manure hauler is land applying the manure the following additional recordkeeping requirements apply:

(A) The location of the field to which each load of manure was applied, as identified in an approved nutrient management plan or a nutrient balance sheet.

(B) The name, certification number and signature of each commercial manure hauler or broker that land applied the manure to each location.

(C) The date of the application.

(D) The total amount of manure applied to each field.

(E) The number of acres to which manure was applied.

(F) The rate of manure application for each field.

(G) The crop group or type of groundcover for each field to which manure was applied.

(H) The source—nutrient balance sheet or appropriate summary or nutrient application sections and maps of the approved nutrient management plan—followed to determine appropriate application rates for each field to which the manure was applied.

(I) When manure from a CAO, CAFO or volunteer operation is land applied on an importing operation, a copy of the nutrient balance sheet utilized for each land application.

(3) *Annual records.* A commercial manure hauler shall compile the recordkeeping information into an annual report detailing:

(i) The name and location of each agricultural operator or commercial manure broker for which it transported or land applied, or both, manure.

(ii) The total amount of manure transported or land applied for each agricultural operator or commercial manure broker, or both.

(iii) The total amount of manure transported.

(iv) The total amount of manure landapplied and the total acreage to which it was applied.

(b) *Commercial manure broker.* A commercial manure broker shall maintain the following records, which shall be open to inspection by the Department or its agents during regular business hours and be maintained for 3 years after the date of transport or land application of the manure, whichever is later in time:

(1) *Exporter agreement.* A copy of the agreement or contract between the commercial manure broker and each agricultural operator for which the commercial manure broker is transporting or land applying, or both, manure.

(2) *Importer agreement.* A copy of any agreement between the commercial manure broker and an agricultural operator to whose agricultural operation the manure will be applied.

(3) *Nutrient balance sheet.* A copy of the nutrient balance sheet required under section 5(1) of the act (3 P. S. § 2010.5(1)) to be provided to the importing operation and the date the nutrient balance sheet was provided to the importing operation.

(4) *Records.* The following records shall be maintained:

(i) Records setting forth the name and address of each agricultural operator or other person for which the commercial manure broker has or is currently transporting or land applying, or both, manure.

(ii) Records for each load of manure transported or landapplied, which details:

(A) The name and location of the agricultural operator or person from which the manure was obtained or on



whose behalf the manure was transported or land applied, or both, and the date and time of the transport or land application, or both, of the manure.

(B) The name and location of the agricultural operator or importing operation or person to which the manure was transported or on whose property the manure was land applied, or both.

(C) The name, address and certification number and level of certification of each person involved in the transport or application, or both, of the manure. The record must include a verification statement and be signed by each person involved in the transport or application, or both, of the manure.

(iii) When the certified commercial manure broker is land applying the manure or has contracted with another properly certified commercial manure broker or commercial manure hauler to land apply the manure, the following additional recordkeeping requirements apply:

(A) The field to which each load of manure was applied as identified in an approved nutrient management plan or a nutrient balance sheet.

(B) The name, certification number and signature of each commercial manure hauler or broker that land applied the manure to each location.

(C) The date of the application.

(D) The total amount of manure applied to each field.

(E) The number of acres to which manure was applied.

(F) The rate of manure application for each field.

(G) The crop group or type of groundcover for each field to which manure was applied.

(H) The source—nutrient balance sheet or appropriate summary or nutrient application sections and maps of the approved nutrient management plan—followed to determine appropriate application rates for each field to which the manure was applied.

(I) When manure from a CAO, CAFO or volunteer operation is land applied on an importing operation, a copy of the nutrient balance sheet utilized for each land application.

(5) *Annual records.* A commercial manure broker shall compile the daily recordkeeping information into an annual report detailing:

(i) The name and location of each agricultural operator or other person for which it transported or land applied manure, or both.

(ii) The total amount of manure transported or land applied for each agricultural operator or other person, or both.

(iii) The total amount of manure transported.

(iv) The total amount of manure land applied and the total acreage to which it was applied.

[Pa.B. Doc. No. 05-2313. Filed for public inspection December 16, 2005. 9:00 a.m.]

# DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 31 AND 46]

## Revision of Construction Contractors; Sales Tax Requirements

The Department of Revenue (Department), under section 270 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7270), proposes to amend 61 Pa. Code §§ 31.11 and 31.12 (relating to definitions; and imposition of tax) and delete §§ 46.2, 46.3, 46.6 and 46.9, to read as set forth in Annex A.

### *Purpose of Proposed Rulemaking*

During normal review of its regulations, the Department determined that deleting §§ 46.2, 46.3, 46.6 and 46.9 in their entirety not only rids 61 Pa. Code of duplicated regulations, it also alleviates any possible confusion to those who read Chapters 31 and 46 (relating to imposition; and construction contractors). This proposed rulemaking amends § 31.11 by transferring to it a specific list of financial institution security equipment from § 46.9 (relating to financial institution security equipment) whose installation constitutes a construction activity. The list of financial institution security equipment is now being properly placed in § 31.11 under construction activities. In addition, § 31.12(b)(1) is amended to include language transferred from § 46.6 (relating to contractors renting equipment to others) and will be properly placed in Chapter 31.

### *Explanation of Regulatory Requirements*

When the Pennsylvania Sales and Use Tax regulations were originally adopted in 1972, 61 Pa. Code Part I, Subpart B., Article II (relating to sales and use tax), was divided into two divisions: regulations and rulings. At that time, regulations provided general guidance and rulings were issued to respond to specific questions. In 1993, the Department deleted the antiquated distinction between the two types of documents in Article II; however, the Department did not delete documents that had been classified as rulings even though the information contained in a ruling was also set forth in a regulation. In the case of § 46.9 (relating to financial institution security equipment), the rules governing all construction contracts including the sale, installation and repair of financial institution security equipment were already addressed in §§ 31.11—31.16 (relating to construction contractors).

The Department wants to avoid the duplication of information and believes that the guidelines that financial institutions (banks) and contractors need to know on the timing of the taxation of security equipment is set forth as it is for all other contractors in §§ 31.11—31.16.

Specifically, the sections to be deleted and their duplicated regulation are as follows:

<i>Section</i>	<i>Name</i>	<i>Duplicated in 61 Pa. Code</i>
46.2	Construction of exempt public utility facilities	§ 32.34(a)(3)(ii)
46.3	Construction contractor installing stained glass windows	§ 31.12(c)

<i>Section</i>	<i>Name</i>	<i>Duplicated in 61 Pa. Code</i>
46.6	Contractors renting equipment to others	§ 34.1 § 31.12(b)(1) proposed amendment
46.9	Financial institution security equipment	§§ 31.11—31.16 proposed amendments

*Affected Parties*

Parties who read Chapters 31 and 46, specifically, financial institutions that enter into agreements for the purchase and installation of financial institution security equipment that involve construction activities, may be affected by this proposed rulemaking.

*Fiscal Impact*

The Department has determined that the proposed rulemaking will have no fiscal impact on the Commonwealth.

*Paperwork*

The proposed rulemaking will not create significant additional paperwork for the public or the Commonwealth.

*Effectiveness/Sunset Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The amendments are scheduled for review within 5 years of final publication. No sunset date has been assigned.

*Contact Person*

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed amendments to Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 2, 2005, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance.

The Committees may, at any time prior to the submittal of the final-form rulemaking, convey to the Department and IRRC, their comments, recommendations and objections to the proposed rulemaking. IRRC may, within 30 days of the close of the public comment period, submit to the Department and Committees any comments, recommendations and objections to the proposed rulemaking. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final-form publication of the amendments, by the Department, the General Assembly and the Governor.

GREGORY C. FAJT,  
*Secretary*

**Fiscal Note:** 15-430. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE  
Subpart B. GENERAL FUND REVENUES**

**ARTICLE II. SALES AND USE TAX**

**CHAPTER 31. IMPOSITION  
CONSTRUCTION CONTRACTORS**

**§ 31.11. Definitions.**

The following words and terms, when used in this section and §§ 31.12—31.16, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Construction activities*—An activity resulting from an agreement or contract under which a contractor attaches or affixes tangible personal property to real estate so as to become a permanent part thereof. Construction activities also include the service of repairing real estate even though tangible personal property is not transferred by a contractor in conjunction with the repairs which he makes. In the absence of satisfactory evidence to the contrary, the following items are presumed to become a permanent part of real estate:

\* \* \* \* \*

**Financial institution security equipment, including:**

- Accelerated cash terminals or cash guards**
- Access control systems**
- After-hour depositories**
- Alarm systems (burglar, police, fire and the like)**
- Automatic banking systems**
- Bandit reserve barriers**
- Bulletproof windows**
- Customer convenience counters**
- Drive-in windows (bay, flush, counter and the like)**
- Fire doors**
- Quick depositories**
- Receiving lockers, heads or chests**
- Safes**
- Safety deposit boxes**
- Surveillance and security systems**
- Television banking systems**
- Teller rails and lockers**
- Vaults**
- Vault doors (automatic, manual, emergency and the like)**
- Vault ventilators**

\* \* \* \* \*

**§ 31.12. Imposition of tax.**

\* \* \* \* \*

(b) *Sales activities*. Imposition of tax on sales activities shall conform with the following:

(1) A contractor who, in addition to performing construction activities, makes sales at retail, as defined by the TRC, of tangible personal property is deemed to be a

vendor and is required to register with the Department for the collection and remission of tax upon the sales which he makes. **Construction contractors renting equipment to other contractors shall apply for a license under the act and collect tax with respect to these rentals.**

\* \* \* \* \*

**CHAPTER 46. CONSTRUCTION CONTRACTORS**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of §§ 46.2, 46.3, 46.6 and 46.9, 61 Pa. Code pages 46-1, 46-3 and 46-5—46-8, serial pages (265805) to (265807) and (265809) to (265812).)*

- § 46.2. (Reserved).
- § 46.3. (Reserved).
- § 46.6. (Reserved).
- § 46.9. (Reserved).

[Pa.B. Doc. No. 05-2314. Filed for public inspection December 16, 2005, 9:00 a.m.]

# DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 173]

## Flashing or Revolving Lights on Emergency and Authorized Vehicles

The Department of Transportation (Department), under 75 Pa.C.S. §§ 4571, 4572 and 6103 (relating to visual and audible signals on emergency vehicles; visual signals on authorized vehicles; and promulgation of rules and regulations by department), proposes to amend Chapter 173 (relating to flashing or revolving lights on emergency and authorized vehicles) to read as set forth in Annex A.

*Purpose of Chapter*

This proposed rulemaking provides the limitations and requirements for flashing and revolving lighting on emergency and authorized vehicles. The purpose of Chapter 173 is to set forth the nature, display, color, standards and configuration for flashing, revolving and oscillating lights that may be displayed on emergency and authorized vehicles.

*Purpose of the Proposed Rulemaking*

The purpose of this proposed rulemaking is to provide greater flexibility and lighting options to ensure that emergency and authorized vehicles have adequate flashing or revolving lights. The proposed rulemaking allows the use of flashing and revolving lights which were not envisioned or available at the time the regulations were originally adopted. The proposed rulemaking also clarifies the flashing or revolving lighting options and requirements for an unmarked police car.

This proposed rulemaking reflects the joint effort of the State Police and the Department. The State Police also solicited advice and recommendations from local police departments and other law enforcement officials throughout this Commonwealth, as well as members of the emergency lighting industry.

*Summary of Significant Amendments*

Section 173.2 (relating to definitions) has been amended to include within the definition of "flashing light" lights that flash as a result of any other means providing an intermittent change in intensity to a viewer. This broader language is an acknowledgement that there are multiple different technologies for causing lights to flash. The broader language will allow the use of other kinds of flashing lights.

Section 173.3(a)(5) (relating to display requirements) has been amended to allow authorized vehicles to display one or more flashing or revolving yellow lights consistent with the language of 75 Pa.C.S. (relating to the Vehicle Code). Prior to its amendment in 2001, 75 Pa.C.S. § 4572(b) permitted authorized vehicles to display one or two flashing or revolving yellow lights. The 2001 amendment removed the two light maximum. Authorized vehicles are now permitted under 75 Pa.C.S. § 4572(b) to display one or more flashing or revolving yellow lights.

Section 173.3(a)(8), regarding utility lights, has been added. Examples of uses of utility lights include lights used to illuminate the blade of a snow plow. This is helpful to the driver of the plow because it helps him see the edge of the plow. It is also helpful for motorists who pass snow plows to insure that they also see the edge of the plow to ensure that they stay clear of it.

Section 173.3(b) was amended to remove the 360° flashing light visibility requirement for unmarked police cars. However, the proposed rulemaking requires unmarked police cars to provide visibility to vehicles approaching from the front and the rear.

Section 173.3(d) was amended to provide specific mounting locations for police vehicles, emergency vehicles other than police vehicles and authorized vehicles. The authorized locations have been broadened to allow for the use in previously unauthorized locations to ensure visibility of the lights.

Section 173.4 (relating to wiring) has been amended to be consistent with current industry standards for wiring.

*Persons and Entities Affected*

This proposed rulemaking affects owners of emergency and authorized vehicles who are qualified to display flashing or revolving lights.

*Fiscal Impact*

Implementation of this proposed rulemaking will not require the expenditure of any additional funds by the Commonwealth or local municipalities. This proposed rulemaking will not impose any additional costs on the regulated community and may reduce costs by providing more lighting options for emergency and authorized vehicles.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 6, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

*Sunset Provisions*

The Department will make this proposed rulemaking effective upon final-form publication following appropriate evaluation of comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under 75 Pa.C.S. The Department, however, will continue to closely monitor these regulations for their effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Raymond Rugh, Chief, Equipment Division, 17th and Arsenal Boulevard, Harrisburg, PA 17120 within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person for technical questions about this proposed rulemaking is Lawrence Allen, Equipment Division, 17th and Arsenal Boulevard, Harrisburg, PA 17120, (717) 787-2123.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

**Fiscal Note:** 18-404. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart A. VEHICLE CODE PROVISIONS**

**ARTICLE VII. VEHICLE CHARACTERISTICS**

**CHAPTER 173. FLASHING OR REVOLVING LIGHTS ON EMERGENCY AND AUTHORIZED VEHICLES**

**§ 173.1. Purpose.**

This chapter pertains to the nature, display, color, minimum performance standards and configuration of flashing, **oscillating** or revolving lights that are permissible for display by emergency and authorized vehicles.

**§ 173.2. Definitions.**

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

\* \* \* \* \*

*Flashing light*—A light designed to flash by current interruption, oscillation [ **of the lamp or current, or by revolution of the lamp** ] or by any other means providing an intermittent change in intensity when the light is observed from a fixed position.

\* \* \* \* \*

*Intersection light*—A flashing red [ **light device, mounted on the upper portion of each front fender of an emergency vehicle, and used as a part of the flashing or revolving light system to enhance the visibility of an emergency vehicle as it approaches or travels through an intersection** ], blue, white or

**clear light used as part of a flashing or revolving light system to enhance the visibility of an emergency vehicle as it approaches or travels through an intersection.**

\* \* \* \* \*

*Light-bar assembly*—A device designed and constructed to provide and display more than one steady burning, flashing, **oscillating** or revolving [ **beam of** ] light.

*Oscillation*—[ **ovement** ] **Movement** back and forth between two **or more** points, including the alternation between the maximum and minimum voltage.

\* \* \* \* \*

*Unmarked police vehicle*—A police vehicle **not equipped with a roof-mounted light-bar assembly. The vehicle may display graphics, markings or decals, identifying the agency or department.**

**§ 173.3. Display requirements.**

(a) *Color.* White, clear, red, blue, amber or yellow are the only colors permitted for use in flashing or revolving lights.

(1) *Chromaticity coordinates.* A flashing [ **or** ], revolving **or oscillating** light [ **shall comply with** ] **must meet or exceed** the Chromaticity Coordinates, CIE 1931, Standard Colorimetric System as provided in SAE Standard J578d, Color Specification for Electrical Signal Lighting Devices, September 1978 **or subsequent SAE Standards.** This requirement does not apply to flashing headlamp systems.

(2) *Red lights.* A vehicle may display red lights [ **as follows:** ] **as provided by 75 Pa.C.S. § 4571 (relating to visual and audible signals on emergency vehicles).**

[ (i) Under 75 Pa.C.S. § 4571 (relating to visual and audible signals on emergency vehicles), an emergency vehicle, as defined in 75 Pa.C.S. § 102 (relating to definitions), shall be equipped with one or more flashing or revolving red lights.

(ii) Under 75 Pa.C.S. § 4571, Pennsylvania Public Utility Commission vehicles used for the enforcement of 66 Pa.C.S. Chapters 23 and 25 (relating to common carriers; and contract carrier by motor vehicle and broker) may be equipped with flashing or revolving red lights. ]

(3) *Blue lights.* [ **Under** ] A vehicle may display **blue lights as provided for by 75 Pa.C.S. § 4572(a)** (relating to visual signals on authorized vehicles) [ **, ambulance personnel, owners and handlers of dogs used in tracking humans, and volunteer firefighters may each equip one personal vehicle with no more than two flashing or revolving blue lights or one light-bar assembly containing no more than two blue lights. Only blue lights may be used on the light-bar assembly** ]. Vehicles described in 75 Pa.C.S. § 4572(a) may be equipped with a light-bar assembly using only blue lights. See Figure 3.1.

(4) *Combination red-and-blue lights.* [ **Under** ] **Vehicles listed under 75 Pa.C.S. § 4571(b)** [ **, police, sheriff, coroner, medical examiner or fire police vehicles may be equipped with flashing or revolving blue lights in addition to red lights—combination red-and-blue lights** ] may display combination

**red-and-blue lights.** The privately-owned vehicles [ of a police chief, assistant police chief, fire police captain and fire police lieutenant ] listed under 75 Pa.C.S. § 102 (relating to definitions of an emergency vehicle) shall be equipped under [ paragraph (2) ] 75 Pa.C.S. § 4571(a).

(5) *Yellow or amber lights.* A vehicle may display yellow or amber lights as follows:

(i) Under 75 Pa.C.S. § 4572(b), an authorized vehicle as defined in 75 Pa.C.S. § 102 and designated in Chapter 15 (relating to authorized vehicles and special operating privileges) may be equipped with [ no more than two ] flashing or revolving yellow or amber lights or one or more light-bar [ assembly ] assemblies containing [ no more than two ] only yellow or amber lights. [ Only yellow or amber lights may be used on the light-bar assembly. ] See Figure 3.1.

\* \* \* \* \*

(ii) An authorized vehicle which is used in the construction, repair or maintenance of a bridge or highway may be equipped with traffic control emergency directional light assemblies.

(iii) Emergency vehicles may be equipped with [ no more than two ] yellow or amber lights, in addition to [ one ] traffic control emergency directional light [ assembly ] assemblies. Yellow or amber lights shall be mounted on the rear of the vehicle or shall face rearward.

(6) *White or clear lights.* In addition to flashing or revolving red or combination red-and-blue lights, an emergency vehicle may be equipped with a flashing headlamp system and no more than one flashing [ or ], revolving or oscillating white or clear light, except [ that ] an emergency vehicle may be equipped with a light-bar assembly containing no more than [ two ] three flashing [ or ], revolving or oscillating white or clear lights. This section does not include preemptive traffic control devices.

(i) When the light-bar assembly contains three flashing, revolving or oscillating white or clear lights, the center light must be mounted to flash white or clear light only to the front.

(ii) When the vehicle is stationary, the light-bar assembly may not display white or clear light to the rear.

(iii) Flashing [ or ], revolving or oscillating white or clear lights and flashing headlamp systems may only be used in conjunction with the flashing or revolving red or combination red-and-blue lights. Flashing [ or ], revolving or oscillating white or clear lights and flashing headlamp systems that are not used in conjunction with flashing or revolving red or combination red-and-blue lights do not constitute visual signals under 75 Pa.C.S. § [ § ] 3325 [ and 4571 ] (relating to duty of driver on approach of emergency vehicle[; and visual and audible signals on emergency vehicles ]) and 75 Pa.C.S. § 4571.

[ (ii) Flashing headlamp systems are to be used under 75 Pa.C.S. § 4306 (relating to use of multiple-beam road lighting equipment). ]

(7) *Steady burning lights.* [ Unauthorized colored, white or clear ] Red, blue, amber or yellow nonflashing or nonrevolving lights—steady burning lights—may [ not ] be used in conjunction with flashing or revolving lights[ , except for steady burning lights used on emergency vehicles as specified in 75 Pa.C.S. § 4571(a) and (b)(3) ]. [ These lights, which include flood lights and other steady burning lights, may be used only while the vehicle is stationary, except that a police officer, sheriff or deputy sheriff operating a police or sheriff vehicle may use these lights while the vehicle is in motion, if the lights are used only for the purpose of an emergency, or for the safety of the public or in the enforcement of the law. ]

(8) *Utility lights.* Clear or white forward or side facing steady burning utility lights (that is, take down, alley, spotlight) may not be used for emergency warning purposes. These lights may be used while the vehicle is in motion or stationary for the purpose of an emergency, for the safety of the public or in the enforcement of the law.

(9) *Other lights.* A vehicle, other than those identified in this [ subsection ] chapter, may not be equipped with lights or systems identical or similar to those specified by this subsection, except that school buses and urban mass transit buses which will be used for carrying school children may be equipped with flashing lights as permitted by 75 Pa.C.S. §§ 4552(b) and 4553(a) (relating to general requirements for school buses; and general requirements for other vehicles transporting school children), and Chapter 15 and Chapter 171 (relating to school buses and school vehicles).

[ (9) ] (10) \* \* \*

(b) *360° visibility.* [ When ] Except for unmarked police vehicles, when flashing or revolving red, blue, yellow or amber lights are mounted on a vehicle, one or more of these lights shall be mounted to provide visibility to vehicles approaching from any direction (360° visibility), regardless of the method of mounting. [ Emergency vehicles equipped with flashing or revolving red or blue lights mounted on or behind the grille are not exempt from this subsection. ]

(1) When only one light is used to provide 360° visibility, this light shall be in compliance with SAE Standard J845, 360° Emergency Warning Lamps, [ January 1984 ] May 1997 or subsequent SAE Standards.

\* \* \* \* \*

(3) [ For emergency vehicles, 360° visibility shall be provided by one or more red lights.

(4) Vehicles that are equipped with a light-bar assembly are presumed to have met the 360° visibility requirements when the flashing or revolving light configuration is visible to vehicles approaching from any direction. ]

When the combination of lights are mounted on an unmarked police vehicle, these lights shall be mounted to provide visibility to vehicles approaching from the front and rear, regardless of the method of mounting.

(c) *Flash rate.* The flash rate, when observed from a fixed position, [ shall ] must be between 60 and [ 120 ] 260 flashes per minute. When the flash rate is produced

by the interruption of current, the period of illumination [ **shall** ] **must** be long enough to permit the bulb to come to full brightness.

(d) *Mounting location.* The following applies to mounting locations for flashing or revolving lights:

(1) *Emergency vehicles, except police vehicles.* Flashing or revolving lights, excluding flashing headlamp systems, may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in the following locations only:

\* \* \* \* \*

(iii) [ **On the front of a dump truck bed.** ]

[ (iv) ] Behind, **in front of**, or on the grille of emergency vehicles. A flashing light may [ **not** ] be mounted so [ **that it flashes through the grille, except that no more than two flashing red or blue lights, excluding light-bar assemblies, may be mounted so** ] as to flash through or in front of the grille on emergency vehicles when the vehicle is also equipped with one or more flashing or revolving red lights that meet the 360° visibility requirements of subsection (b).

[ (v) Close ] (iv) **With respect to fender intersection lights, close** to the front upper edge of each front fender of an emergency vehicle and not protruding more than 2 inches from the fender[ , **with respect to intersection lights** ].

(v) **Inside of existing vehicular lighting modules/assemblies, such as headlights, parking lights and taillights. This does not include reverse lights.**

(A) **This subsection does not include private vehicles used for answering emergency calls as defined by 75 Pa.C.S. § 102.**

(B) **Vehicles mounting lights as outlined in this subsection shall also mount, in another location, flashing or revolving lights that meet the 360° visibility requirements. This does not include reverse lights.**

(2) [ **Traffic control emergency directional light assemblies shall be rear-facing only and may not interfere with permanently installed lights. These assemblies** ] *Police vehicles.* Flashing or revolving lights may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in the following locations only:

(i) [ **Underneath or behind light-bar assemblies.**

(ii) **On the rear deck, inside or outside of the vehicle.**

(iii) **On the trunk lid. ]**

(i) **On a cab or roof of the vehicle.**

(ii) **No more than 18 inches above the highest fixed point of the vehicle.**

(iii) **With respect to combination red-and-blue lights only, behind, in front of or on the grille. Police vehicles mounting lights as outlined in this subsection must also mount flashing or revolving lights in another location visible from the front of the vehicle.**

(iv) **Inside the passenger compartment, clearly visible through the front windshield. (See original equipment manufacturer for mounting locations.)**

(v) **Inside the passenger compartment, clearly visible through the rear window.**

(vi) **In or on the trunk lid.**

(vii) **Inside of existing vehicular lighting modules/assemblies, such as headlights, parking lights, taillights (not including reverse lights). Police vehicles mounting lights as outlined in this subsection must also mount, in another location, flashing or revolving lights visible from the front and rear of the vehicle.**

(viii) **With respect to flashing lights only, within the nondriver's compartment-side window.**

(ix) **With respect to combination red-and-blue lights, in a location visible from the front and rear of the vehicle.**

(x) **With respect to fender intersection lights, close to the front upper edge of each front fender of a police vehicle and not protruding more than 2 inches from the fender.**

(xi) **With respect to motorcycles, at a location in accordance with the manufacturer's specifications.**

(3) *Authorized vehicles.*

(i) **Flashing or revolving lights may be permanently mounted on the vehicle or attached to a mounting device, in the following locations only:**

(A) **On a cab, cab protector or roof of the vehicle.**

(B) **No more than 18 inches above the highest fixed point of the vehicle.**

(C) **On the front or rear of the bed or body of an authorized vehicle.**

(D) **On the tailgate of an authorized vehicle.**

(E) **In a location other than as set forth in subparagraphs (i)—(iv) as needed to comply with the 360° requirement in this section.**

(ii) **The installation or use of additional flashing or strobe lights in existing vehicular lighting modules/assemblies, such as headlights, parking lights, taillights, is expressly prohibited.**

(4) *Traffic control emergency directional light assemblies.* Traffic control emergency directional light assemblies may not interfere with permanently installed lights. These assemblies may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in the following locations only:

(i) **Underneath, behind or built in the light-bar assemblies.**

(ii) **Anywhere visible through the rear windshield, inside, or outside of the vehicle.**

(iii) **In or on the trunk lid.**

(iv) **At any other temporary location if a magnetic base is used.**

(v) **On the rear of emergency vehicles owned by a fire company.**

(vi) **On the roof, bed or gate of an authorized vehicle which is used in the construction, repair or maintenance of a bridge or highway.**

(e) *Mounting devices.* Flashing or revolving lights, excluding flashing headlamp systems, grille-mounted flashing lights and intersection lights, may be mounted on one of the following devices:

\* \* \* \* \*

**(4) Grommet mounting is acceptable for flush mounted flashing lights.**

**§ 173.4. Wiring.**

**Wiring shall be installed using the industry's best practices.**

**(1) Wiring shall be [ permanently installed in the vehicle. Separate fuses shall be utilized for the flashing or revolving light system to prevent failure of the standard lighting equipment of the vehicle if the flashing or revolving lights fail ] primary SAE rated and be of proper gauge to handle applied load. Ground wiring shall be of equal gauge.**

**(2) Wiring may not be loaded to more than 80% of its rated capacity.**

**(3) The wiring shall be permanently installed and routed through the vehicle in a manner to avoid short circuits or interfering with the operation of the vehicle.**

**(4) Grommets shall be used when wires pass through bulkheads and other sharp metal surfaces.**

**(5) Each accessory will be protected with the proper circuit protection as recommended by the manufacturer (that is, fuses or circuit breakers). The main circuit protection will be as close to the power source as possible.**

**(6) Additional wiring installed for emergency equipment may not impede or compromise the original equipment manufacturer circuits or original equipment manufacturer equipment functions as intended by the vehicle manufacturer.**

**(7) Tapping power off of original equipment manufacture circuits, such as in fuse blocks, shall be only as recommended by the vehicle manufacturer. Tapping power off air bag or ABS brake and brake light circuits is prohibited.**

**(8) These requirements do not apply to flashing or revolving lights that are attached to a vehicle with a magnetic base.**

[Pa.B. Doc. No. 05-2315. Filed for public inspection December 16, 2005, 9:00 a.m.]

**[67 PA. CODE CH. 105]**

**Mechanical, Electrical and Electronic Speed-Timing Devices**

The Department of Transportation (Department), under 75 Pa.C.S. §§ 3368, 4571, 4572 and 6103, proposes to amend Chapter 105 (relating to mechanical, electrical and electronic speed-timing devices) to read as set forth in Annex A.

*Purpose of Chapter*

Chapter 105 governs the calibrating and testing of mechanical, electrical and electronic speed-timing devices by stations appointed by the Department.

*Purpose of the Proposed Rulemaking*

The purpose of this proposed rulemaking is to allow the State Police to use additional electronic speed-timing technologies and devices, that is, Moving Radar (Radio Detection and Ranging) and Lidar (Light Detection and

Ranging), to measure vehicle speed in the enforcement of speed limit restrictions throughout this Commonwealth.

*Summary of Significant Amendments*

Section 105.12a (relating to application of subchapter) has been amended to include both moving RADAR and LIDAR within the scope of this chapter. Subsequent sections have also been amended to include these new technologies.

Section 105.16 (relating to calibration and testing procedures for moving RADAR and LIDAR) has been added to provide standards and procedures for the calibration and testing of moving RADAR and LIDAR devices.

Sections 105.33, 105.34, 105.54, 105.55, 105.75 and 105.95 have also been amended to clarify that test results and other information is to be recorded on forms approved by the Department, but not necessarily provided by the Department.

*Persons and Entities Affected*

This proposed rulemaking affects the State Police, manufacturers of speed-timing devices and the businesses that service these devices.

*Fiscal Impact*

Implementation of this proposed rulemaking will not require the expenditure of any additional funds by the Commonwealth or local municipalities, although expenditure by the State Police to purchase the new technology is to be anticipated. This proposed rulemaking will not impose any additional costs on the regulated community and may reduce costs by providing more speed-timing options for use by the State Police.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 5, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

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

*Sunset Provisions*

The Department will make this proposed rulemaking effective upon final-form publication following appropriate evaluation of comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under 75 Pa.C.S. (relating to the Vehicle Code). The Department, however, will continue to closely monitor these regulations for their effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Peter Gertz, Bureau of Motor Vehicles, 3rd Floor, Riverfront Office Center, 1101 South Front Street,

Harrisburg, PA 17104, pgertz@state.pa.us within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about this proposed rulemaking is Douglas P. Cohn, Bureau of Motor Vehicles, 3rd Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-5845.

ALLEN D. BIEHLER, P. E.,  
Secretary

**Fiscal Note:** 18-405. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 105. MECHANICAL, ELECTRICAL AND ELECTRONIC SPEED-TIMING DEVICES

Subchapter B. ELECTRONIC DEVICES (RADAR, MOVING RADAR AND LIDAR)

§ 105.12a. Application of subchapter.

This subchapter governs the calibration and testing of electronic devices—RADAR, **Moving RADAR and LIDAR**—for use only by members of the State Police, under 75 Pa.C.S. § 3368(c)(2) (relating to speed timing devices).

§ 105.14. Required equipment.

The following equipment is required for the operation of a maintenance and calibration station. Suitable manufacturers and model numbers are listed, however, equivalent equipment or an alternative technique **is acceptable if it is approved by the [Communications Division] Bureau of Patrol, Patrol Services Division, State Police [is acceptable] or meets the requirements in the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA), Technical Report, Model Minimum Performance Specifications or any subsequent amendments to those specifications:**

\* \* \* \* \*

§ 105.15. Calibration and testing procedure for RADAR.

(a) *General.* **[An electronic] A RADAR device shall be calibrated and tested as follows:**

\* \* \* \* \*

(c) *Certificates of accuracy.* These forms, provided by the Department, shall be filed for each **[electronic] RADAR device calibrated and tested.**

\* \* \* \* \*

(3) One duplicate copy shall be forwarded to the **[Communications Division] Bureau of Patrol, Patrol Services Division, State Police.**

\* \* \* \* \*

(d) **[Electronic device—radar—] RADAR calibration.** Technical data forms provided by the State Police **[Communications Division]**, shall be filed for each **[electronic] RADAR device calibrated and tested.**

(1) One original shall be forwarded to the **[Communications Division] Bureau of Patrol, Patrol Services Division, State Police.**

\* \* \* \* \*

§ 105.16. Calibration and testing procedure for moving RADAR and LIDAR.

(a) **A moving RADAR or LIDAR device shall be calibrated and tested as set forth in the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA), Technical Report, Model Minimum Performance Specifications for Police Traffic Radar Devices and Model Minimum Performance Specifications for Lidar Speed Measurement Devices and any subsequent amendments to those specifications.**

(b) *Maintenance work-order.* **A maintenance work-order containing the following information shall be completed and forwarded to the Bureau of Patrol, Patrol Services Division, State Police:**

- (1) Serial number of the electronic device.
- (2) Work performed and date of same.
- (3) Original complaint, if any.
- (4) Actual repairs performed, if any.
- (5) Amount of time taken to repair unit.
- (6) Manufacturer's stock number of all equipment replaced.
- (7) Total labor cost.
- (8) Individual part prices for all equipment replaced.
- (9) **The name and address, class, serial number, and expiration date of the operator's license of the individual conducting the test. The testing individual shall also sign and date the maintenance work order. Maintenance performed must conform with Federal Communications Commission rules and regulations pertaining to radio location devices.**

(c) *Certificates of accuracy.* These forms, provided by the Department, shall be filed for each moving RADAR or LIDAR device calibrated and tested.

(1) The original shall be filed at the State Police station.

(2) One duplicate copy shall be retained by the maintenance and calibration station for at least 2 years.

(3) One duplicate copy shall be forwarded to the Bureau of Patrol, Patrol Services Division, State Police.

(4) One duplicate copy shall accompany the electronic device.

(5) A duplicate copy, executed and signed in the same manner as the original, has the same force and effect as the original.

(d) *Moving RADAR and LIDAR calibration.* Technical data forms provided by the Bureau of Patrol, Patrol Services Division, shall be filed for each device calibrated and tested.

(1) One original shall be forwarded to the Bureau of Patrol, Patrol Services Division, State Police.



(2) One duplicate copy shall be retained by the maintenance and calibration station for at least 2 years.

(3) A duplicate copy, executed and signed in the same manner as the original, has the same force and effect as the original.

Subchapter C. SPEEDOMETERS

§ 105.33. Required equipment.

\* \* \* \* \*

(b) Periodic testing of speedometer testing equipment. Periodic testing of equipment shall be conducted as follows:

\* \* \* \* \*

(2) Forms. A form [provided] approved by the Department shall be completed by a certified speedometer inspection mechanic after each periodic test. The form shall be released to the State Police Inspection Station Supervisor or Department representatives, if verification of the test is necessary. A duplicate copy, executed and signed in the same manner as the original, has the same force and effect as the original.

§ 105.34. Manner of testing speedometers.

\* \* \* \* \*

(b) Forms. The following forms are required:

\* \* \* \* \*

(2) A Certificate of Speedometer Accuracy, a form [provided] approved by the Department, shall be completed after a speedometer test or repair and signed by the Department speedometer inspection mechanic. A copy of the certificate shall be kept on file at the [speedometer] speedometer testing station for at least [2] 3 years. A duplicate copy, executed and signed in the same manner as the original, has the same force and effect as the original.

Subchapter D. ELECTRONIC DEVICES (NONRADAR) WHICH MEASURE ELAPSED TIME BETWEEN TWO SENSORS

§ 105.54. Calibration forms.

Certificates of accuracy, [provided] approved by the Department, shall be filed for electronic devices calibrated and tested as follows:

\* \* \* \* \*

(2) One duplicate copy shall be retained by the maintenance and calibration station for at least [2] 3 years.

\* \* \* \* \*

§ 105.55. Testing forms.

Technical data forms, [provided] approved by the Department, shall be filed for electronic devices tested as follows:

\* \* \* \* \*

(2) One duplicate copy shall be retained by the maintenance and calibration station for at least [2] 3 years.

\* \* \* \* \*

Subchapter E. STOPWATCHES

§ 105.75. Manner of testing.

\* \* \* \* \*

(b) Forms. Upon determining that a stopwatch is accurate, a stopwatch testing station shall issue a certificate of accuracy on a form [provided] approved by the Department. The certificate shall contain the date of the test and the signature of the person who conducted the test. The certificate shall be kept on file for at least [2] 3 years. A duplicate copy, executed and signed in the same manner as the original, has the same force and effect as the original.

Subchapter F. ELECTRONIC DEVICES (NONRADAR) WHICH CALCULATE AVERAGE SPEED BETWEEN ANY TWO POINTS

§ 105.95. Manner of calibration and testing.

\* \* \* \* \*

(c) Calibration forms. Certificates of accuracy, [provided] approved by the Department, shall be filed for electronic devices calibrated and tested as follows:

\* \* \* \* \*

(2) One duplicate copy shall be retained by the maintenance and calibration station for at least [2] 3 years.

\* \* \* \* \*

(d) Testing forms. Technical data forms, [provided] approved by the Department, shall be filed for electronic devices tested as follows:

\* \* \* \* \*

(2) Two duplicate copies shall be retained by the maintenance and calibration station for at least [2] 3 years.

\* \* \* \* \*

[Pa.B. Doc. No. 05-2316. Filed for public inspection December 16, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 59]

[L-00050172]

Gas Service; Safety Code

The Pennsylvania Public Utility Commission, on February 3, 2005, adopted a proposed rulemaking order amending § 59.33(b) (relating to safety) so that future amendments to 49 CFR Parts 191—193 and 199 are automatically adopted by the Commission.

Executive Summary

By Order entered on February 8, 2005, at Docket No. L-00050172, the Commission adopted a Proposed Rulemaking Order to amend § 59.33(b). The purpose of the proposed rulemaking is to modify the current language of § 59.33(b) so that future amendments to 49 CFR Parts 191—193 and 199 can be automatically adopted by the Commission, unless the Commission determines that the amendments should not become effective.

Under the current language of § 59.33(b), the Commission is required to review, ratify and publish new Federal pipeline safety regulations prior to adopting the Federal safety standards for natural gas transmission and distribution facilities. The proposed amendment to § 59.33(b)

will eliminate the current burdensome review and ratification process that unnecessarily delays incorporation of amendments to the Federal safety standards. Specifically, the Commission's Gas Safety Division will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2005, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

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

Public Meeting held  
February 3, 2005

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

*Proposed Rulemaking Amending 52 Pa. Code § 59.33(b)*  
*(Gas Service; Safety Code); Doc. No. L-00050172*

#### **Proposed Rulemaking Order**

*By the Commission:*

Through the instant rulemaking order, the Commission is soliciting comments concerning proposed amendments to § 59.33(b) of the Commission's regulations, 52 Pa. Code § 59.33(b). Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in Pennsylvania. The purpose of the rulemaking is to modify the current language of § 59.33(b) so that future amendments to 49 CFR Parts 191—193 and 199 are automatically adopted by the Commission, unless the Commission determines that the amendments should not become effective.

Currently, § 59.33 (b) provides the procedure by which the Commission adopts, except as otherwise indicated, the Federal safety standards for natural gas transmission and distribution facilities. The Federal standards have been established by the United States Department of Transportation (DOT) as set forth in 49 U.S.C.A. §§ 60101, et seq., and as implemented in 49 CFR Parts 191, 192, 193 and 199. Section 59.33(b) provides, in pertinent part, that amendments to Title 49 will become effective in Pennsylvania upon the date of entry of a Commission ratification order when that order is served upon all jurisdictional natural gas companies or, alternatively, upon the date of such order's publication in the *Pennsylvania Bulletin*.

We now propose specific changes to § 59.33(b) in order to eliminate the requirements that the Commission review, ratify, and publish new Federal pipeline safety regulations or, alternatively, serve all jurisdictional gas utilities with a Commission order ratifying the new Federal regulations. Additionally, we propose to add language that automatically adopts future amendments to 49

CFR Parts 191—193 and 199, unless notice is provided in the *Pennsylvania Bulletin* that identifies specific amendments or modifications that shall not be adopted by the Commission.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5, section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b), section 5 of the Regulatory Review Act, 71 P. S. § 745.5, and section 612 of The Administrative Code of 1929, 71 P. S. § 232, we propose to amend our regulations as set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The proposed rulemaking be opened to consider the regulation set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review and comment by the designated standing committees of both Houses of the General Assembly, and for review and comment by the Independent Regulatory Review Commission.

5. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. Within 30 days of this order's publication in the *Pennsylvania Bulletin*, an original and 15 copies of any comments concerning this order should be submitted to the Pennsylvania Public Utility Commission, Attention: Secretary, P. O. Box 3265, Harrisburg, PA, 17105-3265. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, at (717) 772-4597 or through the AT&T Relay Center at (800) 654-5988.

7. The contact persons for this rulemaking are (technical) Paul J. Metro, Chief, Gas Safety Division, (717) 787-1063 and (legal) Jaime M. McClintock, Assistant Counsel, Law Bureau, (717) 783-2811.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-238. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

#### **Subpart C. FIXED SERVICE UTILITIES**

#### **CHAPTER 59. GAS SERVICE**

#### **SERVICE AND FACILITIES**

#### **§ 59.33. Safety.**

\* \* \* \* \*

(b) *Safety code.* [ **Unless otherwise authorized by the Commission, the** ] **The** minimum safety standards for all gas transmission and distribution facilities in this Commonwealth shall be those issued under the pipeline safety laws as found [ **at** ] **in** 49 U.S.C.A. §§ 60101—

60503 and as implemented in 49 CFR Parts 191—193 and 199, including all subsequent amendments thereto [ which have been reviewed by the Commission and ratified by an order published in the *Pennsylvania Bulletin* or alternatively served on all jurisdictional gas utilities. The date the Commission's order is entered, or in the case of publication, the date of publication in the *Pennsylvania Bulletin* shall serve as the effective date of the amendments ]. Future Federal amendments to 49 CFR Parts 191—193 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission's regulations with regard to the minimum safety standards for all gas transmission and distribution facilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

\* \* \* \* \*

[Pa.B. Doc. No. 05-2317. Filed for public inspection December 16, 2005, 9:00 a.m.]

[52 PA. CODE CH. 63]

[L-00050170]

**Regulation of Interexchange Carriers and Services**

The Pennsylvania Public Utility Commission, on March 23, 2005, adopted a proposed rulemaking order proposing to codify provisions of Act 138 of 2004, which enacts an amended version of the original Chapter 30 providing for regulatory reform of the telephone industry in this Commonwealth.

*Executive Summary*

Under 66 Pa.C.S. § 3018 (relating to interchange telecommunications carrier), jurisdictional interexchange telecommunications carriers (IXCs) have been excused from the traditional obligation to file tariffs, tariff supplements, or tariff revisions that contained the rates, provisions, rules and regulations governing the offering of their respective competitive services. This rulemaking eliminates regulations that require IXCs to file tariffs for intraState competitive services and establishes a permissive detariffing policy for the statutory categories of competitive services offered by IXCs.

The regulations ensure that the intraState, interexchange market more closely resembles a traditional unregulated market. IXCs are required to disclose to the public information about the rates, terms and conditions of all of their respective competitive services at their business location during regular business hours and at their Internet websites.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2005, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objec-

tions to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Meeting held  
March 23, 2005

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

*Proposed Rulemaking for Revision of Chapter 63 of Title 52 of the Pennsylvania Code Pertaining to Regulation of Interexchange Telecommunications Carriers And Service; Doc. No. L-00050170*

**Proposed Rulemaking Order**

*By the Commission:*

*Introduction*

On December 1, 2004, Act 183, P.L. 1398, 66 Pa.C.S. §§ 3011, et. seq. (Act 183) became effective. Act 183 enacts an amended version of the original Chapter 30, which provided for the regulatory reform of the telephone industry in Pennsylvania. This Proposed Rulemaking Order proposes to codify provisions of Act 183 related to IXCs. Through this rulemaking, we will eliminate regulations that require IXCs to file tariffs for intraState competitive services and will establish a permissive detariffing policy for the statutory categories of competitive services offered by IXCs. We will also clarify various terms, impose a new public notice requirement on IXCs, and change the jurisdictional forum relating to the processing of consumer complaints against IXCs.

*Background*

Historically, we had declined to exercise jurisdiction over resellers of intraState, interexchange telephone services as public utilities.<sup>1</sup> However, by a Final Rulemaking Order entered September 20, 1991, at L-00900054, we finalized regulations that codified our view that interexchange resellers are public utilities subject to our jurisdiction under Pennsylvania State law and modified the definition of "interexchange carrier" to include the subgroup of interexchange resellers. See 22 Pa.B. 1554. The regulations were codified at 52 Pa. Code §§ 63.111—63.118, and became effective April 4, 1992.

Since all IXCs were now considered jurisdictional public utilities, they have been under the traditional requirement of filing tariffs. See 66 Pa.C.S. § 1302. However, on July 8, 1993, the General Assembly enacted the original Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009, which, among other things, modified and streamlined our procedures related to the regulation of IXCs. The original Chapter 30 included a provision that gave us the option of requiring IXCs to file tariffs or price lists for their competitive services. 66 Pa.C.S. § 3008(b).

On December 28, 1993, we entered an Order at L-00940099 prescribing interim guidelines for the regulation of IXCs under the original Chapter 30. Despite the fact that we had been granted the option to discontinue

<sup>1</sup> The Commission had initially determined that resellers were not public utilities as defined in 66 Pa.C.S. § 102 because they did not own or operate facilities or equipment utilized to transmit messages. Nevertheless, the Commission determined that its initial view and interpretation of the statutory term "equipment and facilities" was too narrow. See 22 Pa.B. 1554. As a result, the Commission promulgated regulations so as to clarify and codify the policy that resellers of interexchange telephone services are subject to Commission jurisdiction as public utilities. Id. The above-mentioned regulations were codified at 52 Pa. Code §§ 63.111—63.118.

the tariff filing requirement for competitive services offered by IXCs, we directed all jurisdictional IXCs to continue to submit tariffs for all of their services until further notice.

Subsequently, we determined that it was necessary that our interim guidelines regarding the regulation of IXCs under the original Chapter 30 be permanently established in the context of a proposed rulemaking. Accordingly, by a Declaratory Order entered January 10, 1995, we adopted a revised set of interim guidelines and initiated a comprehensive rulemaking at the same L-docket proposing regulations to be codified at 52 Pa. Code §§ 63.101—63.107. The proposed regulations were published in the *Pennsylvania Bulletin* on April 15, 1995. See 25 Pa.B. 1418.

By a Final Order entered April 29, 1997, we promulgated final regulations to implement and codify the effect of the original Chapter 30 on our procedures related to the regulation of IXCs. See 27 Pa.B. 3217. The regulations contained streamlined procedures applicable to the statutory categories of existing competitive services, new competitive services and noncompetitive services. The regulations also established procedures related to reclassification of services offered by IXCs. Nevertheless, the final regulations did not definitively prescribe IXCs from continuing to file tariffs or tariff supplements for their competitive services. 52 Pa. Code §§ 63.103 and 63.104.

On December 1, 2004, Act 183 became effective. Act 183 enacted an amended version of the original Chapter 30 that had expired pursuant to a sunset provision. In particular, Act 183 addressed specifically regulation of IXC intraState services and operations. However, unlike the previous version of Chapter 30, Act 183 initiated a permissive detariffing policy for the competitive services of IXCs. See Act 183, P. L. 1398, 66 Pa.C.S. § 3018(B)(2). Essentially, IXCs have been excused from the traditional obligation to file tariffs, tariff supplements, or tariff revisions that contained the rates, provisions, rules and regulations governing the offering of their respective competitive services. Accordingly, we are initiating this comprehensive rulemaking in order to revise our existing regulations related to IXCs so that they are consistent with the provisions of Act 183.

#### Discussion

We seek to codify the effect of Act 183, which establishes a permissive detariffing policy for the competitive services offered by IXCs. *Id.* IXCs have been operating in an increasingly competitive economic environment and continuing to require IXCs to file tariffs for their competitive services is a regulatory burden that could impede the operation of a competitive intraState, interexchange market in Pennsylvania. Moreover, tariffs were originally required to protect consumers from unjust, unreasonable, and discriminatory rates in a virtually monopolistic market, but have become unnecessary for this purpose in an increasingly competitive market—if a consumer is of the opinion that the rates of a particular IXC are unreasonable, the consumer can simply switch to a competing provider that offers better rates to them.

Additionally, tariffs may have the effect of impeding competition and market efficiency because, pursuant to the filed-rate doctrine, the carrier can only charge the consumer the rate set forth in the tariff. See *Bell Tel. Co. of Pennsylvania v. Pennsylvania Public Utility Commission*, 417 A.2d 827 (Pa. Cmwlth. 1980); see also 66 Pa.C.S. § 1303. Consequently, a carrier is prohibited from offering a better competitive rate, term or condition to a consumer for a competitive service set forth in its tariff.

The carrier would have to go through the administrative process of modifying its tariff, which even under a streamlined form of regulation could take some time and the IXC could possibly lose the interest of that consumer in the meantime.

We also note that the Federal Communications Commission (FCC) recently adopted a complete detariffing policy under which it no longer requires nondominant interstate, domestic, interexchange carriers to file tariffs for their interstate, domestic interexchange services. See *Common Carrier Bureau Extends Transition Period for Detariffing of Consumer Domestic Long Distance Services*, CC Docket No. 96-61, Public Notice, DA 01-282 (rel. Feb. 5, 2001).

Accordingly, we believe that promulgating regulations that establish a detariffing regime IXC competitive services not only codifies the effect of the detariffing policy embodied in Act 183, but also ensures that the intraState, interexchange market more closely resembles a traditional unregulated market.

While we recognize the benefits of establishing a detariffing policy for the competitive services of IXCs, we acknowledge that consumers in the competitive marketplace, especially residential and small business customers, will need information in order to compare IXCs' competitive service offerings. We believe that the absence of sufficient information about competitive services may result in consumers not having the ability to choose the service offering that best suits their individual needs. Consumers must have information concerning the rates, terms and conditions of interexchange services in a detariffed regime and we are concerned about the disclosure of such information to consumers. In fact, the reason that we continued to mandate the filing of tariffs even after the enactment of the original Chapter 30 was because we were concerned about "the potential loss of benefits that will result from the complete absence of up-to-date information regarding the competitive services of IXCs that currently operate in the Commonwealth . . ." See December 28, 1993 Order at 6.

Under a detariffed regime, the public disclosure requirements set forth in the state consumer protection law will now govern the relationship between customers who use the competitive services of IXCs. However, in addition to these public disclosure requirements, we propose in our regulations that IXCs establish public disclosure locations where they will make information on current rates, terms, and conditions for all of their competitive service offerings available to the public. We propose that IXCs disclose to the public information about the rates, terms and conditions of all of their respective competitive services at their business location during regular business hours. Additionally, we propose to require that IXCs with Internet websites post information concerning the rates, terms and conditions of service of all their competitive services on their Internet websites. The information should be in an easy-to-understand format for the customer. Furthermore, we propose that IXCs should post their rate and service information at both places in a timely and easily accessible manner and update such information regularly. We believe that requiring such public disclosure is in the public interest and will provide important protections to consumers and we will enforce these public disclosure requirements.<sup>2</sup>

<sup>2</sup> We advise the IXC community that Act 183 has not superceded the applicability of section 1501 of the Code and, thus, our authority to resolve IXC-related complaints. See Act 183, P. L. 1398, 66 Pa.C.S. § 3018(D)(1); see also *AT&T v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth.) (Court held that quoting telephone rates to customers is a "service" under the Public Utility Code).

*Conclusion*

Through this proposed rulemaking, we propose comprehensive regulations that will govern the future regulation of interexchange carriers consistent with the mandate of Act 183.<sup>3</sup> In particular, we propose to eliminate those regulations in Chapter 63 that require IXCs to file tariffs for their competitive services. During this rulemaking process and until such time as the proposed regulations receive final regulatory approval, we are granting a general waiver of our regulations in the *Pennsylvania Code* that require IXCs to file tariffs at the Commission for competitive services. In fact, we advise all IXCs that they may immediately cancel their respective competitive services tariffs and withdraw any pending tariff supplements during this rulemaking process. If any IXC chooses to cancel its tariffs and withdraw its pending tariff supplements, we advise them to file a letter with the Bureau of Fixed Utility Services that clearly indicates that the IXC has elected to detariff its competitive services.

Nevertheless, IXCs that choose to cancel their tariffs and withdraw tariff supplements will be under a legal obligation to disclose to their individual customers the respective rates, terms and conditions of service as their relationship will become governed by state contract law and the applicable public disclosure requirements set forth in the state consumer protection law.<sup>4</sup> Accordingly, the Commission advises consumers to contact the Pennsylvania Office of Attorney General's Bureau of Consumer Protection Division in order to learn about the protections and remedies available under their state contract and consumer protection laws.

At this time, the Commission is proposing to amend Chapter 63 by deleting Subchapters H and I and creating one Subchapter that establishes regulations for all jurisdictional IXCs. This proposed rulemaking will set forth a single Subchapter H and regulations that specifically deal with, but are not limited to, the following:

- (1) clarification of definitions relating to IXCs as public utilities;
- (2) elimination of tariff requirements for all designated IXC competitive services;
- (3) implementation of public notice requirements relating to IXC competitive services and prices;
- (4) designation that consumer IXC complaints that contain allegations about notice requirements under state contract or state consumer protection laws will be transferred by Bureau of Consumer Services to the Office of Attorney General for enforcement.

IXC requirements appearing elsewhere in our regulations remain intact and are not amended, revised or affected by the newly proposed regulations presented herein as Annex A.

We seek input from participants in the intraState interexchange market and are requesting comments from them as well as from any other interested member of the public. Interested parties will have 30 days from the publication of this Order to file their initial comments. We advise those that will be submitting comments in this proceeding to include specific section references to the proposed regulations. Reply comments will be due 15 days from the last date of the 30-day comment period. We are committed to completing the revisions to our proce-

dural regulations in a timely fashion and, therefore, no extensions will be granted for the filing of comments. Accordingly, pursuant to sections 501 of the Public Utility Code, 66 Pa.C.S. § 501 and sections 201 and 202 of the act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, we amend the regulations as previously noted and as set forth in Annex A; *Therefore, It Is Ordered That:*

- 1. A rulemaking proceeding is hereby initiated at this docket to consider the revisions to regulations appearing in Chapter 63 as set forth in Annex A.
- 2. The Secretary shall submit a copy of this order and Annex A to the Office of Attorney General for preliminary review as to form and legality.
- 3. The Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.
- 4. The Secretary shall submit this order and Annex A for review and comments by the designated standing committees of both houses of the General Assembly, and for review and comments by Independent Regulatory Review Commission.
- 5. The Secretary shall certify this order and Annex A and deposit them with Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 6. A copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff and all jurisdictional intraState interexchange carriers.
- 7. Interested persons may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg PA, 17105-3265 within 30 days from the date this order is published in the *Pennsylvania Bulletin*. Reply comments will be due 15 days from the last date of the 30-day comment period. One copy of a diskette containing the comments in electronic format should also be submitted. A courtesy copy of all written comments shall be served upon the Commission's Law Bureau, ATTN: Assistant Counsel David E. Screven. No extensions shall be granted for the filing of comments.
- 8. Comments should include, when appropriate, a numerical reference to the proposed regulation which the comment addressed, any proposed language for revision and a clear explanation for the recommendation.
- 9. Contact person for this matter is David E. Screven, Law Bureau (legal), (717) 787-2126 and Rhonda Stover, Bureau of Fixed Utility Services (technical), (717) 787 7703.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-239. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 63. TELEPHONE SERVICE**  
Subchapter H. [ **INTEREXCHANGE**  
**TELECOMMUNICATIONS CARRIERS** ]  
**INTEREXCHANGE CARRIERS**

<sup>3</sup> See February 4, 2005 Secretarial Letter, *Re: Tariff Requirements Pursuant to Act 183*, 66 Pa.C.S. § 3018, Docket No. M-00051869.  
<sup>4</sup> See 73 P. S. §§ 201-1—201-9.2.

(*Editor's Note:* The Commission is proposing to delete the current version of §§ 63.101—63.107, which appear at 52 Pa. Code pages 63-42, 63-43 and 63-47—63-52, serial pages (246484), (246485) and (232271)—(232276), and replace them with the sections that follow.)

**§ 63.101. Statement of purpose and policy.**

On December 1, 2004, the General Assembly enacted sections 3011—3019 of the code (relating to alternative form of regulation of telecommunications services), which provided for the regulatory reform of the telephone industry in this Commonwealth. Sections 3018 and 3019(b) of the code (relating to interexchange telecommunications carrier; and additional powers and duties) have significant effect on the future regulation by the Commission of intraState interexchange telecommunications carriers, which include interexchange transporters and interexchange resellers. The purpose of this subchapter is to codify the application of Chapter 30 of the code (relating to alternative form of regulation of telecommunication services) to intraState, interexchange telecommunications carriers and to codify the modification of procedures to address the application of Chapter 30 of the code.

**§ 63.102. Definitions.**

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

*Clear and conspicuous manner*—Information that is legible, stated in plain language and printed in 10-point type or larger.

*Code*—The Public Utility Code, 66 Pa.C.S. §§ 101—3316.

*Competitive services*—Interexchange services other than noncompetitive services.

*Interexchange facilities-based carrier*—A person or entity whose facilities carry intraState interexchange service on a wholesale or retail basis through line, wire, cable, microwave, radio wave, satellite or other analogous facilities owned or operated by it. An interexchange transporter may also provide interexchange services as a reseller.

*Interexchange reseller carrier*—A person or entity which directly or indirectly acquires intraState interexchange service capacity and establishes rates to sell interexchange service through the use of technology to a residential or nonresidential subscriber or consumer and who is not an interexchange transporter.

*Interexchange services*—The transmission of interLATA or intraLATA toll messages or data outside the local calling area.

*Interexchange telecommunications carrier*—

(i) A public utility, including both interexchange reseller carrier and interexchange facilities-based carrier, as those terms are defined in this section, authorized by the Commission to provide intraState interexchange service on a wholesale or retail basis.

(ii) The term does not include a local exchange telecommunications company authorized by the Commission to provide intraState, interexchange services.

*Noncompetitive services*—The term only includes those interexchange services or business activities that have been determined expressly by the Commission to be noncompetitive under § 63.105 (relating to reclassification of services).

**§ 63.103. Jurisdiction of interexchange resellers and transporters.**

Under the definition of “public utility” in section 102 of the code (relating to definitions), a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transmitting intraState interexchange services is subject to Commission jurisdiction as a public utility. Interexchange resellers and interexchange transporters own or operate equipment or facilities utilized for the transmission of interexchange services and therefore, under the statutory definition of “public utility” are jurisdictional.

**§ 63.104. Disclosure requirements for competitive services.**

(a) All services, new or existing, offered by interexchange telecommunications carriers are deemed competitive.

(b) An interexchange telecommunications carrier may maintain tariffs and file tariff supplements with the Commission that set forth the rates, charges and service description information relating to each of its competitive services. If an interexchange telecommunications carrier files a tariff or a tariff supplement with the Commission for its competitive services, it shall become effective on 1-day's notice.

(c) If an interexchange telecommunications carrier chooses to detariff its competitive services, it shall make available for public inspection information concerning the rates, charges, terms and conditions for its competitive services in an easily accessible and clear and conspicuous manner at the following locations:

(1) At the interexchange telecommunications carrier's principal office, if it is located within this Commonwealth, or the designated office of the utility during regular business hours.

(2) At the website of the interexchange telecommunications carrier.

(d) An interexchange telecommunications carrier shall update information concerning changes in rates, charges, terms and conditions for its competitive services at its principal office and its Internet website no later than 48 hours after the effective date of the change so it provides the current information concerning service offerings.

(e) An interexchange telecommunications carrier that chooses to detariff its competitive services shall disclose to customers their right to request information concerning the rates, charges, terms and conditions for its competitive services and shall provide contact information for this purpose.

(f) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

**§ 63.105. Reclassification of services.**

(a) The Commission has authority, under section 3018(c) of the code (relating to interexchange telecommunications carrier), after notice and an opportunity for a hearing, to reclassify interexchange services as a noncompetitive service.

(b) The Commission will review whether a competitive service should be reclassified as a noncompetitive service within the scope of a Commission investigation conducted under section 331(a) of the code (relating to powers of commission and administrative law judges), or upon consideration of a complaint filed under section 701 of the code (relating to complaints).

(c) When reviewing whether a service should be reclassified, the Commission will consider the following factors:

(1) The ease of entry by potential competitors into the market for the specific service at issue.

(2) The presence of other existing interexchange telecommunications carriers in the market for the specific service at issue.

(3) The ability of other interexchange telecommunications carriers to offer the service at competitive prices, terms and conditions.

(4) The availability of like or substitute service alternatives in the relevant geographic area for the service at issue.

(5) Other factors deemed relevant by the Commission.

**§ 63.106. Noncompetitive services and tariffs.**

(a) A noncompetitive service, as defined in § 63.102 (relating to definitions), offered by an interexchange telecommunications carrier shall be included in a tariff filed in compliance with sections 1302 and 1303 of the Code (relating to tariff filing and inspection; and adherence to tariffs).

(b) Modifications to the rates, terms or conditions of the noncompetitive service set forth in the interexchange carrier's tariff shall be implemented through the filing of a tariff supplement and verified supporting documentation. The interexchange telecommunications carrier shall serve the tariff supplement on the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Office of Trial Staff. The interexchange telecommunications carrier shall provide notice to the customer of the proposed change to the noncompetitive service within 45 days of the filing.

(c) The tariff supplement and verified supporting documentation must contain the following information:

(1) An indication on each page of the tariff supplement that the page pertains to the noncompetitive service.

(2) A description of the noncompetitive service.

(3) The rates proposed for the noncompetitive service.

(4) Supporting data justifying the proposed rates for the noncompetitive service.

(5) An executive overview summarizing the reason for the filing which includes relevant information regarding the safety, adequacy, reliability and privacy considerations related to the proposed service.

(6) Other reasonable justification or any relevant data that is requested by the Commission.

(d) The interexchange telecommunications carrier may not submit cost justification, cost-of-service or revenue data relating to the proposed change as directed in subsection (c)(4) if the following applies:

(1) The proposed change does not purport to increase an existing rate or surcharge.

(2) The proposed change to the noncompetitive service is designed to make the rates, terms or conditions for that service comparable to the rates, terms and conditions that have been approved by several other State commissions.

(e) The noncompetitive service tariff supplement shall be filed to become effective on 16-days' notice by the interexchange telecommunications carrier.

(f) Review of noncompetitive service tariff supplements shall be conducted consistent with the following procedures:

(1) Within 14 days of the date of filing, the Commission will issue a notice allowing the tariff supplement to become effective or issue a report which explains why the tariff supplement may not become effective without modification. The report must identify modifications which would eliminate inadequacies in the tariff supplement. The Commission will deliver or transmit the notice or report to the filing interexchange telecommunications carrier at the time of issuance.

(2) When the Commission issues a notice allowing the tariff supplement to go into effect, the tariff supplement shall become effective, without modification, 16 days after the filing date. If the Commission does not issue a notice or report on the tariff supplement within the 14-day period, the tariff supplement will go into effect by operation of law at the end of the 16-days' notice period.

(3) When the Commission prohibits a tariff supplement from going into effect and issues a report addressing the inadequacies in the tariff supplement, the tariff supplement shall be suspended pending consideration of the tariff supplement under paragraphs (4) and (5).

(4) The filing interexchange telecommunications carrier may file a response to the suspension of the carrier's tariff supplement. The response shall be filed within 7 days of the issuance of the report.

(5) In the alternative, the interexchange telecommunications carrier may withdraw the tariff supplement and file a new tariff supplement which adopts the modifications addressed in the report or which reflects a version of the tariff supplement that has been agreed to by the carrier and the Commission. When a modified tariff supplement is filed, the modified tariff supplement shall become effective on 1-day's notice.

(g) An interexchange telecommunications carrier requesting rate decreases for its existing noncompetitive services shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.

(h) An interexchange telecommunications carrier requesting changes in the terms and conditions of its existing noncompetitive services, when the changes do not result in any rate changes, shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.

(i) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

**§ 63.107. Applications for authority.**

(a) An applicant shall specifically indicate in the application for authority to commence service that it is requesting authorization to provide interexchange services to the public and comply as closely as possible with § 3.551 (relating to official forms). The Commission may not make a distinction between certificates of public convenience for interexchange facilities-based carriers and interexchange reseller carriers.

(b) If an applicant is offering noncompetitive services to the public, it shall attach a proposed tariff to its application containing the proposed rates of the noncompetitive services and the rules and policies under which the interexchange telecommunications carrier intends to provide its service. Rates for noncompetitive services provided for in the proposed tariff may not exceed the reasonable charge for a noncompetitive interexchange call as defined in § 63.102 (relating to definitions).

(c) In addition to review of the general evidentiary criteria applicable to interexchange telecommunications carrier application proceedings, the Commission will review the proposed tariff to determine if it complies with subsection (b). The Commission will grant applications only upon a finding that the proposed tariff complies with subsection (b). If the proposed tariff complies with subsection (b), the Commission will presume that the rates for the noncompetitive services contained in the tariff are just and reasonable.

(d) Upon the grant of an application for authority to commence interexchange service, the applicant proposing to offer noncompetitive services shall file an initial tariff with the Commission for its noncompetitive services only. The initial tariff must contain the same rates, rules and policies for the noncompetitive services as set forth in the proposed tariff reviewed by the Commission. The initial tariff must become effective immediately upon filing. Initial tariffs must comply with §§ 53.1—53.10 and 53.21—53.26 (relating to filing regulations; and form and contents of tariffs).

(e) Upon the grant of an application for authority to commence interexchange service, a new interexchange telecommunications carrier may file or maintain with the Commission tariffs containing the rates, terms and conditions for its competitive services. If the new interexchange telecommunications carrier files a tariff with the Commission, the tariff shall become effective on 1-day's notice.

(f) If a new interexchange telecommunications carrier chooses to detariff its competitive services, the information regarding the rates, terms and conditions for its competitive services shall be made available at the public disclosure locations established in § 63.104(c) (relating to disclosure requirements for competitive services). The new carrier shall post the information at the public disclosure locations within 48 hours of the date that its application to commence interexchange service has been approved by the Commission.

(g) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

#### § 63.108. Reporting requirements.

(a) Interexchange telecommunications carriers shall file affiliated interest and affiliated transaction agreements with the Commission unless the agreements involve services declared to be competitive. The filings constitute notice to the Commission only. The Commission may use the filings to audit the accounting and reporting systems of interexchange telecommunications carriers for transactions with their affiliates.

(b) On or before May 31 of a calendar year, a certified interexchange telecommunications carrier, as defined in § 63.102 (relating to definitions), shall file with the Commission an annual report for the preceding calendar year. The annual report shall be filed with the Commission's Bureau of Fixed Utility Services.

(c) The annual report must contain aggregate total revenue and traffic volume data measured in minutes of use for the carrier's intraState operations during the preceding calendar year. Subject to data availability, some examples of the information that shall be disaggregated in the carrier's major service categories are:

(1) Message toll service (MTS) and associated services including operator assisted and calling card services.

(2) Services corresponding to outbound Wide Area Telecommunications Services (WATS).

(3) Services corresponding to inbound WATS or "800" type services.

(4) Private line or dedicated communication path services.

(5) Dedicated network type services, including virtual network type services.

#### § 63.109. Enforcement.

(a) For the purpose of enforcement of consumer complaints regarding competitive services, the Commission will have jurisdiction to enforce consumer complaints that involve violations of the applicable public notice requirements established in this subchapter. Other consumer complaints, including those complaints involving violations that fall under the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1—209-6), will be referred by the Commission's Bureau of Consumer Services to the Office of Attorney General's Bureau of Consumer Protection.

(b) For the purpose of enforcement of consumer complaints related to noncompetitive services, the Commission will utilize the dispute and informal complaint procedures prescribed for residential billing disputes under Chapter 64 (relating to standards and billing practices for residential telephone service). The Bureau of Consumer Services will have primary jurisdiction over informal complaints arising under this subchapter for designated noncompetitive services.

#### Subchapter I. [ INTEREXCHANGE RESELLERS ] (Reserved)

*(Editor's Note: The Commission is proposing to delete the current version of §§ 63.111—63.118, which appear at 52 Pa. Code pages 63-52—63-57, serial pages (232276) to (232280) and (244387).)*

§ 63.111. (Reserved).

§ 63.112. (Reserved).

§ 63.112a. (Reserved).

§§ 63.113—63.118. (Reserved).

[Pa.B. Doc. No. 05-2318. Filed for public inspection December 16, 2005, 9:00 a.m.]



# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 November 29, 2005.

#### BANKING INSTITUTIONS

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-17-05	Valley Green Bank Philadelphia Philadelphia County	7226 Germantown Avenue Philadelphia Philadelphia County	Commenced Operations

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-05	Keystone Nazareth Bank & Trust Co. Bethlehem Northampton County	211 Best Avenue Walnutport Northampton County	Opened
11-23-05	The Scottdale Bank & Trust Company Scottdale Westmoreland County	Pechin Complex Connellsville Fayette County	Approved
11-23-05	Fulton Bank Lancaster Lancaster County	2350 North Reading Road Denver East Cocalico Township Lancaster County	Approved

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-05	Fulton Bank Lancaster Lancaster County	<i>To:</i> 2057 South Queen Street York York Township York County  <i>From:</i> 2081 Springwood Road York York Township York County	Effective
11-28-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 2923 Willow Street Pike Willow Street Lancaster County  <i>From:</i> 106 Willow Valley Square Lancaster Lancaster County	Approved
11-18-05	PeoplesBank, a Codorus Valley Company York York County	<i>To:</i> 48 East Market Street York York County  <i>From:</i> 118 East Market Street York York County	Approved

##### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-21-05	Pennsylvania Business Bank Philadelphia Philadelphia County	1401 Walnut Street Philadelphia Philadelphia County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-23-05	Standard Bank, PaSB Murrysville Westmoreland County	Redstone Highlands 4951 Cline Hollow Road Murrysville Westmoreland County (Limited Service Facility)	Approved
11-28-05	Keystone Nazareth Bank & Trust Bethlehem Northampton County	500 Route 940 Mt. Pocono Monroe County	Approved
11-29-05	CSB Bank Curwensville Clearfield County	BILO Supermarket Route 255 (Million Dollar Highway) St. Marys Elk County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
11-29-05	First Priority Bank Malvern Chester County	Articles of Amendment amend and restate the Articles of Incorporation in their entirety.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

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

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-23-05	Tri County Area Federal Credit Union, Pottstown, and KCC Credit Union, Boyertown Surviving Institution— Tri County Area Federal Credit Union, Pottstown	Pottstown	Filed

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 05-2319. Filed for public inspection December 16, 2005, 9:00 a.m.]

**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 December 6, 2005.

**BANKING INSTITUTIONS****Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-2-05	Jersey Shore State Bank Jersey Shore Lycoming County	820 Broad Street Montoursville Lycoming County	Approved
12-2-05	First Commonwealth Bank Indiana Indiana County	6999 Crider Road Mars Butler County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-2-05	The Bryn Mawr Trust Company Bryn Mawr Montgomery County	<i>To:</i> 50 West Lancaster Avenue Ardmore Montgomery County  <i>From:</i> 312 East Lancaster Avenue Wynnewood Montgomery County	Approved
12-5-05	Lafayette Ambassador Bank Easton Northampton County	<i>To:</i> One East Broad Street Bethlehem Northampton County  <i>From:</i> 60 West Broad Street Bethlehem Northampton County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-10-05	First Commonwealth Bank Indiana Indiana County	The following branches were closed in conjunction with the purchase of assets/assumption of liabilities by Clearfield Bank and Trust Company, Clearfield:  101 High Street Williamsburg Blair County  Route 22 Huntingdon Huntingdon County  501 Penn Street Huntingdon Huntingdon County  16 West Shirley Street Mount Union Huntingdon County  729 Main Street Saxton Bedford County  Ashman Street Three Springs Huntingdon County	Effective
12-1-05	Leesport Bank Wyomissing Berks County	100 West Main Street Lansdale Montgomery County	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-1-05	Franklin-Oil Region Credit Union Franklin Venango County	Franklin	Filed

Application represents conversion from an occupational-based credit union to a community charter with a proposed field of membership consisting of those who live, work, worship, volunteer, attend school in and businesses and other legal entities in Venango County.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 05-2320. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Availability of 2005-2006 Career and Technical Education Child Care Curriculum Grants

Applications for curriculum grants funding are invited. The project period is from January 31, 2006, to June 30, 2006. The maximum amount per project is \$15,000.

#### 1. Eligibility Requirements

Funding is available on a competitive basis to area vocational technical schools/career and technical education centers with approved Child Care and Support Services Management programs (19.078) or school districts with approved Child Care and Support Services Management programs (19.078).

#### 2. Applications Deadline

Applications are due January 31, 2006, by 5 p.m.

#### 3. How to Apply

The Department of Education (Department) has implemented an Internet-based E-Grant system that requires eligible applicants to apply for funding online. The grant guidelines will be available on the Department's website: [www.pde.state.pa.us](http://www.pde.state.pa.us). Click on "K-12 Schools," then on the left hand side click on "Career and Technical Education," "Grants and Funding," "Funding Sources." This page provides a listing of the various funding guidelines. Click on "Child Care Curriculum Grants."

#### 4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to John Bonchalk, General Vocational Education Advisor, Department of Education, Bureau of Career and Technical Education, Division of Contract Administration, 333 Market Street, 6th Floor, Harrisburg, PA 17126-0333, (717) 772-4177, [jbonchalk@state.pa.us](mailto:jbonchalk@state.pa.us).

GERALD L. ZAHORCHAK, D.Ed.,  
*Acting Secretary*

[Pa.B. Doc. No. 05-2321. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Availability of 2005-2006 Career and Technical Education Curriculum Grants

Applications for curriculum grants funding are invited. The project period is from January 31, 2006, to June 30, 2006. The maximum amount per project is \$15,000.

#### 1. Eligibility Requirements

Funding is available on a competitive basis to career and technical education centers; area school districts with eight or more approved career and technical programs, two of which must be trade and industrial; and school districts with approved career and technical education agriculture programs.

#### 2. Applications Deadline

Applications are due January 31, 2006, by 5 p.m.

#### 3. How to apply

The Department of Education (Department) has implemented an Internet-based E-Grant system that requires eligible applicants to apply for funding online. The grant guidelines will be available on the Department's website: [www.pde.state.pa.us](http://www.pde.state.pa.us). Click on "K-12 Schools," then on the left hand side click on "Career and Technical Education," "Grants and Funding," "Funding Sources." This page provides a listing of the various funding guidelines. Click on "Curriculum Grants."

#### 4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to John Bonchalk, General Vocational Education Advisor, Department of Education, Bureau of Career and Technical Education, Division of Contract Administration, 333 Market Street, 6th Floor, Harrisburg, PA 17126-0333, (717) 772-4177, [jbonchalk@state.pa.us](mailto:jbonchalk@state.pa.us).

GERALD L. ZAHORCHAK, D.Ed.,  
*Acting Secretary*

[Pa.B. Doc. No. 05-2322. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Availability of 2005-2006 Career and Technical Education Equipment Grants

Applications for equipment grants funding are invited. The project period is from January 31, 2006, to June 30, 2006. The maximum amount per project is \$50,000.

#### 1. Eligibility Requirements

Funding is available on a competitive basis to career and technical education centers; area school districts with eight or more approved career and technical programs, two of which must be trade and industrial; and school districts with approved career and technical education agriculture programs.

#### 2. Applications Deadline

Applications are due January 31, 2006, by 5 p.m.

#### 3. How to apply

The Department of Education (Department) has implemented an Internet-based E-Grant system that requires eligible applicants to apply for funding online. The grant guidelines will be available on the Department's website: [www.pde.state.pa.us](http://www.pde.state.pa.us). Click on "K-12 Schools," then on the left hand side click on "Career and Technical Education," "Grants and Funding," "Funding Sources." This page provides a listing of the various funding guidelines. Click on "Equipment Grants."

#### 4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to John Bonchalk, General Vocational Education Advisor, Department of Education, Bureau of Career and Technical Education, Division of Contract Administration, 333 Market Street, 6th Floor, Harrisburg, PA 17126-0333, (717) 772-4177, [jbonchalk@state.pa.us](mailto:jbonchalk@state.pa.us).

GERALD L. ZAHORCHAK, D.Ed.,  
*Acting Secretary*

[Pa.B. Doc. No. 05-2323. Filed for public inspection December 16, 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>
PAS112202	BVI Precision Materials Solutions, Inc. 490 Norristown Road Suite 153 Blue Bell, PA 19422	Allentown City Lehigh County	Little Lehigh Creek 2C HQ-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>
PA0082163 (Sew)	New Life for Girls Box D-700 Dover, PA 17315	York County Conewago Township	UNT to Laurel Run 7-F	Y
PA0025399 (Sew)	Christiana Borough 10 West Slokum Avenue Christiana, PA 17509	Lancaster County Christiana Borough	Buck Run 7-K	Y
PA0032034 (Sew)	Frank T. Perano Shamrock MHP 2846 Main Street 12-A Morgantown, PA 19543-9486	Blair County Juniata Township	Blair Gap Run 11-A	Y
PA0081353 (Sew)	Brian Crowe Crowe Transportation 2388 North Market Street Elizabethtown, PA 17022	Lancaster County West Donegal Township Elizabethtown Broough	UNT to Conewago Creek 7-G	Y
PA0081311 (Sew)	South Londonderry Township Municipal Authority P. O. Box 3 Campbelltown, PA 17010-0003	Lebanon County South Londonderry Township	Conewago Creek 7-G	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>
PA0036846 SP	New Berlin Municipal Authority Box 473 New Berlin, PA 17855	Union New Berlin Borough	Penns Creek 6A	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>
PA0100951	Penelec Shannon Road Ash Site Pennsylvania Electric Company d/b/a First Energy 1003 Broad Street Johnstown, PA 15906	Harborcreek Township Erie County	Four Mile Creek 15-FM	Y

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

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

**PA0057908**, Sewage, SIC 722, **Jericho National Golf Club, Inc.**, 250 Brownsburg Road, New Hope, PA 18938. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Activity: Discharge of 4,220 gpd of treated sewage from sewage treatment plant into an unnamed pond tributary to Jericho Creek.

The receiving stream, UNT to Jericho Creek, is in the State Water Plan watershed 2E—Common and is classified for WWF. The nearest downstream public water supply intake for Keystone Water Company is located on Delaware River and is 9.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 4,220 gpd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>					
(5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Suspended Solids			10		20
Ammonia (as N)					
(5-1 to 10-31)			3		9
(11-1 to 4-30)			9		18

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Phosphorus as P			Monitor and Report		
Total Residual Chlorine			0.5		1.2
Fecal Coliform			200#/100 ml as a geometric average		
Dissolved Oxygen			minimum of 3.0 mg/l at all times		
pH			within limits of 6.0 to 9.0 standard units at all times		

The EPA waiver is in effect.

**No. PA0052728**, Sewage, **Turkey Hill Minit Market, Inc.**, 257 Centerville Road, Lancaster, PA 17603. The treatment plant is located at 1000 West Kings Highway, Coatesville, PA 19320.

This application is for renewal of an NPDES permit to discharge treated sewage from Turkey Hill Minit Market STP in City of Coatesville, **Chester County**. This is an existing discharge to a UNT to the West Branch of Brandywine Creek.

The receiving stream is classified for the following uses: HQ-TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd, are as follows:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia (as N)	15	30
Total Residual Chlorine	0.5	1.0
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0 to 9.0 standard units at all times	

**PA0025976**, Sewage, SIC 4952, **Upper Moreland Hatboro Joint Sewer Authority**, 2875 Terwood Road, P. O. Box 535, Willow Grove, PA 19090-0535. This proposed facility is located in Upper Moreland Township, **Montgomery County**.

Description of Proposed Activity: renewal of the NPDES permit to discharge treated sewage at an average annual rate of 7.173 mgd and a maximum monthly flow of 9.08 mgd to Pennypack Creek.

The receiving stream, Pennypack Creek, is in the State Water Plan watershed 3J and is classified for trout stocking and MF. There is no nearest downstream public water supply intake.

The proposed effluent limits for Outfall 001 are based on a design flow of 7.173 mgd.

Parameters	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>				
(5-1 to 10-31)	15	23		30
(11-1 to 4-30)	25	40		50
Suspended Solids	30	45		60
NH <sub>3</sub> -N				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	6.0			12.0
Fecal Coliform	200 Col. Per 100 ml			Monitor
Dissolved Oxygen	6.0 minimum			
pH (STD)	6.0 minimum			9.0
Copper, Total	Monitor		Monitor	Monitor
Zinc, Total	0.19		0.37	0.47
Total Residual Chlorine	Monitor			

In addition to the effluent limits, the permit contains the following major special conditions:

1. NH<sub>3</sub>-N Instantaneous Maximum During the Month of May is allowed at 5.0 mg/l.
2. Stream Sampling.
3. Pretreatment Program.
4. Sludge Disposal.
5. Stormwater Outfalls.
6. Operations and Maintenance Plan.
7. Laboratory Certification.
8. Chlorine Minimization.
9. Prohibited Discharges.
10. Copper Limits Based on WER.
11. WETT at Renewal.
12. TMDL/WLA Analysis.

The changes are made to the notice published at 31 Pa.B. 1592 (March 24, 2001) and at 35 Pa.B. 6330 (November 19, 2005).

**PA0029441**, Sewage, SIC 4952, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This existing facility is located in Upper Dublin Township, **Montgomery County**.

Description of Proposed Activity: Issuance of a NPDES renewal permit for discharge of treated sewage effluent and stormwater to a UNT to Sandy Run. Permitted flow is increased from 1.0 mgd average annual flow to 1.1 mgd. The basis for the limits include consideration of the Wissahickon Total Maximum Daily Load dated October 2003 for the parameters CBOD<sub>5</sub>, NH<sub>3</sub>-N, Orthophosphate as P, Total Phosphorus, Dissolved Oxygen and (Nitrite + Nitrate) as Nitrogen.

The copper limits are based on a site-specific criterion for copper, which was developed by means of the Water Effect Ratio (WER) process in accordance with the Environmental Protection's WER Guidance. The final recommended WER for Total Recoverable Copper is 2.47.

The receiving stream, a UNT to Sandy Run, is in the State Water Plan watershed 3F and is classified for TS, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Philadelphia Water Department is located on the Schuylkill River and is approximately 13.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.1 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	13	19		26
(11-1 to 4-30)	25	37		50
Total Suspended Solids	30	45		60
NH <sub>3</sub> -N				
(5-1 to 10-31)	2.2			4.4
(11-1 to 4-30)	6.6			13.2
(NO <sub>2</sub> + NO <sub>3</sub> )-N	Monitor			Monitor
pH (Std. Units)	6.0, I-min.			9.0
Fecal Coliform (# col/100 ml)	200			
Total Residual Chlorine	0.09			0.3
Dissolved Oxygen:				
(Issuance through Year 2)	5.0, I-min.			
(Year 3 through Expiration)	7.0, I-min.			
Orthophosphate as P:				
(Issuance through Year 2)	Monitor			Monitor
(Year 3 through Expiration 4-1 to 7-31)	1.4			2.8
Total Phosphorus as P:				
(Issuance through Year 2)	Monitor			Monitor
(Year 3 through Expiration)	2.0			4.0
Copper, Total	0.056		0.087	

The proposed effluent limits for Stormwater Outfall 002 are based on a design flow of an average storm event.

<i>Parameters</i>	<i>Average Annual (mg/l)</i>	<i>Average Semi-Annual (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	Monitor		Monitor	
COD	Monitor		Monitor	
Oil and Grease	Monitor		Monitor	
pH	Monitor		Monitor	
Total Suspended Solids	Monitor		Monitor	
Total Kjeldahl Nitrogen	Monitor		Monitor	
Total Phosphorus	Monitor		Monitor	
Iron, Dissolved	Monitor		Monitor	
Fecal Coliform (# col/100 ml)	Monitor		Monitor	

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Responsible Operator.
2. Definition of Average Weekly.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sanitary Sewers.
5. Necessary Easements.
6. Small Stream Discharge.
7. Change in Ownership.
8. Specification of Test Method.
9. Proper Sludge Handling.
10. Chlorine Minimization.
11. TMDL Data Submission.
12. Whole Effluent Toxicity Testing with Renewal.
13. Instantaneous Maximum Limitations.
14. Stormwater Requirements.
15. SSO Language.



The EPA waiver is not in effect.

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

**PAS802222**, Industrial Stormwater, **NAPA Development Corp., Inc.**, P. O. Box 639, Wind Gap, PA 18091. This proposed facility is located in Wind Gap Borough, Bushkill Township, Plainfield Township, **Northampton County**.

Description of Proposed Activity: Issuance of new Industrial Stormwater Permit.

The receiving stream, Little Bushkill Creek, is in the State Water Plan watershed No. 1F and is classified for: HQ-CWF. The nearest downstream public water supply intake for Easton is located on the Delaware River.

The proposed effluent limits for Outfall 001 are as follows:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
CBOD <sub>5</sub>				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

In addition to the effluent limits, the permit contains the following major special conditions: Requirements applicable to stormwater outfalls along with identified best management practices.

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

**Application No. PA 0247979**, Sewage, **Gary and Judith Cryder**, 101 Fleisher Road, Marysville, PA 17053. This facility is located in Rye Township, **Perry County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Fishing Creek, is in Watershed 7-A and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Steelton Municipal Waterworks is located on the Susquehanna River approximately 14.4 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	Monitor and Report		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform	200/100 ml as a geometric average		
(5-1 to 9-30)	10,000/100 ml as a geometric average		
(10-1 to 4-30)			

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA 0248045**, Sewage, **Sauder Brothers Partnership (Lot No. 1)**, 1464 Mastersonville Road, Manheim, PA 17545. This facility is located in Rapho Township, **Lancaster County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Rife Run, is in Watershed 7-G and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Columbia Water Company is located on the Susquehanna River approximately 28 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	10		20
Total Residual Chlorine	monitor		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform	200/100 ml as a geometric average		

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA 0248053**, Sewage, **Sauder Brothers Partnership (Lot No. 2)**, 1464 Mastersonville Road, Manheim, PA 17545. This facility is located in Rapho Township, **Lancaster County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Rife Run, is in Watershed 7-G and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Columbia Water Company is located on the Susquehanna River, approximately 28 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	10		20
Total Residual Chlorine		Monitor	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a geometric average	

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

**PA0020583**, Sewerage SIC, 4952, **Middleburg Municipal Authority**, 13 North Main Street, Middleburg PA 17842. This existing facility is located in Middleburg Borough, **Snyder County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, Middle Creek, is in the State Water Plan watershed 6A and classified for TSE. The nearest downstream public water supply intake for United Water Pennsylvania is located on the Susquehanna River 54 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow 0.54 mgd for total nitrogen and total phosphorus and 0.45 mgd for the parameters.

Parameter	Concentration mg/l				Mass lbs	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH		within the range of 6.0-9.0				
CBOD <sub>5</sub>	25	40		50		
TSS	30	45		60		
% UV Transmittance	Report	Minimum				
Fecal Coliforms:						
(5-1 to 9-30)	200 #/100 ml geometric mean and not greater than 1,000 #/100ml in more than 10% of the samples tested					
(10-1 to 4-30)	2,000 #/100 ml geometric mean					
Ammonia-N	Report				Report	
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	13,151
Total Phosphorus	Report				Report	1,644

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

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

**WQM Permit No. 2305407**, Sewerage, **Chadds Ford Township**, 10 Station Way Road, P. O. Box 181, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a pump station.

**WQM Permit No. 0905411**, Sewerage, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-1912. This proposed facility is located in Telford Borough, **Bucks County**.

Description of Action/Activity: Transferring a portion of current Telford Wastewater Treatment Facility flow to the Pennridge Wastewater Treatment Authority Facility.

**WQM Permit No. 1505422**, Sewerage, **Antonio and Pamela Logioia**, 2606 Pheasant Run Lane, Spring City, PA 19475. This proposed facility is located in East Pikeland Township, **Chester County**.

Description of Action/Activity: Construction and operation of a small flow treatment facility.

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

**WQM Permit No. 5405404**, **Shenandoah Municipal Sewer Authority**, 15 West Washington Street, Shenandoah, PA 17976. This proposed facility is located in West Mahanoy Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project involves the replacement of sludge dewatering equipment at the Shenandoah Municipal Sewer Authority's wastewater treatment plant.

**WQM Permit No. 4005403**, **Greater Hazleton Joint Sewer Authority**, P. O. Box 651, Hazleton, PA 18201-0651. This proposed facility is located in West Hazleton Borough, **Luzerne County**.

Description of Proposed Action/Activity: This project involves replacing the existing chlorine disinfection system with an ultraviolet disinfection system at the Greater Hazleton Wastewater Treatment Plant.

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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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*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.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI024505025	Mount Airy No. 1, LLC 299 Main St.—Sturges Olyphant, PA 18447-2319	Monroe	Paradise Township	Forest Hills Run HQ-CWF
PAI024505026	NE PA Community Federal Credit Union 934 North Ninth St. Stroudsburg, PA 18360	Monroe	Stroud Township	Big Meadow Run HQ-CWF
PAI024505027	Arcadia Homes of the Lehigh Valley No. 2, LLC 100 Gateway Dr, Ste. 310 Bethlehem, PA 18017	Monroe	Coolbaugh Township	Clear Run HQ-CWF

*Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI025205010	Woodloch Pines, Inc. R. R. 1 Box 280 Hawley, PA 18428	Pike	Lackawaxen Township	West Falls Creek HQ-CWF, MF

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

*Snyder Conservation District: 403 W. Market St. Middleburg, PA 17842, (570) 837-0007, Ext. 112.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI2045505001	Middleburg Water Authority 13 North Main St. Middleburg, PA 17842	Snyder	Franklin Township	Erb Run-HQ-CWF East/West Bowersox Run

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

*Allegheny County Conservation District: Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI050205008	VA Pittsburgh Healthcare System 7180 Highland Drive Pittsburgh, PA 15206	Allegheny	O'Hara Township	Squaw Run (HQ-WWF)

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI056305007	Hardy Credit Company, LP 1019 Route 519 Eighty Four, PA 15330	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

**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)

**CAFO Notices of Intent Received**

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

**PAG122201, Haas Farms**, 15 Haas Road, Klingerstown, PA 17941 This proposed facility is located in Upper Mahantango Township, **Schuylkill County**.

The CAFO is designed to maintain a poultry population of approximately 733 animal equivalent units consisting of 222,000 laying hens. The poultry will be housed in two, three story high-rise barns. Manure is collected and stored at the bottom of each barn for the entire year. The total capacity of the manure storage facility is greater than 2,000 tons. The manure (on a rotating basis) is applied in the spring on approximately 400 acres. Total acreage for this site is over 1,200 acres. A release or discharge to waters of this Commonwealth under normal operation conditions is not expected.

The receiving stream, Mahantango Creek, is in watershed No. 6-C, Wiconisco/Mahantango/Deep Creek and classified for CWF.

The proposed effluent limits for the operation/activity include except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

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

**SAFE DRINKING WATER**

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

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

<b>Permit No. 1505508</b> , Public Water Supply	
Applicant	<b>Pennsylvania American Water Company</b>
Township	East Vincent
County	<b>Chester</b>
Responsible Official	Jeffrey C. Jessell
Type of Facility	PWS
Consulting Engineer	Applied Water Management, Inc.
Application Received Date	November 22, 2005
Description of Action	Modifications to the East Vincent Pump Station. Project will include replacement of existing pumps and associated appurtenances to serve the proposed Kimberton Meadows Residential Development.

**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	<b>Pennsylvania American Water Company</b>
Township or Borough	Stroud Township, <b>Monroe County</b>
Responsible Official	Paul A. Zielinski, Director Environmental Management & Compliance Pennsylvania American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Consulting Engineer	N/A
Application Received Date	November 18, 2005
Description of Action	This application requests a transfer of Public Water Supply facilities of the Blue Mountain Lake Estates (PWS ID No. 2450133) to the Pennsylvania American Water Company.

## 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:

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

**Department of Public Welfare and Department of Health Building, Danville Borough, Montour County.** Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Girard Estate, Stephen Girard Building, 21 South 12th Street, 5th Floor, Philadelphia, PA 19107-3684 has submitted a Notice of Intent to Remediate groundwater contaminated with trichloroethene, cis-1,2-dichloroethene, 1,1-dichloroethane and vinyl chloride. The applicant proposes to remediate the site to meet the Statewide Health Standard requirements.

**Thor America Site—Franklin Township, Snyder County.** Skelly and Loy, 2601 North Front Street, Harrisburg, PA 17110-0085 on behalf of Middleburg Properties, LLC, P. O. Box g, Middleburg, PA 17831 has submitted a Notice of Intent to Remediation concerning soil contaminated with lead. The applicant proposes to remediate the site to meet the Statewide Health Standard requirements. A summary of the Notice of Intent to Remediate was published in *The Daily Item Newspaper* on October 20, 2005.

**PPL Bradford County Connection—HG Meter Site, Troy Township, Bradford County.** PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Troy Gazette-Register* on October 27, 2005.

**PPL Carroll Connection—Hg Meter Site, Oswayo Township, Potter County.** PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Hosley Purchase—Hg Meter Site, Ulysses Township, Potter County.** PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated

with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Coburn Purchase—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Sherman Farm—Galeton Check—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Gibson Purchase—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on November 2, 2005.

**PPL Mattison Connection—Hg Meter Site**, Hebron Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with Mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Roulette Station—Hg Meter Site**, Roulette Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL West Bingham Check—Hg Meter Site**, Bingham Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**PPL Avery Hollow Check—Hg Meter Site**, Wharton Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Notice of Intent to Remediate soil contaminated with mercury. A summary of the Notice of Intent to Remediate was published in the *Potter Leader-Enterprise* on October 26, 2005.

**Former Ames Plaza**, Bald Eagle Township, **Clinton County**. Mill Hall Development, LLC, 121 Prosperous Place, Suite 6-B, Lexington, KY 40509 has submitted a Notice of Intent to Remediate groundwater contaminated with chlorobenzene, 4-chlorotoluene, 1,2-dichlorobenzene, 1,4-dichlorobenzene, cis-1,2-dichloroethene, nitrobenzene, trichloroethene, vinyl chloride and analine. The applicant proposes to remediate the site to meet the Site-Specific Standard requirements.

*Northeast Regional Field Office: Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Former Stauffer Chevrolet**, North Union Township, **Schuylkill County**. Bob Helkowski, Engineer, Malcolm

Pirnie, Inc., 1700 Market Street, Suite 2740, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate (on behalf of FNBM Trust and Financial Services, c/o James T. O'Brien, 260 Sunbury Street, Minersville, PA 17954) concerning the remediation of soils found or suspected to be contaminated with petroleum products, lead and other compounds associated with the property's historical use as an auto dealership and auto repair facility. The applicant proposes to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future. The proposed future use of the property will remain as an auto repair shop.

**Former Cooper Power Systems—East Stroudsburg Facility**, Borough of East Stroudsburg, **Monroe County**. Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 has submitted a Notice of Intent to Remediate (on behalf of Cooper Industries, Inc., P. O. Box 4446, 600 Travis, Suite 5800, Houston, TX 77210-4448 and Robert Deinarowicz, Dein Properties, P. O. Box 431, Stroudsburg, PA 18360) concerning the characterization of groundwater at the site that was suspected or found to be contaminated with VOCs reportedly originating from an unknown offsite source. The notice suggests that the applicant proposes to meet the background Act 2 standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future. The future use of the site is expected to be for nonresidential, commercial purposes.

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

**McIntosh Road**, Lower Paxton Township, **Dauphin County**. Advantage Engineering, LLC, 20 South 36th Street, Camp Hill, PA 17011, on behalf of Chesapeake Design Build, LLC, P. O. Box 60674, Harrisburg, PA 17011, submitted a Notice of Intent to Remediate site soils contaminated by petroleum products. Future use of the property will be residential. The applicant intends to remediate the site to the residential Statewide Health Standard.

**Former Myers Great Value Market**, Dillsburg Borough, **York County**. EPSYS Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of Parula Properties, LLC, 100 South Seventh Street, Akron, PA 17501, submitted a Notice of Intent to Remediate site soils contaminated with benzene. Future uses of the site may be residential and retail stores. The applicant intends to remediate the site to the Statewide Health Standard.

**Pennsylvania Army National Guard Tyrone Armory**, Tyrone Borough, **Blair County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veteran Affairs, Environmental Section, Building 0-11, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate site soils contaminated with heating oil. Future use of the site may be residential or nonresidential. The applicant intends to remediate the site to the Statewide Health Standard.

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

**Petrowax Sales P 63**, City of Smethport, **McKean County**. Jennifer Sedora, PPL Services 2 North 9th Street GENTW17, Allentown, PA 18101 on behalf of PPL Gas Utilities Corp., 2 North 9th Street GENTW17, Allen-

town, PA 18101-1179 has submitted a Notice of Intent to Remediate (NIR). The meter/regulator at this site formerly contained a small amount of mercury which through the operational history of this site, mercury may have been released to the ground surface. Soil will be removed and disposed of in United State Department of Transportation approved roll-off containers for temporary storage and transported to the Chemical Waste Management facility located in Model City, NY. NIR was published in the *Port Allegheny Reporter Argus* on October 27, 2005.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

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

**Permit Application No. 301350. Eldredge Inc.,** 898 Fernhill Road, West Chester PA 19380-4202, West Goshen Township, **Chester County**. This application seeks to repermit waste oil processing operations under an individual permit in accordance with 25 Pa. Code § 298.50(c)(3) for an existing facility currently operating under a general permit. The application was by the Southeast Regional Office on December 1, 2005.

#### AIR QUALITY

##### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

##### NEW SOURCES AND MODIFICATIONS

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

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

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

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the

objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

#### PLAN APPROVALS

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

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

**54-303-017: Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104) for modification of a batch asphalt plant including the utilization of recycled asphalt pavement and installation of an air cleaning device (replacement of baghouse) at the Summit Station Asphalt Plant, in Wayne Township, **Schuylkill County**.

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

**21-05042B: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17104-03331) for modification to an existing hot mix asphalt plant, Silver Spring Quarry, Silver Spring Township, **Cumberland County**. This source is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources.

**22-05034D: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17104-3331) for modification to an existing hot mix asphalt plant, Hummelstown Quarry, South Hanover Township, **Dauphin County**. This source is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources.

**67-05024G: Lehigh Cement Co.** (200 Hokes Mill Road, York, PA 17404) for addition of automotive tire fluff to the approved fuel stream of the plant's rotary kiln in West Manchester Township, **York County**. The facility is subject to 40 CFR Part 63, Subpart LLL—National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.

**67-05049A: Trenwyth Industries** (One Connelly Road, Emigsville, PA 17318) for installation of a concrete block coating system in Manchester Township, **York County**.

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

**14-00014C: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) for construction of a

replacement stacking conveyor in a stone crushing plant, the construction of a pug mill, two bins, two feeders, a conveyor and a mineral filler silo in an asphalt plant, the construction of two portable stone crushing plants, the construction of a paint spray booth and the construction of a 4,200,000 gallon liquid asphalt tank, a 1,512,000 gallon liquid asphalt tank, a 1,512,000 gallon recycled oil tank, a tank truck loading rack and two oil heaters in the company's Pleasant Gap facility in Spring Township, **Centre County**.

**19-00026B: Haddon Craftsmen, Inc.** (4411 Old Berwick Road, Bloomsburg, PA 17815) for construction of a book binding line and a heatset web offset lithographic printing press, to be exhausted to an air cleaning device (regenerative thermal oxidizer) in South Centre Township, **Columbia County**.

**59-00009A: Morgan Advanced Materials and Technology** (1118 East Second Street, Coudersport PA 16915) for construction and operation of four heat treat ovens with afterburner and to increase the carbon flour throughput at their Coudersport facility in Eulalia Township, **Potter County**.

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

**65-00851A: Newcomer Products Inc.** (P. O. Box 272, Latrobe, PA 15650) for installation of sintered pallet production at Latrobe Plant in Derry Township, **Westmoreland County**.

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**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.**

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

**46-0013B: Hatfield Quality Meats** (2700 Funks Road, Hatfield Township) for modification of four boilers to fire animal fat, vegetable oil and lard, an emission cap and a limit on SO<sub>x</sub> in Hatfield Township, **Montgomery County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plantwide Federally Enforceable Emission Cap Plan Approval, PA-46-0013B, to Hatfield Quality Meats, Inc., A Subsidiary of The Clemens Family for the company's two 49 mmBtu/hr and two 27.4 mmBtu/hr Boilers with the Associated Air Cleaning Devices at the company's facility at 2700 Funks Road, Hatfield Township, Montgomery County. The facility currently has a Title V permit No. 46-00013. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

46-0013 is for the modification of four boilers to fire animal fat, vegetable oil and lard. Based on the information provided by the applicant and Department's own analysis, boilers may emit up to 74.15 tons per year of NO<sub>x</sub>; 62.3 tons per year of CO; 112.5 tons per year of SO<sub>x</sub>; 86 tons per year of PM; 18.8 tons per year of PM<sub>10</sub> or less; 0.7 ton per year of VOCs; and 0.6 ton per year of HAPs.

In addition to the modification of four boilers, this Plan Approval institutes a plantwide Federally Enforceable Emission Cap for NO<sub>x</sub> emissions from the Hatfield's facility of 74.15 tons per year and a facility limit for SO<sub>x</sub> of 249 tons per year and for PM of 249 tons per year.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays. To make an appointment, contact Records Management at (484) 250-5910.

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

**48-313-097: Elementis Pigments, Inc.** (1525 Wood Avenue, Easton, PA 18042) for modification to the existing black oxide manufacturing facility in Wilson Borough, **Northampton County**. The modification to the black oxide manufacturing facility (BOMF) will result in an increase of production and hours of operation. The BOMF consists of a dry material processing area controlled by two fabric collectors and an apron dryer. The particulate emissions from each fabric collector will not exceed the Best Available Technology standard of 0.02 grain/dscf (2.1 tons per year total). The operation of the apron dryer will result in the following annual emissions: 2.58 tons per year of particulate; 1.75 tons per year of NO<sub>x</sub>; 1.47 tons per year of CO; and 0.1 ton per year of VOCs. The Plan Approval and Operating Permit will contain additional recordkeeping, monitoring, work practice standards and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 48-00018. 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.

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

**21-05042B: Pennsy Supply, Inc.**, P. O. Box 3331, Harrisburg, PA 17104-3331 for replacement of an existing fabric collector with a new fabric collector at the Asphalt Plant, Silver Spring Quarry, Silver Spring Township, **Cumberland County**. The facility is a non-Title V (State-only) facility. The facility is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources. It is expected that this project will not increase emissions into the outdoor atmosphere. The plan approval will include conditions designed to keep the project in compliance with all applicable air quality requirements. The plan approval will be incorporated into the state only operating permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

**22-05034D: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17104-3331) for replacement of an existing fabric collector with a new fabric collector at the Asphalt Plant, Hummelstown Quarry, South Hanover Township, **Dauphin County**. The facility is a non-Title V (State-only) facility. The facility is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources. It is expected that this project will not increase emissions into the outdoor atmosphere. The plan approval will include conditions designed to keep the project in



compliance with all applicable air quality requirements. The plan approval will be incorporated into the state only operating permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

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

**53-00001A: Tennessee Gas Pipeline Corp.** (1001 Louisiana Street, Houston, TX 77002) has submitted an application (No. 53-00001A) to the Department of Environmental Protection (Department) for plan approval to construct a natural gas-fired reciprocating internal combustion engine equipped with "clean burn" electronic control system to control NOx emissions from the engine, rated at 2,520 brake-horsepower (Source ID P113) and the installation of a Phillips and Temro oxidation catalyst (ID C113) to control the CO, VOC and formaldehyde emissions from the engine and installation of a Tornado Technologies thermal oxidizer (ID C205), or equivalent as determined by the Department, to control VOC and benzene emissions from the glycol dehydration unit (Source ID P205) at their Coudersport facility (Station 313) in Hebron Township, **Potter County**. The respective facility is a major facility for which a Title V operating permit 53-00001 has been issued.

The Department's review of the information submitted by Tennessee Gas Pipeline Corporation indicates that the engine with an oxidation catalyst and the thermal oxidizer will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology requirements of 25 Pa. Code §§ 127.1 and 127.12. In addition, the engine will meet the requirements of Subpart ZZZZ of the National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR 63.6580—63.6675. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the natural gas-fired engine with the installation of an oxidation catalyst and the operation of the glycol dehydration unit with the installation of a thermal oxidizer. Additionally, if the Department determines that the engine with oxidation catalyst and the glycol dehydration unit with thermal oxidizer are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit No. 53-00001 via an administrative amendment under 25 Pa. Code § 127.450.

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

1. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the 2,520 brake horsepower, natural gas-fired reciprocating internal combustion engine (Source ID P113) shall incorporate a "clean burn" electronic control system to control NOx emissions. Additionally, the carbon monoxide, volatile organic compounds, and formaldehyde emissions from Source ID P113 shall be controlled by a Phillips & Temro oxidation catalyst (ID C113). The permittee shall not operate Source ID P113 without the simultaneous operation of ID C113 at any time.

2. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use pipeline quality natural gas as fuel for Source ID P113.

3. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the following air contaminant emissions from the exhaust of ID C113 associated with Source ID P113 in excess of the limitations listed below:

a. NOx, expressed as NO<sub>2</sub>—2.78 pounds per hour and 12.18 tons in any 12-consecutive month period.

b. CO—1.06 pounds per hour and 4.62 tons in any 12-consecutive month period.

c. VOC—2.85 pounds per hour and 12.48 tons in any 12-consecutive month period.

d. SOx, expressed as SO<sub>2</sub>—0.01 pound per hour and 0.04 ton in any 12-consecutive month period.

e. PM/PM10—0.01 grain per dry standard cubic foot, 0.167 pound per hour and 0.78 ton in any 12-consecutive month period.

f. Formaldehyde—1.11 pounds per hour and 4.83 tons in any 12-consecutive month period.

4. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, ID C113 shall be capable of reducing the CO, VOCs, and formaldehyde emissions by 93%, 50% and 50%, respectively from Source ID P113.

5. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall equip ID C113 with instrumentation to monitor pressure drop across ID C113 and the inlet gas temperature of ID C113 and shall monitor these parameters on a continuous basis.

6. The permittee shall comply with all applicable requirements of Subpart ZZZZ of the National Emission Standards for Hazardous Air Pollutants for Source ID P113 as specified in 40 CFR 63.6580—63.6675.

7. The permittee shall perform NO (NOx, expressed as NO<sub>2</sub>), CO, VOC and formaldehyde stack tests upon Source ID P113 within 120 days from the commencement of operation of Source ID P113 to verify compliance with the emission limitations and the destruction efficiency requirements for CO, VOC and formaldehyde emissions from ID C113 associated with Source ID P113.

a. The performance test shall consist of three separate test runs and each run shall last at least in 1 hour in duration.

b. The testing of the inlet and outlet of ID C113 shall be running simultaneously.

c. The inlet gas temperature of ID C113 shall be recorded on a continuous basis during the test. The requirement for the temperature range will be established based upon the stack test report.

d. All testing is to be done using reference method test procedures acceptable to the Department and all testing is to be performed while Source ID P113 is operating at +/- 10% of full load.

8. The permittee shall perform semi-annual NOx and CO tests upon Source ID P113 using a portable gas analyzer, which is acceptable to the Department. Each test shall occur at no less than a 3 month interval from the previous test. Reference method stack testing may be substituted for the portable analyzer testing on a one-for-one basis (one occurrence of reference method testing may be substituted for one occurrence of portable analyzer testing).

9. The permittee shall keep records of the following information:

a. The number of hours that Source ID P113 is operated on a monthly basis.

b. The supporting calculations on a monthly basis used to verify compliance with the NO<sub>x</sub>, CO, VOC, PM, SO<sub>x</sub> and formaldehyde emission limitations for Source ID P113 in any 12-consecutive month period.

c. The test reports and supporting calculations used to verify compliance with the NO<sub>x</sub>, CO, VOC and formaldehyde emission limitations

d. The test reports and supporting calculations used to verify compliance with the CO, VOC and formaldehyde destruction efficiency requirements.

e. The pressure drop across ID C113 and the inlet gas temperature of ID C113 on a continuous basis by means of a data acquisition system

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

10. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the VOC and benzene emissions from the glycol dehydration unit (Source ID P205) shall be controlled by a Tornado Technologies thermal oxidizer (ID C205), or equivalent as determined by the Department. The permittee shall not operate Source ID P205 without the simultaneous operation of ID C205.

11. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use pipeline quality natural gas as fuel for ID C205.

12. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not emit into the outdoor atmosphere of PM<sub>10</sub> from the exhaust of ID C205 associated with Source ID P205, in a manner that the concentration of PM in the effluent gas exceeds 0.01 grain per dry standard cubic foot.

13. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the following air contaminant emissions from the exhaust of ID C205 associated with Source ID P205 in excess of the limitations listed:

a. VOC—0.094 ton in any 12-consecutive month period.

b. Benzene—0.058 tons in any 12-consecutive month period.

14. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the outlet temperature of ID C205 shall be maintained at no less than 1,500°F at all times during the operation of Source ID P205.

15. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall equip ID C205 with instrumentation to monitor the outlet temperature of ID C205 and shall monitor the outlet temperature on a continuous basis. Additionally, the permittee shall equip the recirculation pump of Source ID P205 to monitor the circulation rate of the triethylene glycol (TEG) and shall monitor the flow rate of TEG on a continuous basis.

16. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the VOC destruction efficiency of ID C205 shall not be less than 98%.

17. The permittee shall perform a VOC stack test on ID C205 to verify compliance with the VOC emission limitation and 98% VOC destruction efficiency requirement of ID C205 associated with Source ID P205.

a. The testing of the inlet and outlet of ID C205 shall be running simultaneously.

b. All testing is to be done using the Environmental Protection Agency's reference method test procedures acceptable to the Department and all testing is to be performed while the respective source is operating at its normal production rate.

18. The permittee shall keep the following records for Source ID P205:

a. The outlet temperature of ID C205 on a continuous basis using the data acquisition system, which shall compute the hourly averages of the outlet temperature of ID C205.

b. The flow rate of the TEG recirculation pump of Source ID P205 on a continuous basis using the data acquisition system, which shall compute the hourly averages of the flow rate of TEG.

c. The hours of operation of Source ID P205 on a monthly basis.

d. The supporting calculations on a monthly basis used to verify compliance with the VOC and benzene emission limitations in any 12-consecutive month period for ID C205 associated with Source ID P205.

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

**19-318-020: Patriot Metal Products, Inc.** (1005 North Vine Street, Berwick, PA 18603) has submitted an application (No. 19-318-020) to the Department of Environmental Protection (Department) for plan approval to construct two spray paint booths (Source ID P101) equipped with fabric filters to control PM emissions and a drying oven at their facility in Berwick Borough, **Columbia County**.

The Department's review of the information submitted by Patriot Metal Products, Inc. indicates that the two spray paint booths will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13, and the visible emission limitation of 25 Pa. Code § 123.41. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of Source ID P101. Additionally, if the Department determines that the spray paint booths are operating in compliance with all plan approval conditions, the condi-

tions established in the plan approval will be incorporated into a State Only operating permit by means of an administrative amendment pursuant to 25 Pa. Code § 127.450.

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

1. The paint spray booths (Source ID P101) shall be equipped with spray booth filters (ID C101) and the resultant PM concentration in the exhausts shall not exceed 0.01 grain per dry standard cubic foot.

2. The paint spray booths shall be equipped with instrumentation to monitor pressure drop across the filters on a continuous basis and shall monitor the pressure drop across the collectors on a continuous basis.

3. The permittee shall maintain an adequate supply of spare paint booth filters in order to change any filter in need of replacement for any reason.

4. The total combined emissions of VOCs and volatile HAPs from the paint spray booths shall not exceed 17.64 tons and 0.08 ton, respectively, in any 12-consecutive month period.

5. The total combined emissions of acetone resulting from the cleanup of the two paint spray booths and spray guns shall not exceed 0.23 ton in any 12-consecutive month period.

6. The permittee shall only use Buff 2k Epoxy Polyester Primer and Nanocoat (Chemcoat) 26-065-WB Flat Black coatings in the two spray paint booths. The VOC content of the as applied coatings shall not exceed 0.326 and 1.15 pounds VOC per gallon of coating solids respectively.

7. The permittee shall not use more than 10,000 gallons of Buff 2k Epoxy Polyester Primer and 3,000 gallons of Nanocoat (Chemcoat) 26-065-WB Flat Black in any 12-consecutive month period.

8. Acetone shall be the only cleaning solvents used in the spray paint booths and spray guns approved herein, unless prior authorization has been obtained from the Department to use an alternate solvent considered by the Department to be equivalent to acetone. The total combined amount of acetone and any alternate solvent determined by the Department to be equivalent to acetone shall not exceed 150 gallons in any 12-consecutive month period.

9. All coatings shall be applied by high volume, low pressure spray technology. The pressure at the cap of the gun shall not exceed 10 psi.

10. All coatings, additives and cleaning solvents shall be kept in closed containers when not in actual use.

11. Spray equipment, lines, and the like, shall be cleaned either by flushing/spraying a solid liquid stream into an appropriate recovery receptacle or by soaking equipment in closed containers. Under no circumstances shall solvent be atomized while flushing/spraying. The use of solvent-laden rags to wipe down equipment is acceptable as long as the rags are stored in closed containers after use, until properly disposed of. Under no circumstances shall waste solvent or other materials or solvent-laden rags be treated in a manner that would intentionally promote the evaporative loss of solvent.

12. The permittee shall maintain accurate and comprehensive records of all VOC-containing and/or volatile HAP-containing coatings, and cleaning solvents used in,

or associated with the use of, the paint booths approved herein. The respective records shall include the following:

a. The identity of each material used.

b. An up-to-date Certified Product Data Sheet for each material used.

c. The amount in gallons or pounds of each material used each month.

d. The density of each material as applied in pounds per gallon.

e. The VOC content of each material as-applied (% by weight).

f. The volatile HAP content of each material as-applied (% by weight).

g. The amount of VOCs and the amount of volatile HAPs emitted during each month from the use of each individual material.

h. The rolling 12 month VOC and HAP emissions updated on a monthly basis.

Records generated under this condition shall be retained onsite for a period of at least 5 years from the date of generation and shall be provided to the Department upon request.

13. The permittee shall submit quarterly records to the Department of the following:

a. The identity and amount of each coating used each month and the corresponding 12-consecutive month total.

b. The VOC and HAP emissions each month and the corresponding 12-consecutive month total.

c. The amount acetone used each month and the corresponding 12-consecutive month total.

14. The permittee shall submit a State-only operating permit application within 120 days of start-up of the spray paint booths.

Copies of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

**43-196B: General Electric Transportation—Grove City** (1503 West Main Street Extension, Grove City, PA 16127) for modification of plan approval 43-302-015 for the continuous use of the 800 hp boiler (formerly the emergency boiler) rather than only being able to operate when the 400 hp boiler is out of service in Grove City Borough, **Mercer 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 following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval

terms and conditions) and will demonstrate Best Available Technology for the source:

- The source shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive matter, odor and visible emissions.
- The source shall comply with 25 Pa. Code §§ 123.11 and 123.22 for particulate and sulfur emissions.
- The source shall only burn natural gas.
- Operate and maintain the source in accordance with the manufacturer specifications and in accordance with good air pollution control practices.
- The source shall comply with 25 Pa. Code §§ 129.93(b)(2)—(5) for RACT compliance.

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00133: Webcraft, LLC** (181 Rittenhouse Circle, Bristol, PA 19007) for a non-Title V Facility, State-only, Synthetic Minor Operating Permit for operation of a four heatset web offset lithographic presses and two coldset web offset lithographic presses that have the aggregate potential to emit major levels of VOC before taking limitations in Bristol Township, **Bucks County**. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

This State-only, Synthetic Minor Operating Permit will incorporate conditions from the previously issued Plan Approval, PA-09-0133 (four lithographic presses).

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

**67-05003: Mastercraft Specialties, Inc.** (800 Maple Street, Red Lion, PA 17356) for operation of a furniture manufacturing facility in Red Lion Borough, **York County**. The facility has the potential to emit 25 tons VOC per year. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

**67-05013: York City Sewer Authority** (1701 Blackbridge Road, York, PA 17402) for operation of its wastewater treatment facility in Manchester Township, **York County**. The facility has the following potential annual emissions: 99 tons NO<sub>x</sub>; 30 tons CO; and 5 tons VOC. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the state only operating permit.

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

**55-00022: Schreck's Painting** (P. O. Box 6, Mt. Pleasant Mills, PA 17853) for operation of a modular/mobile home wooden parts surface coating facility in Perry Township, **Snyder County**.

The facility incorporates a surface coating operation and a 145,000 Btu per hour No. 2 fuel oil-fired furnace and associated oil storage tank. The facility is not expected to emit more than 5.6 tons of VOCs, 1.0 ton of volatile HAPs, .86 ton of acetone, .33 ton of SO, .082 ton of NO<sub>x</sub>, .023 ton of CO and .0018 ton of PM including PM<sub>10</sub> or less per year.

The 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 air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 55-318-010, issued on June 29, 2004, and amended on March 29, 2005. These previously-existing conditions include:

- The VOC content of any topcoat or enamel applied in the surface coating operation shall not exceed 2.29 pounds per pound of coating solids. The VOC content of any sealer applied shall not exceed .98 pound per pound of coating solids. The VOC content of any stain applied shall not exceed 6.55 pounds per pound of coating solids.

- No more than 292 gallons of stain shall be used in any 12-consecutive month period.

- All coatings are to be used as they are received from the coating vendor. No thinner, reducer or other additive is to be mixed with any coating on-site.

- Only acetone shall be used for cleanup activities associated with the surface coating operation and the usage of acetone shall not exceed 260 gallons in any 12-consecutive month period.

- The total combined VOC emissions from the surface coating operation shall not exceed 5.6 tons in any 12-consecutive month period and the total combined HAP emissions shall not exceed 1.0 ton in any 12-consecutive month period.

- Coatings shall be applied by brush or wiping cloth or by air assisted airless spray technology (or an application technique determined by the Department to have an equivalent transfer efficiency).

- Coating occurring at this site shall take place in a spray booth exhausted to atmosphere through spray booth filters except that coating may be applied by brush or wiping cloth outside of the spray booth. Spare spray booth filters shall be kept onsite.

- At no time shall there be any visible air contaminant emissions from the exhaust of the spray booth.

- Containers of coating materials and cleaning solvents shall be closed except when in actual use. Spray lines, guns, and the like, shall be cleaned by either flushing a solid liquid stream of solvent into an appropriate container or by soaking in a closed container of solvent. Used cleaning rags or cloths shall be kept in closed containers when not in actual use.

- Records shall be maintained of the identity and amount of each coating material used each month as well as the identity and amount of each material used for cleanup purposes each month. Additionally, records shall be maintained of the VOC content, volatile HAP content and acetone content of each coating material and cleanup material. Records shall be retained for at least 5 years and shall be made available to the Department upon request.

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

**43-00196: GE Transportation Systems—Grove City Plant** (1503 West Main Street Extension, Grove City, PA 16127) for revision of Reasonably Available Control Technology (RACT) plans in Grove City, **Mercer County**.

The Department of Environmental Protection (Department) will conduct a public hearing on Wednesday January 25, 2006, at 1 p.m. to 3 p.m. in the Air Quality Conference Room, Meadville Regional Office, 230 Chestnut Street, Meadville, PA.

The hearing is for the Department to accept testimony concerning the Department's decision to approve, with conditions, the revised RACT plans by the following facility:

The hearing is being held to meet the requirements under 25 Pa. Code §§ 129.91—129.95 (RACT), concerning the emissions of NOx and VOC from various air contamination sources. The final RACT proposal will be submitted to the Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan (SIP).

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for this facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into a Plan Approval and/or Operating Permit for the facility and will be submitted to the EPA as a revision to Pennsylvania's SIP.

The following is a summary of the preliminary NOx and VOC determination for the listed facility:

<i>Source</i>	<i>Control</i>
Emergency Boiler (800 hp) (revised presumptive RACT emission limitation)	None
Test Cells (increase in fuel consumption limit without an increase in NOx emissions)	None

For the facility, a public hearing will be held for the purpose of receiving comments on the proposed Operating Permit and the proposed SIP revisions. The public hearing is scheduled at 1 p.m. to 3 p.m., Wednesday, January 25, 2006, Department of Environmental Protection, Meadville Regional Office Air Quality Conference Room, 230 Chestnut Street, Meadville, PA 16335.

Persons wishing to present testimony at the hearing should contact H. Thomas Flaherty, New Source Review, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494, (814) 332-6940 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony are required. Each organization is requested to designate one witness to present testimony in its own behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact H. Thomas Flaherty (814) 332-6940, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing but wish to comment should provide written comments to H. Thomas Flaherty, New Source Review, Department of Environ-

mental Protection, 230 Chestnut Street, Meadville, PA 16335-3494. Comments must be submitted within 30 days of the date of this publication notice.

Pertinent documents (applications, review memos and draft approvals) are also available for review from 8 a.m. to 4 p.m. at the Meadville Regional DEP office (Air Quality). Appointments for scheduling a review must be made by calling the Department contact person noted previously.

**10-00273: Superior Adsorbents Inc.** (3539 Oneida Valley Road, Emlenton, PA 16373) Natural Minor operating permit for the crushing and screening of activated carbon and the manufacturing of alumina. This facility is located near the Borough of Emlenton, **Butler County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-7584.*

**N05-010: Graphic Arts, Inc.** (4100 Chestnut Street, Philadelphia, PA 19104) for operation of a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one boiler and four nonheatset sheet-fed lithographic printing presses.

The operating permit will be issued 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 wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. 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.

**V04-009: University of Pennsylvania** (3451 Walnut Street, Philadelphia, PA 19104) for operation of a university in the City of Philadelphia, **Philadelphia County**. The facility's air emissions' sources nine <10mmBtu/hr heaters and furnaces, 65 emergency generators and one peak shaving generator.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XXX. Permit copies and other supporting information are available for public inspection at AMS, 321 University Ave., Philadelphia, PA 19104. For further information, contact Edward Wiener, (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

**S05-009: Philadelphia Phillies** (One Citizens Bank Park Way, Philadelphia, PA 19148) for operation of Citizens Bank Park baseball stadium in the City of Philadel-

phia, **Philadelphia County**. The facility's air emission sources include three 191 HP boilers, an 1,818 BHP generator and a 2,889 BHP generator.

The operating permit will be issued 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 wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. 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*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

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

*Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03900112 and NPDES Permit No. PA0003191.** Canterbury Coal Company (R. D. 1, Box 119, Avonmore, PA 15618). Renewal application for reclamation only of a bituminous surface mine, located in Kiskiminetas Township, **Armstrong County**, affecting 81.2 acres. Receiving

stream: UNT to Long Run, classified for the following use: WWF. The first potable water supply intake within 10 miles downstream from the point of discharge: Avonmore Borough Water Authority. Renewal application received: November 9, 2005.

**03050105 and NPDES Permit No. PA0250821. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for commencement, operation and reclamation to a bituminous surface mine, located in Madison Township, **Armstrong County**, affecting 288 acres. Receiving streams: UNT to Mahoning Creek and Mahoning Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: November 21, 2005.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10960301 and NPDES Permit No. PA0227196. Quality Aggregates, Inc.** (200 Neville Road, Neville Island, PA 15225-0347). Revision to an existing limestone operation in Marion Township, **Butler County** affecting 126.0 acres. Receiving streams: two UNTs to Blacks Creek;

Blacks Creek; one UNT to Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add 9.3 acres to the permit area. Application received: November 23, 2005.

*Noncoal Applications Returned*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (812) 342-8200.*

**53040803. Donald R. Reed** (392 Ridge Road, Genesee, PA 16923), commencement, operation and restoration of a bank mining operation in Genesee Township, Potter County affecting 5 acres, receiving stream: not applicable—tributary to West Branch Genesee. Application received: September 28, 2004. Application returned: November 22, 2005.

*Noncoal Applications Received*

*Effluent Limits*

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <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.

*Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601-0982, (724) 925-5500.*

**3378NC17 and NPDES Permit No. PA0592579. Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES Permit renewal to a noncoal surface mine, located in Connellsville Township, **Fayette County**, affecting 73.57 acres. Receiving streams: UNT to Connell Run and Connell Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: November 30, 2005.

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

**28970802. King Excavating** (3483 St. Thomas, PA 17252), Stage I and II bond release for a quarry operation in St. Thomas Township, **Franklin County** affecting 5.0 acres on property owned by Melvin J. Rock. Application received November 28, 2005.

**58010816. R & M Stone** (R. R. 5 Box 206N, Montrose, PA 18801) Stage I and II bond release for a quarry operation in Rush Township, **Susquehanna County** affecting 1.0 acre on property owned by Hare Ridge Sportsmen Club. Application received November 28, 2005.

**NOTICE OF PROJECTS UNDER THE ENVIRONMENTAL GOOD SAMARITAN ACT**

The Environmental Good Samaritan Act, 27 Pa.C.S. §§ 8001—8114, provides certain protections and immunities from civil liability for landowners and persons who voluntarily undertake reclamation and abatement projects to address land and water adversely affected by mining or oil or gas extraction or exploration for natural resources and left in an unreclaimed condition or left discharging water pollution. In order for landowners and persons to qualify for immunity, the projects must be approved by the Department of Environmental Protection (Department).

The following project proposals have been received by the Department. A copy of the proposals is available for inspection at the office indicated above each proposal.

Written comments or objections may be submitted by any person or any office or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the proposal identification number; and a statement of sufficient detail to inform the Department of the basis of the comment or objection and the relevant facts upon which it is based.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**EGS24002. Fox Township** (P. O. Box 184, 116 Irishtown Road, Kersey, PA 15846). A project to provide passive treatment for two preexisting acid mine discharges in conjunction with the development of Phase II

of the Foxhead Industrial Park in Fox Township, **Elk County**. Receiving streams: Beaver Creek, classified for the following use: CWF. No public water supplies are within 10 miles downstream of this proposed operation. Project proposal received: November 22, 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 should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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**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(a) of the FWPCA (33 U.S.C.A. § 1341(a)).**

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#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E40-655. CANDO, Inc.**, One South Church Street, 200 Renaissance Center, Hazleton, PA 18201, in Hazle Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To place fill in approximately 1.42 acres of PEM wetlands within the drainage basin of Stoney Creek (CWF) for the purpose of preparing a 30 street-acre former mineland site for a future cold storage warehouse facility. The project is located on the north side of SR

0924, approximately 1.6 miles west of SR 0081 (Conyngam, PA Quadrangle N: 11.0 inches; W: 7.5 inches).

**E54-324. Charles W. and Sharon A. Hartman**, 215 First Street, Port Carbon, PA 17965 in Port Carbon Borough, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an open carport consisting of a 20' by 20' concrete pad and post supports in the floodway of Mill Creek (CWF). The project is located on the south side of Pottsville Street, just west of Mill Creek (Pottsville, PA Quadrangle N: 12.8 inches; W: 6.4 inches)

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

**E21-372: Members First Federal Credit Union**, 5000 Louise Drive, P. O. Box 40, Mechanicsburg, PA 17055 in Shippensburg Township, **Cumberland County**, ACOE Baltimore District.

To place approximately 280 linear feet of fill material along the left bank of Bird Run (CWF), and to construct and maintain two stormwater outfall structures for the purpose of providing additional parking and driveway facilities for a proposed Credit Union located at a point (Latitude: 40° 03' 35", Longitude: 77° 29' 49") approximately 140 feet downstream of Conestoga Drive (T-349) in Shippensburg Township, Cumberland County.

**E21-352: George W. and Linda M. Ely**. To construct and maintain a 840 square foot garage/utility building adjacent to an existing private residence at 11 Brenely Lane along Mountain Creek (TSF), approximately 210 feet downstream of the Pine Street Bridge (Mt. Holly Springs, PA Quadrangle N: 20.92 inches; W: 8.85 inches) in the Borough of Mt. Holly Springs, **Cumberland County**.

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

**E41-555. Mark and Valerie Dunkle**, 538 Raven Circle, Wyoming, DE 19934. Small Projects Water Obstruction and Encroachment Joint Permit, in Pine Township, **Lycoming County**, ACOE Susquehanna River Basin District (English Center, PA Quadrangle N: 9.75 inches; W: 7.95 inches).

To construct and maintain a concrete pad measuring 12 ft. wide by 33 ft. long within the floodway of the Little Pine Creek as well as 25 linear feet of riprap along the streambank of Little Pine Creek, located 1.6 miles southwest of the intersection of SR 0287 and SR 4001 along SR 4001 in Pine Township, Lycoming County. This project does not propose to impact any wetlands.

**E59-473. Samuel Sorenson**, R. R. 1, Box 1170, Osceola, PA 16942. Water Obstruction and Encroachment Joint Permit Application, in Osceola Township, **Tioga County**, ACOE Susquehanna River Basin District (Knoxville, PA Quadrangle N: 20.6 inches; W: 0.1 inch).

To construct and maintain a 12-foot wide by 12-foot long (clear span) steel beam, wood deck bridge with concrete abutments over Redhouse Run, 0.5 mi. southwest of the intersection of SR 4017 and Red House Hollow Road along Red House Hollow Road. This project proposes to permanently impact 20 linear feet of Redhouse Run, which is, designated a WWF stream and does not propose to impact any jurisdictional wetlands.

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



**E03-435. Russell L. Cersosimo, The Cersosimo Family Limited Partnership, LP**, 650 Ridge Road, Pittsburgh, PA 15205. To maintain a stone lined channel in Washington Township, **Armstrong County**, Pittsburgh ACOE District. (East Brady, PA Quadrangle N: 8.17 inches; W: 16.58 inches and Latitude: 40° 55' 12"—Longitude: 79° 29' 42"). The applicant proposes to operate and maintain an on-stream 17-foot by 56-foot concrete basin, an approximately 65-foot long reach of grouted stone-lined channel with an incorporated pond outfall structure, and approximately 155 linear feet of riprap lined channel in a UNT to the Allegheny River. Also, to operate and maintain an approximately 0.11-acre pond in the floodway of said stream.

**E03-437. Department of Transportation**, District 10-0, 2550 Oakland Avenue, Indiana, PA 15701. To construct a culvert, stream relocation and wetland impact in Rayburn Township, **Armstrong County**, Pittsburgh ACOE District. The applicant proposes to: 1) construct and maintain a replacement and relocation of an existing 68 LF, 8 foot wide by 3.5 foot clearance concrete bridge to a 120 LF long 106 inch elliptical culvert depressed 6 inches with a drainage area of approximately 0.53 square mile, and relocate 180 LF of the adjacent stream (Mosgrove, PA Quadrangle N: 13.2 inches and W: 15.4 inches and Latitude: 40° 49' 32"—Longitude: 79° 29' 16"); 2) Construct and maintain an approximately 30 LF long extension to an existing 48 inch diameter culvert with a drainage area of less than 100 acres and relocate 320 LF of adjacent stream (Mosgrove, PA Quadrangle N: 15.4 inches W: 13.4 inches and Latitude: 40° 50' 0"—Longitude: 79° 28' 20"); 3) To fill and maintain 0.04 acre of PEM wetlands (Mosgrove, PA Quadrangle N: 13.5 inches; W: 15.2 inches and Latitude: 40° 49' 28"—Longitude: 79° 28' 58"). This project is associated with the widening of a section of SR 0028 from the intersection with Cowanshannock Creek and extending north approximately 2 miles. The road parallels and intersects at the above culvert locations a UNT to Cowanshannock Creek (WWF). Total project impacts are fill of 0.04 acre of PEM wetland, approximately 500 LF of stream relocation, and approximately 110 LF of culvert addition.

**E65-885. Hempfield Industries, Ltd.**, 3100 Grand Avenue, Pittsburgh, PA 15225. To construct a stream enclosure in Southwest Greensburg Borough, **Westmoreland County**, Pittsburgh ACOE District. (Greensburg, PA Quadrangle N: 6.5 inches; W: 6.5 inches and Latitude: 40° 17' 11.23" and Longitude: 79° 32' 47.97"). The applicant proposes to construct and maintain a 97.3-foot long stream enclosure by covering the existing rectangular

channel of Jacks Run (WWF) having an opening of 24 feet wide by 10.6 feet high with a concrete slab for the purpose of developing a shopping center. The project is located between two stream enclosures creating a total of 318 linear feet of stream enclosure, along SR 119 at SR 30 bypass exit.

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

**E43-326. Cumulus Media, Inc.**, 3535 Piedmont Road, Atlanta, GA 30305-4601. 790 WPIC Tower/Transmitter Replacement, in City of Hermitage, **Mercer County**, ACOE Pittsburgh District (Sharon East, PA Quadrangle N: 41', 13', 11"; W: 80°, 28' 23").

To permanently fill a de minimis area (0.013 acre) and temporarily impact 0.35 acre of wetland (PEM) for construction of a replacement radio transmission tower at 2320 Pine Hollow Boulevard, Hermitage, PA 16148 approximately 1.25 mile southwest of the intersection of SR 418 (Mercer Avenue) and SR 18.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA06-602: Washington Township**, Box 52, Barto Road, Barto, PA 19504 in Washington Township, **Berks County**, ACOE Philadelphia District

To restore the left floodway of a UNT to Swamp Creek (CWF) by filling an off-stream, drained pond having an approximate diameter of 80 feet and an average depth of 8 feet and by removing the existing intake and outfall structures at a site (Latitude: 40° 23' 22.6"; Longitude: 75° 36' 37.4") along Barto Road approximately 2,800 feet northwest of SR 100 in Washington Township, Berks County.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D09-137A. Aqua Pennsylvania**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

To modify, operate and maintain Ironworks Dam across Ironworks Creek (WWF), for the purpose of expanding the auxiliary spillway width by 98 feet and raising the top of dam elevation by 2 feet to safely pass the Probable Maximum Flood (PMF). (Langhorne, PA Quadrangle N: 9.5 inches; W: 16.7 inches) in Northampton Township, **Bucks County**.

### STORAGE TANKS

#### SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

**The following applications have been received for 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 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.**

<i>SSIP Application No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
05019	Troy Miller Luther P. Miller, Inc. 641 South Edgewood Avenue Somerset, PA 15501	Westmoreland	Ligonier Township	Four AST's storing regulated substances	40,000 gallons total

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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.

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**I. NPDES Renewal Permit Actions**


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*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>
PA0061433 Sewage	Bunker Hill Sewer Company P. O. Box 102 Factoryville, PA 18419	Wyoming County Clinton Township	UNT to South Branch Tunkhannock Creek (4F)	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>
PA-0062383	3 Springs Water Company 1800 Pine Run Road Laurel Run, PA 18702	Laurel Run Borough Luzerne County	UNT to Pine Creek (5B)	Y
PA-0033863	Camp-A-While, Inc. 1921 East Main Street Hegins, PA 17938-9143	Hegins Township Schuylkill County	Pine Creek (6C)	Y
PA-0046353	Waymart Area Authority P. O. Box 3300 Waymart, PA 18472-0224	Waymart Borough Wayne County	Van Auken Creek HQ-CWF 1B	Y
PA-0060569	Camelback Ski Corporation P. O. Box 168 Tannersville, PA 18373	Pocono Township Monroe County	Pocono Creek (HQ-CWF) 1E	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>
PA0029831 SN	Sullivan County School District P. O. Box 346 Dushore, PA 18614	Sullivan County Laporte Borough	UNT of Mill Creek 10B	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>
PA0102385 Amendment No. 1	Iron Bridge Inn/Rachael's Roadhouse 1553 Perry Highway Mercer, PA 16137	Springfield Township Mercer County	Neshannock Creek UNT to Neshannock Creek 20-A	Y
PA0221007	Volant Borough P. O. Box 96 Volant, PA 16156	Volant Borough Lawrence County	Neshannock Creek 20-A	Y
PA0223042	Farmington Township P. O. Box 148 Leeper, PA 16233	Farmington Township Clarion County	Licking Creek 17-B	Y
PA0033821	University of Pittsburgh Pymatuning Laboratory of Ecology 3400 Forbes Avenue Pittsburgh, PA 15260	North Shenango Township Crawford County	Pymatuning Reservoir 20-A	Y
PA0101621	Bradford City Water Authority 28 Kennedy Street Bradford, PA 16701	Bradford Township McKean County	West Branch Tunulngwant Creek 16-C	Y

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

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

**NPDES Permit No. PA-0023736**, Sewage, **Tri-Boro Municipal Authority**, 282 Erie Boulevard, Susquehanna, PA 18847-1641. This proposed facility is located in Susquehanna Depot, **Susquehanna County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
<i>CBOD<sub>5</sub></i>	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
Fecal Coliform (5/1 to 9/30) (10/1 to 4/30)	200/100 ml as a geometric mean 2000/100 ml as a geometric mean		
pH			
Total Residual Chlorine	1.0		2.0

The receiving stream, North Branch Susquehanna River, is in the State Watershed Plan 04E and is classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.5 mgd:

The following effluent limit for Outfall 001 in accordance with the Chesapeake Bay Strategy and on projected 2010 flows of 0.45 mgd:

Ammonia-N	Monitor/Report	
Kjeldahl-N	Monitor/Report	
Nitrite-N	Monitor/Report	
Nitrite-N	Monitor/Report	
Total Nitrogen	Monitor/Report	PID + 36 Months
Total Phosphorus	Monitor/Report	PID + 36 Months
Total Nitrogen	10,959 lbs/year	PID + 36 Months through Expiration
Total Phosphorus	1,370 lbs/year	PID + 36 Months through Expiration

The permittee must submit a schedule of compliance with the Chesapeake Bay Strategy requirements within 180 days after permit issuance. They may be met in part of full by obtaining offsets or credits approved by the Department.

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

**NPDES Permit No. PA0239623**, Sewerage, **Linda Starr, Starr Subdivision**, 400 Isle Road, Butler, PA 16001. This proposed facility is located in Middlesex Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to a UNT to Bull Creek in Watershed 18-A.

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

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

**WQM Permit No. WQG010007**, Sewerage, **Michael and Cindy Trynieszewski**, 131 Shea Lane, Glenmoore, PA 19343. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Action/Activity: Construction and operation of a small flow treatment facility.

**WQM Permit No. 1505415**, Sewerage, **Westtown Township**, 1039 Wilmington Pike, West Chester, PA 19382. This proposed facility is located in Westtown Township, **Chester County**.

Description of Action/Activity: Construction and operation of a wastewater pumping station to serve 22 lots of a 36 lot residential subdivision.

**WQM Permit No. WQG02090508**, Sewerage, **Falls Township Water and Sewer Department**, 188 Lincoln Highway, Suite 100, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Bucks County**.

Description of Action/Activity: In kind replacement of sanitary sewer main.

**WQM Permit No. WQG02090507**, Sewerage, **Newtown Bucks County Joint Municipal Authority**, 15 South Congress Street, P. O. Box 329, Newtown, PA 18940. This proposed facility is located in Newtown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a new submersible pumping station.

**WQM Permit No. 4605420**, Sewerage, **Upper Providence Township**, 1286 Black Rock Road, Oaks, PA 19456. This proposed facility is located in Upper Providence Township, **Montgomery County**.

Description of Action/Activity: Replacing of an 8-inch sewer main with a 12-inch sewer main.

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

**WQM Permit No. WQG01210503**, Sewerage, **Hurley/Morrison**, 50 Frytown Road, Newville, PA 17241. This proposed facility is located in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow sewage treatment facility to serve three-lot subdivision, placing small flow sewage treatment facility on Lot 2 and building fill sites for future use on remaining two lots.

**WQM Permit No. 6703402**, Sewerage, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Eppers, PA 17319. This proposed facility is located in Newberry Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of Fox Farm Interceptor Wastewater Treatment Influent Pump Station Upgrade.

**WQM Permit No. 0105404**, Sewerage, **Terry Weyant**, 758 Country Club Trail, Fairfield, PA 17320-8560. This proposed facility is located in Carroll Township, **Adams County**.

Description of Proposed Action/Activity: Operation of aerobic tank/wetland onsite sewage treatment facility to serve their single family residence.

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

**WQM Permit No. WQG018424**, Sewerage, **Scott Godmaire**, 14447 North Main Street, Waterford, PA 16441. This proposed facility is located in Washington Township, **Erie County**.

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

**IV. NPDES Stormwater Discharges from MS4 Permit Actions****V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

*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>
PAI011505065	G & D Developers G & S Developers Subdivision 961 Wooten Road Bryn Mawr, PA 19010	Chester	East Goshen Township	Ridley Creek (HQ-TSF)
PAS10G410RA1	Pulte Homes of Pennsylvania, LLC Applebrook Subdivision 1100 Northbrook Drive Suite 200 Trevose, PA 19053	Chester	East Goshen Township	Ridley Creek (HQ-TSF)

*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>
PAS10U137R	Techo—Bloc 852 Pennsylvania Ave. Pen Argyl, PA 18072	Northampton	Plainfield Township	Little Bushkill Creek HQ-CWF
PAI025204004	Nemanie Village, Inc. P. O. Box 77 Hawley, PA 18428	Pike	Palmyra Township	Wallenpaupack Creek HQ-CWF Lake Wallenpaupack HQ-CWF
PAI026404001	Dr. James R. Fruehan R. R. 1, Box 345 Moscow, PA 18444-9801	Wayne	Salem Township	UNT to West Branch Wallenpaupack Creek HQ-CWF
PAI021304006	Pencor Services, Inc. P. O. Box 134 Palmerton, PA 18071	Carbon	Penn Forest Township	Long Run CWF Berry Run EV
PAI023905015	Jaindl-Johnson, LP 1390 Ridgeview Drive Allentown, PA 18104	Lehigh	Macungie Borough	Little Lehigh Creek HQ-CWF
PAI023903021(1)	Liberty Property Trust 1510 Valley Center Parkway Suite 240 Bethlehem, PA 18017	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI036705002	PA-Max 158 Industrial Road Glen Rock, PA 17327	York	Springfield Township	UNT Seaks Run 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>
PAI044905003	Steven Patton Patton Family Partnership 60 Belford Blvd. Milton, PA 17847	Northumberland	Milton Borough	Montandon Marsh and W. Br Susquehanna River WWF

**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>
London Grove Township Chester County	PAG2001504098	Hopewell Organics, LLC 352 Chatham Road West Grove, PA 19390	UNT East Branch White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Elverson Borough Chester County	PAG2001505094	Quaker Homes Quaker Jacobs Site 2001 Swinging Bridge Road Green Lane, PA 18054	East Branch Conestoga River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Birmingham Township Chester County	PAG2001505084	Stephanie Celii 521 Webb Road Chadds Ford, PA 19317	Briton Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Coatesville Chester County	PAG2001505079	TMG Homes Miller Hill Development 600 North Limestone Road Parkesburg, PA 19365	West Branch Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New London Township Chester County	PAG2001505069	BK Campbell, Inc. McDowell/Cornerstone Dev. 402 Bayard Road Suite 100 Kennett Square, PA 19348	West Branch White Clay Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Nether Providence Township Delaware County	PAG2002305036	Senior Living NP, LLC 2534 Chemsford Drive Crofton, MD 21114	Crum Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

## NOTICES

6813

<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>
Concord, Bethel, Upper and Lower Chester Townships Delaware County	PAG2002305059	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Naaman's Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004605110	Ira Saligman The Saligman Tract 200 Chamounix Road Suite 103 Wayne, PA 19087	UNT West Branch Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004605138	Randall Handley Handley Tract 127 Crescent Drive Chalfont, PA 18914	Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004605023	Gambone Development Company Parkside Meadows Development 1030 West Germantown Pike Fairview Village, PA 19403	Schuylkill River (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004604230	Gambone Development Company Pruss Hill Road Development 1030 West Germantown Pike Fairview Village, PA 19403	Sanatoga Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Pottsgrove Township Montgomery County	PAG2004605119	Chestmont Storage, Inc. 2038 Skiles Boulevard West Chester, PA 19382	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2004605076	Upper Providence Township Arcola Road Extension 1286 Black Road Oaks, PA 19456	Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pennsburg Borough Montgomery County	PAG2004605008	Baldrige Development Rite Aid Development 11825 Manchester Road St. Louis, MO 63131	Macoby Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lansdale Borough Montgomery County	PAG2004605154	Torypete Management, Inc. The Pavilion Development 730 East Elm Street Conshohocken, PA 19428	UNT Schuylkill River and Skippack Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105038	Chestnut Hill Academy CHA-Dining Commons/Woodard Gymnasium 500 Willow Grove Avenue Philadelphia, PA 19118-4126	Wissahickon Creek (TSF)	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>
City of Philadelphia Philadelphia County	PAG2015105039	Toner Development Corporation Blue Grass Road Development 915 Standish Avenue Huntingdon Valley, PA 19006	Wooden Bridge Run/Pennypack Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Archbald Borough Lackawanna County	PAG2003505025	David Stafursky 502 Main St. Archbald, PA 18403	Wildcat Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
East Allen Township Northampton County	PAG2004805023	Spectrum Land Acquisitions, Inc. 3312 Seventh St. Whitehall, PA 18052	Catasauqua Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
Lehigh Township Northampton County	PAG2004805044	Mark Wagner Wagner Enterprises, Inc. P. O. Box 3154 Easton, PA 18043-3154	Hokendauqua Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
Kingston and Dallas Townships Luzerne County	PAG2004005038	SADG-2 Mark J. Paradise 100 Colliery Rd. Dickson City, PA 18519-1657	Susquehanna River WWF	Luzerne Co. Cons. Dist. (570) 674-7991
Taylor Township Blair County	PAG2000705015	Renaissance Nutrition, Inc. 481 Frederick Road Roaring Spring, PA 16673	UNT Plum Creek WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877 Ext 5
Antis Township Blair County	PAG2000705016	Shlomo Dotan P. O. Box 1780 Altoona, PA 16603	UNT Little Juniata River TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877 Ext 5
Catherine Township Blair County	PAG2000705017	Frederick L. England R. R. 1, Box 152 Williamsburg, PA 16693	UNT Frankstown Branch of Juniata River WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877 Ext 5
Swatara Township Lebanon County	PAG2003805039	Ronald L. Taggart 103 Taggart Drive Coatsville, PA 19320	Little Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
Millcreek Township Lebanon County	PAR10P0861R	Peter B. Shirk 371 Cocalico Road Denver, PA 17517	Mill Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4



## NOTICES

6815

<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>
Jackson Township Lebanon County	PAG2003805038	Clyde E. Deck 351 South Ramona Road Lebanon, PA 17042	Tulpehocken Creek/TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
North Londonderry Township Lebanon County	PAG2003805035	Craig Cope Palmyra Area School District 1125 Park Drive Palmyra, PA 17078	Spring Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
North Londonderry Township Lebanon County	PAG2003804039	Dennis Hess 575 Trail Road Hummelstown, PA 17036	Swatara Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
Palmyra Borough Lebanon County	PAG2003805040	Harold Weaver 47 Palmyra-Bellgrove Road Annville, PA 17003	Killinger Creek/TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
East Hanover and Union Townships Lebanon County	PAG2003805030	Thomas Donmoyer East Hanover Township 1117 Schoolhouse Road Annville, PA 17003-8526	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
Swatara Township Lebanon County	PAG2003805036	Harold V. Kreider 136 Monroe Valley Drive Jonestown, PA 17038	Swatara Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
East Hanover Township Lebanon County	PAG2003805041	Col. Kenneth E. Boltz PFO-RM-PEVE/FTIG- Contracting Officer Annville, PA 17003-5003	Vesle Run/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 4
South Lebanon Township Lebanon County	PAG2003805037	Anthony Fitzgibbons 279 N. Zinns Mill Road Lebanon, PA 17042	Quittapahilla Cr/TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext 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>
Peters Township Franklin County	PAG2002805068	C. Monroe and Liza Main Borough View 12774 Buchanon Trail West Mercersburg, PA 17236	UNT to Johnston Run WWF/MF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Montgomery Township Franklin County	PAG2002805061	Jeff Piper Winter Greens 13520 Chad's Terrace Hagerstown, MD 21740	Little Conococheague Cr. WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Montgomery Township Franklin County	PAG2002805064	Marlin Eby Eby Subdivision 13811 Sunrise Drive Hagerstown, MD 21740	Conococheague Cr. WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Hamilton Township Franklin County	PAG2002805072	Thomas Mongold Westfields 418 Epic Drive Chambersburg, PA 17201	UNT to Back Cr. TSF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Springettsbury Township York County	PAG2006704057	Gary Wesner 3820 Ridgewood Road York, PA 17402	UNT to Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manheim Township York County	PAG2006705078	Morgan Estates Grant Colledge AT Masterpiece Homes LLC P. O. Box 129 Freeland, MD 21053	Codorus Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006705091	Center Point Land Development North Sherman Properties 6259 Reynolds Mill Road Seven Valleys, PA 17360	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Fairview Township York County	PAG2006705107	Shops at Old York Old York Developers, LLC Developers Realty Corp 433 S. Main Street Suite 310 West Hartford, CT 06110	UNT to Fishing Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

## NOTICES

6817

<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>
Bradford County Troy Township Troy Borough	PAG2000805011	Robert Grantier Troy Area School Dist. 310 Elmira St. Troy, PA 16947	Sugar Creek TSF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539, Ext. 205
Lycoming County Nippenose Township	PAG2004105017	Nippenose Township Box 201 200 Second St. Antes Fort, PA 17720	W. Br. Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Rd. Montoursville, PA 17754 (570) 433-3003
Allegheny County South Fayette Township	PAG20003030031	Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Millers Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Shaler Township	PAG20002040281	Walgreens Company 106 Wilmont Road Deerfield, IL 60015	Pine Creek (TSF)	Allegheny County CD (412) 241-7645
Allegheny County Franklin Park Borough	PAG20002040301	Franklin Park Borough 2344 West Ingomar Road Pittsburgh, PA 15237-1619	Bear Run (TSF)	Allegheny County CD (412) 241-7645
Allegheny County Upper St. Clair Township	PAG2000205092	Win-Upper St. Clair, LP 115 Federal Street Pittsburgh, PA 15212	McLaughlin Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Pine, Marshall, Richland and Hampton Townships	PAG2000205105	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Brush Creek (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Robinson Township	PAG2000205109	PACEC, LLC 333 Baldwin Road Pittsburgh, PA 15205	Campbells Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Findlay Township	PAG2000205110	Findlay Township P. O. Box W Clinton, PA 15026	Bigger Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Plum Borough	PAG2000205112	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Plum Creek (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Scott Township	PAG2000205115	Highpointe Two 1653 McFarland Road Pittsburgh, PA 15216	Georges Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County City of Pittsburgh	PAG2000205117	Pittsburgh & Allegheny County Sports & Exhibition Authority 425 Sixth Avenue Pittsburgh, PA 15219	Allegheny & Ohio Rivers (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Plum Borough	PAG2000205118	Nicols Veltri 1204 Martin Avenue New Kensington, PA 15068	Plum Creek (WWF)	Allegheny County CD (412) 241-7645

<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>
Cambria County Richland Township	PAG2001105018	Johnstown-Cambria County Authority 479 Airport Road Johnstown, PA 15904 and United States Army Reserves 99th Regional Readiness Command 99 Soldiers Lane Coraopolis, PA 15108	Solomon Run (WWF)	Cambria County CD (814) 472-2120
Cambria County Adams Township	PAG2001105021	Forest Hills School District 547 Locust Street Sidman, PA 15955	South Fork Little Conemaugh River (CWF)	Cambria County CD (814) 472-2120
Fayette County Bullskin Township	PAG2002605025	Bill McCandles P. O. Box 667 Connellsville, PA 15425	Irish Run (WWF)	Fayette County CD (724) 438-4497
Butler County Cranberry Township	PAG2001005032	Commercial Development TSC/Cranberry, LLC 250 Grandview Drive Fort Mitchell, KY 41017	Brush Creek WWF	Butler Conservation District (724) 284-5270
Erie County Wayne Township	PAR10K165(R)	Corry Industrial Development Corp. 1524 Enterprise Road Corry, PA 16407	UNT Hare Creek CWF	Erie Conservation District (814) 825-6403
Erie County Millcreek Township	PAR10K170(R)	Dennis F. Pistone 3626 Belaire Drive Erie, PA 16506	Municipal Separate Storm Sewer	Erie Conservation District (814) 825-6403
Erie County McKean Township	PAG2002505036	Danylko Excavating 10330 Odborn Road McKean, PA 16428	UNT Elk Creek CWF; MF	Erie Conservation District (814) 825-6403
Erie County Fairview Township	PAG2002505037	Connex, Inc. 1304 Industrial Drive Erie, PA 16505	Brandy Run, Tributary Elk Creek, Township Detention Pond CWF; MF	Erie Conservation District (814) 825-6403
Erie County City of Erie	PAG2002505038	Hamot Health Foundation 201 State Street Erie, PA 16550	Municipal separate Storm Sewer	Erie Conservation District (814) 825-6403
Lawrence County Wayne Township	PAG2003705008	Oak Ridge Villas Subdivision Peach Street Ellwood City, PA Frank Pascoe F & S Properties, LLC 2530 New Butler Road New Castle, PA 16101	Duck Run Connoquenessing Creek WWF	Lawrence Conservation District (724) 652-4512
Elk County Benezette Township	PAG2092405007	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Porcupine Run and Bennett Branch Sinnemahoning Creek CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

## NOTICES

6819

<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>
Butler County Winfield Township	PAG2091005008	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Rough Run to Buffalo Creek TSF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

*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>
Berks County Reading City	PAR143514	Sealed Air Corporation Reading Plant 450 Riverfront Road Reading, PA 19602	Schuylkill River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County East Hempfield Township	PAR203570	Amerimax Home Products, Inc. P. O. Box 4515 Lancaster, PA 17604	UNT of West Branch of Little Conestoga Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Clarion Borough Clarion County	PAR218310	Owens Brockway Glass Container Inc. 151 Grand Avenue Clarion, PA 16214	Trout Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*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>
Cumberland County Upper Frankford Township	PAG043736	Hurley/Morrison 50 Frytown Road Newville, PA 17241	UNT Conodoguinet Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Shenango Township Mercer County	PA0209929	Dennis Stefanak 69 Roman Road Pulaski, PA 16143	UNT to Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG049213	Scott Godmaire 14447 North Main Street Waterford, PA 16441	UNT to Little Conneautee Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Waterford Township Erie County	PAG048726	Gregory G. Kimmy 13305 Clute Road Waterford, PA 16441	UNT to Wheeler Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Operations Permit** issued to **Doylestown Township Municipal Authority**, 425 Wells Road, Doylestown, PA 18901, (PWS ID 1090128) Doylestown Borough, **Bucks County** issued December 1, 2005, for the operation of facilities approved under Construction Permit No. 0904511.

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

**Operations Permit** issued to **Shinn Spring Water Company**, 3066531, Cumru Township, **Berks County** on 11/16/2005 for the operation of facilities approved under Construction Permit No. 0605517 MA.

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

**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant **Pennsylvania-American Water Company**

Township or Borough **Rush Township**  
County **Centre**  
Responsible Official **Scott Thomas**  
Operations Engineer  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033  
Type of Facility **Public Water Supply—Operation**  
Consulting Engineer **N/A**  
Permit Issued Date **12/1/2005**  
Description of Action **Operation of the rehabilitated Philipsburg Reservoir**

**Permit No. Minor Amendment—Construction** Public Water Supply.

Applicant **Austin Borough**  
Township or Borough **Austin Borough**  
County **Potter**  
Responsible Official **Mark Jeffers**  
Austin Borough  
P. O. Box 297  
Austin, PA 16720

Type of Facility **Public Water Supply—Construction**

Consulting Engineer **James J. Rhoades, Jr., P. E.**  
Alfred Benesch & Company  
400 One Norwegian Plaza  
Pottsville, PA 17901

Permit Issued Date **12/2/2005**

Description of Action **Installation of a new water filtration plant, including coagulant, polymer and sodium hypochlorite chemical feed systems, duplicate US Filter Tri-Mite TM-75A treatment units, clearwell and related appurtenances. In addition, Cold Spring and Foster Street Spring will be rehabilitated.**

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

**Permit No. 3005501**, Public Water Supply.

Applicant **Dunkard Valley Joint Municipal Authority**  
P. O. Box 193  
Greensboro, PA 15338

Borough or Township **Monongahela Township**  
County **Greene**

Type of Facility **50,000 gallon raw water tank**  
Consulting Engineer **Fayette Engineering Company, Inc.**  
2200 University Drive  
P. O. Box 1030  
Uniontown, PA 15401

Permit to Construct Issued **November 29, 2005**

**Permit No. 5604502**, Public Water Supply.  
 Applicant **Somerset County General Authority**  
 146 West Main Street  
 Somerset, PA 15501  
 Borough or Township Jenner Township  
 County **Somerset**  
 Type of Facility Water filtration plant, two water storage tanks, two finished water pump stations, transmission and distribution system and the establishment of a new public water supply.  
 Consulting Engineer Paul C. Rizzo and Associates  
 101 West Main Street  
 Somerset, PA 15501  
 Permit to Construct Issued December 6, 2005

**Operations Permit—Cancelled: Pennsylvania Power Company**, Bruce Mansfield Power Plant, P. O. Box 128, Shippingport, PA 15077, Shippingport Borough, **Beaver County** on November 29, 2005 for the operation of facilities approved under Operation Permit No. 0471502.

**Operations Permit—Rescission: Borough of Conway**, 1208 Third Avenue, Conway, PA 15027, Conway Borough, **Beaver County** on December 1, 2005 for the operation of facilities approved under Construction Permit No. 0499501.

**Permit No. 0405503MA, Minor Amendment.** Public Water Supply.

Applicant **New Sewickley Township Municipal Authority**  
 233 Miller Road  
 Rochester, PA 15074  
 Borough or Township New Sewickley Township  
 County **Beaver**  
 Type of Facility Harvey Run Road Booster Station  
 Consulting Engineer Veolia Water North  
 America-Central, LLC  
 921 Saw Mill Run Boulevard  
 Pittsburgh, PA 15220  
 Permit to Construct Issued December 1, 2005

**Permit No. 0405501MA, Minor Amendment.** Public Water Supply.

Applicant **Ambridge Water Authority**  
 600 11th Street  
 P. O. Box 257  
 Ambridge, PA 15003  
 Borough or Township Economy Borough  
 County **Beaver**  
 Type of Facility Interconnection with the Municipal Authority of the Borough of West View  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 P. O. Box 200  
 Indianola, PA 15051

Permit to Construct Issued December 1, 2005

**Permit No. 0205504MA, Minor Amendment.** Public Water Supply.

Applicant **Pennsylvania-American Water Company**  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 Borough or Township Glassport Borough  
 County **Allegheny**  
 Type of Facility Glassport Tank rehabilitation and repainting  
 Permit to Construct Issued December 1, 2005

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

**Permit No. 3705501**, Public Water Supply  
 Applicant **Pennsylvania-American Water Company**  
 Borough or Township North Swickley Township  
 County **Beaver**  
 Type of Facility Public Water Supply  
 Wiley Hill Booster Pump Station  
 Permit to Construct Issued 12/02/2005

**Operations Permit** issued to **St. Marys Area Water Authority**, P. O. Box 33, St. Marys, PA 15857, PWS ID No. 6240016, St. Marys Borough, **Elk County**, on December 2, 2005, for the operation of the Rosely Road Tank, valve vault and associated appurtenances, as approved under Construction Permit No. 2470501-MA4.

#### 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**

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**WA-53-554B, Water Allocations. Austin Borough Waterworks**, Austin Borough, Potter County. This permit grants the right to withdraw a maximum of 95,000 gallons per day from Cold Spring, Bayliss Spring and Foster Street Spring in Austin Borough, **Potter County**.

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

**WA56-1002, Water Allocations. Somerset County General Authority**, c/o Barbera, Clapper, Beener, Rullo and Melvin, 146 West Main Street, Somerset, PA 15501, Somerset, **Somerset County**. The right to purchase 3 million gallons per day, as a 30-day average, from the Cambria Somerset Authority.

**WA56-1003, Water Allocations. Cambria Somerset Authority**, 244 Walnut Street, Johnstown, PA 15901, **Somerset County**. Modification Order to supply 3 million gallons per day of water to the Somerset County General Authority.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

**Plan Location:**

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Mifflin Township	550 Middle Rd. Newville, PA 17241	Cumberland

**Plan Description:** The approved plan provides for a Small Flow Treatment Facility of 400 gpd to serve the proposed new Christine Zinn residence at 231 Whiskey Run Road. The proposed SFTF will discharge to an UNT of Whiskey Run. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

**Plan Location:**

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Maxatawny	127 Quarry Rd. Suite 1 Kutztown, PA 19530	Berks
Weisenberg Township	2175 Seipstown Rd. Fogelsville, PA 18051-2022	Lehigh

**Plan Description:** The approved plan provides for a proposed 18-hole golf course with clubhouse and restaurant and 13 single family dwellings with total sewage flows of 7,000 gallon per day each to be served by a privately owned wastewater treatment plant with a nondischarge proposal of reuse of the wastewater effluent as irrigation on the golf course. This development is located at the intersection of Albright and Siegfriedale Roads in Maxatawny Township, Berks County and Weisenberg Township, Lehigh County. The DEP Code number is A3-06944-128-3. The Department of Environmental Protection's (Department) 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.

*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>
Sharon City	155 West Connelly Boulevard Sharon, PA 16146	Mercer

**Plan Description:** The approved plan provides for the selection of a trickling filter/solids contact treatment concept to expand the Sharon—USVWPCA sewage treatment plant to 8.66 mgd average daily flow capacity and correct hydraulic and organic overload.

**SEWAGE FACILITIES ACT SPECIAL NOTICE**

**Special Notice under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

**Project Location:**

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Philipsburg Borough	P. O. Box 631 Philipsburg, PA 16866	Centre

**Description:** The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Philipsburg Borough proposes to replace approximately 3,300 LF of 8-inch sanitary sewer line, 2,025 LF of 6-inch lateral and all associated man-holes and appurtenances in the Front Street portion of Philipsburg Borough. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impacts resulting from this proposal. The Department has categorically excluded this project from the State Environmental Review Process.

**SEWAGE FACILITIES ACT PLAN DISAPPROVAL**

**Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

**Plan Location:** Located at 550 Middle Creek Road, Freedom Township, Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Freedom Township	2184 Pumping Station Road Fairfield, PA 17320	Adams

**Plan Description:** The planning module, entitled Middle Creek Estates, proposing three residential lots using individual onlot sewage disposal systems, was disapproved because the preliminary hydrogeologic evaluation indicates that the septic systems proposed to serve Lots 1 and 9 will discharge to groundwater already polluted with nitrate-nitrogen. Under section 606 of The Clean Streams Law, the Department of Environmental Protection (Department) cannot allow discharges carrying a polluting substance to a body of water already polluted by that same substance. In other words, the Department cannot approve an alternative for sewage disposal that will add to, or aid in continuing, an already polluted condition.

**HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988**

**Prompt Interim Response**

**Classic Auto Restoration Services of Pittsburgh, Inc., Union Township, Washington County.**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has initiated a prompt interim response at the Classic Auto Restoration Services, Inc. Site (Site) located at 28 Davidson Avenue in Elrama, Union Township, Washington County. This response has been initiated under sections 501(a) and 501(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)).

The Site consists of a dilapidated building situated on 13 lots. The front of the building faces Davidson Street, while the back of the building faces an alley. The property



once operated as a specialty electroplating facility, primarily for car parts. Classic Auto Restoration Services of Pittsburgh, Inc. (CARS), the most recent company to operate the facility, ceased operation in November 2004 and abandoned the building along with the chemicals used in the electroplating process. The chemicals include various corrosives, oxidizers, poisons such as cyanide and metals (nickel, chromium, lead, cadmium, copper, and the like) and listed hazardous wastes. The chemicals and wastes are stored in different containers in deteriorating condition, some of which are exposed to the elements. The facility is located in a residential area and is in close proximity to occupied homes.

The Department proposes a Prompt Interim Response to address threats to human health and the environment such as direct contact, inhalation, ingestion, explosion and fire. To eliminate the ongoing release of hazardous substances and threat of release of hazardous substances, sources of soil to groundwater contamination will be removed from the Site.

For this Prompt Interim Response, the Department considered three alternatives for this Site: Alternative 1—No action; Alternative 2—Characterization, Removal and Disposal; and Alternative 3—Fencing. Each alternative was evaluated with respect to four comparison criteria of: (1) the extent to which each alternative protects the public health and the environment; (2) the extent to which each alternative complies with or otherwise addresses State and Federal requirements; (3) the extent to which each alternative is feasible, effective, implementable and permanent; and (4) the relative cost of each alternative.

Based on the comparative analysis, the Department chose to implement Alternative 2 as the Prompt Interim Response for the Site. This alternative was implemented because it would, in the most cost-effective manner, permanently protect the public, site workers and the environment from direct contact, inhalation and ingestion of hazardous substances and wastes at the Site and eliminate the threat of fire and explosion and ongoing release and threat of release of hazardous substances into the environment.

The Prompt Interim Response, Alternative 2, would not be a final remedial response under section 504 of HSCA and, therefore, is not required to meet the standards that apply to final remedial responses. Additional responses may be necessary to address contaminated soils and groundwater at the Site. However, Alternative 2 will be consistent with any future remedial actions and future investigation activities.

This notice is being provided under section 506(b) of HSCA. The administrative record, which contains the information that forms the basis and documents the selection of this Prompt Interim Response, is available for public review and comment. The administrative record is located at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 and is available for review Monday through Friday from 8 a.m. to 4 p.m. Telephone (412) 442-4000 for an appointment. The administrative record will be open for comment from December 17, 2005, until February 17, 2005. Persons may submit written comments into the record during this time only by sending them to Annette Paluh, Project Manager, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them to the office in person.

In addition, persons may present oral comments for inclusion in the administrative record at a public hearing

scheduled for January 17, 2005, at 7 p.m. at the El Rama Volunteer Fire Hall, 17 El Rama Avenue, El Rama, PA, 15038. Persons wishing to present comments should register with Helen Humphreys before 12 p.m., January 17, 2005, at the Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4183, hhumphreys@state.pa.us.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Helen Humphreys at (412) 442-4000 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

#### **Proposed Consent Order and Agreement**

##### **Earlin Equipment Company, Inc., Mays/Hickman Road Site, Robinson Township, Allegheny County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305), has entered into a proposed Consent Order and Agreement (CO & A) with Earlin Equipment Company, Inc. (Earlin). The proposed CO & A resolves the HSCA transporter liability of Earlin for reimbursement of costs expended by the Department at property located in Robinson Township, Allegheny County (Site). Earlin inherited its liability from Phillips Contracting Company, Inc. (Phillips) by virtue of Earlin's August 2002 merger with Phillips. Phillips had incurred liability as a result of its selection of the Site for transport and its actual transport there of various hazardous substances later released and threatened to be released into the environment.

Beginning in the mid-1950s and until at least 1964, Jake Phillips, Sr. hauled to the Site carbon sweepings dross and various industrial waste from the Pittsburgh Coke and Chemical facility (mid-1950s through 1959) and from the Pittsburgh Activated Carbon facility (1960 through 1964), both located on Neville Island. In September 1959, Jake Phillips, Sr. incorporated his hauling business as Phillips. The hauling from the two facilities conducted by Jake Phillips, Sr. and by Phillips resulted in a pile at the Site of about 1,200 tons of carbon sweepings and industrial waste, including eight leaking 55-gallon drums.

A 1993 United States Environmental Protection Agency investigation and 1994 and 2001 investigations by the Department found various volatile and semivolatile contamination at the Site. In 2003, to address this contamination, the Department conducted an interim response under section 501(a) of HSCA (35 P.S. § 6020.501(a)). The Department's interim response entailed the removal and proper disposal of all Site waste. As a result of its Site investigation and its interim response, the Department incurred costs in the amount of \$1,385,368. In September 2003, the Department settled its costs claim against Wilmington Securities, Inc. (Wilmington), for \$420,000. Wilmington inherited HSCA generator liability from its corporate predecessor, Pittsburgh Coke and Chemical.

The proposed CO & A calls for payment by Earlin of \$125,000, in three installments, in exchange for the Department's covenant not to sue.

Under section 1113 of HSCA (35 P.S. § 6020.1113), the Department is publishing notice of the proposed CO & A and will provide a 60-day period for public comment on

the CO & A beginning with the date of this publication. Copies of the CO & A can be obtained by contacting Terry Goodwald at (412) 442-4000. The proposed CO & A will be open for public comment from December 17, 2005, through February 17, 2006. Persons may submit comments into the record, during this time only, by sending them to Terry Goodwald, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them in person to this office.

The Department has reserved the right to withdraw its consent to the CO & A if comments submitted during the public comment period disclose facts or considerations which indicate, in the Department's judgment, that the CO & A is inappropriate or not in the public interest.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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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:

*Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Former Stauffer Chevrolet**, North Union Township, **Schuylkill County**. Bob Helkowski, Engineer, Malcolm Pirnie, Inc., 1700 Market Street, Suite 2740, Philadelphia, PA 19103 has submitted a Final Report (on behalf of FNBM Trust and Financial Services, c/o James T. O'Brien, 260 Sunbury Street, Minersville, PA 17954) concerning the remediation of soils found or suspected to be contaminated with petroleum products, lead and other compounds associated with the property's historical use as an auto dealership and auto repair facility. The report was submitted in order to demonstrate attainment of the Statewide health standard.

**Former Cooper Power Systems—East Stroudsburg Facility**, Borough of East Stroudsburg, **Monroe County**. Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 has submitted a Final Report (on behalf of Cooper Industries, Inc., P. O. Box 4446, 600 Travis, Suite 5800, Houston, TX 77210-4448 and Robert Deinarowicz, Dein Properties, P. O. Box 431, Stroudsburg, PA 18360) concerning the characterization of groundwater at the site that was suspected or found to be contaminated with VOCs reportedly originating from an unknown offsite source. The report was submitted in order to demonstrate attainment of the background standard under Act 2.

**Hazleton Oil & Environmental**, Banks Township, **Carbon County**. Jeremy Bolyn, Senior Environmental Scientist, Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518 has submitted a Final Report (on behalf of his client, Hazleton Oil & Environmental, 300 South Tamaqua Street, Hazleton, PA 18201) concerning the remediation of site soils and groundwater contaminated with petroleum hydrocarbons as the result of historic site operations as a petroleum distribution facility. The report was submitted in order to demonstrate attainment of the Statewide health standard.

**Bethlehem Technology Center Lot A (former Merchant Mills section of Bethlehem Steel Corporation property)**, City of Bethlehem, **Northampton County**. Vincent Carbone, P.G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a combined Remedial Investigation Report and Final Report Notice of Intent to Remediate (on behalf of his client, Northampton County New Jobs Corporation, c/o Janet Smith, 2158 Avenue C, Bethlehem, PA 18015) concerning the characterization of soils and groundwater found or suspected to have been impacted by chlorinated solvents or other contaminants as the result of historic industrial operations. The reports were submitted in order to document attainment of the site-specific standard.

**Pennsylvania Army National Guard Tamaqua Armory**, Rush Township, **Schuylkill County**. Seth Naregood, Sr. Staff Geoscientist, Converse Consultants, 2738 West College Avenue, State College, PA 16801 has submitted a Final Report (on behalf of his client, PA Army National Guard, Department of Military and Veterans Affairs Environmental Section, c/o Andrew Geist, Fort Indiantown Gap, Annville, PA 17003) concerning the remediation of soil found or suspected to have been impacted by the release of No. 2 fuel oil constituents from a former underground storage tank on the property. The report was submitted in order to demonstrate attainment of the Statewide health standard.

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

**Lancaster Malleable Castings Company**, Manheim Township, **Lancaster County**. Armstrong World Indus-

tries, Inc., P. O. Box 3001, Lancaster, PA 17604, on behalf of Lancaster Malleable Castings Corporation, 1046 Manheim Pike, Lancaster, PA 17601 and Mac Land Company, LLC, P. O. Box 4688, Lancaster, PA 17604 submitted a Final Report concerning remediation of site groundwater contaminated with benzene, toluene, ethylbenzene, and xylene. The report is intended to document remediation of the site to the residential Statewide Health Standard.

**Sheetz Store 256**, Shoemakersville Borough, **Berks County**. Groundwater & Environmental Services, Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341, on behalf of Sheetz, Inc., 5700 Sixth Avenue, Altoona, PA 16602, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a vehicle accident. The report was submitted within 90 days of the release and is intended to document remediation of the site to the Statewide Health Standard.

**Department of Defense Depot Susquehanna PA, Former Aircraft Maintenance Shop**, Fairview, Township, **York County**. Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002, has submitted a Cleanup Plan concerning remediation of groundwater contaminated with solvents to a Site Specific Standard.

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

**PPL Bradford County Connection—Hg Meter Site**, Troy Township, **Bradford County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Carroll Connection—Hg Meter Site**, Oswayo Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Hosley Purchase—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Coburn Purchase—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Sherman Farm—Galeton Check—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Gibson Purchase—Hg Meter Site**, Ulysses Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil

contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Mattison Connection—Hg Meter Site**, Hebron Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of site soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Roulette Station—Hg Meter Site**, Roulette Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL West Bingham Check—Hg Meter Site**, Bingham Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted a Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

**PPL Avery Hollow Check—Hg Meter Site**, Wharton Township, **Potter County**. PPL Corporation, 2 North Ninth Street GENTW17, Allentown, PA 18101 has submitted Final Report concerning remediation of soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

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

**Petrowax Sales P 63**, City of Smethport, **McKean County**. Jennifer Sedora, PPL Services 2 North 9th Street GENTW17, Allentown, PA 18101 on behalf of PPL Gas Utilities Corp., 2 North 9th Street GENTW17, Allentown PA 18101-1179 has submitted a Final Report concerning remediation of site soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standards.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate

that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Rutz Residence**, City of Allentown, **Lehigh County**. Chris Kotch, P. G., Barry Isett & Associates, Inc., P. O. Box 147, Trexlertown, PA 18087 submitted a Final Report (on behalf of Marjorie Rutz, Van Buren Street, Allentown, PA 18109) concerning the remediation of soil found or suspected to have been impacted by the accidental release of No. 2 home heating oil from an aboveground storage tank on the property. The report was demonstrated attainment of the residential Statewide Health Standard and was approved on November 22, 2005.

**Former Lehigh New England Railroad Property**, Wind Gap Borough and Plainfield Township, **Northampton County**. Jeffrey T. Bauer, P. G., Whitestone Associates, New Britain Corporate Center, 1600 Manor Drive, Suite 220, Chalfont, PA 18914 submitted a combined Remedial Investigation Report and Cleanup Plan (on behalf of various clients, remediators, and property owners, including Nolan Perin, c/o NAPER Development Corp., Inc.; Jerrold Bermingham, National Resources Associates LP; David Cox, WalMart Stores, Inc.; Brendan Sheehan and Scott Perin, Grand Central Sanitary Landfill, Inc.; and Bill and Caroline Hicks) concerning the characterization and proposed remediation of soils found or suspected to have been contaminated with metals and

semi-volatile organic contamination as the result of historic industrial operations. The reports were submitted in partial fulfillment of the Site-Specific Standard, and were approved on November 16, 2005.

**Hayes Property (State Route 29)**, Bridgewater Township, **Susquehanna County**. Kevin Van Kuren, P.G., Hydrocon Services, Inc., 16 East Minor Street, Emmaus, PA 18049 16801 submitted a Final Report (on behalf of Roger Hayes, State Route 29, South Montrose, PA 18843) concerning the remediation of soil found or suspected to have been impacted by the release of leaded and/or unleaded gasoline from a former 500-gallon underground storage tank on the property. The report demonstrated attainment of the residential Statewide Health Standard and was approved on November 16, 2005.

**Novick Chemical Co. Inc.**, City of Scranton, **Lackawanna County**. Martin Gilgallon, P.G., PA Tectonics Inc, 826 Main Street, Peckville, PA 18452, submitted a Final Report (on behalf of his client, Novick Chemical Co., 705 Davis Street, Scranton, PA 18505) concerning the remediation of site soils found to have been contaminated with chlorinated solvents and other solvents as the result of previous site operations. The report documented attainment of a combination of the non-residential, non-use aquifer Statewide Health and Site-Specific Standards, and was approved on November 7, 2005.

**St. Luke's Miners Memorial Hospital Tax Parcels 65-24-2 and 65-25-1.4 (SR 209)**, Borough of Tamaqua, **Schuylkill County**. Marguerite Murray, Project Environmental Scientist, Gilmore & Associates, Inc, 350 East Butler Ave, New Britain, PA 18901 submitted a Baseline Environmental Report for a property (on behalf of her client, Robert Craze, St. Luke's Miners Memorial Hospital, Coaldale, PA 18218) concerning the characterization of soil and groundwater on a former industrial property that manufactured lightweight concrete and more recently staged construction and waste materials. The report demonstrated attainment of the Special Industrial Area Standard and was approved on November 3, 2005.

**UGI Utilities, Inc.—Hazelton Service Center**, City of Hazelton, **Luzerne County**. J.C. Rondeau, Division Engineer-Environmental Compliance, UGI Utilities, Inc., 100 Kachel Boulevard, Suite 400, P. O. Box 12677, Reading, PA 19612-2677 submitted a Final Report concerning the characterization of soils and groundwater found or suspected to have been contaminated by petroleum products, polycyclic aromatic hydrocarbons and other potential constituents related to the site's historic use as a manufactured gas plant. The report demonstrated attainment of the Site-Specific Standard and was approved on November 3, 2005.

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

**Gladys Horner Property**, East Saint Clair Township, **Bedford County**. Environmental Products and Services of Vermont, Inc., 5100 Paxton Street, Harrisburg, PA 17111, and Marshall Miller Associates, 3913 Hartzdale Drive, Camp Hill, PA 17011, on behalf of Gladys Horner, 7702 Thor Drive, Annandale, VA 22003-1432, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on December 2, 2005.

**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Permit approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

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

**Permit Application No. 101247. Keystone Sanitary Landfill, Keystone Sanitary Landfill, Inc. P. O. Box 249, Dunham Drive, Dunmore, PA 18512.** A major permit modification for the changes in sub grade and final grade elevations at this municipal waste landfill located in Dunmore and Throop Boroughs, **Lackawanna County**. The permit was issued by the Regional Office on November 10, 2005.

**AIR QUALITY**

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP1-06-03033: Reading Housing Authority** (400 Hancock Boulevard, Reading, PA 19611) on December 1, 2005, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in City of Reading, **Berks County**.

**GP1-21-03050: Dickinson College** (P. O. Box 1773, Carlisle, PA 17013) on November 29, 2005, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Carlisle Borough, **Cumberland County**. This is a renewal of the GP1 permit.

**GP2-21-05021: Arnold Fuel Oil, Inc.** (P. O. Box 2621, Harrisburg, PA 17105-2621) on December 2, 2005, for Storage Tanks and Volatile Organic Liquids under GP2 in Silver Spring Township, **Cumberland County**.

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

**GP5-17-473: Phillips Production Co.** (502 Keystone Drive, Warrendale, PA, 15086) on October 13, 2005, to operate a compressor engine at their Brink compressor site under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5), in Chest Township, **Clearfield County**.

**GP5-17-15: Kriebel Minerals, Inc.** (633 Mayfield Drive, Clarion, PA 16255) on November 10, 2005, to operate a compressor engine at their Curwensville compressor site under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) in Knox Township, **Clearfield County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0180A: Transic Oil Corp.** (9 Iron Bridge Drive, Collegeville, PA 19426) on November 30, 2005, to operate a methanol glass cleaning in Collegeville Borough, **Montgomery County**.

**15-0015C: Sartomer Co.** (610 South Bolmar Street, West Chester, PA 19382) on December 6, 2005, to operate a control device in West Chester Borough, **Chester County**.

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

**06-03134: Dietrich Specialty Processing, LLC** (625 Spring Street, Suite 200, Reading, PA 19610-1701) on November 30, 2005, to install new food processing dryers at their plant in Exeter Township, **Berks County**.

**06-05104B: H. B. Mellot Estate, Inc.** (100 Mellot Drive, Suite 100, Warfordsburg, PA 17267-8555) on December 1, 2005, to construct a nonmetallic mineral crushing plant controlled by wet suppression and two diesel fired generators controlled by combustion controls in Maiden Creek Township, **Berks County**.

**28-05005B: York International Corp.** (100 CV Avenue, Waynesboro, PA 17268) on December 1, 2005, to install a paint spray booth with dry filter system at their plant in Waynesboro Borough, **Franklin County**.

**ER-36-05002A: Armstrong World Industries, Inc.** (1067 Dillerville Road, Lancaster, PA 17603) on December 1, 2005, for general downsizing of plant operations in City of Lancaster, **Lancaster County**.

**36-05014G: Alumax Mill Products, Inc.** (1480 Manheim Pike, Lancaster, PA 17604-3167) on December 1, 2005, to install two cartridge filter dust collection systems at the secondary aluminum processing plant in Manheim Township, **Lancaster County**.

**67-05069F: Oldcastle Retail, Inc.** (550 South Biesecker Road, Thomasville, PA 17364) on December 1, 2005, to modify the decorative stone operation at their Thomasville Facility in Jackson Township, **York County**.

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

**60-318-011A: Pik-Rite, Inc.** (60 Pik-Rite Lane, Lewisburg, PA 17837) on November 1, 2005, to construct a fabricated steel parts surface coating operation in Buffalo Township, **Union County**.

**17-305-050B: Penfield Collieries, LLC** (301 Market Street, Kittanning, PA 16201) on November 8, 2005, to modify a coal preparation plant and associated coal stockpiling and railcar/truck loading operations by increasing the amount of coal the plant is permitted to process from 1.3 million tons per year to 2.6 million tons per year in Huston Township, **Clearfield County**.

**41-399-027: Smurfit-Stone Container Enterprises, Inc.** (P. O. Box 3097, Williamsport, PA 17701) on Novem-

ber 15, 2005, to modify a paperboard/plastic film gluing operation by increasing the amount of adhesive/glue used such that the potential VOC emissions will increase from 2.7 tons per year to 11.27 tons per year in Porter Township, **Lycoming County**.

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

**42-004B: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) on November 21, 2005, to construct a flare to replace an existing vapor recovery unit at its Foster Brook facility on Bolivar drive in Bradford City, **McKean County**. This is a Title V facility, Permit No. 42-0004.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-7584.*

**AMS 05058: Calpine Philadelphia, Inc.** (3895-99 Richmond Street, Philadelphia, PA 19137) on December 5, 2005, to modify the operating parameters that must be established during the performance test for seven diesel engines and three gas engines, to change an operating hours per year limit for the gas engines to a gas usage per rolling 12-month period limit, and to adjust facility lbs/hr and tons/rolling 12-month period limits so they are consistent with operating limits and g/bhp-hr emission limits in the City of Philadelphia, **Philadelphia County**.

**AMS 05057: Calpine Philadelphia Inc.—SW** (8200 Enterprise Avenue, Philadelphia, PA 19153) on December 5, 2005, to modify the operating parameters that must be established during the performance test for 10 diesel engines and one gas engine, to change an operating hours per year limit for the gas engines to a gas usage per rolling 12-month period limit, and to increase facility allowable SO<sub>2</sub> emissions by 0.07 g/bhp-hr to be consistent with allowable lbs/hr and tons/rolling 12-month period emission limits and engine operating restrictions in the City of Philadelphia, **Philadelphia County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0087C: Air Products and Chemicals, Inc.** (351 Philadelphia Avenue, Morrisville, PA 19067) on December 2, 2005, to operate an ammonia process in Falls Township, **Bucks County**.

**09-0027E: Fres-Co Systems—USA, Inc.** (3005 State Road, Telford, PA 18969) on December 1, 2005, to operate a thermal oxidizer in West Rockhill Township, **Bucks County**.

**09-0110B: Riverside Construction Materials, Inc.** (355 Newbold Road, Fairless Hills, PA 19030) on December 5, 2005, to operate a material handling system in Bristol Township, **Bucks County**.

**09-0152: Gelest, Inc.** (612 William Leigh Drive, Tullytown, PA 19007) on December 5, 2005, to operate equipment for speciality chemicals in Falls Township, **Bucks County**.

**23-0089: FPL Energy Marcus Hook, LP** (P. O. Box, 426 Delaware Avenue and Green Street, Marcus Hook, PA 19061) on December 5, 2005, to operate a 750 megawatt combined cycle in Marcus Hook Borough, **Delaware County**.

**46-0069B: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on December 5, 2005, to operate a dryer burner in Whitemarsh Township, **Montgomery County**.

**46-0220: Micro Coax Inc.** (206 Jones Boulevard, Pottstown, PA 19464) on December 5, 2005, to operate two horizontal jennings extruders in Limerick Township, **Montgomery County**.

**09-0126A: Air Liquide Electronics U.S. LP** (19 Steel Road West, Morrisville, PA 19067) on December 5, 2005, to operate a wet scrubber S-7 in Falls Township, **Bucks County**.

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

**PA-30-00150A: Wellington Development—WVDT, LLC** (1620 Locust Lane, Fairmont, WVA 26554). Notice is hereby given concerning the degree of increment consumption for PSD Class I areas from the proposed Wellington Development—WVDT, LLC facility to be located in Cumberland Township, **Greene County**. The Plan Approval for this facility was issued on June 21, 2005 and subsequently modified on September 1, 2005.

Use of an alternate ambient air modeling program, AERMOD, was approved by Environmental Protection Agency for modeling the effect of the proposed facility's emissions on PSD Class I areas. Based on the modeling information provided by the applicant the degree of increment consumption on PSD Class I areas attributable to this facility is as follows:

<i>Class I Area</i>	<i>Date of Impact</i>	<i>PSD Increments (µg/m<sup>3</sup>)</i>	<i>24-Hour SO<sub>2</sub> Cumulative Concentration (µg/m<sup>3</sup>)</i>	<i>Significant Impact Level (µg/m<sup>3</sup>)</i>	<i>24-Hour SO<sub>2</sub> Greene Energy Concentration (µg/m<sup>3</sup>)</i>
James River Face	12/14/1996	5	1.0	0.2	0.4
James River Face	11/22/1996	5	0.7	0.2	0.3

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

Persons wishing to provide additional information or comments for consideration should submit the information to the Department at the address that follows. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Written comments must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise statements regarding the relevancy of the information pertaining to issuance of the Plan Approval. Written comments should be directed to Mark A. Wayner, P. E., Air Quality Program Manager, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Mark Gorog, P. E., Air Pollution Control Engineer III at the previously listed address.

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

**17-399-023: Prism Enterprises, LLC d/b/a Permagrain** (1191 Venture Drive, Forest, VA 24551) on November 29, 2005, to operate wood and plastic sawing, sanding and the like equipment and associated air cleaning device (a fabric collector) on a temporary basis until March 29, 2006, in Karthaus Township, **Clearfield County**. The plan approval has been extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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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.*

**46-00014: Knoll, Inc.** (1235 Water Street, P. O. Box 157, East Greenville, PA 18041) on November 30, 2005, to renew a facility Title V Operating Permit in Upper Hanover Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**07-05010: Small Tube Manufacturing, LLC** (P. O. Box 1674, Altoona, PA 16603-1674) on December 1, 2005, for a tubing fabrication operation in Allegheny Township, **Blair County**. This is a renewal of the Title V operating permit.

**31-05002: Owens Corning Fiberglass** (1200 Susquehanna Avenue, Huntingdon, PA 16652-1946) on November 29, 2005, to operate their fiberglass mat plant in Huntingdon Borough, **Huntingdon County**. This is a renewal of the Title V operating permit.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.*

**60-00004: New Columbia Joist Co.** (2093 Old Highway 15, New Columbia, PA 17856-0031) on November 23, 2005, to issue a renewal Title V Operating Permit, for

their steel joist manufacturing facility in White Deer Township, **Union County**. The facility's sources include four paint dip tanks and a bridging line vacuum coater. The renewal Title V operating permit contains all applicable monitoring, recordkeeping and reporting conditions.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**01-05025: Valley Quarries, Inc.** (P. O. Box J, Chambersburg, PA 17201-0809) on December 1, 2005, to operate a crushed stone/bituminous concrete facility in Cumberland Township, **Adams County**.

**28-03040: Valley Quarries, Inc.** (3587 Stone Quarry Road, Chambersburg, PA 17201-7729) on December 1, 2005, to operate a limestone quarrying and processing facility in Guilford Township, **Franklin County**.

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

**19-00021: UAE CoalCorp Associates** (P. O. Box 306, Mt. Carmel, PA 17851) on November 8, 2005, to operate a coal processing facility in Conyngham Township, **Columbia County**.

**12-00006: Lewis and Hockenberry, Inc.** (4725 Rich Valley Road, Emporium, PA 15834) on November 8, 2005, to operate two sawmill facilities (Rich Valley Plant and Clear Creek Plant) in Shippen Township, **Cameron County**.

**17-00059: Energy Link, Inc.** (840 Philadelphia Street, Suite 305, Indiana, PA 15701) on November 15, 2005, to operate a coal stockpiling and railcar loading operation in the Corman Yards in Lawrence Township, **Clearfield County**.

**49-00008: Milton Steel, Inc.** (6 Canal Street, Milton, PA 17847) on November 29, 2005, to operate a steel shelving manufacturing facility in Milton Borough, **Northumberland County**.

**17-00028: Hepburnia Coal Co.** (P. O. Box I, Grampian, PA 16838) on November 23, 2005, to issue a State-only operating permit for their coal processing facility in Greenwood Township, **Clearfield County**. The facility's main sources include a coal processing operation and unpaved site haul roads. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**41-00055: Hanson Aggregates Pennsylvania, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on November 29, 2005, to issue a State-only operating permit for their limestone crushing and processing facility in Muncy Creek Township, **Lycoming County**. The facility's main sources include a primary crusher, secondary crusher, tertiary crusher and associated various material sizing and conveying equipment. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**63-00621: AccuTrex Products Inc.** (112 Southpointe Blvd., Canonsburg, PA 15317) on November 30, 2005, to manufacture gaskets, shims, sheetmetal parts, metal stampings along with three paint booths (two powder coating) along with a sand blast unit at the Cecil facility located in **Washington County**.

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

**20-00043: Dunbar Asphalt Products** (11203, Ellison Road, Conneaut Lake, PA 16316) on November 29, 2005, for a Synthetic Minor Permit to operate a hot mix asphalt plant located in Sadsbury Township, **Crawford County**. The significant sources are hot mix batch plant; hot elevators, screens, bins, asphalt cement storage tank, cold aggregate bins and finished products silo. The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

**42-00155: MSL Oil and Gas Corp.** (Route 219 and Route 59 intersection, Lewis Run, Lafayette, PA 16738) on November 29, 2005, for a Natural Minor Permit to operate a gas production and distribution corporation in Layfayette Township, **McKean County**. The significant sources are one compressor engine of 360 hp with dehydrator, one 186 hp compressor engine with catalytic converter, one 180 hp compressor engine, one 30,000 gallons propane tank and miscellaneous equipment leaks.

**10-00277: Wiest Asphalt Products and Paving Inc.** (310 Mitchell Hill Road, Butler, PA 16001) on November 30, 2005, for a Synthetic Minor Permit to operate a hot mix asphalt plant located in Summit Township, **Butler County**. The significant sources are hot mix batch plant; fugitives from transfer points, asphalt tank and one natural gas boiler to heat asphalt tank. The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

**10-00264: Thomas E. Siegel d/b/a Bruin Stone** (264 Hasenflu Road, Parker, PA 16049) on November 22, 2005, for a Natural Minor operating permit for the Bruin Lime Stone Crushing and Screening Plant. The facility is near Bruin, **Butler County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00009: Webcraft, LLC** (4371 County Line Road, Chalfont, PA 18914) on December 6, 2005, to amend a catalytic oxidizer in New Britain Township, **Bucks County**.

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

**22-05046: Haines and Kibblehouse, Inc.—Handwerk Materials Asphalt Plant** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474-0916) on November 29, 2005, to operate an asphalt plant in Lower Swatara Township, **Dauphin County**. This operating permit was administratively amended to incorporate Plan Approval 22-05046A. This is Revision No. 1.

**28-03025: Wenger's Feed Mill, Inc.** (101 West Harrisburg Avenue, Rheems, PA 17570-0026) on November 30,

2005, to construct a feed mill facility in South Hampton Township, **Franklin County**. This operating permit was administratively amended to incorporate Plan Approval 28-03025B. This is Revision No. 1.

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

**25-00035: Molded Fiberglass Co.—Union City Plant** (55 Fourth Avenue, Union City, PA 16438) on November 29, 2005, to administratively amend the Title V Operating Permit to change the responsible official in Union City Borough, **Erie County**.

**43-00273: Select Industries, Inc.** (242 Reynolds Industrial Park Road, Greenville, PA 16125) on November 29, 2005, to administratively amend the Natural Minor Operating Permit to change the responsible official in Pymatuning Township, **Mercer County**.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

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

**32850701 and NPDES Permit No. PA0213683, Mears Enterprises, Inc.** (P. O. Box 157, Clymer, PA 15728), to renew the permit and related NPDES permit and revise the permit for the Clymer Refuse Disposal Site in Cherryhill Township, **Indiana County** to add fly ash to the site. No additional discharges. Permit issued November 30, 2005.

**30841319 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company** (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit and related NPDES permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to install a new mine slope and five boreholes. Surface Acres Proposed 51.7. Receiving stream: Crabapple Creek, classified for the following use: WWF. Permit issued November 30, 2005.

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

**11000102 and NPDES No. PA0235342. M. B. Energy, Inc.**, 175 McKnight Road, Blairsville, PA 15717, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Susquehanna and Barr Townships, **Cambria County**, affecting 450.0



acres. Receiving streams: UNT to Moss Creek; Moss Creek; UNT to W. Branch Susquehanna River; W. Branch Susquehanna River classified for the following uses: CWF; CWF; CWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received September 15, 2005. Permit issued: November 23, 2005.

**56950111 and NPDES No. PA0213225. Sherpa Mining Contractors, Inc.**, 337 Benny Road, Hooversville, PA 15936-8906, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Shade Township, **Somerset County**, affecting 349.9 acres. Receiving streams: UNT to Shade Creek and Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWI. Application received September 23, 2005. Permit issued: November 23, 2005.

*Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601, (724) 925-5500.*

**03980101 and NPDES Permit No. PA0202541. Walter L. Houser Coal Co., Inc.** (R. R. 9, Box 434, Kittanning, PA 16201). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site located in Kittanning Township, **Armstrong County**, affecting 207 acres. Receiving streams: Mill Run and its UNTs. Application received: September 26, 2005. Renewal issued: November 28, 2005.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**16000102 and NPDES Permit No. PA0241741. Milestone Crushed, Inc.** (521 South Street, Clarion, PA 16214) Renewal of an existing bituminous strip operation in Perry Township, **Clarion County** affecting 38.6 acres. This renewal is for reclamation only. Receiving streams: UNT to the Clarion River. Application received: October 12, 2005. Permit Issued: November 30, 2005.

**16050108 and NPDES Permit No. PA0257958. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258) Commencement, operation and restoration of a bituminous strip operation in Clarion Township, **Clarion County** affecting 58.3 acres. Receiving streams: UNT "A" to Brush Run. Application received: 7/4/05. Permit Issued: December 1, 2005.

**10040103 and NPDES Permit No. PA0242535. Annandale Quarries, Inc.** (219 Goff Station Rd., Boyers, PA 16020) Commencement, operation and restoration of a bituminous strip operation in Venango Township, **Butler County** affecting 23.3 acres. Receiving stream: Seaton Creek. Application received: June 7, 2004. Permit Issued: December 1, 2005.

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

**12040102 and NPDES No. PA0256145. Allegheny Enterprises, Inc.** (3563 Roller Coaster Road, Corsica, PA 15829). Commencement, operation, and restoration of a bituminous surface strip operation in Shippen Township, **Cameron County** affecting 206 acres. Receiving streams: UNT to Finley Run to Sterling Run to Driftwood Branch—Sinnemahoning Creek to West Branch Susquehanna River. Application received: December 27, 2004. Permit Issued: November 17, 2005.

**17040108 and NPDES No. PA0243825. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Commencement, operation, and restoration of a bitumi-

nous surface strip operation in Boggs Township, **Clearfield County** affecting 62.1 acres. Receiving streams: Tributary to Laurel Run a/k/a Twoey Run to Laurel Run to Moshannon Creek to the West Branch of the Susquehanna River. Application received: March 28, 2005. Permit Issued: November 28, 2005.

**17860104 and NPDES Permit No. PA 0611077. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Major permit revision to an existing bituminous surface mine permit to add augering of Middle Kittanning coal seam. The permit is located in Girard Township, **Clearfield County** and affects 267.8 acres. Receiving streams: UNTs to Deer Creek, Deer Creek and a UNT to Buck Run to Buck Run to Deer Creek to the West Branch of the Susquehanna River to the Susquehanna River. Application received: October 19, 2005. Permit issued: November 28, 2005.

#### *Noncoal Permits Actions*

*Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601-0982, (724) 925-5500.*

**65900403 and NPDES Permit No. PA0591866. Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). Permit renewal issued for continued operation and reclamation of a noncoal surface mining site (limestone quarry) located in Unity Township, **Westmoreland County**, affecting 662.5 acres. Receiving streams: UNTs to Nine Mile Run. Application received: October 5, 2005. Renewal issued: December 2, 2005.

*Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, 817-342-8200.*

**08970801. Johnson Quarries, Inc.** (Jerry L. Johnson, P. O. Box 136, LeRaysville, PA 18829). Transfer of an existing surface small industrial minerals (bluestone)-blasting permit application from Frank Kamarauskas. The site is located in Tuscarora Township, **Bradford County** and affects 3 acres. Receiving stream: UNT to Mill Creek. Application received: November 21, 2005.

**08990805. Johnson Quarries, Inc.** (Jerry L. Johnson, P. O. Box 136, LeRaysville, PA 18829). Transfer of an existing surface small industrial minerals (flagstone) permit application from Frank Kamarauskas. The site is located in Tuscarora Township, **Bradford County** and affects 3 acres. Receiving stream: UNT to Mill Creek. Application received: November 21, 2005.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3318.*

**0179301A1C3 and NPDES Permit No. PA0122297.** Wilson C. Clapsaddle, (1790 Baltimore Pike, Gettysburg, PA 17325), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Mt. Joy Township, **Adams County**, receiving stream: UNT to Rock Creek. Application received September 19, 2005. Renewal issued December 1, 2005.

**40800304C and NPDES Permit No. PA0123765.** Gigiello Topsoil, (39 Pittston Avenue, Yatesville, PA 18640), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Pittston City, **Luzerne County**, receiving stream: Lackawanna River. Application received October 12, 2005. Renewal issued December 1, 2005.

### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**28054167. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Brimington Farms Development in Washington Township, **Franklin County** with an expiration date of November 30, 2006. Permit issued November 30, 2005.

**35054121. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Laurel Ridge Estates in Jefferson Township, **Lackawanna County** with an expiration date of January 31, 2006. Permit issued December 1, 2005.

**39054124. Allan A. Myers, Inc.** (P. O. Box 98, Worcester, PA 19490), construction blasting for Estates at Coldwater in Lower and Upper Macungie Township, **Lehigh County** with an expiration date of December 31, 2006. Permit issued December 1, 2005.

**52054122. ER Linde Construction Corp.** (9 Collan Park, Honesdale, PA 18431), construction blasting for Nemani Development in Palmyra Township, **Pike County** with an expiration date of December 30, 2006. Permit issued December 1, 2006.

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of

itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**EA54-015NE. Schuylkill Headwaters Association.** P. O. Box 1385, Pottsville, PA 17901. East Norwegian Township, **Schuylkill County**, Army Corps of Engineers Philadelphia District.

To construct and maintain an abandoned mine discharge (AMD) passive treatment system proposed in and along a tributary to Mill Creek (CWF) and in 1.35 acres of palustrine emergent (PEM1) wetlands. The project will include the construction of approximately 2.6 acres of passive wetland treatment cells for the purpose of treating and reducing AMD loadings discharging from the Pine Forest Mine Discharge to restore the water quality of Mill Creek. The project is located between the St. Clair Borough and East Norwegian Township boundary and the intersection of Caroline Avenue and Eagle Hill Road, just northeast of the town of St. Clair (Pottsville, PA Quadrangle N: 17.7 inches; W: 7.0 inches).

**E58-267. Susquehanna County, Susquehanna County Courthouse.** P. O. Box 218, Montrose, PA 18801. Lenox Township, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To remove the remnants of the structure of County Bridge No. 23 from the floodway of Tunkhannock Creek (CWF). The project is located approximately 600 feet east of SR 92, along T-461 (Lenoxville, PA Quadrangle N: 14.1 inches; W: 6.3 inches). (Subbasin: 04A)

**E39-441. The Atlantic Companies, LLC.** 485 Route 1 South, Iselin, NJ 08830. Upper Macungie Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure; to construct and maintain a 57-foot wide road crossing of Iron Run (HQ-CWF) consisting of a 36-inch diameter RCP and twin open-bottom arch culverts having underclearances of 7 feet and 5 feet and spans of 38 feet; to excavate within the floodway of Iron Run from a point 100 feet upstream of the structure to a point 200 feet downstream of the structure with work consisting of removing approximately 2 feet of material; and to construct and maintain a 12-inch diameter concrete encased waterline crossing of Iron Run. The project is located immediately west of the

intersection of Route 100 and Centronia Road (Allentown West, PA Quadrangle N: 9.8 inches; W: 15.2 inches). (Subbasin: 2C)

**E58-264. Joseph and Linda Monteforte**, R. R. 2, Box 33, New Milford, PA 18834. New Milford Borough, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To maintain fill within the floodway along approximately 140 linear feet of the left bank of Meylert Creek (HQ-CWF), for the purpose of providing a level parking area for an existing business (Blue Ridge Roller Rink). The maximum depth of fill is approximately 30 inches. The project is located on the west side of SR 11, approximately 0.2 mile southwest of the intersection of SR 11 and SR 492 (Harford, PA Quadrangle N: 21.8 inches; W: 14.35 inches). (Subbasin: 04E)

**E39-451. Iron Mine Recreation, Inc.**, Anne Street and Neola Road, Stroudsburg, PA 18353-0033. North Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a pedestrian bridge, having a 44-foot span and a 7-foot underclearance across Copley Creek (CWF). The project is located on the north side of Shankweiler Road approximately 1.75 miles east of SR 0309 (Cementon, PA Quadrangle N: 4.1 inches; W: 8.6 inches).

**E40-652. EAM—Mosca Corporation**, 675 Jaycee Drive, West Hazleton, PA 18202-1155. Hazle Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To place fill in 0.22 acre of PSS wetlands, in the drainage basin of Black Creek (CWF), associated with the western expansion of an existing industrial building. Approximately 0.11 acre of wetlands within an existing stormwater swale will be impacted by site grading for the eastern building expansion. The permittee is required to provide 0.22 acre of replacement wetlands. The project is located at 675 Jaycee Drive in the Valmont Industrial Park (Conyngham, PA Quadrangle N: 16.0 inches; W: 3.5 inches). (Subbasin: 5D)

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

**E07-388: William F. Gildea**, 724 Baker Lane, Duncansville, PA 16635 in Allegheny Township, **Blair County**, ACOE Baltimore District.

To remove the existing footbridge and then to construct and maintain a 20-foot by 8.3-foot open bottom arch culvert and a 32-foot span footbridge with a minimum underclearance of 7 feet over the channel of Dry Run (WWF) in order to access the existing storage business buildings across the stream located approximately 1,500 feet south of the intersection of SR 22 and SR 764 (Holidaysburg, PA Quadrangle N: 7.75 inches; W: 8.8 inches) in Allegheny Township, Blair County.

**E28-323: Cumberland-Franklin Joint Municipal Authority**, 725 Municipal Drive, Shippensburg, PA 17257 in Southampton Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain a 10-inch sanitary sewer line under Furnace Run (CWF) with an articulating block mat cover at a point along PA Route 696, Olde Scotland Road, (Shippensburg, PA Quadrangle N: 4.6 inches; W: 3.7 inches) in Southampton Township, Franklin County.

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

**E26-328. Brownsville Municipal Authority**, P. O. Box 330, Brownsville, PA 15417. To construct two sanitary sewer pumping stations in Brownsville Borough, **Fayette County**, Pittsburgh ACOE District. (California, PA Quadrangle N: 3.5 inches; W: 1.5 inches and Latitude 40° 01' 09"—Longitude: 79° 53' 09"). To place and maintain fill in and along the flood plain of Dunlap Creek (WWF) for the construction of two sanitary sewer pumping stations located approximately 700 and 2,200 feet upstream of its confluence with the Monongahela River. The project is located approximately 1,500 feet southwest of the intersection of Shady Avenue and Jackson Street.

**E65-866. Sewickley Township**, 2288 Mars Hill Road, P. O. Box 28, Herminie, PA 15637-0028. To construct a bridge in Sewickley Township, **Westmoreland County**, Pittsburgh ACOE District. (Irwin, PA Quadrangle N: 2.5 inches; W: 13.3 inches and Latitude: 40° 15' 50"—Longitude: 79° 43' 14"). To remove the existing structures, to construct and maintain a three cell open bottom concrete bridge over Little Sewickley Creek (TSF), one section will have a span of 21 feet and underclearance of 7 feet, the other two sections will have a span of 21 feet and underclearance of 6 feet, to construct and maintain various stormwater outfalls to the same stream, additionally, to excavate in and place and maintain riprap in the floodway of the named watercourse, for approximately 188 feet. The bridge is located on Greenhills Road (T-633) at its intersection with Railroad Street.

**E65-877. North Huntingdon Township**, 11279 Center Highway, North Huntingdon, PA 15642. To construct an arch culvert in North Huntingdon Township, **Westmoreland County**, Pittsburgh ACOE District. (Irwin, PA Quadrangle N: 20.2 inches; W: 16.9 inches and Latitude: 40° 21' 40"—Longitude: 79° 44' 47"). To remove the existing structure and to construct and maintain a 49.5-foot long, 24.1-foot by 6.5-foot aluminum arch culvert, approximately 55 feet of reno mattress and approximately 73 feet of bioengineered channel in a UNT to Brush Creek (TSF), for the purpose of improving transportation safety and roadway standards. The authorized work includes dredging and will affect approximately 177 feet of a UNT to Brush Creek (TSF). The project is located on Ardara Road, approximately 0.5 mile from its intersection with Leger Road.

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

**E10-412, Buffalo Township**. Coal Hollow Road Slide, in Buffalo Township, **Butler County**, ACOE Pittsburgh District (Curtisville, PA Quadrangle N: 42° 43' 33"; W: 79° 45' 46").

To construct and maintain approximately 100 linear feet of soldier beam retaining wall with concrete lagging, the wall having a height ranging from 12.5 feet to 17.5 feet and located at a point along Sarver Run (HQ-TSF) and Coal Hollow Road approximately 0.3 miles west of the intersection of Coal Hollow Road (T-578) and SR 0356.

**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 0.65 acre of three wetlands (0.64 acre 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 inches).

#### ENVIRONMENTAL ASSESSMENTS

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

**EA36-799: Townsedge Development**, 48 South Market Street, Elizabethtown, PA 17022 in Conoy Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a wetland enhancement project consisting of: wetland and floodplain grading; fill placement; and installation of tree and shrub plantings within 1.21 acres of farmed, palustrine emergent wetland associated with a UNT to Conoy Creek (TSF) located adjacent to the proposed Townsedge residential subdivision (York Haven, PA Quadrangle; Latitude: 40° 05' 51.30"; Longitude: 76° 40' 13.09") in Conoy Township and Bainbridge Borough, Lancaster County. This project will result in 1.22 acres of functional floodplain Palustrine/Scrub-Shrub wetland.

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#### SPECIAL NOTICES

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##### Certification to Perform Radon-Related Activities in this Commonwealth

In the month of November 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
All Systems Inspections	249 West Whitehall Road State College, PA 16801	Testing
Robert Anderson Radon Protection Services	282 Longstreet Drive Gettysburg, PA 17325	Mitigation
Stephen Beloyan	2 Field Court Wrightstown, NJ 08562	Testing
Keith Carpenter	124 Old Colony Drive Johnstown, PA 15904	Mitigation
Kent Christel	P. O. Box 13661 Reading, PA 19612	Testing
Michael Cush	P. O. Box 273 Gilbert, PA 18331	Testing
Michael DeSanti	34 Woodledge Village Hawley, PA 18428	Testing
Gregory Gibson Alpha Radon Mitigators, LLC	P. O. Box 733 Tannersville, PA 18372	Mitigation
Steven Gorman Mason Dixon Home Inspection Services, Inc.	282 Longstreet Drive Gettysburg, PA 17325	Testing
David Grammer RAdata, Inc.	27 Ironia Road, Unit 2 Flanders, NJ 07836	Laboratory
Joseph Hagarity	1513 Woodland Road West Chester, PA 19382	Testing
Donald Hart	R. R. #2, Box 46A Sunbury, PA 17801	Testing and Mitigation
Mark Kenschak	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Juan Lluna-Garces	1324 Crestmont Drive Downingtown, PA 19335	Testing and Mitigation
Mid State Inspection Service	P. O. Box 70 Bellwood, PA 16617	Testing
Thomas Murphy	1323 Loblolly Street Trevose, PA 19053	Testing
Stephen Notwick	27 Jasmine Road Levittown, PA 19056	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Jeffrey Remas	103 Columbia Avenue Clarks Summit, PA 18411	Testing
Thomas Sebald	4638 Highview Boulevard Erie, PA 16509	Testing
Thomas Shusko House Busters, Inc.	53 North Morgantown Street Fairchance, PA 15436	Testing
Thomas Troutman	41 Beard Road Mechanicsburg, PA 17050	Testing
Malcolm Whipkey	1934 Overland Court Allison Park, PA 15101	Testing

### Drinking Water State Revolving Fund

#### Special Notice under the Federal Safe Drinking Water Act

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

##### *Project Location:*

<i>Applicant</i>	<i>Applicant Address</i>	<i>County and Municipality</i>
Mahanoy Township Authority	46 North Main Street Mahanoy City, PA 17948	Mahanoy City Borough Gilberton Borough and Mahanoy Township Schuylkill County

*Project Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Mahanoy Township Authority (MTA) proposes the MTA Distribution System Upgrade Project, Pennvest Project No. 54057010508-CW. This project includes the installation of approximately 21,560 LF of distribution system waterlines, service laterals, fire hydrants and related appurtenances throughout Mahanoy City Borough, Gilberton Borough and Mahanoy Township, Schuylkill County. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 05-2324. Filed for public inspection December 16, 2005, 9:00 a.m.]

#### Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2005.

##### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

##### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular

document should call the contact person whose name and phone number is listed with each document.

##### *Final Technical Guidance*

DEP ID: 383-2125-110. Title: Development of a Replacement Source for a Community Water System. Description: This document provides guidance to a community water system that is replacing an existing groundwater source with a well, spring or infiltration gallery to alleviate lost capacity or water quality problems at their current supply source. The guidance is issued under the authority of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.1—721.17) and 25 Pa. Code Chapter 109 (relating to safe drinking water). Notice of availability of the draft document was published at 35 Pa.B. 4005 (July 16, 2005). No public comments were received on the draft document during the public comment period, which was open from July 16, 2005, through August 16, 2005. Contact: Questions concerning this technical guidance document should be directed to John Diehl, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, (717) 787-9561, [jdiehl@state.pa.us](mailto:jdiehl@state.pa.us). Effective Date: December 17, 2005.

##### *Draft Technical Guidance*

DEP ID: 362-0300-009. Title: Reuse of Treated Wastewater Guidance Manual. Description: This manual provides guidance to domestic sewage treatment plant operators and other parties who are interested in implementing a beneficial wastewater reuse project. It contains information on the design, operation and maintenance requirements for wastewater systems discharging treated water

for beneficial reuse. The manual is intended to ensure that wastewater is managed in an environmentally sound manner in accordance with Department regulations and that wastewater discharges are free from substances that pose a serious threat to the public health, safety and welfare. The manual is issued under the authority of Act 537 of 1966, the Pennsylvania Sewage Facilities Act (35 P.S. §§ 750.1—750.20a), The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and 25 Pa. Code Chapter 91 (relating to general provisions). Written Comments: The Department is seeking comments on draft technical guidance #362-0300-009. Interested persons may submit written comments on this draft technical guidance document by January 17, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to John Wetherell, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, [jwetherell@state.pa.us](mailto:jwetherell@state.pa.us). Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to John Wetherell, (717) 705-0486, [jdiehl@state.pa.us](mailto:jdiehl@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 05-2325. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Submission Deadline for Application for Reimbursement for Certified Host Municipality Inspectors

The Department of Environmental Protection (Department) hereby announces the submission deadline for 2005 Host Municipality Inspector Program Reimbursement Applications as March 31, 2006. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and the Hazardous Sites Cleanup Act (Act 108). Municipalities include cities, boroughs, incorporated towns, townships and home rule municipalities.

Reimbursements are allocated from the Recycling Fund authorized under Act 101 for municipal waste facilities or from the Hazardous Sites Cleanup Fund under Act 108 for hazardous waste facilities. Reimbursements are available to any municipality that has a municipal waste landfill, resource recovery facility or commercial hazardous waste storage, treatment and disposal facility located within its geographic borders. Upon application from any host municipality, the Department shall award reimbursements for authorized costs incurred for the salary and expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50% of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If your municipality does not receive but requires an application or if you have any

questions about this program, contact the Program Development Section, Department of Environmental Protection, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870 or visit the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (PA Keyword: Municipal Waste).

The deadline for submitting applications is 4:30 p.m. on March 31, 2006. Applications received by the Department after the deadline will not be considered.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 05-2326. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Carbon-Schuylkill Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carbon-Schuylkill Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-2327. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of College Heights Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that College Heights Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2328. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Elmwood Endoscopy Center, PC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Elmwood Endoscopy Center, PC has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 9.9.A3 (relating to station outlets) and Table 9.2.

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2329. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Gastroenterology Consultants, Inc. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gastroenterology Consultants, Inc. has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2330. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Jameson Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Jameson Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 10.15.A2 (relating to patient room size).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2331. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Lifecare Hospitals of Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lifecare Hospitals of Pittsburgh has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.A4, 7.2B20 and 7.2.A2 (relating to handwashing stations; pt toilet room; and semiprivate pt rooms).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2332. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Select Specialty Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.B19 (relating to showers and tubs).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2333. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of Sharon Regional Health System for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sharon Regional Health System has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2334. Filed for public inspection December 16, 2005, 9:00 a.m.]



### Application of Surgery Center of Lancaster, LP for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Surgery Center of Lancaster, LP has requested an exception to the requirements of 28 Pa. Code § 551.22(3)(ii) (relating to criteria for performance of ambulatory surgery on pediatric patients).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2335. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Application of York Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that York Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.C.1, 7.6.B7, 7.6.B8, 7.6.B12 and 7.6.C.

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2336. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Availability of Plan and Report Required by Section 1932 of the ADAMHA Reorganization Act of 1992

The Bureau of Drug and Alcohol Programs of the Department of Health (Department) is making available for public review and comment, under section 1941 of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992 (act) (42 U.S.C.A. § 290aa et seq.), the Department's Application and Final Plan (Plan) and the Annual Synar Report (Report) for the 2005-2006 Federal Fiscal Year required by section 1932 of the act.

The Plan and Report include provisions for complying with the funding agreements set out in the act, which are prerequisites for receiving block grant funds, and a description of the manner in which the Department expends to the grant.

The grant amount is approximately \$58 million for the period of October 1, 2005, to September 30, 2006.

Persons wishing to submit written comments on the Department's Plan and Report may do so. Comments received will be considered by the Department in the development of the Department's Plan and Report that will be part of the Commonwealth's application for Substance Abuse Prevention and Treatment Block Grant funding for Fiscal Year 2005-2006 and future years.

Copies of the Plan and Report are available from and comments should be addressed to Terry Matulevich, Bureau of Drug and Alcohol Programs, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 783-8200.

For additional information or persons with a disability who require a copy of the Plan and Report in an alternative format or an auxiliary aid, service or other accommodation to make and submit comments, contact Terry Matulevich at (717) 787-9564 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2337. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Availability of Traumatic Brain Injury Grant Funds to Support TBI Education

The Bureau of Family Health's (Bureau), Division of Child and Adult Health Services is accepting applications to support education and awareness of the causes and consequences of concussion/mild-severe TBI among youth in junior and high school. Funding for up to \$3,000 is available to support education and awareness of the causes of traumatic brain injury as a result of sports or other activities. Activities should educate school staff (that is teachers, athletic trainers, coaches, school nurses), community sports programs and/or providers of recreational opportunities which could result in physical injury, appropriate prevention strategies and intervention activities in the event that youth sustain concussions which could result in mild to severe head injury.

For the purpose of this funding opportunity, a traumatic brain injury is defined as an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness, which results in impairment of cognitive abilities or physical functioning or in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

Youth with concussions/mild head injury often do not benefit from intervention because the extent of the injury is not recognized. Currently, approximately 200 Pennsylvania high schools and colleges are utilizing preplay neuropsychological testing to develop a "baseline" or "benchmark" of an athlete's level of cognitive functioning in the event that the youth has a concussion while participating in sports. While growth in this type of program has grown dramatically over the past 5 years, the majority of high schools in this Commonwealth are not using any kind of concussion management program and junior high/middle schools and recreational programs have been particularly underserved. Additional screening tools are also available that can be utilized after a youth sustains a concussion/head injury to determine if further evaluation or action is needed. Available resources appear at the end of this document.

The learning objectives of the proposed education and awareness activities must incorporate education on TBI, not just head injury, and should include the following:

- a) How to prevent concussions/mild head injuries.
- b) How to recognize the warning signs that indicate a concussion/mild head injury has occurred.
- c) How to intervene in the event that a concussion/mild head injury is suspected.

Educational and recreational settings in this Commonwealth's communities are being targeted for this effort. Through educational opportunities, teachers, coaches, athletic trainers, school nurses, camp counselors and the like will be better equipped to prevent, recognize, manage and provide support for youth sustaining concussions/head injuries resulting from participation in sports or other recreational activities. Project funds must be used to reimburse purchases and activities occurring prior to April 1, 2006.

Eligible applicants are this Commonwealth's public and private organizations, community-based programs and agencies as recognized by a Federal Tax ID number. Individuals may not apply. Informal groups without Federal Tax ID numbers are encouraged to partner with a sponsor organization who may apply on behalf of the group. For-profit organizations may apply. However, no applicant may take a profit from these funds. Only those organizations, programs or agencies that have not received any grant funds from the Bureau during the current fiscal year may apply for these funds.

Applicants may include but are not limited to:

- Sports organizations (such as football, baseball, cheerleading, hockey, soccer).
- Schools.
- Recreation providers.
- Community organizations.
- Park and recreation centers.
- Camps.
- Athletic directors, coaches, trainers, school nurses.
- Parent groups and organizations.

To apply for funding, a complete application must be postmarked and mailed to the Department of Health (Department) by 4 p.m. on January 20, 2006. Applications may be mailed or hand-delivered. Applications may not be faxed. Late applications will not be accepted regardless of the reason. We expect to notify all applicants of award status by January 31, 2006. It is anticipated that 11 awards of up to \$3,000 or less will be made. This is a reimbursement program. Grantees must spend their own funds first and then be reimbursed by the Department.

#### *Application Process*

Complete Attachment A "FY 2005-2006 APPLICATION" and attach a clear and concise narrative of no more than five typewritten pages single spaced that includes the following information, labeled by section:

1. The organization's justified need for the awareness and educational activity.
2. Identify targeted audience for the training.
3. Description of the awareness and education activities that address the learning objectives under the Purpose section of this funding opportunity, including who will do the training and training content (any training/educational material used must be described).

4. Description of how funds will be expended.

5. How the proposed activity will be evaluated or measured for a change in awareness and education on head injury and TBI, specifically.

An authorized official of the organization who can bind it to the provisions of the proposal must sign and date Attachment A. Submit an original and three complete copies of the application, which includes Attachment A, a narrative addressing the five points listed previously and any supporting documentation. Applications should be page-numbered and unbound. Incomplete applications will not be reviewed.

#### *Eligible Costs*

The maximum cumulative award to any one applicant (as identified by Federal Tax ID number) is \$3,000 per fiscal year. Funds may be used for reimbursement of the costs up to April 1, 2006. The budget section of the application must include a budget narrative detailing by line item how project funds will be used. Expenses eligible for reimbursement under this project include, but are not limited to:

1. Purchase of a concussion screening program.
2. Purchase of educational materials.
3. Trainers with expertise in TBI: See resource list.
4. Consultation by the trainer for the program after the initial training.
5. Training costs.

#### *Ineligible Costs*

The following costs are not eligible for reimbursement under this project:

1. Administrative/Indirect costs.
2. Purchases/Activities mandated by the Americans With Disabilities Act.
3. New building construction or structural renovation of an existing space.
4. Capital expenses or equipment.

#### *Summary Report and Invoice Procedures*

To receive reimbursement of approved expenses, awardees must submit the following documentation, found in Attachment B, to the Bureau by April 15, 2006:

1. A summary report of activities and evaluative efforts.
2. Attendance list, including person's position in relation to youth.
3. Plan for continuing traumatic brain injury awareness and education.
4. Invoice with expense documentation supporting line item amounts.

Funding decisions are contingent upon the availability of Fiscal Year 05/06 funds and Department approval by

means of a proposal review panel. Approval will be based upon a common set of preestablished criteria, including:

1. Does the applicant justify the need for the awareness and educational program?
2. Does the audience of the proposed activity meet the intended target?
3. Does the awareness and education activities meet the learning objectives?
4. The reasonableness of proposed expenditures/purchases.
5. Can the evaluation or measures taken demonstrate a change in awareness and knowledge?
6. Will the activity proposed be of an ongoing, systemic benefit to the community?

Applications should be mailed to the Department of Health, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 7th and Forster Streets, Harrisburg, PA 17120, Attention: Becky Kishbaugh, TBI Grant Administrator.

Persons with additional questions or who wish to request application materials should contact Becky Kishbaugh at (717) 772-2762, TDD (717) 783-6514 or rkishbaugh@state.pa.us.

#### *Potential Resources:*

- Brain Injury Association of Pennsylvania, (866) 635-7097, website: [www.biapa.org](http://www.biapa.org).
- ImPACT, (877) 646-7991, website: [www.impact-test.com](http://www.impact-test.com).
- Keywords to search for products or programs: Concussion assessment instruments, brain injury, return-to-play guidelines, computerized testing, internet testing.
- Center for Disease Control, Heads Up, Concussion in High School Sports tool kit for coaches, principals, and athletic directors, (770) 488-4902, website: [www.cdc.gov/ncipc/tbi/coaches\\_tool\\_kit.htm](http://www.cdc.gov/ncipc/tbi/coaches_tool_kit.htm).
- Printed materials:
  - When Your Child's Head Has Been Hurt: website: [www.tbitac.org](http://www.tbitac.org). Alternative format can be obtained from TBI Technical Assistance Center, (202) 884-6802.
  - UPMC Center for Sports Medicine Card: (412) 432-3670.
  - American Neurological Association Palm Card: (800) 321-7037.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Becky Kishbaugh at Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 7th and Forster Streets, Harrisburg, PA 17120, (717) 346-2741 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

Attachment A  
Pennsylvania Department of Health—Bureau of Family Health  
APPLICATION  
Traumatic Brain Injury Education

*Applicant Information:*

- Name of Organization: \_\_\_\_\_
- FID Number: \_\_\_\_\_
- Complete Mailing Address: \_\_\_\_\_
- Contact Person: \_\_\_\_\_
- Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ Fax Number: ( \_\_\_\_\_ ) \_\_\_\_\_
- E-mail Address: \_\_\_\_\_

*Itemized Budget:*

Itemized Activity Expenses	
#1: _____	= \$ _____
#2: _____	= \$ _____
#3: _____	= \$ _____
#4: _____	= \$ _____
#5: _____	= \$ _____
#6: _____	= \$ _____
#7: _____	= \$ _____
(attach additional sheets, if necessary)	
	<b>TOTAL = \$ _____</b>
	<b>* May not exceed \$3,000</b>

*Provide any additional budget justification details here:*

Attach copies of the proof of the cost for every expense proposed within your itemized budget.

*Authorized Applicant Signature/Title:* \_\_\_\_\_

*Printed Name:* \_\_\_\_\_

Attachment B

**Pennsylvania Department of Health—Bureau of Family Health  
FY2005-2006 FINAL REPORT/INVOICE  
TBI Sports Injury Education and Awareness**

**Awardee Information**

Name of Organization: \_\_\_\_\_  
 FID number: \_\_\_\_\_  
 Complete Mailing Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Telephone Number: ( \_\_\_\_ ) \_\_\_\_\_ Fax Number: ( \_\_\_\_ ) \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

Please attach the following, if applicable:

- Summary report of activities and evaluative efforts
- Attendance list, including person's position in relation to youth
- Plan for continuing traumatic brain injury awareness and education
- Invoice with expense documentation supporting line item amounts

**Invoice**

Itemized Activity Expenses

#1: \_\_\_\_\_ \$ \_\_\_\_\_  
 #2: \_\_\_\_\_ \$ \_\_\_\_\_  
 #3: \_\_\_\_\_ \$ \_\_\_\_\_  
 #4: \_\_\_\_\_ \$ \_\_\_\_\_  
 #5: \_\_\_\_\_ \$ \_\_\_\_\_  
 #6: \_\_\_\_\_ \$ \_\_\_\_\_

Other Expenses (Itemize)

\_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL = \$ \_\_\_\_\_ \* May not exceed \$3,000**

Awardee authorized signature/title: \_\_\_\_\_

Awardee printed name and title: \_\_\_\_\_

**DOH Use Only:**

Approved for Payment:

Date:

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Marion Manor Corporation  
2695 Winchester Drive  
Pittsburgh, PA 15220

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.19(b) and 205.36(b), (d) and (f) (relating to windows and windowsills; and bathing facilities):

Belle Reve Health Care Center  
404 East Harford Street  
Milford, PA 18337

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.38(a) (relating to toilet facilities):

Fox Subacute Center  
2644 Bristol Road  
Warrington, PA 18976

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-2339. Filed for public inspection December 16, 2005, 9:00 a.m.]

### 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 hereby publishes notice of the maximum allowable prices. Effective January 1, 2006, through March 31, 2006, the maximum allowable prices the Department of Health will pay for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat, or Skim	\$2.23
12 oz. Evaporated Milk	\$1.13
16 oz. Dry Milk	\$5.22
1 qt. Lactose Reduced Milk	\$2.05
1/2 gal. Kosher Milk	\$2.89
4 oz. Kosher Infant Juice	\$0.73
8 oz. Kosher Infant Cereal	\$2.00
1 doz. Grade A Eggs	\$1.83
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	\$1.65
1 oz. Adult WIC Cereal	\$0.39
8 oz. Gerber Infant Cereal	\$2.00
15 to 18 oz. Peanut Butter	\$2.53
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	\$1.09
4 oz. Gerber Infant Juice	\$0.73
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	\$13.89
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	\$14.42
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	\$6.07
13 oz. Nutramigen Lipil Concentrate Formula	\$7.40
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$9.33
16 oz. Nutramigen Lipil Powder Formula	\$25.69
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, audiotape, Braille) should contact Chris Harr, Department of Health, Division of WIC, Room 604, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-2340. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Nursing Facility Assessment Program for Fiscal Year 2005-2006

This notice announces the amount of the assessment that the Department of Public Welfare (Department) is implementing for Fiscal Year (FY) 2005-2006, provides an explanation of the assessment methodology that the Department is using in FY 2005-2006 and identifies the estimated aggregate impact on nursing facilities which will be subject to the assessment.

#### *Background*

The act of September 30, 2003 (P.L. 169, No. 25) (Act 25)<sup>1</sup>, known as the Nursing Facility Assessment Law, directs the Department to "implement a monetary assessment" on nonpublic licensed nursing facilities beginning July 1, 2003, and ending June 30, 2007 (Assessment Program). See sections 802-A and 815-A of Act 25 (62 P. S. §§ 802-A and 815-A). Act 25 further specifies that the Department may implement an Assessment Program "only to the extent that the revenues generated therefrom will qualify as the State share of [MA] program expenditures eligible for Federal financial participation." See section 803-A of Act 25 (62 P. S. § 803-A). To guarantee that the assessment amounts qualify for matching Federal funds, Act 25 directs the Department to seek such waivers from the Federal Centers for Medicare and Medicaid Services (CMS) as may be necessary to implement the Assessment Program in conformity with Federal law. See section 812-A of Act 25 (62 P. S. § 812-A). The Department submitted a waiver request to the CMS and the CMS subsequently granted the waiver and approved implementation of the Assessment Program.

For each fiscal year that the Assessment Program is implemented, the Secretary of the Department (Secretary), in consultation with the Secretary of the Budget, must determine the aggregate amount of the assessment and the annual assessment rate. See section 804-A of Act 25 (62 P. S. § 804-A). The aggregate amount and rate of assessment must be approved by the Governor's Office. The annual assessment rates must be sufficient to generate at least \$50 million in additional revenue, subject to the maximum aggregate assessment amount that qualifies for Federal matching funds. See section 804-A of Act 25.

Before implementing the Assessment Program in a fiscal year, the Secretary must publish a notice in the

*Pennsylvania Bulletin* that specifies the amount of the assessment being proposed, provides an explanation of the assessment methodology and assessment amount and identifies the aggregate impact on nursing facilities subject to the assessment. See section 805-A of Act 25 (62 P. S. § 805-A). After consideration of any comments received during the 30-day comment period, the Secretary must publish a second notice announcing the rate of assessment for the fiscal year. Id.

On June 25, 2005, the Secretary published a notice in the *Pennsylvania Bulletin* at 35 Pa.B. 3626 (June 25, 2005) announcing the proposed assessment rates, the aggregate amount and the impact for FY 2005-2006. The following is a summary of the comments that the Department received in response to the notice and the Department's responses to those comments.

#### *Public Comment on the Proposed Assessment Program*

Eight commentators submitted comments in response to the Department's notice published at 35 Pa.B. 3626. Six of the eight commentators were associated in some manner with one nursing facility. The Department also received comments from one of the major trade associations that represent nursing facility constituents.

*Comment.* Several commentators raised general objections to the Assessment Program, asserting that nursing facilities inevitably will pass the cost of the assessment to private-pay nursing facility residents or their families. They suggested that the increased resident costs will result in a more rapid depletion of the resident's resources, which, in turn, will result in the residents qualifying earlier for MA.

*Response.* The Department recognizes that the Assessment Program may ultimately result in some nursing facility residents qualifying for MA nursing facility services earlier if nursing facilities pass along the assessment costs to them through increased private pay rates. The Department does not expect, however, that the increased MA Program costs that may result from the earlier MA conversions will remotely approach the additional revenues and associated benefits to MA recipients that will be achieved through the Assessment Program.

*Comment.* Several commentators asserted that the combination of the Assessment Program, proposed reductions in Medicaid spending in the Federal budget, and a proposed cap on the rate of increase in MA payments will result in financial hardship for nursing facilities and may cause those facilities to declare bankruptcy or to close. In general, those commentators stated that the Department's reimbursement rates are not adequate to cover the cost of the services and items needed to provide quality care to nursing facility residents.

*Response.* The obligation of a provider to provide appropriate, high-quality care is a condition of participation in the MA Program; the obligation exists independent of the Assessment Program or of any particular payment rate or feature of the rate setting methodology. The Department has mechanisms in place for ensuring compliance with these requirements, including inspections, investigations of complaints and monitoring. In summary, the Department concludes that the Assessment Program alone or in combination with any changes to payment rates will not impair the quality of care provided by nursing facilities.

Furthermore, by suggesting that nursing facilities might be forced to close, the commentators implied that the Assessment Program would create an access problem, whereby the MA Program would have insufficient nursing facility beds available for MA recipients in need of

<sup>1</sup> Act 25 is codified in Article VIII-A of the Public Welfare Code, 62 P. S. §§ 801-A—815-A.

nursing facility services. The Department disagrees that the Assessment Program is likely to cause any problems related to access to care.

Currently, there are approximately 630 nursing facilities, with approximately 84,600 licensed beds, participating in the MA Program. Based on the most recent occupancy information available to the Department, the overall occupancy rate for these facilities was approximately 90%. Thus, at any given time the MA Program had approximately 8,460 unoccupied and available beds. Because the MA Program possesses substantial unused capacity, the withdrawal of any particular nursing facility from the program would not present an access problem.

From a programmatic standpoint, individual nursing facilities occasionally terminate their participation in the MA Program. Some remain in operation; others close. In the past, such terminations, whether voluntary or involuntary, have not served to create an access problem, even in areas of the Commonwealth where there were perceived shortages of nursing facility beds.

*Comment.* One commentator expressed concern about certain statements in the proposed assessment notice relating to nursing facilities that participate in a Continuing Care Retirement Community (CCRC). In the proposed assessment notice, the Department clarified that a nursing facility that is owned or controlled by a CCRC that is planning to construct residential living units in the future, or is constructing residential living units, but that has no residential living units occupied or available for immediate occupancy, would not qualify for the CCRC assessment rate. The commentator stated that when a CCRC is certified by the Pennsylvania Department of Insurance and currently provides a continuum of care via contract to its residents, the status of current or planned expansions of residential living units is immaterial to the determination that a nursing facility qualifies for the CCRC rate.

*Response.* The planned expansion of a CCRC's existing number of residential living units does not preclude its nursing facility from qualifying for the CCRC rate. As long as a CCRC-certified entity has any residential living units available for immediate occupancy as part of its continuum of care when the applicable nursing facility seeks the CCRC rate, then the nursing facility may qualify for the CCRC rate.

#### *Assessment Methodology and Rates for FY 2005-2006*

The Secretary published a notice at 35 Pa.B. 3626 announcing the proposed nursing facility assessment methodology and rates for FY 2005-2006.

The following nursing facilities will be exempt from the Assessment Program in FY 2005-2006:

1. Government owned and operated nursing facilities.
2. Veterans Administration nursing facilities.
3. Nursing facilities that have not been licensed and operated by the current or previous owner for the full calendar quarter prior to the calendar quarter for which an assessment is collected.
4. Nursing facilities that provide nursing facility services free of charge to all residents.

As in the first 2 years of the Assessment Program, nonexempt nursing facilities will continue to be assessed on a quarterly basis during FY 2005-2006 based on the number of licensed beds in the facility, the nursing facility's CCRC status and the number of non-Medicare resident days during each calendar quarter immediately

preceding the assessment quarter. During FY 2005-2006 the assessment rates for nonexempt facilities will be as follows:

1. The assessment rate for nonexempt nursing facilities that participate within a licensed CCRC or that have 50 licensed beds or less will be increased by \$.04 to \$1.54 per non-Medicare resident day.
2. The assessment rate for all other nonexempt nursing facilities will be increased by \$.04 to \$15.95 per non-Medicare resident day.

For FY 2005-2006, the Department will consider a nursing facility to qualify for the CCRC assessment rate if the nursing facility satisfies the following criteria:

1. The nursing facility is owned or controlled by an entity that is certified as a CCRC by the Insurance Department (for purposes of this guideline, "control" means the power to direct or cause to direct the management and policies of the nursing facility, whether through equitable ownership of voting securities or otherwise).
2. The CCRC provides a continuum of care during the assessment period that includes residential living units that are either occupied or available for immediate occupancy.
3. The nursing facility is: (a) located on the same campus as the CCRC's residential living units; or (b) identified in the CCRC's Disclosure Statement and Resident Agreement under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225) and located no more than 30 miles from the campus on which the CCRC's residential living units are located.

Under these criteria, a nursing facility that is owned or controlled by a CCRC which is planning to construct residential living units in the future, or is constructing residential units, but which has no residential units occupied or available for immediate occupancy, would not qualify for the CCRC assessment rate. Additionally, the residential living units must be occupied or available for immediate occupancy for the entire assessment period for the nursing facility to qualify for the CCRC rate for that assessment period.

If a nonexempt nursing facility either satisfies the previously listed criteria after the commencement of the Assessment Program or does not satisfy the criteria but believes that it otherwise qualifies for the CCRC rate, then the nursing facility may submit a written request to the Department that it be assessed at the CCRC rate. The written request should include supporting documentation demonstrating that the nursing facility participates within a licensed CCRC. The Department will not unilaterally classify nursing facilities for the CCRC rate without a written request.

All requests relating to CCRC designation should be submitted to the Department of Public Welfare, Bureau of Long Term Care Programs, P. O. Box 2675, Harrisburg, PA 17105, Attention: NH Assessment Unit.

Assessment payments are due the last day of the Assessment quarter or the 30th day from the date of publication of this final notice, whichever is later.

The Assessment Program due dates, along with supplemental payment dates, will be available on the Department's website at [www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp](http://www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp).

#### *Aggregate Assessment Amount and Fiscal Impact*

As a result of the implementation of the Assessment Program, the Department estimates that the annual



aggregate assessment fees for nonexempt nursing facilities will total \$279,552,809 for FY 2005-2006. All of the revenue derived from the assessment fees and associated Federal matching funds will be used to make payments to qualified MA nursing facility providers in accordance with applicable law and regulations.

*Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department at the following address: Gail Weidman, Chief, Program Analysis and Review Section, Department of Public Welfare, Division of Long Term Care Client Services, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-454 No fiscal impact; (8) recommends adoption. Implementation of these changes will result in a savings to the General Fund of approximately \$279.553 million in FY 2005-2006.

[Pa.B. Doc. No. 05-2341. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Cupid Ca\$h '05 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cupid Ca\$h '05.

2. *Price:* The price of a Pennsylvania Cupid Ca\$h '05 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Cupid Ca\$h '05 instant lottery game ticket will contain one play area featuring a "LUCKY NUMBER" area and a "YOUR CUPID NUMBERS" area. The play symbols and their captions located in the "LUCKY NUMBER" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE) and 10 (TEN). The play symbols and their captions located in the "YOUR CUPID NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN) and an Arrow symbol (ARROW).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR CUPID NUMBERS" area are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN) and \$1,000 (ONE THO).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$2, \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$500 and \$1,000. A player can win up to five times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Cupid Ca\$h '05 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(b) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$400 (FOR HUN) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$400.

(d) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$100 (ONE HUN) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$40\$ (FORTY) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(j) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$20\$ (TWENTY) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(p) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$2<sup>00</sup> (TWO DOL)

appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$2.

(q) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(r) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols is an Arrow symbol (ARROW), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the Arrow symbol (ARROW) on a single ticket, shall be entitled to a prize of \$1.

(s) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(t) Holders of tickets upon which any one of the "YOUR CUPID NUMBERS" play symbols matches the "LUCKY NUMBER" play symbol and a prize symbol of FREE (TICKET) appears under the matching "YOUR CUPID NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Cupid Ca\$h '05 instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

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 Cupid Numbers Match the Lucky Number; Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds 1 in:</i>	<i>Approximate No. of Winners Per 9,600,000 Tickets</i>
FREE	TICKET	15	640,000
\$1	\$1	30	320,000
\$1 w/ARROW	\$1	30	320,000
\$2	\$2	42.86	224,000
\$1 x 2	\$2	42.86	224,000
\$2 w/ARROW	\$2	50	192,000
\$5	\$5	150	64,000
\$1 x 5	\$5	150	64,000
\$5 w/ARROW	\$5	300	32,000
\$10	\$10	600	16,000
\$2 x 5	\$10	600	16,000
\$5 x 2	\$10	600	16,000
\$10 w/ARROW	\$10	600	16,000
\$20	\$20	1,000	9,600
\$5 x 4	\$20	1,000	9,600
\$20 w/ARROW	\$20	750	12,800
\$40	\$40	2,400	4,000
\$10 x 4	\$40	2,400	4,000
\$20 x 2	\$40	2,400	4,000
\$40 w/ARROW	\$40	2,400	4,000
\$100	\$100	7,742	1,240
\$20 x 5	\$100	7,742	1,240
\$50 x 2	\$100	8,000	1,200
\$100 w/ARROW	\$100	8,000	1,200
\$400	\$400	240,000	40
\$100 x 4	\$400	240,000	40
\$400 w/ARROW	\$400	240,000	40
\$1,000	\$1,000	960,000	10
\$500 x 2	\$1,000	960,000	10

ARROW = Win prize shown automatically.

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 Cupid CaSh '05 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cupid CaSh '05, prize money from winning Pennsylvania Cupid CaSh '05 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cupid CaSh '05 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

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 Cupid Cash or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 05-2342. Filed for public inspection December 16, 2005, 9:00 a.m.]

## Pennsylvania Triple Fortune 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 Triple Fortune.

2. *Price:* The price of a Pennsylvania Triple Fortune instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Triple Fortune instant lottery game ticket will contain "WINNING NUMBERS" and "YOUR #'S" areas. The play symbols and their captions located in the "WINNING NUMBERS" areas are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR #'S" areas are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), DBL symbol (DOUBLE) and TRPL symbol (TRIPLE).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" areas are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$6<sup>00</sup> (SIX DOL), \$8<sup>00</sup> (EGT DOL), \$10<sup>00</sup> (TEN DOL), \$24\$ (TWY FOR), \$48\$ (FRY EGT), \$80\$ (EIGHTY), \$240 (TWOHUNFRY), \$2,400 (TWYFORHUN) and \$24,000 (TWYFORTHO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$3, \$6, \$8, \$10, \$24, \$48, \$80, \$240, \$2,400 and \$24,000. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Triple Fortune instant lottery game.

### 7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$24,000 (TWYFORTHO) appears in the "PRIZE" area to the right of the matching "YOUR #'S" play symbol, on a single ticket, shall be entitled to a prize of \$24,000.

(b) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2,400 (TWYFORHUN) appears in the "PRIZE" area to the right of the matching "YOUR #'S" play symbol, on a single ticket, shall be entitled to a prize of \$2,400.

(c) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$240 (TWOHUNFRY) appears in the "PRIZE" area to the right of the matching "YOUR #'S" play symbol, on a single ticket, shall be entitled to a prize of \$240.

(d) Holders of tickets upon which any one of the "YOUR #'S" play symbols is a TRPL symbol (TRIPLE), and a prize symbol of \$80\$ (EIGHTY) appears in the "PRIZE" area to the right of the TRPL symbol (TRIPLE), on a single ticket, shall be entitled to a prize of \$240.

(e) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$80\$ (EIGHTY) appears in the "PRIZE" area to the right of the matching "YOUR #'S" play symbol, on a single ticket, shall be entitled to a prize of \$80.

(f) Holders of tickets upon which any one of the "YOUR #'S" play symbols is a TRPL symbol (TRIPLE), and a prize symbol of \$24\$ (TWY FOR) appears in the "PRIZE" area to the right of the TRPL symbol (TRIPLE), on a single ticket, shall be entitled to a prize of \$72.

(g) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$48\$ (FRY EGT) appears in the "PRIZE" area to the right of the matching "YOUR #'S" play symbol, on a single ticket, shall be entitled to a prize of \$48.

(h) Holders of tickets upon which any one of the "YOUR #'S" is a DBL symbol (DOUBLE), and a prize symbol of \$24\$ (TWY FOR) appears in the "PRIZE" area to the right of the DBL symbol (DOUBLE), on a single ticket, shall be entitled to a prize of \$48.

(i) Holders of tickets upon which any one of the "YOUR #'S" play symbols match either of the "WINNING NUM-

BERS" play symbols and a prize symbol of \$24\$ (TWO FOR) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(j) Holders of tickets upon which any one of the "YOUR #S" play symbols is a TRPL symbol (TRIPLE), and a prize symbol of \$8<sup>00</sup> (EGT DOL) appears in the "PRIZE" area to the right of the TRPL symbol (TRIPLE), on a single ticket, shall be entitled to a prize of \$24.

(k) Holders of tickets upon which any one of the "YOUR #S" play symbols is a DBL symbol (DOUBLE), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area to the right of the DBL symbol (DOUBLE), on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$8<sup>00</sup> (EGT DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(n) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(o) Holders of tickets upon which any one of the "YOUR #S" play symbols is a DBL symbol (DOUBLE), and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the "PRIZE" area to the right of the DBL symbol (DOUBLE), on a single ticket, shall be entitled to a prize of \$6.

(p) Holders of tickets upon which any one of the "YOUR #S" play symbols is a TRPL symbol (TRIPLE), and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "PRIZE" area to the right of the TRPL symbol (TRIPLE), on a single ticket, shall be entitled to a prize of \$6.

(q) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(r) Holders of tickets upon which any one of the "YOUR #S" play symbols is a TRPL symbol (TRIPLE), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area to the right of the TRPL symbol (TRIPLE), on a single ticket, shall be entitled to a prize of \$3.

(s) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets upon which any one of the "YOUR #S" play symbols is a DBL symbol (DOUBLE), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area to the right of the DBL symbol (DOUBLE), on a single ticket, shall be entitled to a prize of \$2.

(u) Holders of tickets upon which any one of the "YOUR #S" play symbols match either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area to the right of the matching "YOUR #S" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Either Winning Number; Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 in:</i>	<i>Approximate No. of Winners Per 9,600,000 Tickets</i>
\$1 × 2	\$2	30	320,000
\$1 w/DBL	\$2	30	320,000
\$2	\$2	30	320,000
\$1 × 3	\$3	60	160,000
\$1 w/TRPL	\$3	50	192,000
\$3	\$3	60	160,000
\$1 × 6	\$6	300	32,000
\$2 × 3	\$6	300	32,000
\$2 w/TRPL	\$6	150	64,000
\$3 × 2	\$6	300	32,000
\$3 w/DBL	\$6	150	64,000
\$6	\$6	300	32,000
\$1 × 8	\$8	150	64,000
\$2 × 4	\$8	150	64,000
\$2 w/DBL × 2	\$8	150	64,000
\$8	\$8	150	64,000
\$1 × 10	\$10	300	32,000
\$2 × 5	\$10	300	32,000
\$2 w/DBL + \$6	\$10	150	64,000
\$10	\$10	150	64,000
\$3 × 8	\$24	1,500	6,400
\$6 × 4	\$24	1,500	6,400
\$8 × 3	\$24	750	12,800
\$10 w/DBL + \$2 w/DBL	\$24	750	12,800

<i>When Any of Your Numbers Match Either Winning Number; Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 in:</i>	<i>Approximate No. of Winners Per 9,600,000 Tickets</i>
\$8 w/TRPL	\$24	750	12,800
\$24	\$24	750	12,800
\$6 × 8	\$48	4,800	2,000
\$8 × 6	\$48	4,800	2,000
\$24 × 2	\$48	4,800	2,000
\$8 w/TRPL × 2	\$48	4,800	2,000
\$24 w/DBL	\$48	4,800	2,000
\$48	\$48	4,800	2,000
\$8 × 10	\$80	10,000	960
\$10 × 8	\$80	10,000	960
\$24 w/TRPL + \$2 × 4	\$80	9,231	1,040
\$80	\$80	10,000	960
\$24 × 10	\$240	40,000	240
\$48 × 5	\$240	40,000	240
\$80 × 3	\$240	40,000	240
\$80 w/TRPL	\$240	40,000	240
\$240	\$240	40,000	240
\$240 × 10	\$2,400	120,000	80
\$2,400	\$2,400	120,000	80
\$24,000	\$24,000	960,000	10

DBL = Double the prize shown  
 TRPL = Triple 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 Triple Fortune 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 Triple Fortune, prize money from winning Pennsylvania Triple Fortune 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 Triple Fortune 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 Triple Fortune or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 05-2343. Filed for public inspection December 16, 2005, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Receipt of Applications for Funding under the Section 5310 Program

The Department of Transportation, Bureau of Public Transportation, under the authority contained in section 5310 of the Federal Transit Laws (49 U.S.C.A. § 5310), gives notice that it will receive applications for the State-administered Section 5310 Program (program) (formerly known as Section 16 Program). Under this program, private nonprofit organizations and designated public bodies may apply for Federal capital assistance to pay up to 80% of the purchase cost of new wheelchair accessible small transit vehicles and other equipment used to provide needed transportation services for senior citizens and persons with disabilities who cannot be reasonably accommodated by existing transportation providers. A Guidelines and Procedures package containing all application forms can be obtained by calling Ben Brosius, Bureau of Public Transportation at (717) 787-1211. The filing deadline for the program is January 25, 2006. Questions, comments or suggestions should be directed to Ben Brosius, Section 5310 Program Manager, P. O. Box 3151, Harrisburg, PA 17105-3151.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 05-2344. Filed for public inspection December 16, 2005, 9:00 a.m.]

# HEALTH CARE COST CONTAINMENT COUNCIL

## Mandated Benefits

Section 9 of the act of July 17, 2003 (P. L. 31, No. 14) (Act 14) requires that the Health Care Cost Containment Council (Council) review proposed mandated health benefits on request of the executive and legislative branches of government. Representative Nicholas A. Micozzie, Chairperson of the House Insurance Committee, has requested that the Council review House Resolution 400, Printer's Number 2469 (Bunt). House Resolution 400 directs the Council to study the requirement of comprehensive insurance coverage for the diagnosis and treatment of infertility.

Initial notification of request for information and documentation was published at 35 Pa.B. 5200 (September 17, 2005) with documentation due to the Council by November 17, 2005.

Following is a list of the documentation received. This information is available for public review and comment at the Council offices during regular business hours, 8:30 a.m. to 5 p.m., until January 17, 2006. Additional comments on this information must be received at this time. Comments should be sent to Flossie Wolf, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101.

### Submissions for House Resolution 400

1. *Blue Cross of Northeastern Pennsylvania*
  - Statement addressing section 9 requirements.
  - Attachments addressing health insurance coverage, health insurance mandates and factors driving the rising cost of healthcare.
2. *Highmark*
  - Statement addressing section 9 requirements.
  - Attachments addressing the diagnosis and treatment of infertility.
3. *Independence Blue Cross*
  - News articles on insurance coverage of infertility treatment.
4. *The Insurance Federation of Pennsylvania*
  - Statement addressing section 9 requirements and opposing House Bill 400.
  - Attachments addressing health insurance coverage, health insurance mandates and factors driving the rising cost of healthcare.
5. *Pennsylvania Catholic Health Association*
  - Letter and comments in opposition to House Resolution 400.
6. *Pennsylvania Chamber of Business and Industry*
  - Letter and comments in opposition to mandated benefits.
7. *Representative Raymond Bunt, Jr., Member, House of Representatives*
  - Letter in support of House Resolution 400.
8. *Resolve*
  - Letter indicating support of House Resolution 400.
  - Documentation addressing section 9 requirements.

- Attachments addressing the diagnosis and treatment of infertility.

### 9. *Wolf Block Government Relations*

- Statement by AFLAC noting the importance of excluding certain policies from those affected by House Resolution 400.

Sixty-seven constituent letters in support of House Resolution 400.

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 05-2345. Filed for public inspection December 16, 2005, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, December 1, 2005, and announced the following:

*Regulations Deemed Approved under section 5(g) of the Regulatory Review Act—Effective November 30, 2005*

Department of Health #10-177: Schedules of Controlled Substances (amends 28 Pa. Code § 25.72)

*Regulations Approved*

Department of Community and Economic Development #4-80: Community Development Grant Program (amends 12 Pa. Code Chapter 141)

Environmental Quality Board #7-392: Environmental Laboratory Accreditation (amends 25 Pa. Code Chapters 78, 109 and 252)

### Approval Order

Public Meeting held  
December 1, 2005

*Commissioners Voting:* John R. McGinley, Jr., Esq., by phone; Alvin C. Bush, Acting Chairperson; Arthur Cocodrilli; John F. Mizner, Esq.; Murray Ufberg, Esq.

*Department of Community and Economic Development—Community Development Grant Program; Regulation No. 4-80*

On October 24, 2005, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Community and Economic Development (Department). This rulemaking amends 12 Pa. Code Chapter 141. On November 15, 2005, the Department tolled and resubmitted the regulation. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The regulation updates the Department's existing Community Development Block Grant regulations as they relate to the U. S. Department of Housing and Urban Development Section 108 Loan Guarantee Program.

We have determined this regulation is consistent with the statutory authority of the Department (35 P. S.

§ 1764) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting held  
December 1, 2005

*Commissioners Voting:* John R. McGinley, Jr., Esq., by phone; Alvin C. Bush, Acting Chairperson; Arthur Cocodrilli; John F. Mizner, Esq.; Murray Ufberg, Esq.

*Environmental Quality Board—Environmental Laboratory Accreditation; Regulation No. 7-392*

On January 5, 2005, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board. This rulemaking amends 25 Pa. Code Chapters 78, 109 and

252. The proposed regulation was published in the January 22, 2005 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 26, 2005.

This regulation implements Act 90 of 2002 which requires establishment of an environmental laboratory accreditation program.

We have determined this regulation is consistent with the statutory authority of the Environmental Quality Board (27 Pa.C.S. § 4105(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-2346. Filed for public inspection December 16, 2005, 9:00 a.m.]

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**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 regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-699	State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Licensure Technical Amendments 35 Pa.B. 5530 (October 8, 2005)	11/7/05	12/7/05
16A-4921	State Board of Medicine Respiratory Care Continuing Education 35 Pa.B. 5520 (October 8, 2005)	11/7/05	12/7/05
16A-5317	State Board of Osteopathic Medicine Respiratory Therapists 35 Pa.B. 5523 (October 8, 2005)	11/7/05	12/7/05
16A-6910	State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Child Abuse Reporting Requirements 35 Pa.B. 5525 (October 8, 2005)	11/7/05	12/7/05

**State Board of Social Workers, Marriage and  
Family Therapists and Professional Counselors  
Regulation #16A-699 (IRRC #2493)**

**Licensure Technical Amendments**

**December 7, 2005**

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

**1. Section 47.1. Definitions.—Clarity.**

The Board is amending the definition of “accredited school” to reflect the fact that the Council on Social Work Education accredits graduate programs in social work and social welfare, not graduate schools. This amendment negates the need for the definition of “accredited program” which is, “A graduate school social work or social welfare program offered by a school accredited by the Council on Social Work Education.” We also note the term “accredited program” is not used anywhere else in Chapter 47. Therefore, the definition of “accredited program” should be deleted.

**2. Section 47.1a. Qualifications for supervisors.—Reasonableness; Implementation procedures.**

The Board is amending this section to allow licensed social workers from other states to qualify as supervisors. This provision was added to a subsection that will expire on January 1, 2006. We recommend that the provision be moved to a separate subsection of Section 47.1a, since the Board wants this to be permanent.

**3. Section 47.11. Licensure examination.—Protection of the public health, safety and welfare; Reasonableness; Statutory authority; Consistency with the intent of the General Assembly.**

Subsection (a) currently states that the examination required as a prerequisite to original licensure as a licensed social worker is the Association of Social Work Boards’ (ASWB) intermediate level examination. The Board is proposing to change the examination requirement to either the ASWBs’ master’s level examination or the clinical examination. We have two concerns.

First, this provision is inconsistent with the legislative intent of the General Assembly and lacks statutory authority. As noted by the House Professional Licensure Committee, the Board’s amendment to Subsection (a) “violates the intent of the General Assembly as expressed in the Social Workers, Marriage and Family Therapists and Professional Counselors Act” (Act). Section 7(a)(3) of the Act requires an applicant for licensure as a social worker to pass “an examination duly adopted by the board.” However, Section 7(d)(4) of the Act provides an escalated set of qualifications for applicants wishing to become licensed clinical social workers. That higher standard is passing a “clinical social work examination adopted by the Board.” Under the rules of statutory construction, 1 Pa.C.S.A. § 1921(a), the statute must be read to give effect to both provisions (Sections 7(a)(3) and 7(d)(4)). It is clear that the General Assembly believed it to be in the public interest to hold clinical social workers to a higher standard of qualification.

Second, as the ASWB has commented, this amendment is not sound policy because the master’s level examina-

tion and the clinical examination are very different. They note the following: “. . . in permitting entry level MSW’s to take the Clinical examination without the experience required in the statute and regulations, the Board would be allowing those who have not concentrated in clinical social work to advance to the status of prospective clinical social workers without the background to assure competence.” ASWB believes this would be a disservice to the client community and an unfair expectation placed on the recent graduate. We agree with the ASWB and recommend that the required examination be limited to the master’s level examination.

**4. Section 47.12a. Licensed social work.—Statutory authority; Conflict with existing regulations.**

This section lists the conditions that a licensee must meet to hold oneself out as a licensed social worker. Currently, licensees must graduate from a school that is accredited at the time of graduation. This mirrors the requirement found in Section 7(a)(2) of the Act. The Board is proposing to amend Subsection (a)(2) of the regulation by adding language that would allow the licensure of individuals who did not graduate from accredited schools. The Board lacks the statutory authority to allow individuals who have not graduated from an accredited school to obtain a license to practice social work. Therefore, this provision should be deleted.

If the Board proceeds with this section of the rulemaking as proposed, it would create an inconsistency between the licensure requirements of social workers and the requirements of provisional social workers and clinical social workers. Statutory and regulatory licensing requirements for both of these licensure classifications require applicants to graduate from accredited schools. Specifically, Section 7(b)(2) of the Act and Section 47.12b.(a)(2) of 49 Pa. Code require holders of a provisional license in social work to have graduated from an accredited school. Similarly, Section 7(d)(2)(i) of the Act and Section 47.12c.(a)(2) of 49 Pa. Code require holders of a clinical license in social work to have graduated from an accredited school. We question why one licensure classification of social worker should be held to a lesser standard than the other two classifications.

**State Board of Medicine Regulation #16A-4921  
(IRRC #2494)**

**Respiratory Care Continuing Education**

**December 7, 2005**

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Medicine (Board) to respond to all comments received from us or any other source.

**1. Section 18.309. Renewal of certification.—Clarity.**

The House Professional Licensure Committee (Committee) questions whether the Board should delete the word “next” in Subsection (c) and replace it with “current,” as the State Board of Osteopathic Medicine did in its proposed Regulation 16A-5317. We agree.

**2. Section 18.309a. Requirement of continuing education.—Consistency with statute; Consistency with existing regulations; Reasonableness; Clarity.**

This section states, “The following continuing education requirements shall be completed each biennial cycle,



commencing with the biennial period ending December 31, 2006." This would require licensees to fulfill the 20-hour continuing education requirement by the end of the current biennial cycle, which is nearly a year old. Board counsel has indicated that is what the Board intended. We believe that this is unreasonable. To allow sufficient time for certificate holders to meet these continuing education requirements, the Board should make the requirements effective in the biennial period that begins after the effective date of this regulation.

*Subsection (1)*

This subsection requires the certificate holders to complete the 20 hours of continuing education "as set forth in section 36.1(f)(2) of the act." Act 55 of 2004 (Act) states that certificate holders "shall be required to attend and complete 20 hours of mandatory continuing education . . ." Commentators are concerned that this means that the certificate holder must be physically present at a live presentation and the proposal would not permit other non-traditional continuing education methods. We share this concern. The Board should consider allowing certain non-traditional continuing education methods for a portion of the 20-hour continuing education requirement.

*Subsection (3)*

We have two concerns with this subsection.

First, to be consistent with Section 36.1(f)(4) of the Act, the phrase "all or a portion of" should be inserted after the word "waive" in the first sentence.

Second, we agree with the Committee that utilizing specific language from Section 36.1(f)(4) of the Act would add clarity to the waiver provision.

*Subsection (4)*

The Board's existing regulations on Respiratory Care Practitioners uses the term "certificateholder" to describe a person who is permitted by the Board to provide respiratory care. The Act also uses this term. To be consistent with the Act and the existing regulations, the term "licensee" in this subsection should be replaced with "certificateholder."

**State Board of Osteopathic Medicine Regulation  
#16A-5317 (IRRC #2496)**

**Respiratory Therapists**

**December 7, 2005**

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Osteopathic Medicine (Board) to respond to all comments received from us or any other source.

**Section 25.509a. Requirement of continuing education.—Reasonableness; Clarity.**

*Subsection (a)*

We have two concerns with this subsection.

First, we concur with the House Professional Licensure Committee's (Committee) request that the Board clearly state its intention that the continuing education requirements set forth in this regulation would be effective starting with the biennial period that begins on November 1, 2006.

Second, we believe that the Board should consider allowing certain non-traditional continuing education

methods for a portion of the 20 hour continuing education requirements. This subsection requires the certificate holders to complete the 20 hours of continuing education "as set forth in section 10.2 of the act." Act 56 of 2004 (Act) states that certificate holders "shall be required to attend and complete 20 hours of mandatory continuing education . . ." The Pennsylvania Society for Respiratory Care is concerned that this means that the certificate holder must be physically present at a live presentation and the regulation would not permit other non-traditional continuing education methods. We share this concern.

*Subsection (c)*

We have two concerns with this subsection.

First, to be consistent with Section 10.2(f)(4) of the Act, the phrase "all or a portion of" should be inserted after the word "waive" in the first sentence.

Second, we agree with the Committee that specific language from Section 10.2(f)(4) of the Act would add clarity to the waiver provision and should be added.

**State Board of Social Workers, Marriage and  
Family Therapists and Professional Counselors  
Regulation #16A-6910 (IRRC #2498)**

**Child Abuse Reporting Requirements**

**December 7, 2005**

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

This rulemaking adds child abuse reporting requirements to Chapter 48, relating to licensure of marriage and family therapists and Chapter 49, relating to licensure of professional counselors, of 49 Pa. Code. The House Professional Licensure Committee submitted comments on various provisions of this rulemaking. We concur with those comments that are discussed below.

**1. Sections 48.51. and 49.51. Definitions relating to child abuse reporting requirements.—Clarity.**

These sections contain a definition of "child abuse" that differs from the definition found in the Child Protective Services Law (Law). The statutory definition contains three sections. The proposed regulatory definition only contains the first section of the statutory definition. For consistency and clarity, we recommend that the Board add the missing text from the statutory definition to the regulatory definition of "child abuse."

**2. Sections 48.52 and 49.52. Suspected child abuse—mandated reporting requirements.—Clarity; Possible conflict with existing regulations.**

*Subsections (a)—General rule*

These subsections require marriage and family therapists and professional counselors (licensees) to report suspected child abuse to the Department of Public Welfare (DPW). Section 6313(b) of the Law provides that licensees must orally report suspected child abuse to the DPW and may report suspected child abuse to the appropriate county agency. Section 6313(c) of the Law provides that licensees must report suspected child abuse to the appropriate county agency. The final-form regulation should be amended to reflect the fact that licensees

have an obligation to report suspected child abuse to both the DPW and the appropriate county agency.

*Subsections (c)—Reporting procedure*

These subsections outline the specific reporting requirements for licensees. Subsections (c)(1) require licensees to orally report suspected abuse via telephone to DPW. Subsections (c)(2) require written reports to be made within 48 hours after the oral report is made by telephone. Similar to our concern on Subsections (a), the final-form regulation should clearly state that the written report must also be filed with the appropriate county agency.

*Subsections (d)—Written reports*

These subsections require written reports to be filed on forms prescribed by DPW. Subsections (d)(10) require the reporter to include: "Other information which the Department of Public Welfare may require by regulation." DPW has promulgated regulations on the filing of written reports by a required reporter (55 Pa. Code Chapter 3490.18), which differ slightly from the proposed rulemaking. In the final-form regulation, the Board should either provide a citation to DPW's regulation or use the exact language contained in that regulation.

**3. Chapter 47. State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.—Possible conflict with or duplication of statutes or existing regulation.**

If the Board amends the proposed rulemaking as recommended, it will differ from existing regulations of social workers on suspected child abuse found in 49 Pa. Code of Chapter 47. In order to provide consistency for all licensure classifications that fall under the Board's jurisdiction, the following sections of Chapter 47 should be amended: Section 47.51, relating to the definition of child abuse; Section 47.52(a), relating to general rule; and Section 47.52 (c)(2), relating to written report.

In addition, if the Board makes any other changes to the proposed rulemaking, it should make similar changes to the corresponding sections of Chapter 47.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-2347. Filed for public inspection December 16, 2005, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Nationwide Mutual Fire Insurance Company; Homeowners Rate Revision; Rate Filing

On December 5, 2005, the Insurance Department (Department) received from Nationwide Mutual Fire Insurance Company a filing for a proposed rate change for homeowners insurance.

The company requests an overall 2.4% decrease amounting to \$4.730 million annually, to be effective April 22, 2006, for new business and renewal business.

Unless formal administrative action is taken prior to February 3, 2006, 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). Under the Quick Links section, click on the link "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. 05-2348. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Pennsylvania Compensation Rating Bureau Workers' Compensation Loss Cost Filing; Rate Filing

On December 5, 2005, the Insurance Department (Department) received from the Pennsylvania Compensation Rating Bureau (PCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of the act of July 2, 1993 (P. L. 190, No. 44). The PCRB requests an overall 8.58% decrease in collectible loss costs, effective April 1, 2006, on a new and renewal basis. Also, the PCRB has calculated the Employer Assessment Factor effective April 1, 2006, to be 1.98%, as compared to the currently approved provision of 1.91%. Updates to a variety of other rating values to reflect the most recent available experience are also being submitted for approval. Finally, the filing includes proposed additions and/or changes to other manual rules consistent with intended practice regarding workers' compensation insurance options, classification procedures and related matters.

The entire April 1, 2006, loss cost filing is available for review on the PCRB's website at [www.pcrb.com](http://www.pcrb.com) in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-2349. Filed for public inspection December 16, 2005, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Delaware County, Wine & Spirits Shoppe #2333, 1500 Garrett Road, Upper Darby, PA 19082.

*Lease Expiration Date:* June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,800 net useable square feet of new or existing retail commercial space within 1 mile of the intersection of Garrett Road and Lansdowne Avenue, Upper Darby.

*Proposals due:* January 6, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** James M. Bradley, (215) 482-9671

Lackawanna County, Wine & Spirits Shoppe #3520, Green Ridge Plaza, 1600 Nay Aug Avenue, Scranton, PA 18509.

*Lease Expiration Date:* November 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space on Green Ridge Street between North Main Avenue and Sanderson Avenue in the City of Scranton.

*Proposals due:* January 6, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Matthew L. Sweeney, (717) 657-4228  
 JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 05-2350. Filed for public inspection December 16, 2005, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

### Application Schedule

The Pennsylvania Gaming Control Board (Board), under the authority in 4 Pa.C.S. § 1306 (relating to order of initial license issuance) and 58 Pa. Code § 441.2 (relating to initial slot machine application deadlines), has adopted the following schedule for the acceptance of applications for Conditional Category 1 licenses, permanent Category 1 licenses, Category 2 licenses and Category 3 licenses.

The application acceptance period for Conditional Category 1 licenses, permanent Category 1 licenses, Category 2 licenses and Category 3 licenses will close on December 28, 2005.

THOMAS A. DECKER,  
*Chairperson*

[Pa.B. Doc. No. 05-2351. Filed for public inspection December 16, 2005, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Interim Order

Public Meeting held  
 December 1, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

*Pennsylvania Public Utility Commission v. MCI Metro Access Transmission Services, LLC Introducing Local Tariff Termination Service for Non-Access Minutes of Use; Doc. No. R-00050799*

### Interim Order

*By the Commission:*

On August 1, 2005, MCI Metro Access Transmission Services, LLC ("MCI Metro") or ("Company") filed Supplement No. 5 to Access Tariff—Pa. PUC No. 2 proposing to introduce a new service charge, Local Traffic Termination Service (LTTS) for Terminating Non-Access Minutes of Use<sup>1</sup> to become effective September 1, 2005. The effective date of the filing was extended by 30 days or until October 1, 2005, by Commission staff action through a Secretarial Letter, and a further voluntary postponement was issued by the Company until December 2, 2005. Further, the proposed rates, terms and conditions do not apply if the carrier and the Company have entered into an agreement that governs non-access minutes of use (MOU) including an interconnection agreement approved by the Commission pursuant to Section 252 of the Federal Telecommunication Act, and also Commercial Mobile Radio Service (CMRS) providers licensed by the FCC are exempt from this charge.

The proposed state tariff, if approved, would establish local call terminating compensation rates between MCI Metro and any Competitive Local Exchange Carrier (CLEC) that does not have an interconnection agreement with MCI Metro.<sup>2</sup> The proposed state tariff does not apply to Incumbent Local Exchange Carriers (ILECs) or Commercial Mobile Radio Service (CMRS) providers licensed

<sup>1</sup> Terminating Non-Access Minutes of Use is described by MCI Metro as non-Access minutes of use delivered by the Carrier to the Company for termination to customers of the Company, including all minutes of use for which the calling and called party number are assigned in the Local Exchange Routing Guide to the same Mandatory Local Calling area and excludes wireless traffic.

<sup>2</sup> The proposed tariff does not address the tariff's operation if MCI Communications Inc., (MCI), the parent company of MCI Metro, ultimately merges with Verizon and becomes an ILEC as opposed to a CLEC. MCI Metro's clarification of the CLEC terminating charges' operation was limited to a verbal discussion with staff.

by the FCC. CMRS providers are exempt from the proposed compensation rate based on the *T-Mobile Order*. ILECs are exempt from the proposed compensation rate based on the FCC's *1996 Local Competition Order*.<sup>3</sup>

MCImetro provided an illustration of the pricing methodology calculation in response to staff inquiries. MCImetro intends to bill carriers that terminate traffic to MCImetro for all minutes that are at or below 3,000 minutes a month. Only those terminating minutes that are above 3,000 in a single month are not billed.<sup>4</sup> In MCImetro's view, the charge is appropriate because the minutes fall below the 3:1 presumption for ISP MOUs established in the *ISP Remand Order*.

#### LEGAL ANALYSIS

MCImetro relies on three Federal Communications Commission ("FCC") Orders in support of the proposed tariff. These are the *ISP Remand Order* at FCC 01-131<sup>5</sup> (released April 27, 2001), the *Core Order* at FCC 04-241<sup>6</sup> (released October 18, 2004), and the *T-Mobile Order* at FCC 05-42<sup>7</sup> (released February 24, 2005).

The *ISP Remand Order* established interim federal reciprocal compensation rates for Internet Service Providers (ISPs) on a Minute-of-Use (MOU) basis. The *ISP Remand Order* also created a rebuttable presumption that traffic exceeding a 3:1 ratio of Originating Minutes to Terminating Minutes was ISP traffic subject to interim compensation rates and a growth cap.<sup>8</sup> Traffic below this 3:1 threshold is not considered ISP traffic although the rate for this non-ISP traffic had to "mirror" the ISP rate.<sup>9</sup>

The FCC's *Core Order* modified the *ISP Remand Order*. The *Core Order* abandoned the growth cap and mirroring rate requirement of the *ISP Remand Order*.<sup>10</sup>

The *T-Mobile Order* expressly addressed the issue of whether a local exchange carrier could determine local call terminating compensation from a CMRS carrier using state-approved tariffs if the carriers have no interconnection agreement. The *T-Mobile Order* prohibits the use of state-approved tariff rates to determine local call terminating compensation from CMRS carriers. The prohibition applies on a going-forward basis following publication. The FCC takes this approach based on a legal conclusion that negotiations, as opposed to the state-approved compensation rates, are the legally required vehicle for determining wireless-to-wireline traffic compensation.<sup>11</sup>

MCImetro suggests that its proposed state tariff language is consistent with these FCC Orders. MCImetro believes that the three orders collectively allow MCImetro

to charge other CLEC carriers compensation rates at state-approved rates when terminating non-access minutes of use below a 3:1 ratio<sup>12</sup> of Terminating to Originating Non-Access Minutes of Use if the carrier has no interconnection agreement with MCImetro and the traffic is neither wireless nor ILEC.

MCImetro seems to reason that the *ISP Remand Order* established a lower interim compensation rate for ISP traffic but excluded traffic below the 3:1 ratio from this interim compensation rate. MCImetro concludes that CLEC-to-CLEC traffic below the 3:1 ratio can still be established by state-approved tariffs because CLEC-to-CLEC compensation was not directly addressed in the *Core Order* and the *T-Mobile Order*. MCImetro's interpretation limits the *T-Mobile Order* holding to state-approved tariffs for wireless-to-wireline compensation.

Based upon this reasoning, MCImetro suggests that the negotiation and arbitration requirements of TA-96 cited in support of the *T-Mobile Order* are limited to ILEC-CLEC and LEC-CMRS compensation. MCImetro asks the Commission to approve a default compensation rate because the FCC's orders and the supporting negotiation and arbitration requirements of TA-96 do not apply to CLEC-to-CLEC traffic. MCImetro verbally clarified to staff that the proposed compensation rate applies only to CLEC-to-CLEC that is non-ISP (e.g., below the 3:1 ratio, and not wireless).

MCImetro concludes that the Commission can establish state-approved compensation rates for call termination services so long as the traffic does not come within the purview of the *ISP Remand Order*, the *Core Order*, and the *T-Mobile Order*, and the parties do not have an effective interconnection agreement covering the traffic in question. MCImetro recognizes that the *T-Mobile Order* adopted a rule prospectively prohibiting charges for wireless traffic but concludes that there is no rule against such charges for other kinds of local traffic (e.g., non-wireless traffic that is not ISP traffic).

The Commission is unwilling to immediately approve this tariff based on this narrow interpretation of Federal law and FCC practice without comments and replies from other interested persons. This refusal is underscored by the fact that CLECs other than MCImetro have not submitted a similar tariff relying on this narrow legal interpretation. Other CLECs seem to be unaware of MCImetro's proposed tariff and the supporting legal interpretation, even though those CLECs are impacted by the tariff.

The Commission also recognizes that this narrow legal interpretation and the resulting tariff will substantially alter existing CLEC-to-CLEC intercarrier compensation practices in Pennsylvania. CLECs largely utilize Bill-and-Keep for CLEC intercarrier compensation. The reciprocal compensation proposal reflected in this tariff constitutes a significant departure from that practice. There is no evidence that the CLECs impacted by this departure are aware of this substantial change in compensation practice or the underlying legal theory.

The proposed tariff could also shift the burden of interconnection agreements to carriers completing local calls on its network. This shifting could be particularly acute in any post-merger environment wherein the CLEC proposing this tariff could become an affiliate of an ILEC enforcing a carrier compensation right under state tariff. This could lead to a conclusion that unless the proposed

<sup>3</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket Nos. 96-98, Released August 8, 1996.

<sup>4</sup> The FCC's *ISP Remand Order* contains a rebuttable presumption that traffic above a ratio of 3:1 is ISP traffic subject to a federal compensation rate. Traffic below a 3:1 ratio is not ISP traffic. The FCC expected the interim rates established in the *ISP Remand Order* to limit or end the opportunity for regulatory arbitrage and to be replaced by a final order in its *Inter-carrier Compensation Order* proceeding at CC 01-92 (the *ICC Order*). *ISP Remand Order*, paragraph 8. That did not happen. State commissions are responsible for adjudicating any challenges to the presumption.

<sup>5</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-carrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 and 99-68, Released April 27, 2001 (the *ISP Remand Order*).

<sup>6</sup> *Petition of Core Communications, Inc. for Forebearance under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*, WC Docket No. 03-171, Released October 18, 2004 (the *Core Order*).

<sup>7</sup> *T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, Declaratory Ruling and Report and Order* (FCC Rel. February 24, 2005) CC Docket No. 01-92, FCC 05-42. (*T-Mobile Order*).

<sup>8</sup> *ISP Remand Order*, paragraph 8.

<sup>9</sup> *ISP Remand Order*, paragraphs 3 through 8, 66-95.

<sup>10</sup> *Core Order*, paragraph 24, last sentence. The growth cap and mirroring rules were part of a ruling aimed at developing a unified compensation regime premised on Bill-and-Keep. *ISP Remand Order*, paragraphs 4, 6, 8 and 66-67. The *Core Order* grants limited forbearance. The FCC abandoned these requirements based on a view that the underlying compensation premise reflected in the *ISP Remand Order* e.g., that no cost differences between voice and ISP warrant are sufficient to justify different rates, is less important than unified intercarrier compensation.

<sup>11</sup> *T-Mobile Order*, paragraphs 9 and 14.

<sup>12</sup> *ISP Remand Order*, paragraph 8. State commissions adjudicate any challenge to the presumption.

tariff benefits carriers by enabling carriers to account for all completed calls, the Commission should not approve the tariff as proposed.

Finally, in this filing we are dealing with rates governing the termination of what essentially is "local" traffic, but identified as "non-access" traffic, we need to explore whether it falls within certain statutory constraints. Termination of local traffic may be bound by intrastate carrier access charges in carriers' access tariff and may also be governed by Section 3017 of Chapter 30. Section 3017(c) prohibits a CLEC from charging access rates higher than those charged by an ILEC in the same service territory absent a demonstration that costs justify a higher access rate. 66 Pa.C.S. § 3017(c).

The Commission identifies some concerns about this proposed tariff. The Commission's concerns include the following:

1. Whether the FCC's overall approach favoring interconnection arbitration and negotiation reflected in the *Core Order* and the *T-Mobile Order* is limited to ILEC-CLEC and ILEC-Wireless and/or agreements.

2. What, if any, role Commission ratification of this proposed tariff could have if, as proposed, where MCI Communications, Inc. may potentially become an affiliate of Verizon Pennsylvania, Inc. given that this tariff may become a property right of an ILEC as opposed to a tariff proposal of a CLEC.

3. Whether a Commission approved default compensation rate by tariff for a CLEC in CLEC-to-CLEC compensation matters continues where MCI may potentially become an affiliate of Verizon Pennsylvania Inc.

4. Whether MCI Metro usage of the term "non-access minutes of use" is consistent with or contrasts with the general usage of the term in the industry. Typically, "non-access traffic" means telecommunications traffic that is not subject to access charges. It appears there might be a conflict in using such a term as "non-access traffic" for the proposed charge in an Access Tariff. Moreover, the use of the term "non-access" minutes varies even in the FCC Orders cited by MCI Metro.

5. Whether the proposed charge for local traffic transmitted between LECs in the form of "non-access charge" in just one carrier's tariff is in violation of Section 251(b)(5) of the 1996 Telecommunications Act which obligates LECs to establish reciprocal compensation arrangements through an interconnection agreement for the transport and termination of local telecommunication traffic and also specifies that LECs and interconnecting local exchange carriers compensate each other for termination of local traffic on a reciprocal basis.

6. Whether the proposed charge is within the constraints of Section 3017 of Chapter 30 (66 Pa.C.S § 3017), which prohibits a CLEC from charging access rates higher than those charged by an ILEC in the same service territory, absent a demonstration that costs justify a higher access rate.

The Commission concludes that suspension and investigation of this proposed tariff is necessary given these concerns and the Commission's refusal to accept MCI Metro's interpretation without further comment or replies.

The Commission takes this action to solicit comments and replies from other interested persons. Following review of the comments and replies, the Commission will determine the next course of action.

With that in mind, the Commission will adopt an Interim Order suspending MCI Metro's tariff filing to introduce a charge for non-access minutes of use for a period not to exceed six months. During the suspension, the Commission will solicit comments and replies on the issues identified in this Interim Order, as well as other issues of concern to others involving this proposed tariff. To that end, the Commission will publish this Interim Order in the *Pennsylvania Bulletin* with comments due in 30 days following publication and reply comments due within 15 days after the comment due date. The Commission will then determine the next appropriate action in response to those comments and replies; *Therefore,*

*It Is Ordered That:*

1. Supplement No. 5 to MCI Metro Access Transmission Services, LLC Tariff-Telephone Pa. PUC No. 2, filed August 2, 2005, the effective date has been postponed until December 2, 2005, to introduce Local Traffic Termination Service for non-access minutes of use, is suspended for a period not to exceed six months, or until June 2, 2006, pending a review of comments from the industry.

2. MCI Metro Access Transmission Services, LLC shall file the appropriate tariff suspension supplements.

3. The Commission hereby solicits comments on MCI Metro Access Transmission Service, LLC's proposed tariff for Local Traffic Termination Services.

4. The Secretary shall duly certify this Order and deposit it with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, for the purpose of collecting more public information through the solicitation of comments concerning the issues of intercarrier compensation involved in this case.

5. Within 30 days of this order's publication in the *Pennsylvania Bulletin*, any concerned party may file comments by submitting an original and 10 copies to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A separate copy of any comments should be served upon each Commissioner's Office, the Bureau of Fixed Utility Services, the Office of Special Assistants, and the Law Bureau.

6. Reply comments shall be due 15 days after the comment due date and filed in accordance with Ordering Paragraph 5.

7. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

8. A copy of this Interim Order shall be served upon the Pennsylvania Telephone Association, COMPTTEL, all jurisdictional local exchange carriers, all competitive local exchange carriers, Office of Consumer Advocate, Office of Small Business Advocate, and the Office of Trial Staff.

9. The Bureau of Fixed Utility Services and Law Bureau prepare a Report and Order after review of the parties' comments.

10. The contact persons are Joseph Witmer, Law Bureau (717) 787-3663, [jowitmer@state.pa.us](mailto:jowitmer@state.pa.us), and Mohan Samuel, Bureau of Fixed Utility Services, (717) 783-0697, [msamuel@pa.state.us](mailto:msamuel@pa.state.us).

11. If it becomes clear that a final Commission order disposing of the proposed tariff revision will not be entered by the end of the 6-month suspension period established in ordering paragraph 1 above, the Bureau Fixed Utility Services shall issue a further Interim Order suspending this filing for an additional three months or until September 2, 2006.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-2352. Filed for public inspection December 16, 2005, 9:00 a.m.]

### November 2005 Review of Fuel Cost Recovery Surcharge; S. P. 28208

Public Meeting held  
December 1, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

#### Order

*By the Commission:*

The Pennsylvania Public Utility Commission (Commission) by its Fuel Cost Recovery Surcharge Order at Special Permission Number 28208, adopted June 10, 2004, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset unanticipated fuel expenditures. At its Public Meeting of June 2, 2005 the Commission approved an extension of the temporary fuel surcharge until June 12, 2006. The Commission also required the Bureau of Transportation and Safety to investigate the merits of the fuel surcharge on a quarterly basis.

As a result of the volatile nature of gasoline prices in the aftermath of Hurricane Katrina, the amounts for the fuel surcharge were adjusted accordingly at Public Meeting on September 9, 2005. Recognizing that the price of fuel is likely to fluctuate in the future months, the Commission also ordered that the temporary fuel surcharge was to be evaluated on a monthly basis until further notice to ensure that the surcharge is appropriately adjusted to the price of fuel. The last adjustment was made by the Commission at Public Meeting on October 27, 2005.

The most recent data for the week ending November 28, 2005 indicates that the price of gasoline is \$2.23 per gallon, which is a decrease of \$.33 or 13% from the average price for October 24, 2005. The effect of this decrease results in an average cost of fuel per trip of \$1.01 for call or demand operations. The average cost of fuel per trip for paratransit and airport transfer operations is \$2.34. Considering this decrease, the surcharge shall be adjusted to \$.40 per trip for each paying passenger for call or demand service and \$.95 per trip for each paying passenger for airport transfer and paratransit services, effective December 5, 2005.

The changes which have occurred in the Fuel Cost Recovery Surcharge at S. P. 28208 are summarized in the table below.

### Historical Charges for Fuel Cost Recovery Surcharge at S. P. 28208

<i>Effective Date</i>	<i>Call or Demand</i>	<i>Airport Transfer/ Paratransit</i>
June 14, 2004	\$.30	\$ .70
September 2, 2005	\$.70	\$1.55
September 12, 2005	\$.90	\$2.00
October 3, 2005	\$.70	\$1.55
October 31, 2005	\$.55	\$1.25
December 5, 2005	\$.40	\$ .95

Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the fuel surcharge. However, due to the decrease in prices we believe it is necessary to make adjustments to the fuel cost recovery surcharge; *Therefore,*

*It Is Ordered That:*

1. The Fuel Cost Recovery Surcharge established at Special Permission No. 28208 be continued.

2. Call or demand carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall decrease the surcharge to \$.40 per trip for each paying passenger.

3. Paratransit carriers and airport transfer carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall decrease the surcharge to \$.95 per trip for each paying passenger.

4. The decreases be approved to become effective December 5, 2005.

5. The Fuel Cost Recovery Surcharge will continue to be reviewed on a monthly basis with the next review taking place at the Public Meeting of January 12, 2006.

6. Call or demand motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge is \$.40 per trip for each paying passenger and is effective on December 5, 2005. The fuel surcharge shall terminate on June 12, 2006."

7. Paratransit and airport transfer motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been decreased to \$.95 per trip for each paying passenger and is effective on December 5, 2005. The fuel surcharge shall terminate on June 12, 2006."

8. The Secretary of this Commission shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-2353. Filed for public inspection December 16, 2005, 9:00 a.m.]

**Service of Notice of Motor Carrier Applications**

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 9, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval to begin operating as common carriers for transportation of persons as described under the application.**

**A-00122247. Arden G. McConnell** (11214 Atlantic Road, Atlantic, Crawford County, PA 16111)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Crawford, to points in Pennsylvania, and return.

**Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.**

**A-00104709, F. 2, Am-A. Unique Limousine Service, Inc.** (1900 Crooked Hill Road, Harrisburg, Dauphin County, PA 17110), a corporation of the Commonwealth—persons, in airport transfer service from points in the Counties of Lancaster and York, to the following airports: Philadelphia International Airport, in the City and County of Philadelphia and the Township of Tinicum, Delaware County; Harrisburg International Airport in the Township of Lower Swatara, Dauphin County; Lancaster Municipal Airport, in the Township of Manheim, Lancaster County; and the Reading Municipal Airport in the Township of Bern, Berks County: *So As To Permit* the transportation of persons in airport transfer service from Harrisburg International Airport in the Township of Lower Swatara, Dauphin County to points in Pennsylvania.

**Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.**

**A-00122224, Folder 2. Donald E. West t/a West Transport Service** (P. O. Box 564, Manheim, Lancaster County, PA 17545)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 05-2354. Filed for public inspection December 16, 2005. 9:00 a.m.]

**Tentative Order**

Public Meeting held  
December 1, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

*In re: Global Communications Consulting Corporation;  
A-311211*

**Tentative Order**

*By the Commission:*

Global Communications Consulting Corporation (Global) has failed to pay its \$34 general assessment for 2005-2006 pursuant to section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). Global is a telecommunications interexchange reseller certificated at A-311211, whose certificate of public convenience was issued on November 7, 2002. On or about August 17, 2005, Commission staff sent an invoice to Global notifying it that its 2005-2006 annual assessment was due. The notice was returned as "not deliverable," and the Commission has not received payment for this invoice. Several follow-up mailings have similarly come back as not deliverable. The Commission does not have a current telephone number for Global. Commission staff was subsequently advised by Global's former legal counsel that Global is no longer in business.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506 and 3301. Based on the above and because of Global's failure to pay its general assessment for 2005-2006, we believe it is appropriate to revoke Global's certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of Global's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Global seeks relief from this Tentative Order; *Therefore,*

*It Is Ordered That:*

1. Revocation of Global Communications Consulting Corporation's certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Global Communications Consulting Corporation at A-311211 shall be canceled, and Global Communications Consulting Corporation's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-2355. Filed for public inspection December 16, 2005, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-132.P, Purchase Nine (9) Marine Fenders, Packer Ave. Marine Terminal (PAMT) until 2 p.m. on Thursday, December 28, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 20, 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 nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-2356. Filed for public inspection December 16, 2005, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #5-135.1, Site Demolition & Preparation Activities, Pier 74 S. Annex until 2 p.m. on Thursday, January 10, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 19, 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 nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held at 10 a.m. on December 22, 2005, at Pier 74 S. Annex (through Pier 78 S. Gate, Columbus Blvd. and Snyder Ave.), Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-2357. Filed for public inspection December 16, 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:

February 15, 2006      Patricia M. Dombart      1 p.m.  
(Waiver of Adjustment)

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. 05-2358. Filed for public inspection December 16, 2005, 9:00 a.m.]

## STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.  
Joseph Nguyen t/d/b/a Kims Nail Design; Doc.  
No. 33572-45-01**

On October 20, 2005, Joseph Nguyen t/d/b/a Kims Nail Design, unlicensed, of Allentown, Lehigh County was assessed a civil penalty of \$500 for practicing cosmetology without a license.



Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Cosmetology (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,  
*Chairperson*

[Pa.B. Doc. No. 05-2359. Filed for public inspection December 16, 2005, 9:00 a.m.]

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# 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



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

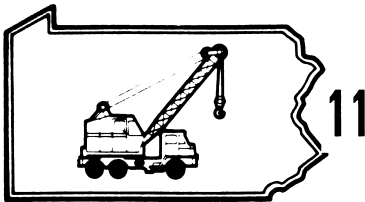
## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreasury.org](http://www.patreasury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

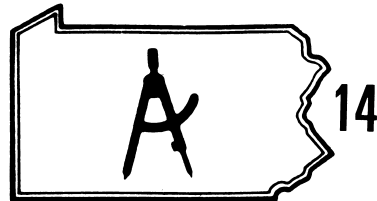
## SERVICES



### Demolition—Structural Only

**00885-A03** The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of both commercial and residential dwellings located along State Route 00885 (also known as the Boulevard of the Allies) in the City of Pittsburgh, Allegheny County. Contractors will be required to demolish or remove all structure(s), outbuildings and site improvements. The contractor will also be required to comply with all Local, State and FHWA regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

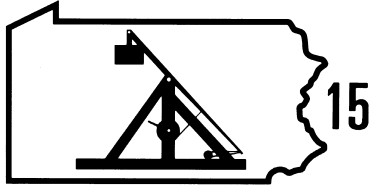
**Department:** Transportation  
**Location:** City of Pittsburgh  
**Duration:** 30 days from Notice to Proceed.  
**Contact:** Demolition, 412-429-4830



### Engineering Services

**CN 00018212** This work is for the on-call drilling and equipment and personnel for soils and geological investigations for various locations as directed in Bucks, Chester, Delaware and Montgomery Counties. This work will be bid in accordance with the Standard Specifications for Subsurface Boring and Testing, Penndot's Publication 222. Any Contractor that wishes to bid must apply to PENNDOT to be included on the approved list of Department Certified Drilling Contractors. Contact Sarah Maloney, Geotechnical Engineer at 610-205-6599 to make an application. If your company is on the Certified List, you must fax your company name, address, phone, fax number and vendor ID No. to Sarah at 610-205-6899. A Pre-Bid Conference is scheduled to be held at the District 6 Office at 7000 Geerdes Blvd. in King of Prussia, Pa. on December 21, 2005 at 10:00 a.m. Bids are scheduled to be opened at the District Office in King of Prussia on January 4, 2006 at 1:30 p.m. Contract specific information is available for information only and can be viewed on the PENNDOT Web Site as follows: Go to [www.dot.state.pa.us](http://www.dot.state.pa.us). Click on Regional Information. Click on "6" for the District 6 area (Bucks, Chester, Delaware, and Montgomery and Philadelphia). Click on "Maintenance." Click on "Contract Bid Page." Click on Drilling Services CN 00018212 for District 6 County in (Adobe Format). Interested Vendors should also be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving an RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). After you are registered, fax your company name, address, phone/fax numbers and Vendor ID Number to Kevin B. Munley, District 6 Maintenance Unit at (610) 205-6741.

**Department:** Transportation  
**Location:** Various locations in Bucks, Chester, Delaware and Montgomery Counties.  
**Duration:** Two (2) year with one two (2) year option to renew.  
**Contact:** Kevin B. Munley—Roadway Programs Manager, (610) 205-6741



### Environmental Maintenance Service

**BOGM 23-101.1** Cleaning Out and Plugging One Hundred Twenty (120) Abandoned Oil Wells, (Pennsylvania Game Commission Property). The principal items of work include cleaning out and plugging one hundred twenty (120) abandoned oil wells, estimated to be between 900-1,200 feet in depth, to Department specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on December 16, 2005 and bids will be opened on January 12, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been sent. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the date of the pre-bid conference.

**Department:** Environmental Protection  
**Location:** Cranberry Township, Venango County  
**Duration:** 360 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

**OSM 40(3725)101.1** Abandoned Mine Reclamation, Hollars Hill. The principal items of work and approximate quantities include 987,100 cubic yards of Grading, 28,510 cubic yards of Drainage Excavation, 9,850 square yards of Rock Lining and 141.1 acres of Seeding. This project issues on December 16, 2005 and bids will be opened on January 12, 2006 at 2:00 p.m. Bid documents cost \$15.00 per set and will not be mailed until payment has been received. Federal funds have been made available for this project from the \$26,051,154 for Pennsylvania's 2004 AML Grant.

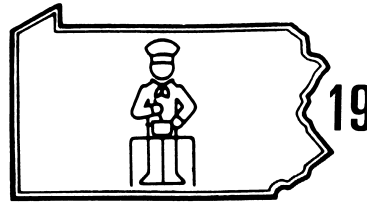
**Department:** Environmental Protection  
**Location:** Hazle Township, Luzerne County  
**Duration:** 600 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

**OSM 14(6818)101.1** Abandoned Mine Reclamation Project, Pine Glen Southeast. The principal items of work and approximate quantities include Clearing and Grubbing, 52,630 cubic yards of Grading, 200 linear feet of Pipe Culvert, Eighteen Inch (18") Diameter Smooth Interior Corrugated Polyethylene, 1,085 linear feet of Subsurface Drain, 280 square yards of Rock Lining, North Coast Energy Gas Line Relocation, 9.5 acres of Seeding, Implementation of the Erosion and Sediment Pollution Control Plan and planting 554 Trees. This project issues on December 16, 2005 and bids will be opened on January 12, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

**Department:** Environmental Protection  
**Location:** Burnside Township, Centre County  
**Duration:** 270 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

**MU-WD2005-2006** WELL DRILLING AT MANSFIELD UNIVERSITY ON THE FOLLOWING LOCATIONS: 1. Russell Practice Football Field; 2. Myers Soccer Field; 3. Lutes Softball Field; and 4. Van Norman Football Field. The above project will be done consistent with the specifications that will be provided from the Purchasing Department upon request. This project is subject to the Commonwealth prevailing wage. Bid request should be directed to the Purchasing Department, Mansfield University at 570-662-4148.

**Department:** Education  
**Location:** Mansfield University, 115 Sherwood Street, Mansfield, PA. 16933  
**Duration:** Completion Date - June 30, 2006  
**Contact:** Peg Chapel, 570-662-4148



### Food

**071 SEAFOOD-FISH:** Fish portion breaded, precooked IQF, equivalent to USDC Grade A. Packed under Federal Inspection (PUFI). Approximately 3,000 lbs. of breaded fish to be delivered in 1,000 lb. for 3 deliveries over a 3 month period. Approximately 3,780 lb. imitation crab meat to also be delivered over a 3 month period. Vendor must be registered and have a SAP number. Call 1-866-775-2868 to register.

**Department:** Corrections  
**Location:** SCI-Fayette, 50 Overlook Dr., LaBelle, PA 15450  
**Duration:** 01/01/06 - 12/31/06  
**Contact:** Judith Cook, 724-364-2200 ext: 1029

**070 ICE CREAM-** 4 oz. cups, minimum of 1/3 delivery to be with toppings and one meal of sherbet per mo. Approximately 480 doz. cups weekly from 1/01/06 - 12/31/06. Icy treats, push-up type, no stick, popsicle like frozen treat. Approximately 30 boxes per month. To be bid on a bi-monthly basis. Vendors must be registered with the Commonwealth and have a registered vendor number. To register call 1-866-775-2868.

**Department:** Corrections  
**Location:** SCI-Fayette, 50 Overlook Dr., LaBelle, PA 15450  
**Duration:** 1/1/06 - 12/31/06  
**Contact:** Judith N. Cook, 724-364-2200 x 1029

**1150-FD-2006 MISCELLANEOUS FROZEN FOODS:** Purchase orders shall cover the months of January 2006 through June 2006 with issuance of bid proposals made on an annual, semi-annual, tri-annual or more frequent basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the Institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, RR #10, Box 10, Route 119 South, Greensburg, PA 15601-8999  
 January 1, 2006 to June 30, 2006  
**Contact:** Gena M. Hainesworth, 724-837-4397

**CN00018141** Various Meats and Meat Products, Frozen.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Rt. 422 & Sportsman Road, Wernersville, PA 19565  
 January - March 2006  
**Contact:** Elsie Millington, 610-927-4700

**1150-MEAT-2006 MEAT AND MEAT PRODUCTS:** Purchase orders shall cover the months of January 2006 through June 30, 2006 with issuance of bid proposals made on an annual, semi-annual, tri-annual or more frequent basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the Institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, RR #10, Box 10, Route 119 South, Greensburg, PA 15601-8999  
 January 1, 2006 to June 30, 2006  
**Contact:** Gena M. Hainesworth, 724-837-4397

**CN00018229** Perishable Foods - Juice Drinks (4 oz.), Lemonade (8 oz.), and Decaffeinated Iced Tea, Sugar Free (8 oz.). Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

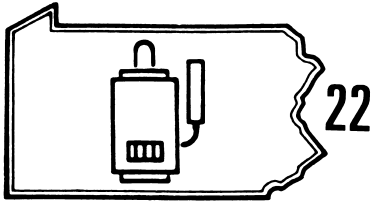
**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** Deliveries are for the time period of January, February and March, 2006. Bid opening date is 12/16/05 at 2 p.m.  
**Contact:** Debbie Jones, 610-313-1025

**F-200** Vendor will provide food stuffs including, but not limited to: meat, poultry, seafood, bakery, dairy, milk, frozen vegetables and fruit products to the State Correctional Institution at Mahanoy, 301 Morea Road, Schuylkill County, Mahanoy Township, Frackville, PA. Bids and awards to be done weekly, bi-weekly, monthly or quarterly at the discretion of the agency. Bid package to be requested in writing to the Purchasing Agent of the Institution.

**Department:** Corrections  
**Location:** State Correctional Institution at Mahanoy, 301 Morea Road, Frackville, PA 17932  
**Duration:** January 1, 2006 to December 31, 2006  
**Contact:** Dawn M. Troutman, Purchasing, (570) 773-2158

**072 EGGS,** frozen, pasteurized, whole for scrambling and frozen egg whites, 6/5 lb. containers per case. Must be frozen when delivered and show no signs of previous defrosting. CERTIFICATION OF COMPLIANCE MUST ACCOMPANY ORDER.

**Department:** Corrections  
**Location:** SCI-Fayette, 50 Overlook Drive, LaBelle, PA 15450  
**Duration:** 01/01/06 - 12/31/06  
**Contact:** Judith Cook, 724-364-2200 ext: 1029



### HVAC Services

**CN#00018198** The contractor shall provide all labor, equipment tools and parts required to inspect, test, repair and rebuild all types of valves as requested at the Hamburg Center, Hamburg, PA 19526. To receive detailed specification, submit fax request on company's letterhead to Hamburg Center Purchasing Office, FAX: 610/562-6025. Prospective vendors must register with the Integrated Enterprise system (IES) at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Hamburg Center, 3560 Old Route 22, Hamburg, PA 19526  
**Duration:** The anticipated term of the contract is 3/1/06-2/28/09.  
**Contact:** Beverly O. Epting, PA, 610/562-6034



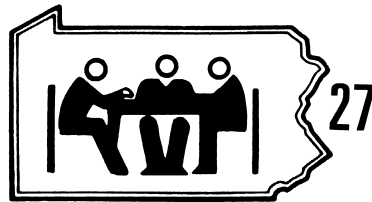
### Janitorial Services

**FM 8944** Furnish materials, equipment and labor to perform janitorial services three 3 visits per week at location listed below. The detailed work schedule and bid specifications must be obtained from the Facility Management Div. at 717-705-5952.

**Department:** State Police  
**Location:** Pennsylvania State Police, Troop B, Uniontown, 1070 Eberly Way, Lemont Furnace, PA 15456  
**Duration:** February 1, 2006 through June 30, 2009  
**Contact:** Helen Fuhrman, 717-705-5952

**CN00018207** Janitorial services for eleven two-bedroom family cabins at Keystone State Park (Westmoreland County). A mandatory site inspection is required to bid. Bid Opening Date/Time: December 29, 2005, 2:00 p.m.

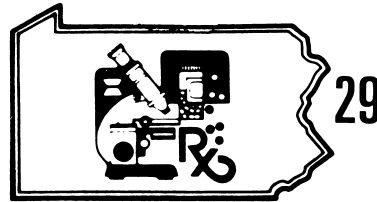
**Department:** Conservation and Natural Resources  
**Location:** Keystone State Park, 1150 Keystone Park Road, Derry, PA 15627-3679  
**Duration:** Commence upon execution and receipt of purchase order or February 1, 2006, whichever is later, and terminates January 31, 2009. Parties may renew for one (1) additional 2 year term with final termination January 31, 2011.  
**Contact:** Nancy Weibley, 717-783-4884



### Lodging/Meeting Facilities

**CN00018222** Provide meeting rooms, breaks and lunches for Department of Conservation and Natural Resources, Bureau of Forestry's Ecosystem Management Advisory Committee (EMAC), and Recreation Advisory Committee (RAC) meetings to be held in 2006. Facility must be within a 5-mile radius of State College, PA. Bid Opening Date/Time: December 22, 2005; 2:00 p.m.

**Department:** Conservation and Natural Resources  
**Location:** Facility must be within a 5-mile radius of State College, PA  
**Duration:** Commence February 1, 2006, through December 31, 2006.  
**Contact:** Nancy Weibley, 717-783-4884



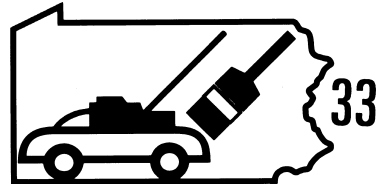
### Medical Services

**CN00018132** Rental of portable oxygen inhalators with trauma kit, emergency oxygen tank. Facility to bid approximately 57 units. Rental to include all parts and maintenance.

**Department:** Public Welfare  
**Location:** Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017  
**Duration:** 03/01/2006 through 02/28/2011  
**Contact:** F. Molisee, Purchasing Agent II, 412-257-6215

**1146-Dental Chair DENTAL CHAIR** - Cascade 511 (or approved equal). Traditional with standard touch pad, 532; syringe autoclave 6 7 position 1, TBG 4 hole silicone, support link with cover; cuspidor w/support center, 561; assistant instrument short arm, 3 position, dental light (mount); dentist stool cont. (Cascade 1601) assistant stool, cont-r (Cascade1622) and standard tray holder.

**Department:** Corrections  
**Location:** State Correctional Institution, 1000 Follies Road, Dallas, Pa. 18612  
**Duration:** December 2005 to June 2006  
**Contact:** Patty Ginocchetti, 570-675-1101, ext 620



### Property Maintenance

**8943** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Bloomsburg Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Troop N, Bloomsburg Station, 6850 Hilday Church Road, Bloomsburg, PA 17815.  
**Contact:** Sgt. Scott Price, phone #570-387-4701  
**Duration:** 01/15/06 to 06/30/08  
**Contact:** Sandy Wolfe, 717-705-5951

**CN00018156** Provide snow removal services for parking lot and driveway. For a copy of the bid package, please fax your request to 717-861-2932 or e-mail to the address below. Bid opening will be Wednesday, December 21, 2005 at 2:00 PM.

**Department:** Military Affairs  
**Location:** PA National Guard Armory, 701 Petersburg Road, Connellsville PA 15425  
**Duration:** Date of Award - 31 March 2006  
**Contact:** Brenda Lower, 717-861-2118

**CN00018094** Certified contractor to furnish materials and repair/install penetration walls in eight buildings on facility grounds. Interested vendors should fax request for Bid #CN00018094 to (570) 443-4177; please include company name, mailing address and PA State vendor number.

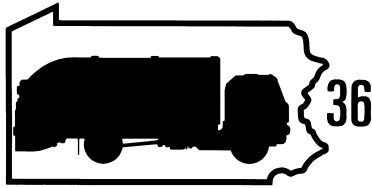
**Department:** Public Welfare  
**Location:** White Haven Center, 827 Oley Valley Road, White Haven, PA 18661  
**Duration:** (anticipated) 1/01/06 - 12/31/07  
**Contact:** Michelle Stanton, 570-443-4233

**CN00018118** Mowing of various State routes within Mercer County. Mowing will include 5 foot strips left and right of each side of the roadways as specified or as directed by the County Manager. All grass areas shall be cut to a height of four (4) inches. The contract will include two mowing cycles per contract period. The first cycle will begin around May 1st with the second cycle to begin around August 1st. This will be a 1-year contract with 4 one-year renewals by mutual consent of both parties at the same contract price. Each cycle shall be completed within fifty-six (56) calendar days. The Department reserves the right to increase or decrease the route mileage mowed.

**Department:** Transportation  
**Location:** Mercer County  
**Duration:** Contract Period May 1, 2006 through April 30, 2007  
**Contact:** Cynthia L. Suelpl, 724-662-5350

**120R-059** Provide Material and Services for Wildflower Planting and Landscape Installation and Maintenance Services according to Bid Specifications.

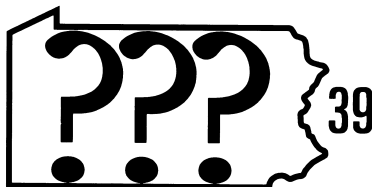
**Department:** Transportation  
**Location:** Throughout Engineering District 1200, Fayette, Greene, Washington and Westmoreland Counties.  
**Duration:** One year with two two-year renewals  
**Contact:** Michael D Maurer, 724-439-7374



### Sanitation

**CN00018206** This service is to provide refuse and trash removal service at various locations for the Department of Transportation's maintenance facilities in Beaver County.

**Department:** Transportation  
**Location:** Department of Transportation, Maintenance District 11-2, P.O. Box 310, Rochester, PA 15074  
**Duration:** This contract will be for a period of two years from the effective date. The contract will be renewable by mutual consent for three additional one-year periods.  
**Contact:** Ed Doyle, (724) 774-6610



### Miscellaneous

**CN00018100** BUREAU OF CONSTRUCTION AND MATERIALS is soliciting bids for a Petrothin Thin-Sectioning System (tabletop unit) to be located in the concrete/petrographic lab of our Materials and Testing Division. Requests for bid package can be made by faxing (717-783-5955) or emailing the Purchasing Agent listed below. Any questions regarding bid package can be directed to Chris Neely at (717) 787-6546. Vendors, if you are not listed in the Commonwealth's SAP Vendor File, please do so at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us).

**Department:** Transportation  
**Location:** Bureau of Construction and Materials, Materials and Testing Division, 1118 State Street, Harrisburg, PA 17120  
**Contact:** JOANN PRATHER, 717-783-6717

**RFP#06-BCC-CCF/CPC-54** The PA Department of Corrections (DOC) is seeking a contractor to provide contract facility services in Region II for offenders under the supervision of the DOC's Bureau of Community Corrections and parolees under the supervision of the Pennsylvania Board of Probation and Parole. Visit the Department of Corrections website at [www.cor.state.pa.us/boa/cwp/view.asp?a=458&q=132912&boaNav=1](http://www.cor.state.pa.us/boa/cwp/view.asp?a=458&q=132912&boaNav=1) to download a copy of the RFP when it is released.

**Department:** Corrections  
**Location:** 2520 Lisburn Road, Camp Hill, PA 17011  
**Duration:** Anticipated to start 7/1/06 and to continue for up to three years  
**Contact:** Beth Procopio, 717-975-4943

**ESU D405-55CA** ESU D405-55CA. East Stroudsburg University has a need for COMMISSIONING SERVICES for a new Science and Technology Center on Campus. The intended result of the commissioning process is to assure that the building systems are installed and operate in accordance with the contract specifications. Submission date is not later than 3:00 p.m. on 11 January 2006. Request your free RFP via email to: [azaffuto@po-box.esu.edu](mailto:azaffuto@po-box.esu.edu). All responsible firms are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University of Pennsylvania  
**Duration:** 24 months  
**Contact:** Ann Zaffuto, 5704223595

**RFP 24-05 MATP** The Department of Public Welfare, Office of Medical Assistance Programs, is seeking proposals for the Philadelphia Medical Assistance Transportation Program (MATP). The MATP assures non-emergency transportation for Medical Assistance (MA) recipients to and from MA services. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information. Proposals must be received no later than January 13, 2006 at 2 p.m. Please check back often to this site. Updates will be posted as they occur.

**Department:** Public Welfare  
**Location:** Philadelphia, PA  
**Duration:** Anticipated to be 3 years with 2 (two) annual renewal options.  
**Contact:** Daniel R. Boyd, 717-783-3767

**RFGA #2006-GIA** The Governor's Institutes for Educators are intended to promote continuing professional Education among educators. These programs are rich in opportunities to deepen subject area knowledge and will include real-world Academic Standards, new classroom assessments and technology. The 2006 Request for Grant Applications provide intermediate units, institutions of higher education and not-for-profit entities with information that enables them to prepare and submit proposals for consideration to serve in a partnership capacity with the Pennsylvania Department of Education as a facilitator for site management for one of the Governor's Institutes for Educators.

**Department:** Education  
**Location:** Various locations throughout the Commonwealth  
**Duration:** July - August 2006  
**Contact:** Monica Washington, 717-783-5670

**CN00017928** Western Red Cedar to use for exterior rehab of park manager's residence at Parker Dam State Park. Interested vendors must be registered with the Commonwealth and have a registered vendor number. To register and obtain number, call 1-866-775-2868. BID OPENING: 12/8/05, 2:00 PM.

**Department:** Conservation and Natural Resources  
**Location:** Parker Dam State Park, 28 Fairview Road, Pennfield, PA 15849-9799  
**Duration:** Commence upon execution of purchase order and terminate 30 days upon receipt of order  
**Contact:** Lawanza Poteat, (717) 783-3309

**SSHE 401-BL-776 Artificial Turf Field** Work under this project consists of site construction associated with a new artificial turf athletic field north of Nelson Fieldhouse on Bloomsburg University's upper campus. The field will be used primarily for soccer, field hockey and women's lacrosse. Primary items of work include grading, stormwater drainage, paving, fencing, new bleachers, press box, scoreboard, landscaping, and field lighting. The artificial turf playing surface will be supplied and installed by others and is not part of this bid. This will be 2 prime contracts: General will include site grading, storm drainage, bituminous paving, stone subbase, bleachers, goals, benches, flag poles, water service, press box, and landscaping. Electrical will include service to the site, public address system, field lighting, lighting controls, communication boxes and conduits, relocation/replacement of existing telephone and television cabling and a new scoreboard. Estimated ranges are as follows: General - \$750,000 to \$900,000 and Electrical - \$190,000 to \$270,000. To obtain a copy of the bid documents beginning December 15, 2005 submit \$74.80 (nonrefundable) check for pickup of specifications or \$99.80 (non-refundable) check for shipping of specifications to Larson Design Group, 1000 Commerce Park Drive, Williamsport, PA 17701, ATTN: Justin Keister, phone #570-323-6603, fax #570-323-9902. The pre-bid conference will be held on January 6, 2006, Bloomsburg University, Waller Administration Building, Room 38. The bids will be due January 20, 2006. Specifications may be reviewed free of charge at the above address or at Bloomsburg University, Buckingham Maintenance Center, Bloomsburg, PA.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815  
**Duration:** June 2006  
**Contact:** Diann Shamburg, 570-389-4312

**2005-2** To provide proxy voting, research and analysis services.

**Department:** State Municipal Retirement System  
**Location:** 1010 North 7th Street, Suite 301, Harrisburg, PA 17102  
**Duration:** Five (5) years  
**Contact:** Reynold E. Witmer, 717-787-2065

**CN00018238** Bariatric Mobile (Transfer) Chair Recliner System.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401-5397  
**Duration:** Delivery will be requested on or before 01/20/2006  
**Contact:** Kathleen M. Aspinall, Purchasing Agent, 610-313-1028

**CN00017592** Trooper First Class Chevron, Embroidered Emblem, Quantity: 43,000 each. Two-color embroidered emblem, size is 2-1/2"H x 2-7/8"W, thread colors are gold and black on black twill material in the shape of a chevron. This emblem is to be worn by Pennsylvania State Police Troopers as part of the Department-issued uniform to denote the rank of Trooper First Class. Complete specifications and bid proposals will be provided upon request to the contact person listed.

**Department:** State Police  
**Location:** Pennsylvania State Police, P & S Clothing Warehouse, 101-A South 38th Street, Harrisburg, PA 17111  
**Duration:** Bid opening is slated for Wednesday, 12/28/05 at 1:00 PM; therefore, no requests for bid proposals will be honored after 4:00 PM on Wednesday, 12/21/05.  
**Contact:** Ms. Angela B. Anderson, 717-705-5927

[Pa.B. Doc. No. 05-2360. Filed for public inspection December 16, 2005, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*





# PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 465]

## Accounting and Internal Controls; Draft Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202 (relating to general and specific powers), has drafted temporary regulations to facilitate the prompt implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71). Upon adoption of the regulations by the Board, the Board's temporary regulations will be added to 58 Pa. Code, Recreation, Part VII (relating to Gaming Control Board). By publishing these temporary regulations in draft form, the Board seeks public comment prior to the adoption of the regulations.

### Contact Person

Interested persons are invited to submit written comments, suggestions or objections to the draft temporary regulations by means of the United States mail to the Pennsylvania Gaming Control Board, Office of Communications, P. O. Box 69060, Harrisburg, PA 17106-9060, Attn: Public Comment. The public comment period will end on January 6, 2006.

THOMAS A. DECKER,  
*Chairperson*

### Annex A

#### TITLE 58. RECREATION

#### PART VII. PENNSYLVANIA GAMING CONTROL BOARD

#### Subpart E. SLOT MACHINE TESTING AND CERTIFICATION

#### CHAPTER 465. ACCOUNTING AND INTERNAL CONTROLS

Sec.	
465.1.	Definitions.
465.2.	Accounting records.
465.3.	Internal control systems and audit protocols.
465.4.	Forms, records and documents.
465.5.	Standard financial and statistical reports.
465.6.	Annual audit and other reports.
465.7.	Retention, storage and destruction of books, records and documents.
465.8.	Complimentary services or items.
465.9.	Licensed facility.
465.10.	Surveillance system; surveillance department control; surveillance department restrictions.
465.11.	Surveillance system recording formats.

#### § 465.1. Definitions.

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

*Gaming day*—A gaming day shall be a period of time not to exceed 24 hours which represents the beginning and ending times of gaming activities for the purpose of accounting reports and determination by the central control computer system of gross terminal revenue.

(i) Prior to commencing operations, each slot machine licensee shall submit to the Board, in writing, the beginning and ending times of its gaming day.

(ii) Thereafter, any change in a slot machine licensee's gaming day must be noticed to the Board in advance of the change in writing or in an electronic format approved by the Board.

#### § 465.2. Accounting records.

(a) Each slot machine licensee shall maintain complete, accurate and legible records of transactions pertaining to the revenues and expenses of each licensed facility.

(b) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles. Detailed, supporting and subsidiary records sufficient to meet the requirements of subsection (c) shall also be maintained in accordance with this chapter.

(c) The detailed, supporting and subsidiary records include:

(1) Records pertaining to revenue that is taxable or subject to taxation under the act.

(2) Records pertaining to the financial statements and all transactions impacting the financial statements of the slot machine licensee, including contracts or agreements with licensed manufacturers, suppliers, certified and registered vendors, contractors, consultants, management companies, attorneys and law firms, accountants and accounting firms, insurance companies, and financial institutions, including statements and reconciliations related thereto.

(3) Records which identify the handle, payout, actual win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine on a week-to-date, month-to-date and year-to-date basis.

(4) Records supporting the costs of complimentary services and items as defined in § 465.8 (relating to complimentary services or items).

(5) Records of all loans and other amounts payable by the slot machine licensee.

(6) Records of all investments, advances, loan and receivable balances due to the slot machine licensee.

(7) Records created in connection with the system of internal controls submitted to the Board under § 465.3 (relating to internal control systems and audit protocols).

(8) Records of all returned checks.

#### § 465.3. Internal control systems and audit protocols.

(a) Each applicant for, or holder of, a slot machine license shall submit to the Board and the Department, in the manner the Board requires, a narrative description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols (collectively referred to as its "internal controls") at least 90 days before gaming operations are to commence, unless otherwise directed by the Board. Under the requirements of section 1322(c) of the act (relating to slot machine accounting controls and audits), each written system of internal controls must include:

(1) Records of direct and indirect ownership in the proposed slot machine licensee, its affiliates, intermediaries, subsidiaries or holding companies.

(2) Organization charts depicting appropriate segregation of functions and responsibilities.

(3) A description of the duties and responsibilities of each position shown on the organization charts and their respective lines of authority.

(4) A detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this part.

(5) A record retention policy in accordance with § 465.7 (relating to retention, storage and destructions of books, records and documents).

(6) Procedures to ensure that assets are safeguarded, and counted in conformance with effective count procedures.

(7) Other items the Board may require in its discretion.

(b) Each submission shall be accompanied by the following:

(1) An attestation by its chief executive officer or other competent person attesting that the officer believes, in good faith, that the submitted internal controls conform to the requirements of the act and this part.

(2) An attestation by its chief financial officer or other competent person attesting that the officer believes, in good faith, that the submitted internal controls are adequate, consistent and effective, conform to generally accepted accounting principles and conform to the requirements of the act and this part.

(c) The initial submission shall also be accompanied by a report by an independent certified public accountant licensed to practice in this Commonwealth, attesting that the independent certified public accountant believes, in good faith, that the submitted system conforms in all respects to the standards of internal control set forth in the act and this part. When an element of the submitted system is determined not to conform, the nonconformity shall be disclosed in the report and discussed with specificity.

(d) Each submission by a slot machine licensee or applicant shall include, at a minimum, the following:

(1) Administrative controls which include, without limitation, the procedures and records that relate to the decision making processes leading to management's authorization of transactions.

(2) Accounting controls which have as their primary objectives the safeguarding of assets and revenues, the reliability of financial records and are consequently designed to provide reasonable assurance that:

(i) Any transaction or financial event which occurs in the operation of a slot machine is executed in accordance with management's general and specific authorization, as approved by the Board.

(ii) Any transaction or financial event which occurs in the operation of a slot machine is recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, the act and this chapter.

(iii) Any transaction or financial event which occurs in the operation of a slot machine is recorded in a manner which provides reliable records, accounts and reports, including the recording of cash and evidences of indebtedness, for use in the preparation of reports to the Board related to slot machines.

(iv) Any transaction or financial event which occurs in the operation of a slot machine is recorded adequately to permit proper and timely reporting of gross terminal revenue and the calculation thereof and of fees and taxes and to maintain accountability for assets.

(v) Access to assets is permitted only in accordance with management's general and specific authorization, as approved by the Board.

(vi) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.

(3) Procedures and controls for ensuring, in accordance with section 1323 of the act (relating to the central control computer system), that each slot machine directly provides or communicates required activities and financial details to the central control computer system as set by the Board.

(4) Procedures and controls for ensuring that all functions, duties and responsibilities are appropriately segregated and performed in accordance with sound financial practices by competent, qualified personnel.

(5) Procedures and controls for ensuring, through the use of a surveillance and security department, that the licensed facility is secure during normal operations and during any emergencies due to malfunctioning equipment, loss of power, natural disaster or any other cause.

(e) The Board, in consultation with the Department, will review each initial submission made under subsection (a) and determine whether it conforms to the requirements of the act and this part and provides adequate and effective controls for the operation of slot machines at a licensed facility. A slot machine licensee may not commence gaming operations until its system of internal controls is approved by the Board.

(f) A slot machine licensee may, upon submission to the Board and the Department, in the manner the Board requires, of a narrative description of a change or amendment in its system of internal controls and the two original signed certifications described in subsection (b) implement the change on the 30th calendar day following the filing of a complete submission. Submissions received by the Board after 2 p.m. will be considered to have been submitted on the next business day.

(g) If during the 30-day review period in subsection (f), the Board's Bureau of Corporate Compliance and Internal Controls preliminarily determines that a procedure in the submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, that Bureau, by written notice to the slot machine licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30 calendar day review period in subsection (f) is tolled and that any internal controls at issue not be implemented until approved by the Board.

(h) Examples of submissions that may, under appropriate circumstances, be determined to contain a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue include, without limitation, the following:

(1) Submissions that fail to provide an adequate audit trail that would permit the review of gaming operations or the reconstruction of gross terminal revenue transactions.

(2) Submissions that fail to provide for the segregation of incompatible functions so that no employee is in a

position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Submissions that do not include forms or other materials referenced in the submission or required by the act or this part that are essential elements of the internal controls and prevent a meaningful review of the submission.

(4) Submissions that would implement operations or accounting procedures not yet authorized by the act or this part.

(5) Submissions that are dependent upon the use of equipment or related devices or software not yet approved by the Board, unless the submissions are required as part of an authorized test of the equipment or related device or software.

(i) Notwithstanding anything contained herein to the contrary, any change or amendment to submissions with regard to organization charts pursuant to subsection (a)(2) and the descriptions of the duties and responsibilities of each position shown on the organization charts pursuant to subsection (a)(3) (collectively referred to as the "jobs compendium") may be implemented by the slot machine licensee without the prior approval of the Board provided that the change or amendment is submitted to the Board by the end of the business day on the date of implementation, which filing shall include:

(1) A detailed cover letter listing by department each position title to which modification has been made.

(2) A brief summary of each change.

(3) Instructions regarding any changes in page numbers and the date of implementation.

(j) The submission of changes or amendments to a jobs compendium shall be accompanied by the attestations in subsection (f) only when they involve changes or amendments to license categories, job codes, job functions, reporting lines (including new and deleted positions) or job titles in the information technology, internal audit, security, slot accounting, slot operations or surveillance departments.

(k) If in the course of its review of a change or amendment to a jobs compendium the Board's Bureau of Licensing preliminarily determines that the change or amendment contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, that Bureau, by written notice to the slot machine licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Advise the slot machine licensee as to whether the implementation of the change or amendment must be suspended pending further evaluation by the Board.

(l) A current version of the internal controls of a slot machine licensee shall be maintained in or made available through secure computer access to, the accounting and surveillance departments of the slot machine licensee and the Board's offices within the licensed facility. The slot machine licensee shall also maintain a copy of any superseded internal control submission, along with the two certifications required to be submitted with respect thereto, for a minimum of 5 years. Each page of the internal controls must indicate, as applicable, the date on which it was submitted to the Board and the date on which it was approved.

#### § 465.4. Forms, records and documents.

(a) Information required by this part to be placed on any form, record or document and in stored data shall be recorded on the form, record or document and in stored data in ink or other permanent form.

(b) Whenever duplicate or triplicate copies are required of a form, record or document, the original, duplicate and triplicate copies must be color coded and have the name of the recipient originally receiving a copy preprinted on the bottom of that copy so as to differentiate one from the other.

(c) Whenever under this part, forms or serial numbers are required to be accounted for and an exception is noted, the exceptions shall be reported immediately in writing to the slot machine licensee's internal audit department and the Board's Bureau of Investigations and Enforcement.

(d) Unless otherwise specified in this part, the forms, records, documents and stored data required to be prepared, maintained and controlled by this chapter must:

(1) Be in a form prescribed or authorized by the Board.

(2) Have the name of the establishment and the title of the form, record, document and, for stored data, the date imprinted or preprinted thereon.

(e) Nothing in this chapter shall be construed as prohibiting or discouraging a slot machine licensee from preparing more copies of any form, record or document than that prescribed by this chapter.

#### § 465.5. Standard financial and statistical reports.

(a) Each slot machine licensee shall, upon the request of the Board, file monthly, quarterly and annual reports of financial and statistical data. The data may be used by the Board to evaluate the financial position and operating performance of individual licensees and compile information regarding the performance and trends of the industry in this Commonwealth.

(b) The Board may periodically prescribe standard reporting forms and corresponding filing instructions to be used by each licensee in filing the monthly, quarterly and annual reports referenced in subsection (a).

(c) In the event of a license termination, change in business entity or material change in ownership, the Board may, in its discretion, require the filing of financial and statistical reports it deems necessary, as of the date of occurrence of the event. The request will be made in writing to the slot machine licensee.

(d) Any adjustments resulting from the annual audit required in § 465.6 (relating to annual audit and other reports) shall be recorded in the accounting records of the year to which the adjustment relates. If the adjustments were not reflected in any annual report required in this section and the Board concludes that the adjustments are significant, a revised annual report may be required from the slot machine licensee. The revised filing shall be due within 30 calendar days after written notification to the slot machine licensee, unless an extension is requested in writing by the slot machine licensee prior to the required filing date and an extension is granted by the Board.

#### § 465.6. Annual audit and other reports.

(a) Each slot machine licensee shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in this Commonwealth.

(b) The annual financial statements shall be prepared on a comparative basis for the current and prior calendar year, and shall present financial position and results of operations in conformity with generally accepted accounting principles.

(c) The financial statements required by this section must include a footnote reconciling and explaining any differences between the financial statements included in any annual report filed in conformity with § 465.5 (relating to standard financial and statistical reports) and the audited financial statements. The footnote must, at a minimum, disclose the effect of the adjustments on:

- (1) Revenue from the operation of slot machines.
- (2) Slot machine revenue net of expenses for complimentary services or items.
- (3) Total costs and expenses.
- (4) Income before extraordinary items.
- (5) Net income.

(d) Two copies of the audited financial statements, together with the management letter or report prepared thereon by the slot machine licensee's independent certified public accountant, shall be filed with the Board not later than 60 days after the end of the licensee's fiscal year.

(e) Each slot machine licensee shall require the independent certified public accountant auditing its financial statements to render the following additional reports:

(1) A report on material weaknesses in the system of internal controls. Whenever in the opinion of the independent certified public accountant there exists no material weaknesses in the system of internal controls, the report must so state.

(2) A report expressing the opinion of the independent certified public accountant that based on his examination of the financial statements the slot machine licensee has followed, in all material respects during the period covered by his examination, the system of internal controls approved by the Board under § 465.3 (relating to internal control systems and audit protocols). Whenever, in the opinion of the independent certified public accountant, the slot machine licensee has materially deviated from the system of internal controls approved by the Board or the accounts, records and control procedures examined are not maintained by the slot machine licensee in accordance with the act and this part, the report must enumerate the deviations and the areas of the system no longer considered effective, and make specific recommendations regarding improvements in the system of internal controls.

(3) The slot machine licensee shall prepare a written response to the independent certified public accountant's reports required by paragraphs (1) and (2). The response must indicate, in detail, the corrective actions taken. The response shall be submitted to the Board within 90 days of receipt of the independent certified public accountant's reports.

(f) The slot machine licensee shall file two copies of the reports required by subsection (e), and two copies of any other reports on internal controls, administrative controls or other matters relative to the slot machine licensee's accounting or operating procedures rendered by the licensee's independent certified public accountant by April 30 following the end of the calendar year or upon receipt, whichever is earlier.

(g) If the slot machine licensee is publicly held, the slot machine licensee shall submit to the Board's Bureau of Corporate Compliance and Internal Controls three copies of any report, including, but not limited to, Forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and all registration statements, required to be filed by the slot machine licensee with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, concurrent with the time of filing with the commission or agency.

(h) If an independent certified public accountant who was previously engaged as the principal accountant to audit the slot machine licensee's financial statements resigns or is dismissed as the slot machine licensee's principal accountant, or another independent certified public accountant is engaged as principal accountant, the slot machine licensee shall file a report with the Board's Bureau of Corporate Compliance and Internal Controls within 10 days following the end of the month in which the event occurs, setting forth the following:

(1) The date of the resignation, dismissal or engagement, as appropriate.

(2) Whether in connection with the audits of the 2 most recent years preceding the resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, including a description of each disagreement. The disagreements to be reported include those resolved and those not resolved.

(3) Whether the principal accountant's report on the financial statements for any of the past 2 years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of the adverse opinion, disclaimer of opinion, or qualification shall be described.

(4) The slot machine licensee shall request the former accountant to furnish to the slot machine licensee a letter addressed to the Board stating whether the accountant agrees with the statements made by the slot machine licensee in response to paragraph (2). The letter shall be filed with the Board as an exhibit to the report required by paragraph (2).

#### **§ 465.7. Retention, storage and destruction of books, records and documents.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility, including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained by this part. This definition applies without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media or encoded disk.

(b) Original books, records and documents pertaining to the operation of a licensed facility shall be:

(1) Prepared and maintained in a complete, accurate and legible form.

(2) Retained on the site of the licensed facility or at another secure location approved in accordance with this section.

(3) Held immediately available for inspection by agents of the Board, the Department and the Pennsylvania State Police during all hours of operation.

(4) Organized and indexed in a manner to provide immediate accessibility to agents of the Board, the Department and the Pennsylvania State Police.

(5) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, upon the written request of a slot machine licensee and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a slot machine licensee for a minimum of 5 years with the following exceptions:

(1) Documentation with regard to gaming vouchers reported to the Board as possibly counterfeit, altered or tampered with should be retained for a minimum of 2 years.

(2) Coupons entitling patrons to cash or slot machine credits, whether unused, voided or redeemed shall be retained for a minimum of 6 months.

(3) Voided gaming vouchers and gaming vouchers redeemed at a location other than a slot machine shall be retained for a minimum of 6 months.

(4) Gaming vouchers redeemed at a slot machine shall be retained for a minimum of 7 days.

(d) A slot machine licensee may request, in writing, that the Board approve a facility outside the licensed facility to store original books, records and documents. The request must include the following:

(1) A detailed description of the proposed offsite facility, including security and fire safety systems.

(2) The procedures under which the Board, the Department and the Pennsylvania State Police will be able to gain access to the original books, records and documents retained at the offsite facility.

(e) A slot machine licensee may request, in writing, that the Board approve a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. The request must include representations regarding:

(1) The processing, preservation and maintenance methods which will be employed to insure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to insure that microfilm, microfiche or other media when displayed on a reader/viewer or reproduced on paper exhibits a high degree of legibility and readability.

(3) The availability of a reader-printer for use by the Board, the Department and the Pennsylvania State Police at the licensed facility or other site approved by the Board and the readiness with which the books, records or documents being stored on microfilm, microfiche or other media can be located, read and reproduced.

(4) The availability of a detailed index of all microfilmed, microfiched or other stored data maintained and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving a slot machine licensee from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, State or local governmental body, authority or agency.

#### § 465.8. Complimentary services or items.

(a) Each slot machine licensee shall develop, maintain and apply adequate internal controls over the authorization and issuance of complimentary services and items as that term is defined in § 439.1 (relating to definitions). The internal controls must include, without limitation, the following:

(1) The procedures by which the slot machine licensee delegates to its employees the authority to approve the issuance of complimentary services and items.

(2) The procedures by which conditions or limits, if any, which may apply to the authority are established and modified, including limits based on relationships between the authorizer and recipient.

(3) The provisions employed to insure the effective auditing of complementaries.

(b) Nothing herein shall be deemed to require a slot machine licensee to obtain Board approval of the internal controls required under subsection (a).

(c) Complimentary services or items shall be recorded as follows:

(1) A complimentary service or item provided directly to a patron in the normal course of a slot machine licensee's business shall be recorded at an amount based upon the full retail price normally charged for the service or item by the licensee.

(2) A complimentary service or item not offered for sale to a patron in the normal course of a slot machine licensee's business but provided directly by the slot machine licensee shall be recorded at an amount based upon the actual cost to the slot machine licensee of providing the service or item.

(3) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party not affiliated with the slot machine licensee shall be recorded at an amount based upon the actual cost to the licensee of having the third party provide the service or item.

(4) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party who is affiliated with the licensee shall be recorded by the licensee in accordance with this section as if the affiliated third party were the licensee.

(d) If a slot machine licensee provides complimentary cash and noncash gifts recorded at a value of \$10,000 or more to a person or his guests within any 5 day period, the slot machine licensee shall record the reason why the gifts were provided and maintain the records available for inspection by the Board and the Pennsylvania State Police. When the reason complimentary cash and noncash gifts were provided involves the person's player rating, that rating shall be based upon the actual amount and frequency of play by the person as recorded in the slot machine licensee's player rating system.

(e) Each slot machine licensee shall submit to the Board a report listing each person who, under subsection (d), received \$10,000 or more in complimentary cash and noncash gifts within any 5 day period ending during the preceding month. The report shall be filed by the last day of the month following the month in which the complimentary cash and noncash gifts were issued and include the total amount of complimentary cash or noncash gifts

provided to each person broken down into categories for food and beverage, hotel accommodations, travel and other services.

**§ 465.9. Licensed facility.**

(a) The licensed facility shall be equipped with a surveillance system configured and approved in accordance with §§ 465.10 and 465.11 (relating to the surveillance system; surveillance department control; surveillance department restrictions; and surveillance system recording formats). Except as otherwise provided in subsection (d)(1), the surveillance system shall be under the exclusive control of the surveillance department.

(b) Restricted areas within the licensed facility shall be designated and approved by the Board for the repair and storage of slot machines. Any area approved and utilized within the licensed facility for slot machine repair shall be covered by the approved surveillance system.

(c) Each emergency exit from the gaming floor shall be equipped with an audible alarm system, approved by the Board, that produces a loud, distinguishable warning sound, discernable in the vicinity of the exit, whenever the emergency door is opened. The alarm system shall be designed to require deactivation and reset by means of a key. The key is to be maintained by the security department.

(d) Each slot machine licensee shall, in accordance with section 1207(13) of the act (relating to regulatory authority of Board), provide for and maintain onsite facilities for use by the Board, the Pennsylvania State Police and other appropriate persons for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board and the Pennsylvania State Police at the facility including the following:

(1) A surveillance system monitoring room, located within the onsite facilities, with full camera control capability for the reception of transmissions generated by each camera approved for use as part of the slot machine licensee's surveillance system. Full camera control capability must include the ability to override the control capability of the slot machine licensee's surveillance department.

(2) A facility for the detention of individuals detained or taken into custody by the slot machine licensee's security department, the Board, or the Pennsylvania State Police. The detention facility shall be located within the onsite facilities and include a bench or other apparatus which is permanently affixed to the wall to which the person in custody can be handcuffed with as little discomfort to that person as is reasonably possible under the circumstances.

(3) A fingerprinting facility for use by the Pennsylvania State Police, located in conformance with and outfitted in compliance with, specifications to be determined by the Pennsylvania State Police.

(4) Adequate computer, telephone and copying capability to meet the Board's and the Pennsylvania State Police's continuing data processing and related needs.

(5) Direct telephone connections between the onsite facilities and the slot machine licensee's surveillance monitoring room and its security department podium on the gaming floor.

(6) Computer terminals facilitating read only access to any computerized slot monitoring system or casino man-

agement system, or both, used by the slot machine licensee in its gaming operations.

(e) Each slot machine licensee shall provide other accommodations within the licensed facility which the Board requests, to perform periodic audit, compliance or investigative reviews at the licensed facility.

(f) Each slot machine licensee shall provide adequate parking spaces reasonably proximate to the onsite facilities, clearly marked for Board or Pennsylvania State Police, or both, use only.

(g) Each slot machine licensee shall equip its licensed facility with the communication systems necessary to insure an acceptable level of communication between the licensed facility and the Board, the Pennsylvania State Police, the applicable local law enforcement agency and any relevant emergency first responders.

**§ 465.10. Surveillance system; surveillance department control; surveillance department restrictions.**

(a) The Board, through its Bureau of Investigation and Enforcement, will review surveillance system specifications, inclusive of the camera configuration and any changes or modifications to the system specifications, to determine whether the system provides the adequate and effective surveillance of activities inside and outside the licensed facility mandated by section 1207(11) of the act (relating to regulatory authority of Board). A slot machine licensee may not commence gaming operations until its surveillance system is approved by the Board.

(b) Each slot machine licensee shall at all times provide the Board and the Pennsylvania State Police, upon request, with timely access to its surveillance system and its transmissions. Each member of its surveillance department shall timely comply with any request made by the Board or the Pennsylvania State Police to:

(1) Use, as necessary, any surveillance monitoring room in the licensed facility.

(2) Display on the monitors in the monitoring room any event capable of being monitored by the surveillance system.

(3) Make a video and, if applicable, audio recording of, and take a still photograph of, any event capable of being monitored by the surveillance system.

(i) The slot machine licensee shall preserve and store each recording or photograph in accordance with the directions of the Board or the Pennsylvania State Police.

(ii) The Board and the Pennsylvania State Police shall have unfettered access to each recording or photograph and, upon the request of either, the slot machine licensee and its personnel shall be denied access thereto.

(c) The surveillance system required in this section must include, but need not be limited to, the following:

(1) Light sensitive cameras with lenses of sufficient magnification to allow the operator to read information on a slot machine reel strip and credit meter and equipped with 360° pan, tilt and zoom capabilities, without camera stops, to effectively and clandestinely monitor in detail and from various vantage points, the following:

(i) The gaming conducted at the slot machines in the licensed facility.

(ii) The operations conducted at and in the cashiers' cage, any satellite cage, or slot booth and any office ancillary thereto.

(iii) The operations conducted at automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines.

(iv) The count processes conducted in the count room.

(v) The movement of cash and slot cash storage boxes within the licensed facility.

(vi) The entrances and exits to the licensed facility, the gaming floor and the count room.

(vii) Other areas the Board designates.

(2) Video recording equipment which, at a minimum, must:

(i) Permit the preservation and viewing of a clear copy of the transmission produced by any camera connected to the surveillance system.

(ii) Be capable of superimposing the time and date of the transmission on each recording made by the video recording equipment.

(iii) Enable the operator to identify and locate, through the use of a meter, counter or other device or method, a particular event which was recorded.

(3) Recording media which shall be replaced immediately upon the manifestation of any significant degradation in the quality of the images or sound, if applicable, recorded thereon. If videotape is utilized, it shall be used for no more than 1 year.

(4) Audio capability in the count room.

(5) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in paragraph (1) and elsewhere in the licensed facility as required by the Board. Each monitoring room shall be equipped with or serviced by:

(i) A communication system capable of monitoring all of the licensed facility's security department activities.

(ii) Computer terminals which facilitate read only access to any computerized slot monitoring system or casino management system, or both, used by the slot machine licensee in its gaming operation.

(iii) Connections to all casino alarm systems. The systems must provide a visible, audible or combination signal. Any robbery, fire or emergency alarm must be perceptually distinguishable from all non-emergency alarms in a manner approved by the Board.

(iv) An updated photo library, consisting of photographs that are no more than 4 years old, of all current employees of the slot machine licensee, which photo library shall be available to the Board and the State Police.

(v) A readily available current operational blueprint of the gaming floor and all areas of the licensed facility subject to camera coverage.

(6) An emergency power system, tested at 6 month intervals, that can be used to operate the surveillance system in the event of a power failure.

(7) A preventive maintenance program, implemented by technicians assigned to the surveillance department, which insures that the entire surveillance system is maintained in proper working order and that the transparent covers over the cameras are cleaned in accordance with a routine maintenance schedule.

(d) Areas subject to camera coverage under this section must contain continuous lighting that is of sufficient quality to produce clear video recordings and still picture reproductions.

(e) In addition to any other requirements imposed by this section, a slot machine licensee's surveillance system must be required to continuously record, during the appropriate times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

(1) Each transaction conducted at a cashiering location, whether or not that cashiering location services patrons. Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each person transacting business at each cashiering location from the direction of the cashier.

(2) The main bank, vault, satellite cage, slot booth and other areas as required by the Board.

(3) The collection of slot cash storage boxes.

(4) Any armored car collection or delivery.

(5) Automated bill breaker, voucher redemption, coupon redemption and jackpot payout machines whenever the machines are opened for replenishment or other servicing.

(f) Each slot machine licensee shall maintain a surveillance log of all surveillance activities in the monitoring room. The log shall be maintained by monitoring room personnel in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format the Board approves. The log shall be stored and retained in accordance with § 465.7 (relating to retention, storage and destruction of books, records and documents). At a minimum, the following information shall be recorded in a surveillance log:

(1) The date and time each surveillance event commenced.

(2) The name and Board issued license credential number of each person who initiates, performs or supervises the surveillance.

(3) The reason for the surveillance, including the name, if known, alias or description of each individual being monitored, and a brief description of the activity in which the person being monitored is engaged.

(4) The time at which each video or audio recording is commenced and terminated, if different than when surveillance commenced or terminated.

(5) The time at which each suspected criminal offense is observed, along with a notation of the reading on the meter, counter or device specified in subsection (c)(2)(iii) that identifies the point on the video recording at which the offense was recorded.

(6) The time each surveillance event terminated.

(7) A summary of the results of the surveillance.

(8) A complete description of the time, date and, if known, the cause of any equipment or camera malfunctions, and the time at which the security department was apprised of the malfunction in accordance with the casino licensee's internal controls submitted under § 465.3(b)(5) (relating to internal control systems and audit protocols).

(g) In accordance with § 465.3(b)(5), each slot machine licensee shall have a contingency plan, to be utilized whenever there is an equipment failure that affects the slot machine licensee's monitoring room or any other aspect of its surveillance system or operations.

(h) The Board's Bureau of Investigation and Enforcement shall be notified immediately, in a manner as the Board will determine, of any incident of equipment failure as noted in subsection (f) including the time and cause of the malfunction, if known, the time the slot machine licensee's security department was notified of the malfunction and the nature of any communications with the security department relating to the malfunction.

(i) The Board's Bureau of Investigation and Enforcement shall be notified of the following, in a manner the Board determines and approves in advance:

- (1) Any relocation of an approved camera.
- (2) Any change in an approved camera's specifications.
- (3) Any change in lighting for areas required to be subject to camera coverage.
- (4) Any addition or change to the surveillance system.

(j) Surveillance recordings shall be retained for a minimum of 7 days and be made available for review upon request by the Board or the Pennsylvania State Police. In addition, any recording determined by Board agents or the Pennsylvania State Police as being of potential evidentiary value shall be stored under Board or Pennsylvania State Police directives or turned over to Board agents or the Pennsylvania State Police upon request. At the request and expense of the slot machine licensee, a copy of any recording turned over to the Board or the Pennsylvania State Police shall be made available to the slot machine licensee.

(k) Each surveillance employee assigned to the monitoring room shall work from the employee's own monitoring station.

(l) In accordance with § 465.3(a)(5), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number of slot machines and must at all times provide for adequate and effective surveillance of activities inside and outside the licensed facility.

(m) A slot machine licensee's surveillance department employees shall be independent of all other departments.

(n) A present or former surveillance department employee may not accept employment as a key employee or gaming employee with the same slot machine licensee for whom the employee was previously employed as a surveillance department employee unless 1 year has passed since the former surveillance department employee worked in the surveillance department. The Board may, upon the filing of a written petition, waive this restriction and permit the employment of a present or former surveillance department employee in a particular position upon consideration of the following factors:

- (1) Whether the former surveillance department employee will be employed in a department or area of operation that the surveillance department monitors.
- (2) Whether the surveillance and security systems of the slot machine licensee will be jeopardized or compromised by the employment of the former surveillance department employee in the particular position.
- (3) Whether the former surveillance department employee's knowledge of the procedures of the surveillance department would facilitate the commission by any person of irregularities or illegal acts or the concealment of any actions or errors.

(o) Entrances to the surveillance monitoring rooms may not be visible from the gaming floor. Any person entering a surveillance monitoring room who is not an employee of the surveillance department shall sign a monitoring room entry log upon entering the monitoring room. The monitoring room entry log shall be:

- (1) Maintained in the monitoring room by monitoring room personnel and retained in accordance with § 465.7 (relating to record retention).
- (2) Maintained in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format as the Board approves.
- (3) Signed by each person entering the monitoring room, with each entry containing the following:
  - (i) The date and time of entering the monitoring room.
  - (ii) The entering person's name and his department or affiliation.
  - (iii) The reason for entering the monitoring room.
  - (iv) The name of the person authorizing the person's entry into the monitoring room.
  - (v) The date and time of exiting the monitoring room.
- (4) Made available for inspection by the Board and Pennsylvania State Police.

**§ 465.11. Surveillance system recording formats.**

(a) A slot machine licensee may utilize either an analog or digital video recording format provided the format selected incorporates current technology with regard to video cameras, monitors, recorders, video printers, switches, selectors and other ancillary equipment and provides for adequate and effective surveillance of activities inside and outside the licensed facility.

(b) Any digital video recording system utilized by a slot machine licensee must:

- (1) Be capable of recording, and thereafter being viewed, at a minimum of 30 frames or images per second, full screen, in real time.
- (2) Have a visual resolution of 640 × 480 pixels or greater unless the Board expressly determines that an alternative visual resolution can achieve the clarity required to meet the purposes of this section.
- (3) Be capable of retaining for at least 7 days all images obtained from all approved video cameras.
- (4) Have a failure notification system that provides an audible, as well as a visual notification, of any failure in the surveillance system or the digital video recording media storage system.
- (5) Have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system.
- (6) Have no more than eight of the cameras utilized to satisfy the coverage requirements in § 465.10(c)(1) (relating to surveillance system; surveillance department control; surveillance department restrictions), be in the first stage of concentration, unless the slot machine licensee has a fault tolerant or redundant system so there is no loss of data in the event of a failure of a single first stage concentrator.
- (c) Remote access to a digital surveillance system from any location outside the surveillance monitoring room may not be permitted without the approval of the Board.
- (d) Digital video disks or other storage media produced from the digital video recording system must contain the



date and time of recording superimposed thereon, clearly identify the type of media player and software prerequisite to viewing the digital images and identify the video verification encryption code or watermark.

(e) Details with regard to the digital video recording system's video verification encryption code or watermark shall be provided to the Board, at no cost to the Board, prior to the inspection and approval of the system.

(f) The slot machine licensee's contingency plan required under § 465.10(f) must expressly provide that any failure in a digital video recording media storage system must be repaired or replaced within 8 hours of the failure.

(g) The Board may, in its discretion, waive one or more of these requirements upon a determination that the nonconforming surveillance system nonetheless provides for adequate and effective surveillance of activities inside and outside the licensed facility.

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