

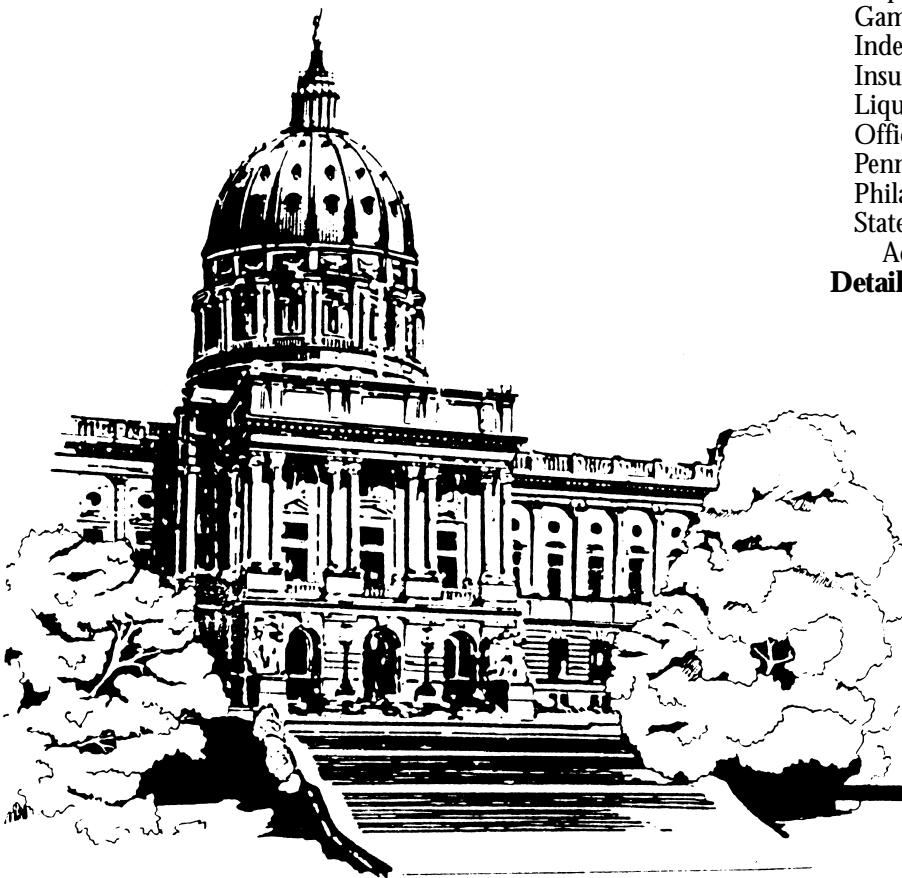
PENNSYLVANIA BULLETIN

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The Courts
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Department of Revenue
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Administrators

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No. 376, March 2006

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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 2006.

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THE GOVERNOR

GOVERNOR'S OFFICE

Notice of Veto

March 15, 2006

*To the Honorable House of Representatives
of the Commonwealth of Pennsylvania*

I am returning House Bill 1318 without my approval.

Elements of this bill will cause significant interference with the fundamental right to vote and violate the U. S. Constitution as well as Article I, Section 5 of the Pennsylvania Constitution, which states: "Elections shall be free and equal; and no power *civil or military*, shall at any time interfere to prevent the free exercise of the right of suffrage." I, therefore, must veto this legislation.

At a time of growing apathy and cynicism among our citizens regarding elections, I believe that the government should be doing everything it can to *encourage* greater participation in the electoral process, not *discouraging* participation by placing additional limitations on the right to cast a vote. Moreover, without compelling evidence of a problem with the current system of voter identification in Pennsylvania, I see no reason to enact laws that will result in voter confusion and disenfranchise legitimately registered voters. Beyond the basic constitutional threshold, House Bill 1318 unnecessarily requires every voter to provide identification before casting a vote in every primary and general election.

Some proponents of the bill claim that no one is actually being denied the right to vote—that voters are merely being asked to comply with a simple requirement meant to reduce the instances of voter fraud. They point to the various acceptable forms of identification that are listed in the bill as support for their defense that the provision is not an attempt to suppress voter turnout. Regardless of how long the list of acceptable forms of identification is, there are people who may not be in a position to produce any of them; people who live in a household where the lease and utility bills are in someone else's name, people in nursing homes, and those who may have been temporarily displaced from their residences, to name just a few. As federal judge Harold Murphy very eloquently stated in a recent case discussing a similar bill enacted in Georgia, "For those citizens, the character and magnitude of their injury—the loss of the right to vote—is undeniably demoralizing and extreme, as those citizens are likely to have no other realistic or effective means of protecting their rights."

Others have suggested that this voter identification provision is needed to reduce the instances of voter fraud in Pennsylvania. However, I have not seen any evidence of widespread voter impersonation in Pennsylvania that would justify imposing this additional burden on voters. Elizabeth Milner, the Chair of the Pennsylvania League of Women Voters, agrees. In her letter urging a veto, Ms. Milner says, "*Show us the fraud*. Proponents of House Bill 1318 have failed to document a single instance in which the outcome of a Pennsylvania election was affected by individuals posing as registered voters. Indeed, the National Commission on Election Reform found that there is *no evidence* that the fraudulent acts the voter ID provision seeks to address exists anywhere in the United States."

The Pennsylvania method of signing voters in and comparing their signatures to what is on file with the County Election Board has been in effect for more than 70 years. It is a tried and proven method of ensuring that a bona fide voter has appeared at the polling place to vote. In fact, the current voter identification system works so well that neither the poll workers, who manage our Election Day operations, nor our County Commissioners, to whom we entrust the oversight of the election process, believe that it needs to be changed.

This bill would also slow down the voting process and create longer waiting periods before citizens could cast their votes. During the 2004 election, we all saw many voters leave their polling places without casting votes because of the long lines they faced. As the Pennsylvania Chapter of the AARP said in their letter to me urging a veto: "Equally troubling is the negative impact this law would have on the voting process. Requiring voters to produce identification cards will significantly increase the time needed for overworked poll workers to process each voter. The end result will be longer lines and increased wait times to vote, which may serve to disenfranchise voters and lower voter turnout."

In making the decision to veto this bill, I reviewed the many letters I have received from well-respected organizations across the commonwealth. The spectrum of those who urge this veto—from the League of Women Voters to the Pennsylvania Council of Churches, from the AARP to the NAACP, from the Congreso de Latinos Unidos to VotePA and Pennsylvania Acorn—is evidence of the public concern regarding this unnecessarily burdensome act being imposed by this legislation.

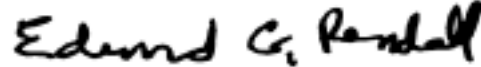
While the voter identification provision is at the heart of the reason that I am vetoing this bill, there are other provisions that are also seriously problematic.

This legislation requires, by July of this year, the closing of hundreds of locations across the state currently serving as polling places, some of which have been the standard polling place for thousands of voters for decades. Again, without any evidence of a real problem, this legislation bans the use of certain types of buildings as polling locations. Of course, I believe that the best place to cast a vote is in a building generally accessible to the public. I also know that our County Commissioners do the best they can to find locations in which voters can feel confident that their vote is cast without undue influence. I urge that any restriction upon the type of locations used for polling places occur only after a competent study has been conducted of the existing polling places and of the options available for alternative locations, if such options are necessary. Moreover, if any future action is taken to restrict locations, it is imperative that such action be defined in consultation with our County Boards of Election so that there is certainty that the timeframes for compliance can be achieved without any negative impact upon those seeking to exercise their franchise.

While this bill offers limited improvements to the voting methods for overseas voters, I must point out that this bill does not afford any of the improvements to Pennsylvanians in the military who may be deployed within the borders of the United States. Moreover, the improvements for all overseas and military voters that will ensure their ability to cast an absentee vote are not included in this legislation. Among those key elements not included are: permitting computer electronic transmissions for absentee ballot applications; earlier filing deadlines for independent candidates so that ballots can be printed earlier and sent overseas in time for the voter to return the ballot before the deadline; and clear deadlines for county absentee ballot preparation so that every appropriately cast vote can be counted. I note that on December 12, 2005, the House of Representatives passed House Bill 544, which I proposed last Memorial Day and which includes all of these protections for our military and overseas voters. If we are serious about protecting the rights of our military and overseas citizens, the Senate should pass this bill immediately so that it can become law.

House Bill 1318 amends the Pennsylvania Election Code in ways that impose new requirements on voters and counties—some of which I believe violate the U. S. and Pennsylvania Constitutions. Other provisions require much more debate, understanding, and most certainly refinement before they can be enacted. Finally, this bill does not provide for the critical elements necessary to ensure that our overseas and military voters have a chance to vote—and to have their votes counted—in every election.

For all these reasons, I must withhold my signature from House Bill 1318.



Governor

[Pa.B. Doc. No. 06-475. Filed for public inspection March 24, 2006, 9:00 a.m.]

Notice of Veto

March 15, 2006

*To the Honorable House of Representatives
of the Commonwealth of Pennsylvania*

I am returning House Bill 1467 without my approval.

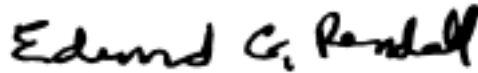
I do so because the Attorney General has determined that, as written, this bill does not comport with the Constitution of the Commonwealth of Pennsylvania. The Office of General Counsel concurs in his opinion, and I believe his opinion is based on sound interpretation and reasoning. I have attached General Corbett's opinion to this message.

I also return this bill because I have seen no evidence, in Pennsylvania, of a present problem with homebuilder liability insurance costs that would require a bill so far-reaching in scope and effect. The proponents of this bill suggest that it would afford both contractors and consumers equal opportunity to resolve their disputes without having to resort to expensive litigation. In fact, I believe this bill has the potential to cause both parties to become more involved in litigation, requiring them to pay unnecessary legal bills and, ultimately, driving up the cost of builders' insurance and new homes as a result.

While I am concerned about the Constitutional issues discussed in General Corbett's opinion, I also spent many hours studying the issues presented to me by those who proposed the bill, as well as those who asked me not to sign it. I listened carefully to the views of the representatives of the homebuilding industry who came to see me. I read their documents and examined the data they provided. I found that while some homebuilders, in fact, are facing increases in insurance liability costs, these increases are not a result of increased numbers of lawsuits—at least not in our state. Rather, they are a result of trends in the insurance and housing industry that are not addressed by House Bill 1467. Moreover, those who attempted to persuade me of the merits of this bill acknowledged that those homebuilders who have mandatory arbitration clauses in their contracts are afforded the same, if not greater, protections as those outlined in House Bill 1467. Thus, each homebuilder could include mandatory arbitration language in every contract and thereby accomplish as much, if not more, than this bill does.

I also considered the views of citizens who wrote to me on this issue, particularly those who are dealing with loss of equity due to the actions of the few unscrupulous contractors who prey on the unwary. In fact, in this review, I became convinced that a law to register contractors and homebuilders, accompanied by appropriate public reporting requirements, is critical to boosting the protection our citizens expect and deserve their government to provide. I also believe we need to legislatively establish a fund to compensate victims for damages caused by unscrupulous builders who do not have insurance and cannot, or will not, pay for the full value of the problems they create.

Pennsylvania's homebuilders bring pride to our state and, of course, their great craftsmanship and productivity have been key ingredients in our recent economic turnaround. I remain willing and open to addressing real barriers to progress faced by this great industry. Likewise, I took an oath to ensure that Pennsylvanians are protected from the vagaries of our laws and our processes when either serves narrow interests. Pennsylvanians would be well served by legislation that addresses many of the legitimate concerns raised by homebuilders, and that creates a balance by imposing a registration and reporting requirement, and a victim's compensation fund. I look forward to working with our fine homebuilders and consumer organizations to help such a law become a reality.



Governor

**OFFICE OF ATTORNEY GENERAL
General Corbett's Opinion**

Dear Governor Rendell:

You have requested our opinion pursuant to Section 204(a) of the Commonwealth Attorneys Act, 71 P. S. 732-204(a), regarding the constitutionality of House Bill No. 1467 (HB1467), which has been passed by both houses of the General Assembly and presented to you for approval or veto. Upon careful review, and after consulting with the Office of General Counsel, we have concluded that HB1467 violates Article III, Section 18 of the Pennsylvania Constitution, and that its constitutionality under Article V, Section 10(c) is suspect.

Article III, Section 18 authorizes the General Assembly to enact workers compensation laws, but provides otherwise, in relevant part, that "in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property"

HB1467 would establish a mandatory procedure for claiming damages or other relief against a contractor because of a construction defect in a dwelling. The claimant would be required to follow the procedure prior to filing a lawsuit and as a condition of recovering the full amount of damages to which the claimant would be entitled by law upon successful prosecution of such lawsuit. The bill provides in Section 4 that "[t]his act shall not apply to any claim for personal injury or death." The bill does not similarly exempt a claim for injury to property. The bill proceeds in Section 5(h) to limit the amount that a claimant may recover in a lawsuit seeking damages or other relief on account of a construction defect in a dwelling.

The limit set by Section 5(h) is conditional in that a claimant may recover the full amount of damages to which the claimant would be entitled by law if, in the mandatory procedure, the contractor offers the claimant either no monetary settlement or repair or a monetary settlement or repair that a judge or jury later determines to have been unreasonable. A conditional limitation, particularly one that hinges on so tenuous a thread as a claimant's prediction of how a judge or jury later will view the reasonableness of a contractor's offer, nonetheless is a limitation on the amount that a claimant may recover for an injury to property, which Article III, Section 18 prohibits.

In *Singer v. Sheppard*, 464 Pa. 387 (1975), the Pennsylvania Supreme Court rejected an Article III, Section 18 challenge to a provision of the No-Fault Motor Vehicle Insurance Act that eliminated recovery in tort for "non-economic damages" for a defined class of accident victims. *Id.* at 396-397. Observing that the Act, rather than restricting damages, created two classes of accident victims, each with different, but unlimited, compensable damages, the Court held that "[n]othing in Article III, Section 18

prevents the abolition or modification of a cause of action.” *Id.* at 397. HB1467 neither abolishes nor modifies any cause of action; thus *Singer* is inapposite.

The Supreme Court has had little occasion to discuss the purpose of Article III, Section 18. In *Singer*, the Court said that the original purpose of Section 18 was to invalidate a statute that had imposed absolute dollar maximums on the damages recoverable by a negligently injured plaintiff. *Id.* at 396. In *DeJesus v. Liberty Mutual Insurance Company*, 439 Pa. 180, 184 (1970), the Court said that “the purpose of Section 18, as amended, was to permit the General Assembly to enact a workmen’s compensation program, but to preclude the enactment of general legislation covering injuries other than those arising in the course of employment.” Both statements were context-specific; neither affords much assistance in our review of HB1467.

As Commonwealth Court has explained regarding the construction of provisions of the Pennsylvania Constitution by the courts:

“the fundamental rule of construction which guides us is that the Constitution’s language controls and must be interpreted in its popular sense, as understood by the people when they voted on its adoption.” Moreover, the general principles governing the construction of statutes apply also to the interpretation of constitutions. Thus, when the language of a constitutional provision “is clear upon its face, and when standing alone it is fairly susceptible of but one construction, that construction must be given it.”

Jubelirer v. Pennsylvania Department of State, 859 A.2d 874, 876 (Pa. Cmwlth. 2004), *aff’d*, 582 Pa. 364 (2005) (citations omitted).

We too, must be guided by the language of Article III, Section 18, interpreted in its popular sense, which admits of but one interpretation: that the General Assembly may not limit the amount that may be recovered for injuries resulting in death or for injuries to person or property. HB1467 limits the amount that may be recovered for injuries to property because of a construction defect in a dwelling; it is therefore, in our opinion, unconstitutional.

Article V, Section 10(c) provides that “[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts” The Supreme Court has interpreted this provision as conferring upon it exclusive power to prescribe the rules of practice and procedure in all actions in the Pennsylvania courts. *Payne v. Department of Corrections*, 582 Pa. 375 (2005).

HB1467 provides in Section 3(a) that “[i]n every action subject to this act, the claimant shall, no later than 75 days before initiating an action against a contractor, provide service of written notice of claim on the contractor” and in Section 3(b) that “[s]ervice of the notice of the claim shall be the *equivalent of service of a lawsuit* or demand for arbitration with respect to imposing on the contractor a legal obligation to pay as damages the cost of any repairs and/or monetary payment made to settle the claim.” (emphasis added).

By making service of a written notice of claim the equivalent of service of a lawsuit, HB1467 arguably makes the mandatory procedure that follows, the provisions of which are conspicuously procedural in tone and effect, *procedural* within the meaning of Article V, Section 10(c). *See, e.g.*: Section 3(c) (claimant to provide contractor with evidence); Section 5(a) (content of claimant’s notice of claim); Section 5(b) (contractor to serve written response to notice of claim within 15 days); Section 5(d) (contractor to provide written response, with discoverable evidence, within 15 days of inspection or testing); Section 5(e) (claimant barred from initiating action without in-person meeting with contractor). Having concluded that HB1467 violates Article III, Section 18, we needn’t render a definitive opinion as to whether it also violates Article V, Section 10(c). It is sufficient to observe that the constitutionality of HB1467 under Article V, Section 10(c) is suspect.

THE GOVERNOR

In summary, it is our opinion, and you are so advised, that HB1467 violates Article III, Section 18 of the Pennsylvania Constitution, and that its constitutionality under Article V, Section 10(c) is suspect. Since our opinion is rendered in aid of your decision to approve or veto HB1467, our advice is not binding.

Sincerely,

Tom Corbett,
Attorney General

[Pa.B. Doc. No. 06-476. Filed for public inspection March 24, 2006, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement Regarding the Client Security Fund

Notice is hereby given that the Pennsylvania Lawyers Fund for Client Security is considering recommending to the Supreme Court of Pennsylvania that the Court amend the Pennsylvania Rules of Disciplinary Enforcement, as set forth in Annex A. The proposed changes closely follow the Model Rules for Client Protection as adopted by the American Bar Association.

Interested persons are invited to submit written comments regarding the proposed amendments to the Executive Director, Pennsylvania Lawyers Fund for Client Security, 4909 Louise Drive, Suite 101, Mechanicsburg, PA 17055, on or before May 12, 2006.

By the Pennsylvania Lawyers Fund for Client Security
KATHRYN J. PEIFER, Esq.,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter E. CLIENT SECURITY FUND GENERAL PROVISIONS

Rule 501. Definitions.

The following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meaning given to them in this section:

* * * * *

“Covered [**attorney**] **Attorney.**” An individual defined in Rule 512 (relating to covered attorney).

“Claimant.” A person who makes application to the Board for a disbursement from the [**fund**] **Fund.**

“Dishonest [**conduct**] **Conduct.**” Conduct defined in Rule 513 (relating to dishonest conduct).

* * * * *

“Reimbursable [**losses**] **Losses.**” Losses defined in Rule 514 (relating to reimbursable losses).

Rule 502. Pennsylvania Lawyers Fund for Client Security.

(a) *General rule.* [**There is hereby established in the Administrative Office of Pennsylvania Courts] The Supreme Court shall establish a separate fund to be known as the “Pennsylvania Lawyers Fund for Client**

Security.” The [**fund**] **Fund** shall consist of such amounts as shall be transferred to the [**fund**] **Fund** pursuant to this subchapter. The [**fund**] **Fund** is created by contributions of the members of the Bar to aid in ameliorating the losses caused to clients and others by defalcating members of the Bar acting as attorney or fiduciary. No [**claimant**] **Claimant** or other person shall have any legal interest in such [**fund**] **Fund** or right to receive any portion thereof, except for discretionary disbursements therefrom directed by the Board or the Supreme Court, all payments from the [**fund**] **Fund** being a matter of grace and not of right. **There shall be no appeal from a decision of the Board. A decision of the Board to grant or deny payment to a Claimant shall not be subject to judicial review by any court.** The Supreme Court reserves the right to amend or repeal this subchapter.

(b) *Additional assessment.* Every attorney who is required to pay an annual assessment under [**Enforcement**] Rule 219 (relating to periodic assessment of attorneys; voluntary inactive status) shall pay an additional annual fee of \$45.00 for [**the use of the fund**] **use by the Fund.** Such additional annual assessment shall be added to, and collected with and in the same manner as, the basic annual assessment, but the statement mailed by the Administrative Office pursuant to [**Enforcement**] Rule 219 shall separately identify the additional assessment imposed pursuant to this subdivision. All amounts received pursuant to this subdivision shall be credited to the [**fund**] **Fund.**

(c) *Transfers to fund.* The Administrative Office shall transfer to the [**fund**] **Fund** all bequests and gifts hereafter made for [**the use of the fund**] **use by the Fund. All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.**

(d) *Audit.* The Board shall annually obtain an independent audit of the [**fund**] **Fund** by a certified public accountant, and shall file a copy of such audit with the Supreme Court.

Rule 503. Pennsylvania Lawyers Fund for Client Security Board.

(a) *General rule.* The Supreme Court shall appoint a board to be known as the “Pennsylvania Lawyers Fund for Client Security Board” which shall consist of five members of the bar of this Commonwealth and two non-lawyer public members. One of the members shall be designated by the Court as Chair and another as Vice-Chair. **A majority of the members of the Board shall designate a member of the Board to act as Treasurer.**

* * * * *

(c) *Vacancies.* **Vacancies shall be filled by appointment by the Supreme Court for any unexpired terms.**

(d) *Powers.* The Board shall have the power and duty:

(1) To appoint hearing committees. Each committee shall consist of three members who are members of the bar of the Supreme Court or who are current members of the Board [**of the Pennsylvania Lawyers Fund for Client Security**].

(2) To investigate applications by [**claimants**] **Claimants** for disbursements from the [**fund**] **Fund**.

(3) To authorize disbursements from the [**fund**] **Fund** and to fix the amount thereof.

(4) To determine in January of each year, and to report to the Supreme Court, whether the [**fund**] **Fund** is of sufficient amount to pay adjudicated claims and other anticipated claims.

* * * * *

(7) With prior approval of the Supreme Court to give financial assistance to Pennsylvania non-profit corporations whose purpose it is to assist alcohol or drug impaired Pennsylvania lawyers and judges to regain their health and to restore them to professional competence, or to such other Supreme Court Committees or Boards as the Court may direct.

(8) To prudently invest, per the direction of the Investment Advisory Board or the Court, such portions of the funds as may not be needed currently to pay losses, and to maintain sufficient reserves as appropriate.

(9) To prosecute claims for restitution to which the Fund is entitled.

[(d) *Assistance and*] (e) *Compensation; expenses.* [The Administrative Office shall provide necessary clerical assistance to the Board and shall pay the cost thereof and the necessary travel and other expenses of members of the Board and hearing committees out of the fund.] Members of the Board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their duties.

(f) *Conflict of interest.*

(1) A member of the Board who has or has had a client-attorney relationship or a financial relationship with a Claimant or a Covered Attorney shall not participate in the investigation or adjudication of a claim involving that Claimant or Covered Attorney;

(2) A member of the Board who has or has had a relationship, other than as provided in subparagraph (1) above, with a Claimant or Covered Attorney, or who has other potential conflicts of interest, shall disclose such relationship to the Board and, if the Board deems appropriate, that Board member shall not participate in the investigation or adjudication of a claim involving that Claimant or Covered Attorney;

(3) Claims based upon alleged Dishonest Conduct by members of the Board shall be submitted directly to the Supreme Court. Claims based upon alleged dishonest conduct by Counsel to the Board or Staff shall be submitted directly to the Board for disposition.

(g) *Immunity.* Members of the Board, members of hearing committees, Counsel to the Board and Staff shall be immune from civil suit for any conduct in the course of their official duties. All communications to the Board, a hearing committee, Counsel to the Board or Staff relating to Dishonest Conduct by a Covered Attorney and all testimony given in a proceeding conducted pursuant to this subchapter shall be absolutely privileged and the person mak-

ing the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony, except that such immunity shall not extend to any action that violates Rule 402 or Rule 504 (relating to confidentiality).

Official Note: The provisions of subdivision (g) of the Rule recognize that the submission and receipt of applications by Claimants for disbursements from the Fund, and investigation, hearing, decision and disposition of such claims, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court of Pennsylvania. The immunity from civil suit recognized to exist in subsection (g) is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as their statements and actions are pertinent, material and during the regular course of a proceeding. Communications made or revealed in violation of the confidentiality requirements of Rules 402 and 504 are not pertinent to the proceeding and, thus, do not entitle the person who publishes them to absolute immunity.

Rule 504. [**Immunity**] **Confidentiality.**

(a) [Claims submitted to the Board shall be confidential. Members of the Board, members of hearing committees, General Counsel and staff shall be immune from civil suit for any conduct in the course of their official duties. All communications to the Board, a hearing committee, General Counsel or staff relating to dishonest conduct by a covered attorney and all testimony given in a proceeding conducted pursuant to this subchapter shall be absolutely privileged and the person making the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony, except that such immunity shall not extend to any action that violates Rule 402 (relating to confidentiality).] All claims filed with the Fund shall be confidential and shall not be disclosed. This confidentiality requirement extends to all documents and things made and/or obtained, and all investigations and proceedings conducted and/or held by the Fund in connection with the filing of a claim.

(b) [Claims based upon alleged dishonest conduct by members of the Board shall be submitted directly to the Supreme Court. Claims based upon alleged dishonest conduct by General Counsel or staff shall be submitted directly to the Board for disposition.] Notwithstanding subsection (a), the Fund, after an award is approved, may disclose the following information:

- (1) the name of the Claimant (if Claimant has granted permission to disclose);
- (2) the name of the Covered Attorney;
- (3) the amount claimed;
- (4) the amount awarded; and
- (5) a summary of the claim.

(c) Nothing in this Rule shall preclude the Fund from utilizing confidential information in the release of statistical data or in the pursuit of the Fund's subrogation rights.

(d) This Rule shall not be construed to preclude disclosure, at any time during the investigation

and/or proceeding, for confidential information requested by the following entities:

(1) authorized agencies investigating the qualifications of judicial candidates;

(2) the Judicial Conduct Board and/or its counterpart in other jurisdictions conducting an investigation;

(3) authorized agencies investigating qualifications for government employment;

(4) federal courts and/or other jurisdictions investigating qualifications for admission to practice law;

(5) Office of Disciplinary Counsel and/or the Disciplinary Board investigating misconduct by the Covered Attorney;

(6) lawyer discipline agencies and client protection funds in other jurisdictions conducting an investigation; or

(7) law enforcement authorities investigating and/or prosecuting the Covered Attorney for a criminal offense.

(e) Requests for the release of confidential information by any person or entity, other than those identified in subsection (d), must be made to the Fund through the issuance of a subpoena; requests for same made under the Freedom of Information Act will not be honored.

[Official Note: The provisions of subdivision (a) of the rule recognize that the submission and receipt of applications by claimants for disbursements from the fund, and the investigation, hearing, decision and disposition of such claims, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court of Pennsylvania. The immunity from civil suit recognized to exist in subsection (a) is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as their statements and actions are pertinent, material and during the regular course of a proceeding. Communications made or revealed in violation of the confidentiality requirement of Rule 402 are not pertinent to the proceeding and, thus, do not entitle the person who publishes them to absolute immunity.]

DISHONEST CONDUCT OF ATTORNEY

Rule 511. Reimbursement of certain losses authorized.

The Board in its discretion may authorize a disbursement from the [fund] Fund in an amount not exceeding the [reimbursable loss] Reimbursable Loss caused by the [dishonest conduct of a covered attorney] Dishonest Conduct of a Covered Attorney.

Rule 512. Covered attorney.

This subchapter covers conduct of [an active] a member of the bar of the Supreme Court, including attorneys admitted pro hac vice and formerly admitted attorneys whose clients reasonably believed the former attorney to be licensed to practice when the Dishonest Conduct occurred, an active foreign legal consultant, an active military attorney, or a person holding an active Limited In-House Corporate Counsel License, which conduct forms the basis of the application to the Board. The conduct complained of need not have

taken place in this Commonwealth for application to the Board to be considered by the Board and an award granted, except that an award shall not be granted with respect to conduct outside of this Commonwealth of a foreign legal consultant, military attorney or person holding a Limited In-House Corporate Counsel License unless the conduct related to the provision of legal services to a resident of this Commonwealth.

Rule 513. Dishonest conduct.

For the purposes of this subchapter, dishonest conduct [consists of wrongful acts or omissions committed by a covered attorney in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value] means wrongful acts committed by a Covered Attorney in the nature of theft or embezzlement of money or the wrongful taking or conversion of money or property or other things of value.

Rule 514. Reimbursable losses.

(a) *General rule.* For the purposes of this subchapter reimbursable losses consist of those losses of money, property or other things of value which meet all of the following requirements:

(1) The loss was caused by the [dishonest conduct of a covered attorney] Dishonest Conduct of a Covered Attorney when acting:

* * * * *

(2) The loss was that of money, property or other things of value which came into the hands of the [covered attorney] Covered Attorney by reason of having acted in the capacity described in paragraph (1) of this subdivision. Consequential or incidental damages, such as lost interest, or attorney fees or other costs incurred in seeking recovery of a loss, may not be considered in determining the Reimbursable Loss.

(3) The loss, or the reimbursable portion thereof, was not covered by any insurance or by any fidelity or similar bond or fund, whether of the [covered lawyer] Covered Attorney, or the [claimant] Claimant or otherwise.

(4) The loss was not incurred by:

(i) the spouse or other close relative, partner, associate, employer or employee of the [covered attorney] Covered Attorney, or a business entity controlled by the [covered attorney] Covered Attorney, or any entity controlled by any of the foregoing;

(ii) an insurer, surety or bonding agency or company, or any entity controlled by any of the foregoing; [or]

(iii) any government unit[.];

(iv) any financial institution that may recover under a "banker's blanket bond" or similar commonly available insurance or surety contract; or

(v) an individual or business entity suffering a loss arising from personal or business investments not arising in the course of the client-attorney relationship.

(5) In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, and consistent with the purpose of the

Fund, recognize a claim which would otherwise be excluded under this subchapter.

(6) **In cases where it appears that there will be unjust enrichment, or the Claimant unreasonably or knowingly contributed to the loss, the Board may, in its discretion, deny the claim.**

(7) A payment from the [fund] **Fund**, by way of subrogation or otherwise, will not benefit any entity specified in paragraph (4) **of this subdivision.**

(b) *Maximum recovery.* The maximum amount which may be disbursed from the [fund] **Fund** to any one [claimant] **Claimant** with respect to the [dishonest conduct of any one covered attorney] **Dishonest Conduct of any one Covered Attorney** shall be \$75,000.

(c) **No lawyer shall accept payment for assisting a Claimant with the filing of a claim with the Fund, unless such payment has been approved by the Board.**

PAYMENT OF CLAIMS

Rule 521. Investigation and payment of claims.

(a) *Cooperation with Disciplinary Board.* At the request of the Board, the Disciplinary Board of the Supreme Court of Pennsylvania shall make available to the Board all reports of investigations and records of formal proceedings conducted under these rules with respect to any attorney whose conduct is alleged to amount to [dishonest conduct causing reimbursable loss to a claimant] **Dishonest Conduct causing Reimbursable Loss to a Claimant**, and shall otherwise cooperate fully with the Board. The Board shall cooperate fully with the Disciplinary Board of the Supreme Court of Pennsylvania and shall preserve the confidential nature of any information which is required to be kept confidential under these rules.

(b) *Hearing committees.* The Board may utilize a hearing committee to conduct any hearings under this subchapter for the purpose of resolving factual issues. Imposition of discipline under Rule 204 (relating to types of discipline) or otherwise shall not be a prerequisite for favorable action by the Board with respect to a claim against the [fund] **Fund**, but the [covered attorney] **Covered Attorney** involved shall be given notice of and an opportunity to contest any claim made with [request] **respect** to his or her alleged [dishonest conduct] **Dishonest Conduct**.

(c) *Subpoenas.* At any stage of an investigation under this subchapter the Board, a [claimant] **Claimant** and a contesting [covered attorney] **Covered Attorney** shall have the right to summon witnesses before a hearing committee and require production of records before the same by issuance of subpoenas in substantially the same manner, and with the effect provided by Rule 213(b), (e), (f), (g) and (h), and if applicable, (c) and (d) (relating to subpoena power, depositions and related matters).

(d) *Factors to be considered.* In exercising its discretion under Rule 511 (relating to reimbursement of certain losses authorized) the Board may consider, among other things:

(1) The amount available and likely to become available to the [fund] **Fund** for payment to [claimants] **Claimants**.

* * * * *

(3) The total amount of losses caused by [dishonest conduct] **Dishonest Conduct** by any one [covered attorney] **Covered Attorney** or associated group of [covered attorneys] **Covered Attorneys**.

(4) The degree of hardship the [claimant] **Claimant** has suffered by the loss.

(e) **The Claimant or Covered Attorney may request a reconsideration of the denial or approval of an award. Such request for a reconsideration shall be made in writing and shall be received by the Fund within 30 days of the date of the notification of the Board's denial or approval of an award. If the Claimant or Covered Attorney fails to make such a request, or the request is denied, the decision of the Board is final and there is no further right of appeal.**

(f) *Conditions.* **In addition to such other conditions and requirements as it may impose, the Board shall:**

(1) require each [claimant] **Claimant**, as a condition of payment, to execute such instruments, to take such action, and to enter into any agreements, including assignments of claims and subrogation agreements, as may be feasible in order to maximize the possibility that the [fund] **Fund** will be appropriately reimbursed for payments made from it. Amounts recovered pursuant to any such arrangements shall be paid to the [Administrative Office for reimbursement of the fund; and] **Fund**;

(2) require each [claimant] **Claimant**, as a condition of payment, to file a formal complaint with the Disciplinary Board of the Supreme Court of Pennsylvania against the [covered attorney] **Covered Attorney** and to cooperate in the fullest with the Disciplinary Board or other authorities in connection with other investigations of the alleged [dishonest conduct.] **Dishonest Conduct; and**

(3) **require a Claimant who has commenced an action to recover unreimbursed losses against the Covered Attorney, or another entity or third party who may be liable for the Claimant's loss, to notify the Board of such action.**

REINSTATEMENT

Rule 531. Restitution a condition for reinstatement.

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the [dishonest conduct] **Dishonest Conduct** of which the Board has made unrecovered disbursements from the [fund] **Fund**. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement), Rule 219(h) (relating to periodic assessment of attorneys; voluntary inactive status), [or] **Rule 301(h)** (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated) [or], Pennsylvania Rules for Continuing Legal Education, Rule 111(b) (relating to noncompliance with continuing legal education rules) **or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) until the [fund] Fund has been repaid in**

full, plus 10% *per annum* interest, for all disbursements made from the [fund] Fund with respect to the [dishonest conduct] Dishonest Conduct of such person.

[Pa.B. Doc. No. 06-477. Filed for public inspection March 24, 2006, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

Order Amending Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 228 Magisterial Doc. No. 1

The Minor Court Rules Committee has prepared a Final Report explaining the Supreme Court of Pennsylvania's Order amending Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges, effective July 1, 2006. These rule changes impose a two year limitation on the certification of a person who has successfully completed the course of training and instruction and passed the examination, but has not served as a magisterial district judge, bail commissioner, or judge of the Philadelphia Traffic Court. The Final Report follows the Court's Order.

Order

Per Curiam:

And Now, this 8th day of March, 2006, upon the recommendation of the Minor Court Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges be, and hereby are, amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2006.

Madame Justice Baldwin did not participate in the decision of this matter.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

Rule 19. Certification requirements of interested persons.

(a) Magisterial district judges, bail commissioners, and judges of the Philadelphia Traffic Court who are not members of the bar of this Commonwealth [shall] must complete a course of training and instruction in the duties of their respective offices and pass an examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office.

(b)(1) [In addition to those required to complete the course of training and instruction, any] Any interested [person] individual may apply to the Administrative Office of Pennsylvania Courts to be enrolled in the course of training and instruction and take the examination to be certified.

(2) Any individual who has successfully completed the course of training and instruction and passed the examination, but who has not served as a magisterial district judge, bail commissioner, or judge of the Philadelphia Traffic Court shall be certified for only a two year period, and must complete the continuing education course every year in order to maintain his or her certification.

(c) Any [persons successfully completing the course of training and instruction and examination, who have] individual certified under paragraph (b) who has not served as a magisterial district judge, bail commissioner, or [Judge] judge of the Philadelphia Traffic Court within two years[,] will be required to [update their certification by taking] take a review course as defined by the Minor Judiciary Education Board and [passing] pass an examination[, prior to being certified] in order to maintain certification by the Administrative Office of Pennsylvania Courts as qualified to perform [his or her] duties as required by the Constitution of Pennsylvania. [Individuals who have completed the continuing education course every year since being certified are exempt from this provision.]

Official Note: This rule was amended in 2006 to limit to two years the period of certification for individuals who have successfully completed the certification course and examination but have not served as judges or bail commissioners. The rule permits individuals who are certified to serve as judges or bail commissioners but who have not done so within two years of certification to take a review course and pass an examination to maintain their certification for an additional two year period. Admission to the review course and recertification examination under paragraph (c) may be limited by the availability of space. In addition, the rule requires that all certified individuals must attend the annual continuing education course to maintain certification.

Rule 21. [Admission of Senior Magisterial District Judges and Those Persons Who Have Successfully Completed the Course of Training and Instruction and Examination and Who Have Not Served as a Magisterial District Judge, Bail Commissioner or Judge] Continuing Education Requirement: Senior Magisterial District Judges.

(a) Any magisterial district judge [who has left that Judicial Office for any good reason and] who has been certified by the Administrative Office of Pennsylvania Courts as eligible to serve as [Senior Magisterial District Judges] a senior magisterial district judge shall be admitted to the continuing education program sponsored by the Minor Judiciary Education Board every year as required by [42 Pa.C.S.A. Section 3118] Rule 20. [Any person successfully completing the course of training and instruction and examination and

who has not served as a magisterial district judge, bail commissioner or judge may apply to the Administrative Office of Pennsylvania Courts to be enrolled in the continuing education course based on the availability of space. Such enrollment will be at the expense of the party.]

(b) In the event that the Court Administrator of Pennsylvania notifies the Minor Judiciary Education Board that a [Senior Magisterial District Judge] senior magisterial district judge has not accepted an assignment for a continuous period of two [(2)] years, the Minor Judiciary Education Board may refuse [enrollment] to enroll the senior magisterial district judge in the continuing education [course] program.

Official Note: With regard to certification of senior judges, see Pa. R.J.A. No. 701.

This rule was amended in 2006 to delete the provision relating to the continuing education of persons who have successfully completed the course of training and instruction and examination but have not served as judges or bail commissioners. The continuing education requirement of those persons is governed by Rule 19.

FINAL REPORT¹

Amendments to Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

Two Year Limitation on Certification of Interested Persons

On March 8th, 2006, effective July 1, 2006, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.³

I. Background

The Minor Court Rules Committee (the Committee), in consultation with the Minor Judiciary Education Board (the MJEB) and at the direction of the Supreme Court, undertook a review of Rule 19 of the Standards of Conduct of Magisterial District Judges (Certification requirements of interested persons).⁴ The MJEB had alerted the Supreme Court to concerns about a significant number of individuals who have completed the course of training and instruction and passed the examination to be certified to serve as magisterial district judges, but who have never served in office. Prior to these amendments to Rule 19, these individuals could maintain their certification so long as they attended the annual one-week continuing education course offered by the MJEB. The MJEB reported that some of these individuals have maintained certification in this manner for considerable periods of time, and some have run for office more than once without being elected.

The MJEB raised concerns about the ability and competency of some of these individuals to perform the duties of their office if they were to be appointed or elected after so long a delay from initial certification and absence of day-to-day involvement with the law and procedure as a sitting judicial officer. The Committee and the MJEB

recognized a need to require more current certification for individuals who have never served in office, beyond just the annual continuing education program. They agreed that the annual continuing education program alone is insufficient to maintain the knowledge and skills needed to serve as a judicial officer when the skills are not being practiced on a day-to-day basis as they are by sitting judicial officers.⁵

To address the concerns raised by the MJEB, the Committee and the MJEB recommended that the Court approve amendments to Rule 19 to disallow the practice of maintaining certification merely by attending the annual continuing education program, and that the Court approve correlative amendments to Rule 21. Because of the concerns about the ability of some of the currently certified individuals to perform the duties of their office if appointed or elected, the Committee believed exigent circumstances existed that required prompt submission of the recommendation to the Supreme Court. Therefore, the Committee submitted its recommendation, and the Court adopted it, without prior publication for public comment.⁶

II. Approved Rule Changes

A. Rule 19

The Committee recommended that the last sentence of existing Rule 19, which created the exception to the two-year certification period, be deleted. In addition, the Committee recommended that the rule be restructured to make clear that certification is effective for only two years for individuals who are certified but have not served in office. The amended rule does, however, permit an individual to maintain certification by completing a review course as prescribed by the MJEB and passing a recertification examination.⁷

The amendments also require all certified individuals to attend the annual one week continuing education program. Under the rule prior to these amendments, an individual could maintain certification for up to two years without attending continuing education. Because of the constantly and rapidly changing nature of law and procedure, the Committee and the MJEB believe these annual updates are necessary for certified individuals to be informed of developments since their initial certification.

Further, the Committee recommended that an Official Note be added to Rule 19 to explain the intent of the rule, including clarification that admission to the review course and recertification examination may be limited by the availability of space.

B. Correlative Amendment to Rule 21

In addition to the amendment to Rule 19, the Committee recommended that Rule 21 be amended to delete the provisions relating to continuing education of individuals who are certified but have not served in office. These provisions are rendered unnecessary by, and would be inconsistent with, the amendments to Rule 19.

Finally, in addition to the substantive changes discussed above, the Committee recommended other edito-

¹ The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Report.

² Recommendation No. 1 Minor Court Rules 2005.

³ Supreme Court of Pennsylvania Order No. 228, Magisterial Docket No. 1 (March 8, 2006). Madame Justice Baldwin did not participate in the decision of this matter.

⁴ Pa. Code tit. 207, ch. 51, Rule 19 (hereinafter Rule 19).

⁵ The curriculum and format of the continuing education program assume that the participants maintain a certain level of knowledge that comes from sitting as a judicial officer and directly dealing with legal issues on a day-to-day basis, or from having completed the initial certification course within the relatively recent past. There is no examination component to the continuing education program.

⁶ See Pa.R.J.A. No. 103(a)(3).

⁷ The initial certification course is a four week program; the one week review course required for recertification is simply the last week of the initial certification course that is offered on a regular basis to prospective judges. The examination required for recertification is the same length and format as that required for initial certification.

rial revisions to both rules to address gender neutrality issues, to conform to modern drafting style, and to enhance readability.

[Pa.B. Doc. No. 06-478. Filed for public inspection March 24, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1900]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 79

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to Protection from Abuse matters to reflect recent amendments to the Protection from Abuse Act in Act 66 of 2005. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, May 12, 2006 directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
FAX (717) 795-2175
E-mail: patricia.miles@pacourts.us

*By the Domestic Relations
Procedural Rules Committee*

NANCY P. WALLITSCH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901. Definitions

As used in this chapter:

“Act” means “Protection From Abuse Act” No. 206 approved December 19, 1990, 23 Pa.C.S.A. § 6101 et seq.

“Action” means a proceeding for protection from [**abuses**] **abuse** defined in § 6102 of the Act.

“Court” means the court of common pleas.

“Emergency Order” means an order entered by a hearing officer, who is a person meeting the definition set forth at 23 Pa.C.S.A. § 6102.

“Fees” means any costs associated with the filing, issuance, registration, service or appeal of a Protection from Abuse matter, including any foreign protection order.

“Master for Emergency Relief” means an attorney, admitted to the practice of law by the Supreme Court of Pennsylvania and appointed pursuant to 23 Pa.C.S.A. § 6110(e), to hear petitions for emergency protection from abuse.

“Temporary Order” means an ex parte order entered by the court pursuant to 23 Pa.C.S.A. § 6107.

Explanatory Comment—2006

The 2005 amendments to the Protection From Abuse Act, Act 66 of 2005, authorize two methods to secure emergency protection from abuse orders. The first is through a magisterial district judge and the other is through a master for emergency relief. In order for a county to exercise the master for emergency relief option, the county must assume the costs of the master and the Administrative Office of Pennsylvania Courts must approve the master’s selection and appointment. 23 Pa.C.S.A. § 6110(e).

The 2005 amendments to the Protection From Abuse Act also prohibit the assessment of fees or costs against the plaintiff. This prohibition includes fees related to filing, serving, registering or appealing a protection from abuse petition or order. 23 Pa.C.S.A. § 6106(b).

Rule 1901.1. Venue

(a) Except as provided in subdivision (b), an action for protection from abuse may be brought in a county in which

- (1) the plaintiff resides, either temporarily or permanently, or is employed, or
- (2) the defendant may be served, or
- (3) the abuse occurred.

(b) If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall be brought only in the county in which the residence or household is located.

(c) An action for indirect criminal contempt may be filed in, and heard by, the court in the county in which the order was issued or where the violation occurred.

Explanatory Comment—1991

The statute and rules governing actions for protection from abuse formerly contained no provision for venue. Recommendation No. 84 of the Civil Procedural Rules Committee proposed a new rule to fill that void and the rule has been adopted as Rule 1901.1

Subdivision (a) provides for venue in the following counties: (1) the county in which the abuse occurred, (2) the county in which the defendant may be served, (3) the county in which the plaintiff resides, either permanently

or temporarily, and (4) the county in which the plaintiff is employed. These are the counties with which the plaintiff has the most significant contacts and the greatest interest in remaining free from abuse. The county of temporary residence is included because an abused person may have to flee the county of permanent residence to escape further abuse.

The rule imposes limited venue when the relief sought includes the sole possession of the residence or household. In that instance, the action must be brought in the county in which the residence or household is located.

Explanatory Comment—2006

The 2005 amendments to the Protection From Abuse Act grant jurisdiction over indirect criminal contempt complaints in either the county in which the order was issued or the county where the violation occurred. This rule allows for flexible and immediate enforcement of protection from abuse orders. 23 Pa.C.S.A. § 6114 (a.1). With this amendment, indirect criminal contempt jurisdiction is parallel to prosecution for stalking and harassment.

Rule 1901.2. Scheduling.

Each judicial district shall establish times when the court will hear temporary Protection From Abuse Matters.

Rule 1901.3. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by presenting to the court or filing with the prothonotary a petition setting forth the alleged abuse by the defendant. The petition shall be substantially in the form set forth in Rule 1905(b) and shall have as its first page the Notice of Hearing and Order set forth in Rule 1905(a).

(b) An action may be commenced by filing with the prothonotary a certified copy of an emergency order entered pursuant to 23 Pa.C.S.A. § 6110, **including orders issued by masters for emergency relief.**

(c) **Any fees associated with this action shall not be charged to the plaintiff.**

Explanatory Comment—2006

New subdivision (c) reflects the 2005 amendments to the Protection from Abuse Act which prohibit charging fees or costs against the plaintiff. 23 Pa.C.S.A. § 6106(b). The 2005 amendments to 23 Pa.C.S.A. § 6110(e) of the Protection from Abuse Act authorize the use of masters for emergency relief which is reflected in subdivision (b).

Rule 1901.4. Service and Registration of Order.

(a) Service of the petition and temporary order shall be in accordance with Rule 1930.4.

(b) An Affidavit of Service substantially in the form set forth in Rule 1905(d) shall be filed with the prothonotary.

(c) Upon the filing of a protection order with the prothonotary, the prothonotary shall transmit a copy of the order to the State Police PFA Registry in the manner prescribed by the Pennsylvania State Police.

Official Note: This provision also applies to an order denying a plaintiff's request for a final protection order.

(d) No fee shall be charged to the plaintiff for service of any protection from abuse order or pleading or for the registration, filing or service of any foreign protection order.

Explanatory Comment—1997

Subdivision (c) reflects the prothonotary's role in ensuring that all protection orders reach the new statewide PFA Registry. Pursuant to the 1994 amendments to the Protection [**From**] **from Abuse Act**, the Pennsylvania State Police Department is mandated to establish this registry for all protection orders issued or registered in the [**Commonwealth**] **commonwealth**. Once it becomes fully operational, it will be available at all times to inform law enforcement officers, dispatchers and courts of the existence and terms of protection orders. The [**Registry**] **registry** represents a major improvement in the manner in which [**Protections**] **protections** orders are registered and verified by not only eliminating the need to register the order in every county where the victim believes enforcement is necessary, but also enabling the police to immediately verify the order for purposes of enforcement. In order to ensure that the information in the registry remains current, subdivision (c) requires the prothonotary to transmit all protection orders issued or registered in the [**Commonwealth**] **commonwealth**, including temporary, final, modified and consent orders, as well as any orders withdrawing, extending or denying the plaintiff's request for a protection order.

Explanatory Comment—2006

New subdivision (d) reflects the prohibition against charging fees to the plaintiff, even those related to foreign protection orders, as set forth in the 2005 amendments to the Protection from Abuse Act. 23 Pa.C.S.A. § 6106(b).

Rule 1901.5. Enforcement.

(a) When an arrest is made for violation of an order, a complaint for indirect criminal contempt shall be completed and signed by either a police officer, **the sheriff** or the plaintiff. When the complaint is filed by a police officer **or sheriff**, neither the plaintiff's presence nor signature is required.

(b) If an arrest is not effected, a complaint for indirect criminal contempt may be completed and signed by the plaintiff pursuant to 23 Pa.C.S.A. § 6113.1.

Explanatory Comment—2006

The 2005 amendments to the Protection from Abuse Act authorize the sheriff to arrest the defendant for violations of a protection from abuse order. In addition, the sheriff is authorized to exercise a search and seizure of any firearm, other weapon and ammunition subsequent to arrest. 23 Pa.C.S.A. § 6113(a) and (b).

Rule 1901.6. No responsive pleading required.

No pleading need be filed in response to the petition or the certified order and all averments not admitted shall be deemed denied.

Official Note: For [**procedure**] **procedures** as to the time and manner of hearings and issuance of orders, see 23 Pa.C.S.A. § 6107. For provisions as to the scope of relief available, see 23 Pa.C.S.A. § 6108. For provisions as to contempt for violation of an order, see 23 Pa.C.S.A. § 6114.

Rule 1901.7. Decision. Post-trial relief.

(a) The decision of the court may consist of only general findings of abuse but shall dispose of all claims for relief. The court's order shall be rendered substantially in the form set forth in Rule 1905(e).

(b) No motion for post-trial relief may be filed to the final order.

Official Note: The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

Explanatory [Note] Comment—1977

New Rules 1901, et seq. promulgated March 9, 1977 and effective 15 days after publication in the *Pennsylvania Bulletin* implement the Protection from Abuse Act No. 218 of 1976 which became effective December 6, 1976.

The Act introduces a new civil remedy authorizing protective orders to bring about cessation of abuse of the plaintiff or minor children, which relief includes, inter alia, exclusion of the errant spouse from the household, the award of temporary custody and visitation rights with regard to minor children and support.

The Act also authorizes temporary ex parte orders when the exigency of the situation requires immediate relief before process can be served on a defendant.

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

Section 9 of the Act provides that all proceedings shall be in accordance with Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

Explanatory Comment—2005

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

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)

NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL [Order] order may be entered against you granting the relief requested in the [Petition] petition. In particular, you may be evicted from your residence, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be

considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

A hearing on the matter is scheduled for the _____ day of _____, 20____, at _____m., in Courtroom _____ at _____ Courthouse, _____, Pennsylvania.

You MUST obey the [Order] order that is attached until it is modified or terminated by the court after notice and hearing. If you disobey this [Order] order, the police or sheriff may arrest you. Violation of this [Order] order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail under 23 Pa.C.S.A. § 6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18 U.S.C. § 2265, this [Order] order is enforceable anywhere in the United States, tribal lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this [Order] order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. §§ 2261—2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you and the third party first comply with all requirements to obtain a safekeeping permit. You must relinquish any firearm, other weapon, ammunition or any firearm license listed herein no later than 24 hours after service of the order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. § 922(g)(8).

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

County Lawyer Referral Service
[insert Street Address]
[insert City, State, and ZIP]
[insert Phone Number]

(b) The [Petition] petition in an action filed pursuant to the Act shall be substantially in the following form:

THE COURTS

(Caption)
PETITION FOR PROTECTION FROM ABUSE

1. Plaintiff's name is: _____

2. I am filing this Petition on behalf of: Myself and/or Another Person

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff," and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
 applicant for appointment as guardian ad litem of minor Plaintiff(s)
 adult household member with minor Plaintiff(s)
 court appointed guardian of incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse: _____

4. Plaintiff's address is confidential
or
 Plaintiff's address is: _____

5. Defendant is believed to live at the following address: _____

Defendant's Social Security Number (if known) is: _____

Defendant's date of birth is: _____

Defendant's place of employment is: _____

Check here if you have reason to believe that Defendant is a licensed firearms dealer or is employed in a profession that requires Defendant to handle firearms or to carry a firearm as a condition of employment.

Check here if Defendant is 17 years old or younger.

6. Indicate the relationship between Plaintiff and Defendant.

- Spouse Current or former sexual/intimate partner Other relationship by blood or marriage: _____
 Ex-spouse Parent/Child _____
 Persons who live or have lived like spouses Parents of the same children Brother/Sister _____

7. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce Custody Support Protection from Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the court number, if known:

8. Has [the] Defendant been involved in any criminal court action? _____

If you answered Yes, is [the] Defendant currently on probation? _____

9. Plaintiff and Defendant are the parents of the following minor child/ren:

Name(s) Age(s) who reside at (list address unless confidential)

10. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court [Order] order regarding their custody? _____

If you answered Yes, describe the terms of the [Order] order (e.g., primary, shared, legal and/or physical custody):

If you answered Yes, in what county and state was the order issued?

If you are now seeking an [Order] order of child custody as part of this petition, list the following information:

(a) Where has each child resided during the past five years?

Table with 4 columns: Child's name, Person(s) child lived with, Address, unless confidential, When

(b) List any other persons who are known to have or claim a right to custody of each child listed above.

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. The following other minor child/ren presently live with Plaintiff:

Name(s)	Age(s)	Plaintiffs relationship to child/ren
_____	_____	_____
_____	_____	_____
_____	_____	_____

12. The facts of the most recent incident of abuse are as follows:

Approximate Date: _____ Approximate Time: _____ Place: _____

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

13. If [the] Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

14. [List the weapon(s) that] (a) Has Defendant [has] used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe:

(b) To the best of your knowledge or belief, does Defendant own or possess any firearm, other weapon, ammunition or any firearm license?

(c) If the answer to (b) above is "yes," list any firearm, other weapon or ammunition owned by or in the possession of Defendant on Attachment A, which is incorporated by reference into this petition.

15. Identify the sheriff, police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

16. There is an immediate and present danger further abuse from [the] Defendant.

CHECK THE FOLLOWING BOXES ONLY IF THEY APPLY TO YOUR CASE AND PROVIDE THE REQUESTED INFORMATION

Plaintiff is asking the court to evict and exclude [the] Defendant from the following residence:

owned by (list owners, if known): _____

rented by (list all names, if known): _____

Defendant owes a duty of support to Plaintiff and/or the minor child/ren.

Plaintiff has suffered out-of-pocket financial losses as a result of the abuse described above.

Those losses are: _____

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING (CHECK ALL FORMS OF RELIEF REQUESTED):

A. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or minor child/ren in any place where Plaintiff may be found.

B. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of the Plaintiff.

C. Require Defendant to provide Plaintiff and/or minor child/ren with other suitable housing.

D. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and child/ren: _____

E. Prohibit Defendant from having any contact with Plaintiff and/or minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

F. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this [**Petition**] **petition**, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

G. Order Defendant to temporarily [**turn over weapons**] **relinquish any firearm, other weapon, ammunition and any firearm license** to the [**Sheriff of this County**] **sheriff of this county** and prohibit Defendant from transferring, acquiring or possessing any [**such weapons**] **firearm, other weapon, ammunition or any firearm license** for the duration of the [**Order**] **order**.

H. Order Defendant to pay temporary support for Plaintiff and/or the minor child/ren, including medical support and payment of the rent or mortgage on the residence.

I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.

J. Order Defendant to pay the costs of this action, including filing and service fees.

K. Order Defendant to pay Plaintiff's reasonable attorney's fees.

L. Order the following additional relief, not listed above:

M. Grant such other relief as **Plaintiff requests and/or the** court deems appropriate.

N. Order the police, **sheriff** or other law enforcement agency to serve [**the**] Defendant with a copy of this [**Petition**] **petition**, any [**Order**] **order** issued, and the [**Order**] **order** for [**Hearing**] **hearing**. [**The petitioner**] **Plaintiff** will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above [**Petition**] **petition** are true and correct to the best of my knowledge. I understand that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Signature

Date

(Caption)
PETITIONER'S ATTACHMENT A
FIREARMS, OTHER WEAPONS AND AMMUNITION INVENTORY

I, _____, Plaintiff in this Protection from Abuse Action, hereby request the court order Defendant to relinquish the following firearms, other weapons, ammunition, and firearm licenses to the sheriff:

- 1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

If more space is needed, more sheets may be attached to this document.

I believe the above items are located at _____ (List all relevant addresses where they may be found)

Name _____

Date _____

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108 (a)(7)(v).

(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)
TEMPORARY PROTECTION FROM ABUSE ORDER

Defendant's Name: _____

Defendant's Date of Birth: _____

Defendant's Social Security Number: _____

Names of All Protected Persons, including Plaintiff and minor child/ren:

AND NOW, this _____ day of _____, _____, upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

[] 1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

[] 2. Defendant is evicted and excluded from the residence at (NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED) or any other permanent or temporary residence where Plaintiff or any other person protected under this [Order] order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this [Order] order.

[] 3. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this Order, Defendant is prohibited from having ANY CONTACT with Plaintiff, or any other protected person [protected] under this [Order] order, either directly or indirectly, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this [Order] order:

[] 4. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this [Order] order, Defendant shall not contact Plaintiff, or any other person protected under this [Order] order, by telephone or by any other means, including through third persons.

[] 5. Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren: _____

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following:

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

The local law enforcement agency **and the sheriff** in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of **[the]** Plaintiff in accordance with the terms of this **[Order]** order.

6. **[Defendant shall immediately relinquish the following weapons to the Sheriff's Office or a designated local law enforcement agency for delivery to the Sheriff's office:**

_____]

Defendant is prohibited from possessing, transferring or acquiring any **[other weapons]** firearms for the duration of this order.

Check all that apply:

Defendant shall relinquish to the sheriff all firearms and firearms licenses owned or possessed by Defendant.

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Petitioner's Attachment A, and any firearms license Defendant may possess.

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may relinquish firearms, other weapons and ammunition to a third party provided Defendant and the third party first comply with all the requirements to obtain a safekeeping permit. Defendant must relinquish any firearm, other weapon, ammunition or firearms license ordered to be relinquished no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105

7. The following additional relief is granted:

8. A certified copy of this **[Order]** order shall be provided to the **sheriff or** police department where Plaintiff resides and any other agency specified hereafter: [insert name of agency]

9. THIS ORDER SUPERSEDES ANY PRIOR **[PFA]** PROTECTION FROM ABUSE ORDER **[AND** **ANY PRIOR ORDER RELATING TO CHILD CUSTODY]**.

10. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL [insert expiration date] OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this **[Order]** order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail. 23 Pa.C.S.A. § 6114. Consent of **[the]** Plaintiff to Defendant's return to the residence shall not invalidate this **[Order]** order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. § 6113. **If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearms license, those items must be relinquished to the sheriff within 24 ours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided defendant and the third party first comply with all requirements to obtain a safekeeping permit.** Defendant is further notified that violation of this **[Order]** order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261—262.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

This [Order] order shall be enforced by the police department or sheriff who [have] has jurisdiction over [the plaintiff's] Plaintiff's residence OR any location where a violation of this order occurs OR where [the defendant] Defendant may be located. If [defendant] Defendant violates Paragraphs 1 through 6 of this [Order, defendant] order, Defendant shall be arrested on the charge of [Indirect Criminal Contempt] indirect criminal contempt. An arrest for violation of this [Order] order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of [law enforcement] a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons [used or threatened to be used during the violation of this Order OR during prior incidents of abuse] and ammunition in Defendant's possession. [Weapons must forthwith] Any firearm, other weapon, ammunition or any firearm license must be delivered to the [Sheriff's] sheriff's office of the county which issued this [Order] order, which office shall maintain possession of the firearms, other weapons and ammunition until further [Order] order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

BY THE COURT:

_____ Judge

_____ Date

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)
AFFIDAVIT OF SERVICE

I, _____, the undersigned, hereby state that I served a copy of the Petition and Temporary Order in the above-captioned action upon [the] Defendant by handing the papers to _____ at the following address: _____ on the _____ day of _____, [19] 20____ at approximately ____ o'clock ____ .m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

(Signature)
(Title)
(Address)
(Date)

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)
FINAL ORDER OF COURT

Defendant's Name: _____

Defendant's Date of Birth: _____

Defendant's Social Security Number: _____

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

Table with 2 columns: Names, Dates of Birth. Includes three rows of blank lines for entry.

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- [] spouse or former spouse of Defendant
[] parent of a common child with Defendant
[] current or former sexual or intimate partner with Defendant
[] child of Plaintiff
[] child of Defendant
[] family member related by blood (consanguinity) to Defendant
[] family member related by marriage or affinity to Defendant
[] sibling (person who shares biological parenthood) of Defendant
[] current or former cohabitant (person who lives with) Defendant

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this _____ day of _____, 20 _____, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED [and] AND DECREED as follows:

Note: Space is provided to allow for 1) the court's general findings of abuse; 2) inclusion of the terms under which the order was entered (e.g., that the order was entered with the consent of the parties, or that the defendant, though properly served, failed to appear for the hearing, or the reasons why **the** plaintiff's request for a final PFA order was denied); and/or 3) information that may be helpful to law enforcement **or the sheriff** (e.g. whether a **firearm or other** weapon was involved in the incident of abuse and/or whether the defendant is believed to be armed and dangerous).

Plaintiff's request for a final protection order is denied.

OR

Plaintiff's request for a final protection order is granted.

1. Defendant shall not abuse, stalk, harass, threaten or attempt to use physical force that would reasonably be expected to cause bodily injury to [**the**] Plaintiff or any other protected person in any place where they might be found.

2. Defendant is completely evicted and excluded from the residence at (NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED) or any other residence where Plaintiff or any other person protected under this [**Order**] order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this [**Order**] order.

On [insert date and time], Defendant may enter the residence to retrieve his/her clothing and other personal effects, provided that Defendant is in the company of a law enforcement officer **or sheriff** when such retrieval is made and [insert any other conditions] _____

3. Except as provided in [**Paragraph**] paragraph 5 of this [**Order**] order, Defendant is prohibited from having ANY CONTACT with [**the**] Plaintiff, **either directly or indirectly**, or any other person protected under this [**Order**] order, at any location, including but not limited to any contact at [**the**] Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this [**Order**] order: _____

4. Except as provided in [**Paragraph**] paragraph 5 of this [**Order**] order, Defendant shall not contact [**the**] Plaintiff, or any other person protected under this [**Order**] order, by telephone or by any other means, including through third persons.

5. Custody of the minor children, [NAMES OF THE CHILDREN SUBJECT TO THE PROVISION OF THIS PARAGRAPH] shall be as follows: [STATE TO WHOM PRIMARY PHYSICAL CUSTODY IS AWARDED; STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.]

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CUSTODY.

6. [**Defendant shall immediately turn over to the Sheriff's Office, or to a local law enforcement agency for delivery to the Sheriff's office, the following weapons used or threatened to be used by Defendant in an act of abuse against Plaintiff and/or the minor child/ren:**

_____]

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

Check all that apply:

Defendant shall relinquish to the sheriff all firearms and firearm licenses owned or possessed by Defendant.

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Petitioner's Attachment A, and any firearms license Defendant may possess.

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may relinquish firearms, other weapons and ammunition to a third party provided Defendant and the third party first comply with all the requirements to obtain a safekeeping permit. Defendant must relinquish any firearm, other weapon, ammunition or firearms license ordered to be relinquished no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105

7. [**Defendant is prohibited from possessing, transferring or acquiring any other weapons for the duration of this Order.**] Any [**weapons**] firearm delivered to the sheriff [**under Paragraph 6 of this Order or under Paragraph 6 of the Temporary Order**] or transferred to a licensed firearm dealer, or a qualified third party who satisfies the procedural and substantive requirements to obtain a safekeeping permit issued under 23 Pa.C.S.A. § 6108.3 pursuant to this order or the temporary order shall not be returned to Defendant until further order of court.

8. The following additional relief is granted as authorized by § 6108 of the Act:

9. Defendant is directed to pay temporary support for: [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT ORDER]. This order for support shall remain in effect until a final order is entered by this [**Court**] court. However, this order shall lapse automatically if [**the**] Plaintiff does not file a complaint for support with the Domestic Relations Section of the court within two weeks of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

[] 10. (a) The costs of this action are [**waived as to the Plaintiff and**] imposed on Defendant.

(b) **Because this order followed a contested proceeding, Defendant is ordered to pay an additional \$100 surcharge to the court, which shall be distributed in the manner set forth in 23 Pa.C.S.A. § 6106(d).**

11. Defendant shall pay \$ _____ to Plaintiff by _____ (insert date) as compensation for [**plaintiff's**] Plaintiff's out-of-pocket losses, which are as follows:

OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the [**Prothonotary's**] **prothonotary's** office for the filing of this petition.

12. THIS ORDER SUPERSEDES

[] ANY PRIOR [**PFA**] **PROTECTION FROM ABUSE ORDER**

[] **ANY PRIOR ORDER RELATING TO CHILD CUSTODY** .

13. All provisions of this order shall expire in [**eighteen months**] **three years**, on [INSERT EXPIRATION DATE].

NOTICE TO THE DEFENDANT

VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 PA.C.S.A. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. **A VIOLATION OF THIS ORDER MAY RESULT IN THE REVOCATION OF THE SAFEKEEPING PERMIT, WHICH WILL REQUIRE THE IMMEDIATE RELINQUISHMENT OF YOUR FIREARMS, OTHER WEAPONS AND AMMUNITION TO THE SHERIFF.**

THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT, 18 U.S.C. §§ 2261—2262. IF YOU POSSESS

A FIREARM OR ANY AMMUNITION WHILE THIS ORDER IS IN EFFECT, YOU MAY BE CHARGED WITH A FEDERAL OFFENSE EVEN IF THIS PENNSYLVANIA ORDER DOES NOT EXPRESSLY PROHIBIT YOU FROM POSSESSING FIREARMS OR AMMUNITION. 18 U.S.C. § 922(g)(8).

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police and sheriff who have jurisdiction over [**the plaintiff's**] Plaintiff's residence OR any location where a violation of this order occurs OR where [**the defendant**] Defendant may be located, shall enforce this order. **The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered.** An arrest for violation of [**Paragraphs**] paragraphs 1 through 7 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 23 Pa.C.S.A. § 6113.

Subsequent to an arrest, **and without the necessity of a warrant**, the police officer or sheriff shall seize all **firearms, other weapons and ammunition in Defendant's possession that were** used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The [INSERT THE APPROPRIATE NAME OR TITLE] shall maintain possession of the **firearms, other weapons or ammunition** until further order of this [Court] court.

When [the defendant] Defendant is placed under arrest for violation of the order, [the defendant] Defendant shall be taken to the appropriate authority or authorities before whom [defendant] Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, **sheriff OR [the plaintiff] Plaintiff**. Plaintiff's presence and signature are not required to file this complaint.

If sufficient grounds for violation of this order are alleged, [the defendant] Defendant shall be arraigned, bond set and both parties given notice of the date of hearing.

BY THE COURT:

Judge

Date

If entered pursuant to the consent of plaintiff and defendant:

(Plaintiff's signature)

(Defendant's signature)

Explanatory Comment—1977

The use of standardized forms provides uniformity and is also critical to the enforcement of protection orders both inside and outside of the commonwealth. These forms are substantially based on those proposed by members of the Pennsylvania Coalition Against Domestic Violence and have been further refined to accommodate the litigants' need for simplicity, the court's need for flexibility and law enforcements' need for certain identifying information necessary to enforce the protection order.

The forms must be used so that all protection orders can be properly registered with the statewide PFA Registry and the federal Protection Order File (POF) established by the National Crime Information Center (NCIC) for the collection of information that is necessary for nationwide enforcement of protection orders. Entering a protection order into the Registry and NCIC file enables law enforcement to immediately verify the existence and terms of the order. It is important, therefore, that all protection orders be registered with these two files. To this end, the forms capture all of the information that is required for data entry and the form orders are further structured to present that information in the order and sequence that is most helpful to the various law enforcement agencies responsible for entering the information into the files. Once the information reaches the Registry and is accepted by the NCIC file, it becomes immediately accessible to law enforcement agencies, dispatchers and courts throughout the country.

The provisions in the form petition and orders reflect the most common forms of relief available under the Protection from Abuse Act. Plenty of space, however, is

provided for the plaintiff to request additional relief, and for courts to fashion appropriate relief, based on the individual circumstances of the litigants. Since all of the provisions will not necessarily apply in every case, the forms adopt a checkbox method that requires the user to affirmatively check only those provisions which are applicable to his or her situation.

In cases where a provision is generally applicable but its terms do not correspond precisely to the relief being requested or granted, the user should not check the standard provision but instead should use the blank spaces provided in the forms to specify the relief. For example, while the final order contains a standard provision permitting the defendant to retrieve personal belongings only in the company of a police officer, there may be more suitable methods of retrieval available in some cases. If so, then the plaintiff or court should use the blank spaces provided in the form petition or order (rather than the standard provision) to specify the alternative manner of retrieval.

Explanatory Comment—2000

Paragraph 2 of the final order has been amended to enable courts to include additional conditions for the retrieval of personalty by the defendant in a section of the final order which permits arrest without a warrant if the conditions are violated. Paragraph 9 of the final order has been amended to require the filing of a support complaint within two weeks, rather than fifteen days, of the entry of a final order under the Protection from Abuse Act to prevent the automatic lapse of any temporary support provisions included in the order. This change is consistent with the statutory provisions at 23 Pa.C.S.A. § 6108(a)(5).

Explanatory Comment—2006

The Notice to Defend in subdivision (a) was amended to include three notice requirements of the 2005 Protection from Abuse amendments, Act 66 of 2005. 23 Pa.C.S.A. § 6107 (a). The amendments provide that sheriffs may arrest defendants for violations of protective orders. In addition, defendants have the option to turn firearms, other weapons and ammunition over to a qualified third party instead of the sheriff, and federal firearms prohibitions and penalties are more clearly stated.

The 2005 amendments to the Protection From Abuse Act require several changes to the form petition at subdivision (b). The plaintiff is required to inform the court if the defendant works in a job that requires the handling of firearms. 23 Pa.C.S.A. § 6106 (a.2). This provision was included to allow courts to exercise appropriate discretion when a defendant is exempt from federal firearm prohibitions and penalties. Federal law prohibits possession of firearms and penalizes defendants who possess them if they are subject to an order prohibiting abuse, stalking or harassment. However, certain law enforcement officials are exempt from this prohibition and penalty. Under 18 U.S.C. § 925(a)(1), a person performing an official duty on behalf of the federal, state or local law enforcement agency may possess a firearm as long as the officer is required to possess the firearm in his or her official capacity. The Bureau of Alcohol, Tobacco and Firearms requires the official possession of the firearm to be authorized by statute, regulation or official department policy.

Paragraph 14 of the form petition was amended to address the manner in which the firearms and other weapons were used against the plaintiff or minor children and to remove the listing of firearms in the petition itself. The amended statute prohibits public access to any list or inventory of the defendant's firearms. Thus, a separate Attachment A is included at the end of the petition for purposes of listing the firearms at issue. This will allow the prothonotary to more easily redact the list from public access, while at the same time permitting the court, the parties and law enforcement agencies to enforce the order. 23 Pa.C.S. § 6108 (a)(7)(v).

The form petition also was amended to address the court's authority to order the defendant to relinquish any and all firearms, other weapons and ammunition, whether they were used or threatened to be used in an act of abuse or not. Any one of several circumstances authorizes the court to grant this relief, including, but not limited to, abuse involving a firearm or weapon or an immediate and present danger of abuse. The amended statute provides the court with multiple examples of what may constitute proof of immediate and present danger for the purposes of ordering the relinquishment of any or all of the defendant's firearms. 23 Pa.C.S.A. § 6107 (b)(3).

In subdivisions (c) and (e), paragraph three in the form temporary and final orders is amended to clarify that even indirect contact with a protected person may be prohibited. This clarification reflects the Pennsylvania Supreme Court's holding in *Commonwealth v. Baker*, 564 Pa. 192, 766 A.2d 328 (2001), that the order must be "definite, clear, specific and leave no doubt or uncertainty in the mind of the person to whom it was addressed of the prohibited conduct."

The 2005 amendments to the Protection from Abuse Act provide that the court may order the defendant to relinquish ammunition and firearm licenses, in addition to firearms and other weapons. 23 Pa.C.S.A. § 6108(a)(7). These items were added to paragraph six of the temporary and final order forms, the notices to the defendant and the notices to the sheriff, police and law enforcement.

The amendments to paragraph six of the form orders also provide the court with two options if firearms, weapons or ammunition are prohibited. The court may order only certain firearms, weapons and ammunition to be relinquished as listed by Plaintiff on Attachment A, or the court may order that all firearms, weapons and ammunition be relinquished. The amended paragraphs and the notices to the defendant inform the parties that if the defendant is ordered to relinquish firearms, weapons or ammunition, they must be relinquished to the sheriff or, in the alternative, they may be relinquished to a third party who complies with the substantive and procedural requirements for a third party safekeeping permit. 23 Pa.C.S.A. § 6107(a). No matter which option Defendant chooses, if firearms and weapons are ordered to be relinquished, any firearm license possessed must be relinquished to the sheriff. The aforementioned items may be relinquished at the time of service, but no later than 24 hours after service. 23 Pa.C.S.A. § 6108 (a)(7)(i). The notice to the defen-

dant in the final order was expanded to advise the defendant that violation of the order may result in the revocation of the third-party safekeeping permit.

Paragraph seven of the final order form was amended to reflect 23 Pa.C.S.A. § 6108.1(a). The process for return of firearms is within the discretion of the court in each judicial district.

Paragraph ten of the final order form was amended to reflect the statute's prohibition against charging the plaintiff fees or costs related to filing, service, registration or appeal in any Protection from Abuse matter. A new subparagraph (b) in paragraph ten of the final order reflect the 2005 amendments to the Protection from Abuse Act which increased the surcharge a court may order a defendant to pay when an action is contested and directs the disbursement of the collected surcharges. 23 Pa.C.S.A. § 6106(d).

Paragraph fourteen of the final order form was amended to reflect the increased period of protection the court may grant. The maximum period of protection was increased from eighteen months to three years.

The amended notice to the sheriff, police and law enforcement in the final order clarifies that the defendant may be arrested anywhere a violation occurs, and that the court has jurisdiction to hear the issue of indirect criminal contempt either where the order was issued or where the violation occurred. 23 Pa.C.S.A. § 6114(a.1). The notice also makes it clear that a search and seizure of firearms may occur without a warrant when incident to arrest. 23 Pa.C.S.A. § 6113(b) and 6121.

Other amendments to the order forms reflect that the sheriff is authorized to arrest for violations of the order under the Protection from Abuse Act. 23 Pa.C.S.A. § 6113. The references to a protective order superseding provisions of a prior custody order were moved to paragraph five, which deals with custody, in both the temporary and final orders.

[Pa.B. Doc. No. 06-479. Filed for public inspection March 24, 2006, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1910]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 80

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, May 12, 2006 directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
FAX (717) 795-2175
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*By the Domestic Relations
Procedural Rules Committee*

NANCY P. WALLITSCH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.13-1. Failure or Refusal to Appear Pursuant to Order of Court. Bench Warrant.

(a) If a party fails to appear at a conference and/or hearing as directed by order of court, the court may issue a bench warrant for the arrest of the party if it finds

(1) following a hearing on the record that the party had actual notice that the party was [**required**] **ordered** to attend the conference and/or hearing, or

(2) upon the affidavit of a hearing officer or conference officer that

(i) the order of court scheduling the conference and/or hearing was served by ordinary mail with the return address of the domestic relations section appearing thereon, that the mail was not returned to the domestic relations section within fifteen days after mailing, and that, at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed; or

(ii) the party signed a receipt indicating acceptance of a copy of the court order; or

(iii) an employee of the court handed a copy of the order to the party; or

(iv) a competent adult handed a copy of the court order to the party, and filed an affidavit of service.

Official Note: See Rule 76 for the definition of "competent adult."

(b) The request for a bench warrant shall be made by the domestic relations office within sixty days following the party's failure to appear. The request shall be in the form provided by Rule 1910.13-2(b), and shall include the hearing officer or conference officer's certification that the party has not appeared for any domestic relations matter involving the same parties since the date the party failed to appear.

(c) Upon appearance in court by a party on the matter underlying the bench warrant, the bench warrant shall be vacated forthwith and the notice shall be given to all computer networks into which the bench warrant has been entered.

(d) [**The bench warrant shall direct that if the court is unavailable at the time of the party's arrest, the party shall be lodged in the county jail**

until such time as court is opened for business. The authority in charge of the county jail must promptly notify the sheriff's office and the director of the domestic relations section that defendant is being held pursuant to the bench warrant. Under no circumstances shall the party remain in the county jail longer than seventy-two hours prior to hearing.] When a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) **When an individual is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings. As used in this rule, "judicial officer" is limited to the common pleas court judge who issued the bench warrant, or common pleas court judge designated by the president judge or by the president judge's designee to conduct bench warrant hearings.**

(2) **In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.**

(3) **When the individual is arrested in the county of issuance, and the bench warrant hearing cannot be conducted promptly after the arrest, the individual shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the sheriff's office and the director of the domestic relations section that the individual is being held pursuant to the bench warrant.**

(4) **When the individual is arrested outside the county of issuance, the authority in charge of the county jail promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.**

(5) **The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance of that bench warrant. The individual shall not be detained without a hearing on the bench warrant longer than 72 hours, or the close of the next business day if the 72 hours expires on a non-business day.**

(6) **At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.**

(7) **If a bench warrant hearing is not held within the time limits in paragraph (d)(5), the bench warrant shall expire by operation of law.**

Explanatory Comment—1994

In 1988, Section 4342 of the Domestic Relations Code, 23 Pa.C.S. § 4342, was amended to require establishment of procedures for expedited contempt in support. Those procedures are set forth in new Rules 1910.13-1, 1910.13-2, and 1910.21-1 through 1910.21-7.

Former Rule 1910.13 provided for the issuance of a bench warrant for failure of a person to obey a court order other than an order for support. It is replaced with new Rule 1910.13-1 which sets forth detailed procedures for the issuance of a bench warrant, and new Rule

1910.13-2 which provides the associated forms. The new rules apply only to a party who fails to appear at a support conference or hearing as directed by an order of court.

An individual arrested pursuant to a bench warrant can be incarcerated for a period not to exceed seventy-two hours prior to hearing as set forth in new Rule 1910.13-1(d). Under the old rules, if the court was unavailable at the time of arrest, the individual could not be held. Therefore, law enforcement officials were unable to execute bench warrants in the evenings or on weekends, when their efforts were most likely to be successful. By limiting the possible period of incarceration to seventy-two hours, new Rule 1910.13-1(d) balances the need to bring parties before the court with the desire to avoid lengthy pre-hearing detention. Bail can be set by the court where appropriate, providing additional protection for the respondent.

[Former Rule 1910.21 is replaced by new Rules 1910.21 through 1910.21-7. New Rule 1910.21-1 replaces the notice to appear before the court with a court order, thus eliminating the need for two essentially identical documents attached to a single petition. It also eliminates the old requirement that a copy of the support order underlying the contempt petition and an "official statement" of support arrearages be attached to the petition. Instead, the petition need only set forth the amount of the arrearages, as well as any other allegations which constitute the alleged failure to comply with the support order. As with a support complaint, an answer is permitted, but not required, unless specially ordered by the court.

Former Rule 1910.21(c) provided for service of a contempt petition only by regular mail. If the respondent failed to appear for the conference or hearing, the matter had to be continued for personal service or issuance of a bench warrant, sometimes creating lengthy delays. New Rule 1910.21-1(d) permits service of the contempt petition by first class mail. If the respondent fails to appear, the domestic relations section can request issuance of a bench warrant after certifying that the order was not returned by the post office within fifteen days, and that the postal authorities verified that the party was receiving mail at the address to which the order was sent on a date after the order was mailed. Thus, under the new rule, service can be accomplished with relative ease and little expense, but also with reasonable certainty that the respondent actually received notice of the proceedings.

New Rule 1910.21-1 addresses situations both where the payor is chronically a few dollars short, or a few days late by requiring that contempt proceedings be initiated when arrearages in any amount have existed for fifteen days.

The procedures for expedited contempt after service of the petition are set forth in new Rules 1910.21-2 through 1910.21-7. Pursuant to new Rule 1910.21-2, the respondent can be required to attend a conference, or can go directly before a judge for hearing, if the court permits. In all cases where the respondent does not go directly before a judge, there is an office conference as set forth in new Rule 1910.21-3. If an agreement is reached, the court may then enter the order without hearing on the basis of the conference officer's recommenda-

tion. If no agreement is reached, the matter proceeds as described in new Rule 1910.21-4 or, if an individual county adopts it by local rule, as set forth in new Rule 1910.21-5.

If no agreement is reached, new Rule 1910.21-4 requires the conference officer to prepare a summary of the conference. Upon consideration of the conference summary, the court may enter an order without hearing the parties. Either party has the right to file a written request for a de novo hearing within ten days after the order is mailed. If the court does not enter an order within five days, a de novo hearing is automatically scheduled before the court. The contempt order is stayed if either party demands a de novo hearing. The hearing de novo must be held no later than seventy-five days after the date the petition for contempt was filed. The time limitation is for the benefit of the plaintiff, and is intended to ensure speedy resumption of support payments.

New Rule 1910.21-5 provides the alternative procedure where no agreement is reached at the office conference. At the conclusion of a conference, the hearing officer must file a report containing a proposed order and the hearing officer's recommendations. If either party files exceptions within ten days, the court must either hear argument on the exceptions or hold a hearing de novo within seventy-five days. If no exceptions are filed within ten days, the court may enter an order on the basis of the hearing officer's report.

New Rule 1910.21-4 makes clear that a respondent cannot be incarcerated without a full evidentiary hearing before a judge. The court's order committing the respondent to jail must name the conditions that the respondent must fulfill in order to be released.

Pursuant to new Rule 1910.21-7, motions for post trial relief are not permitted to be filed to any order entered under new Rules 1910.21-1 through 1910.21-6.]

Explanatory Comment—1999

The rules of civil procedure governing service of original process and other legal papers have used the term "competent adult." In certain circumstances, the term has been used with the restrictive language "who is not a party to the action."

The Supreme Court of Pennsylvania has amended Definition Rule 76 by adding the following definition: "competent adult" means an individual eighteen years of age or older who is neither a party to the action nor an employee or a relative of a party." In view of this new definition, the rules of civil procedure which used the term "competent adult who is not a party to the action" have been amended by deleting as unnecessary the restrictive language "who is not a party to the action." These rules using the term "competent adult" will be governed by the new definition. The rules which used the term "competent adult" without the restrictive language have been amend by deleting the word "competent," thus continuing to permit service by an adult without further restriction.

Explanatory Comment—2006

Beginning in 2006, bench warrants issued for failure to obey a court order to appear in a support matter will be available through the Judicial Net-

work ("JNET") system. JNET expands the capacity of law enforcement officers throughout the commonwealth to be informed of outstanding bench warrants issued by both the criminal and civil courts. The Supreme Court of Pennsylvania has promulgated new Pa. R.Crim. P. 150, effective August 1, 2006, which sets forth the procedure related to criminal bench warrants. The amendments to Rule 1910.13-1 and 1910-13-2 track the new criminal procedural rule so that bench warrant procedures will be uniform throughout the commonwealth. For additional information see the Criminal Procedural Rules Committee's Final Report explaining new Pa. R.Crim.P. 150, published with the promulgation order at 36 Pa. B. 184, 2006 (January 14, 2006).

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

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

[CAPTION]
REQUEST FOR BENCH WARRANT AND
SUPPORTING AFFIDAVIT

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

2. The party received the order of court scheduling the conference and/or hearing in the following manner:

(a) The order of court (i) was served upon the party by ordinary mail with the return address of the court thereon; (ii) the mail was not returned to the court within fifteen (15) days after mailing; and (iii) at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed.

(b) The party signed a receipt indicating acceptance of the court order.

(c) An employee of the court handed a copy of the court order to the party. The employee's affidavit of service is attached.

(d) A competent adult handed a copy of the court order to the party. The adult's affidavit of service is attached.

3. This request for Bench Warrant is made within sixty days following the party's failure to appear for the conference and/or hearing; and

I have reviewed the records of the Court and the Domestic Relations Office concerning this case, and attest that the party has not appeared for any domestic relations matter involving the same parties since the date upon which the party failed to appear in violation of the attached order of court.

4. In my capacity as hearing officer or conference officer, I request that the attached Bench Warrant be issued against the party named on account of the party's failure to appear for a scheduled conference and/or hearing in violation of an order of court.

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

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

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

The records of the Domestic Relations Section show that:

- the party owes support arrearages in the amount of \$ _____ .
- the party has failed to appear for _____ hearings relating to this case.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____
NAME/OFFICIAL TITLE

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

[CAPTION]
BENCH WARRANT

AND NOW, this _____ day of _____, 20____, the Sheriff of _____ County, or any constable, or police officer, or other law enforcement officer is hereby ordered to take _____, residing at _____, into custody for appearance before this Court.

This bench warrant is issued because it appears that the (plaintiff) (defendant) has failed to appear, after notice, before the court for a scheduled conference and/or hearing.

We command you, the arresting officer, forthwith to convey and deliver the party into the custody of the Court of Common Pleas of _____ County, at

_____, _____
(address) (city)

Pennsylvania, for a hearing.

DESCRIPTIVE INFORMATION

Social Security # _____ Sex _____ D.O.B. _____ Age _____
Height _____ Weight _____ Race _____ Eyes _____ Hair _____

Distinguishing features (scars, tattoos, facial hair, disability, etc.) _____

Alias _____

Telephone # _____

You are further commanded that if the court is unavailable, the party may be held in the County Jail until the court is opened for business, at which time the party shall be promptly conveyed and delivered into the custody of the court at

_____,
(address)

_____,
(city)

Pennsylvania, for hearing.

The authority in charge of the county jail shall notify the sheriff's office and the director of the domestic relations section forthwith that the party is being held pursuant to the bench warrant.

Under no circumstances may the party be held in the county jail **of the county that issued this bench warrant** for more than seventy-two hours **[prior to hearing]** or the close of the next business day if the 72 hours expires on a non-business day. See Pa. R.Crim.P 150(A)(5).

Bail in this matter shall be set as follows:

No bail.

Bail to be set in the amount of _____.

Bail to be determined by the magisterial district judge.

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

BY THE COURT: _____

JUDGE

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

Explanatory Comment—2005

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

[Pa.B. Doc. No. 06-480. Filed for public inspection March 24, 2006, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 3—6 AND 10]

Order Promulgating New Rule 589; Amending Rules 502, 542, 543, 546, 551, 622, and 648; and Approving the Revision of the Comments to Rules 313, 400, 504, 560, 585, 586, 587, and 1010; No. 342 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 9th day of March, 2006, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 29 Pa.B. 2444 (May 8, 1999), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 727), and a Final Report to be published with this *Order*:

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

(1) New Rule of Criminal Procedure 589 is promulgated;

(2) Rules of Criminal Procedure 502, 542, 543, 546, 551, 622, and 648 are amended;

(3) the revision of the Comments to Rules of Criminal Procedure 313, 400, 504, 560, 585, 586, 587, and 1010 is approved,

all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective September 1, 2006.

Madame Justice Baldwin did not participate in the decision of this matter.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 3. ACCELERATED REHABILITATIVE DISPOSITION (ARD)

PART B. Court Cases

Rule 313. Hearing, Manner of Proceeding.

* * * * *

Comment

* * * * *

In any case in which a summary offense has been joined with the misdemeanor or felony charges that have been disposed of by the defendant's acceptance into an ARD program, if the summary offense has not been disposed of prior to the ARD hearing, the trial judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. The Crimes Code § 110, 18 Pa.C.S. § 110, *Commonwealth v. Cauffman*, 541 Pa. 299, 662 A.2d 1050 (1995), and *Commonwealth v. Campana*, 455 Pa. 622, 304 A.2d 432 (1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 (1974), may require in a particular case that the trial judge have the defendant execute a "*Campana*" waiver prior to disposing of the summary offense at the ARD hearing.

When bail is terminated upon acceptance of the defendant into the ARD program, such action constitutes a "full and final disposition" for purposes of Rule 534 (Duration of Obligation) and Rule 535 (Receipt of Deposit; Return of Deposit).

Official Note: Rule 179 approved May 24, 1972, effective immediately; amended April 10, 1989, effective July 1, 1989; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered 313 and amended March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor or felony charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART A. Instituting Proceedings

Rule 400. Means of Instituting Proceedings In Summary Cases.

* * * * *
Comment
* * * * *

If one or more of the offenses charged is a misdemeanor, felony, or murder, the case is a court case (see Rule 103) and proceeds under Chapter 5 of the rules. [Any] Ordinarily, any summary offenses in such a case, if known at the time, must be charged in the same complaint as the higher offenses and must be disposed of as part of the court case. See [Crimes Code § 110, 18 Pa.C.S. § 110, and] Commonwealth v. Campana, 455 Pa. 622, 304 A.2d 432 ([Pa.] 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 ([Pa.] 1974) (compulsory joinder rule) and Crimes Code § 110, 18 Pa.C.S. § 110. [But see Commonwealth v. Beatty, 455 A.2d 1194 (Pa. 1983); Commonwealth v. Taylor, 522 A.2d 37 (Pa. 1987); and Commonwealth v. Kresge, 464 A.2d 384 (Pa. Super. Ct. 1983) (no Section 110 violation when separate prosecutions involve offenses "not within the jurisdiction of a single court"). See also Commonwealth v. Geyer, 687 A.2d 815 (Pa. 1996) (Section 110 applies to separate prosecution of two summary offenses within the jurisdiction of a single court).] See also Commonwealth v. Cauffman, 541 Pa. 299, 662 A.2d 1050 (1995).

In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and Commonwealth v. Masterson, 275 Pa. Super. 166, 418 A.2d 664 (1980).

* * * * *

Official Note: Previous Rule 51 adopted January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; Comment revised December 15, 1983, effective January 1, 1984; rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rules 3, 51, 52, 55, 60, 65, 70, 75, and 95. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised January 31, 1991, effective July 1, 1991; Comment revised January 16, 1996, effective immediately; Comment revised June 6, 1997, effective immediately; renumbered Rule 400 and amended March 1, 2000, effective April 1, 2001; Comment revised February 6, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; Comment revised March 3, 2006, effective September 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the March 3, 2006 Comment revision concerning summary motor vehicle offenses published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B. Instituting Proceedings

Rule 502. Instituting Proceedings in Court Cases.

Criminal proceedings in court cases shall be instituted by:

- (1) filing a written complaint; or
(2) an arrest without a warrant:
(a) when the offense is a murder, felony, or misdemeanor committed in the presence of the police officer making the arrest; or
(b) upon probable cause when the offense is a felony or murder; or

* * * * *

Comment

Criminal proceedings in court cases are instituted by 1) the filing of a complaint, followed by the issuance of a summons or arrest warrant; or by 2) a warrantless arrest, followed by the filing of a complaint. For the definition of "court case," see Rule 103.

If the defendant is held for court, the attorney for the Commonwealth submits an information to the court (see Rule 225). See Section 8931(d) of the Judicial Code, 42 Pa.C.S. § 8931(d).

There are only a few exceptions to this rule regarding the instituting of criminal proceedings in court cases. There are, for example, special proceedings involving a coroner or medical examiner. See Commonwealth v. Lopinson, 427 Pa. 552, 234 A.2d 552 ([Pa.] 1967), and Commonwealth v. Smouse, 406 Pa. Super. 369, 594 A.2d 666 ([Pa. Super.] 1991).

Whenever a misdemeanor [or], felony, or murder is charged, even if [a] the summary offense is also charged in the same complaint, the case should proceed as a court case under Chapter 5. See Commonwealth v. Cauffman, 541 Pa. 299, 662 A.2d 1050 (1995), and Commonwealth v. Campana, 455 Pa. 622, 304 A.2d 432 ([Pa.] 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 (1974). In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and Commonwealth v. Masterson, 275 Pa. Super. 166, 418 A.2d 664 (1980).

[Subsection] Paragraph (2)(c) is intended to acknowledge those specific instances wherein the General Assembly has provided by statute for arrest without a warrant for a misdemeanor not committed in the presence of the arresting officer. It in no way attempts to modify the law of arrest where no specific statutory provision applies.

For institution of criminal proceedings in summary cases, see Rule 400.

Official Note: Original Rule 102(1), (2), and (3), adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 102 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 101, and made applicable to court cases only, September 18, 1973, effective January 1, 1974; Comment revised February 15, 1974, effective immediately; amended June 30, 1975, effective September 1, 1975; Comment amended January 4, 1979, effective January 9, 1979; paragraph (1) amended October 22, 1981, effective January 1, 1982; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; amended August 9, 1994, effective January 1, 1995; Comment revised January 16, 1996, effective immediately; renumbered Rule 502 and amended March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 changes to the third paragraph of the Comment published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

PART B(1). Complaint Procedures

Rule 504. Contents of Complaint.

* * * * *

Comment

This rule sets forth the required contents of all complaints whether the affiant is a law enforcement officer, a police officer, or a private citizen. When the affiant is a private citizen, the complaint must be submitted to an attorney for the Commonwealth for approval. See Rule 506. When the district attorney elects to proceed under Rule 507 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth), the police officer must likewise submit the complaint for approval by an attorney for the Commonwealth.

Ordinarily, whenever a misdemeanor, felony, or murder is charged, any summary offense in such a case, if known at the time, should be charged in the same complaint, and the case should proceed as a court case under Chapter 5 Part B. See *Commonwealth v. Cauffman*, 541 Pa. 299, 662 A.2d 1050 (1995) and *Commonwealth v. Campana*, 455 Pa. 622, 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 454 Pa. 233, 314 A.2d 854 (1974) (compulsory joinder rule). In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301–1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, 275 Pa. Super. 166, 418 A.2d 664 (1980).

Paragraph (8) requires the affiant who prepares the complaint to indicate on the complaint whether criminal

laboratory services are requested in the case. This information is necessary to alert the [**district justice**] **magisterial district judge**, the district attorney, and the court that the defendant in the case may be liable for a criminal laboratory user fee. See 42 Pa.C.S. § 1725.3 [, **which**] **that** requires [**that**] a defendant **to** be sentenced to pay a criminal laboratory user fee in certain specified cases when laboratory services are required to prosecute the case.

Official Note: Original Rule 104 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 104 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 132 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended November 9, 1984, effective January 2, 1985; amended July 25, 1994, effective January 1, 1995; renumbered Rule 104 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 504 and Comment revised March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 Comment revision published with the Court's Order at 36 Pa.B. 1392 (March 25 , 2006).

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 542. Preliminary Hearing; Continuances.

* * * * *

(D) In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, the issuing authority shall not proceed on the summary offense except as provided in Rule 543(F).

(E) CONTINUANCES

* * * * *

Comment

* * * * *

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a prima facie case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v. Mullen*, 460 Pa. 336, 333 A.2d 755 ([Pa.]1975). This amendment was made to preserve the limited function of a preliminary hearing.

* * * * *

In cases in which summary offenses are joined with misdemeanor, felony, or murder charges, pursuant to paragraph (D), during the preliminary hearing, the issuing authority is prohibited from proceeding on the summary offenses, including the taking of evidence on the summary offenses, or adjudicating or disposing of the summary offenses except as provided in Rule 543(F).

For the contents of the transcript, see Rule 135.

Official Note: Former Rule 141, previously Rule 120, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered Rule 141 and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; rescinded October 8, 1999, effective January 1, 2000. Former Rule 142, previously Rule 124, adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present rule adopted January 31, 1970, effective May 1, 1970; renumbered Rule 142 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; effective date extended to July 1, 1982; amended July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; rescinded October 8, 1999, effective January 1, 2000. New Rule 141, combining former Rules 141 and 142, adopted October 8, 1999, effective January 1, 2000; renumbered Rule 542 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the March 3, 2006 amendments to paragraph (D) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Rule 543. Disposition of Case at Preliminary Hearing.

* * * * *

(D) In any case in which the defendant fails to appear for the preliminary hearing:

(1) if the issuing authority finds that the defendant did not receive notice, or finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date and time as provided in Rule 542 [(D)](E)(2).

* * * * *

(E) If the Commonwealth does not establish a prima facie case of the defendant's guilt, and no application for a continuance is made and there is no reason for a continuance, the issuing authority shall dismiss the complaint.

(F) In any case in which a summary offense is joined with misdemeanor, felony, or murder charges:

(1) If the Commonwealth establishes a prima facie case pursuant to paragraph (B), the issuing authority shall not adjudicate or dispose of the summary offenses, but shall forward the summary offenses to the court of common pleas with the charges held for court.

(2) If the Commonwealth does not establish a prima facie case pursuant to paragraph (B), upon the request of the Commonwealth, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

(3) If the Commonwealth withdraws all the misdemeanor, felony, and murder charges, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

Comment

Paragraph (C) [was amended in 1983 to reflect] reflects the fact that a bail determination will already have been made at the preliminary arraignment, except in those cases in which, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. See Rules 509 and 510.

* * * * *

If the issuing authority determines that the defendant did not receive notice or that there is good cause explaining why the defendant failed to appear, the preliminary hearing must be continued and rescheduled for a date certain. See paragraph (D)(1). For the procedures when a preliminary hearing is continued, see Rule 542 [(D)] (E).

* * * * *

When the defendant fails to appear after notice and without good cause, paragraph (D)(2)(a) provides that the case is to proceed in the same manner as if the defendant were present. The issuing authority either would proceed with the preliminary hearing as provided in Rule 542(A), (B), (C) and Rule 543(A), (B), and (C); or, if the issuing authority determines it necessary, continue the case to a date certain as provided in Rule 542 [(D)] (E); or, in the appropriate case, convene the preliminary hearing for the taking of testimony of the witnesses who are present, and then continue the remainder of the hearing until a date certain. When the case is continued, the issuing authority still should send the required notice of the new date to the defendant, thus providing the defendant with another opportunity to appear.

* * * * *

Rule 542(D) specifically prohibits an issuing authority at a preliminary hearing from proceeding on any summary offenses that are joined with misdemeanor, felony, or murder charges, except as provided in paragraph (F) of this rule. Paragraph (F) sets forth the procedures for the issuing authority to handle these summary offenses at the preliminary hearing. These procedures include the issuing authority (1) forwarding the summary offenses together with the misdemeanor, felony, or murder charges held for court to the court of common pleas, or (2) disposing of the summary offenses as provided in Rule 454 by accepting a guilty plea or conducting a trial whenever (a) the misdemeanor, felony, and murder charges are withdrawn, or (b) a prima facie case is not established at the preliminary hearing and the Commonwealth requests that the issuing authority proceed on the summary offenses.

Under paragraph (F)(2), in those cases in which the Commonwealth does not intend to refile the misdemeanor, felony, or murder charges, the Commonwealth may request that the issuing authority dispose of the summary offenses. In these cases, if all the parties are ready to proceed, the issuing authority should conduct the summary trial at that time. If the parties are not prepared to proceed with the summary trial, the issuing authority should grant a continuance and set the summary trial for a date and time certain.

In those cases in which a prima facie case is not established at the preliminary hearing, and the Commonwealth does not request that the issuing authority proceed on the summary offenses, the issuing authority should dismiss the complaint, and discharge the defendant unless there are outstanding detainees against the defendant that would prevent the defendant's release.

Nothing in this rule would preclude the refile of one or more of the charges, as provided in these rules.

See Rule 313 for the disposition of any summary offenses joined with misdemeanor or felony charges when the defendant is accepted into an ARD program on the misdemeanor or felony charges.

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for the preliminary hearing procedures in Municipal Court.

Official Note: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; amended March 3, 2006, effective September 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the March 3, 2006 amendments adding new paragraphs (E) and (F) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Rule 546. Dismissal Upon Satisfaction or Agreement.

When a defendant is charged [with a misdemeanor] in a case in which the most serious offense charged is a misdemeanor(s), the issuing authority may dismiss the case upon a showing that:

* * * * *

Comment

* * * * *

A dismissal of the case pursuant to this rule is a dismissal of all the charges, including any summary offenses that have been joined with the misdemeanor(s) and are part of the case. See the Comment to Rule 502 (Instituting Proceedings In Court Cases) (when a misdemeanor, felony, or murder is charged with a summary offense in the same complaint, the case should proceed as a court case under Chapter 5 Part B). See also Rule 551 (Withdrawal Of Charges Pending Before Issuing Authority) that permits the attorney for the Commonwealth to withdraw one or more of the charges.

For dismissal upon satisfaction or agreement in summary cases, see Rule 458.

For court dismissal upon satisfaction or agreement, see Rule 586.

Official Note: Formerly Rule 121, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered Rule 145 and amended September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended April 18, 1997, effective July 1, 1997; renumbered Rule 546 and amended March 1, 2000, effective April 1, 2001; amended March 3, 2006, effective September 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the March 3, 2006 amendments to the first paragraph and the Comment published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Rule 551. Withdrawal of [Prosecution] Charges Pending Before Issuing Authority.

In any court case pending before an issuing authority, the attorney for the Commonwealth, or his or her designee, may withdraw [the prosecution] one or more of the charges. The withdrawal shall be in writing.

Comment

This rule was amended in 1995 to make it clear that only the attorney for the Commonwealth or a designee has the authority to withdraw a prosecution.

In any case in which a summary offense is joined with the misdemeanor, felony, or murder charges:

(1) if only some of the charges are withdrawn, and the remainder are held for court, the joined summary offense, unless withdrawn, must be forwarded to the court of common pleas as required by Rule 543(F); and

(2) if all of the misdemeanor, felony, and murder charges are withdrawn pursuant to this rule, the issuing authority must dispose of the summary offense as provided in Rule 454 (Trial in Summary Cases).

Official Note: Rule 151 adopted September 18, 1973, effective January 1, 1974; amended August 14, 1995, effective January 1, 1996; renumbered Rule 551 March 1, 2000, effective April 1, 2001; amended March 3, 2006, effective September 1, 2006.

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 amendments to the title and rule published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

PART E. Informations

Rule 560. Information: Filing, Contents, Function.

* * * * *

Comment

* * * * *

In any case in which there are summary offenses joined with the misdemeanor, felony, or murder charges that are held for court, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Hoffman*, 406 Pa. Super. 583, 594 A.2d 772 (1991).

When there is an omission or error of the type referred to in paragraph (C), the information should be amended pursuant to Rule 564.

See Rule 543(D) for the procedures when a defendant fails to appear for the preliminary hearing. When the preliminary hearing is held in the defendant's absence and the case is held for court, the attorney for the Commonwealth should proceed as provided in this rule.

Official Note: Rule 225 adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; renumbered Rule 560 and amended March 1, 2000, effective April 1, 2001; Comment revised April 23, 2004, effective immediately; **Comment revised August 24, 2004, effective August 1, 2005; Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

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Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

PART F(1). Motion Procedures

Rule 585. Nolle Prosequi.

* * * * *

Comment

Section 8932 of the Judicial Code, 42 Pa.C.S. § 8932, prohibits the district attorney from entering a nolle prosequi without court approval at any time after the filing of an information.

Before an information is filed, the attorney for the Commonwealth may withdraw one or more of the charges by filing a notice of withdrawal with the clerk of courts. See Rule 561(A). Upon the filing of an information, any charge in the complaint not listed on the information will be deemed withdrawn by the attorney for the Commonwealth. See Rule 561(B). After the information is filed, court approval is required before a nolle prosequi may be entered on a charge listed therein. See 42 Pa.C.S. § 8932.

In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge: (1) the judge may order a nolle prosequi on all the charges including the summary offense; and (2) if the judge has ordered a nolle prosequi on all the misdemeanor, felony, or murder charges pursuant to this rule, the judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense in the court of common pleas as required by Rule 589 (Pretrial Disposition of Summary Offenses Joined With Misdemeanor, Felony, or Murder Charges).

Official Note: Rule 314 adopted June 30, 1964, effective January 1, 1965; Comment revised February 15, 1974, effective immediately; renumbered Rule 313 and Comment revised June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978 [,]; Comment revised January 28, 1983, effective July 1, 1983; amended August 12, 1993, effective September 1, 1993; amended August 14, 1995, effective January 1, 1996; renumbered Rule 585 and amended March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Rule 586. Court Dismissal Upon Satisfaction or Agreement.

* * * * *

Comment

This rule applies only to courts of common pleas. Neither justices of the peace, [district justices] magisterial district judges, Philadelphia Municipal Court judges, [Pittsburgh Police Magistrates,] nor any other issuing authority may dismiss a case under this rule, but rather only as provided in Rule 546.

This rule sets forth concisely the criteria a defendant must satisfy before the court has the discretion to order dismissal under this rule.

If a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, a dismissal of the case pursuant to this rule may include a dismissal of the summary offense. See the Comment to Rule 502 (Instituting Proceedings in Court Cases).

Official Note: Rule 315 adopted June 30, 1964, effective January 1, 1965; amended September 18, 1973, effective January 1, 1974; renumbered Rule 314 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended January 28, 1983, effective July 1, 1983; renumbered Rule 586 and amended March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Rule 587. Motion for Dismissal.

* * * * *

Comment

Cf. Pa.R.J.A. 1901 concerning termination of inactive cases.

See Rule 575 for the procedures governing motions and answers.

In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, a dismissal of the prosecution pursuant to paragraph (A) would include the dismissal of the summary offense. See the Comment to Rule 502 (Instituting Proceedings in Court Cases).

Official Note: [Rule] Rule 316 adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; renumbered Rule 315 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended August 12, 1993, effective September 1, 1993; renumbered Rule 587 and amended March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

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Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25 2006).

Rule 589. Pretrial Disposition of Summary Offenses Joined with Misdemeanor, Felony, or Murder Charges.

(A) In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, when there is a dismissal of all misdemeanor, felony, and murder charges, unless the Commonwealth appeals the disposition, the trial judge shall dispose of the summary offense.

(B) In no event shall the trial judge remand the summary offense to the issuing authority for disposition.

Comment

In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, when an appeal of a pretrial disposition of the misdemeanor, felony, or murder charge is taken, disposition of the summary offense should be delayed pending the appeal. See Rules of Appellate Procedure 311 (Interlocutory Appeals as of Right), 903 (Time for Appeal), and 1701 (Effect of Appeal Generally).

Notwithstanding the provisions of this rule, a dismissal of the prosecution pursuant to Rule 586 (Court Dismissal Upon Satisfaction or Agreement) may include the dismissal of the summary offense.

For the procedures for nolle prosequi see Rule 585 (Nolle Prosequi).

Official Note: Adopted March 3, 2006, effective September 1, 2006.

Committee Explanatory Reports:

Final Report explaining the new rule published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

**CHAPTER 6. TRIAL PROCEDURES
IN COURT CASES**

PART B. Non-Jury Procedures

Rule 622. Time for Court Action Following Non-Jury Trial.

(A) A verdict shall be rendered in all non-jury cases within 7 days after trial.

(B) In any case in which a summary offense is joined with the misdemeanor, felony, or murder charges that were tried before the trial judge, the trial judge shall render a verdict on the summary offense, and impose sentence if the judge finds the defendant guilty of the summary offense, even in cases in which the judge has dismissed or found the defendant not guilty on the misdemeanor, felony, or murder charges.

Comment

The 1993 amendment to this rule was prompted by the general revision of post-trial procedures reflected in large part by Rule 720 (Post-Sentence Procedures; Appeal). Before this amendment, Rule 622 was a hybrid. It contained time limits for decisions on several types of motions, and also contained a time limit for verdict in non-jury trials. As a result of the adoption of Rule 720, post-verdict motions for a new trial, for judgment of acquittal, and motions in arrest of judgment were moved to post-sentence under Rule 720. The procedures for a motion for judgment of acquittal after the jury is discharged without agreeing on a verdict were amended in 1993 and moved to Rule 608. Rule 622, as amended, only provides the time limit for verdict in a non-jury case.

Pursuant to Rule 543 (Disposition of Case at Preliminary Hearing), in cases in which there are summary offenses that are joined with the misdemeanor, felony, or murder charges, the issuing authority is prohibited from adjudicating or disposing of the summary offenses, and must forward the summary offenses to the court of common pleas for disposition with the charges held for court. Therefore, when a judge is the trier of fact as to the misdemeanors, felonies, or murder pursuant to this rule, the judge may not remand the summary offense to the issuing authority, but must dispose of the summary offense together with the misdemeanor, felony, and murder.

Official Note: Formerly Rule 302 adopted June 30, 1964, effective January 1, 1965; renumbered Rule 1122 and moved to Chapter 1100, June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended January 28, 1983, effective July 1, 1983; amended March 22, 1993, effective as to cases in which trial commences on or after January 1, 1994; renumbered Rule 622 and Comment revised March 1, 2000, effective April 1, 2001; **amended March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 amendments concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

PART C(2). Conduct of Jury Trial

Rule 648. Verdicts.

* * * * *

(F) If there is a summary offense joined with the misdemeanor, felony, or murder charge that was tried before the jury, the trial judge shall not remand the summary offense to the issuing authority. The summary offense shall be disposed of in the court of common pleas, and the verdict with respect to the summary offense shall be recorded in the same manner as the verdict with respect to the other charges.

(G) Before a verdict, whether oral or sealed, is recorded, the jury shall be polled at the request of any party. Except where the verdict is sealed, if upon such poll there is no concurrence, the jury shall be directed to retire for further deliberations.

Comment

Paragraph (A) of the rule replaces the practice of automatically appointing the first juror chosen as foreman of the jury. Paragraphs (C), (D), and (E) serve only to codify the procedure where conviction or acquittal of one offense operates as a bar to a later trial on a necessarily included offense. Similarly, the rule applies to situations of merger and autrefois convict or acquit. No attempt is made to change the substantive law which would operate to determine when merger or any of the other situations arise. See, e.g., *Commonwealth v. Comber*, 374 Pa. 570, 97 A.2d 343 [Pa.] 1953).

Paragraph (F) provides for the disposition in the court of common pleas of any summary offense that is joined with the misdemeanor, felony, or murder charges that were tried before the jury. Under no circumstances may the trial judge remand the summary offense to the issuing authority, even in cases in which the defendant is found not guilty by the jury. See also Rule 543 (Disposition of Case at Preliminary Hearing).

Paragraph [(F)] (G) provides for the polling of the jury and requires the judge to send the jury back for deliberations in accordance with *Commonwealth v. Martin*, 379 Pa. 587, 109 A.2d 325 [Pa.] 1954). With respect to the procedure upon non-concurrence with a sealed verdict, see Rule 649(C).

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

Official Note: Rule 1120 adopted January 24, 1968, effective August 1, 1968; amended February 13, 1974, effective immediately; paragraph (E) amended to correct printing error June 28, 1976, effective immediately; paragraph (F) amended April 26, 1979, effective July 1, 1979;

amended August 12, 1993, effective September 1, 1993; renumbered Rule 648 and amended March 1, 2000, effective April 1, 2001; **amended March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 amendments concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA TRAFFIC COURT

PART A. Philadelphia Municipal Court Procedures

Rule 1010. Procedure on Appeal.

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Comment

In any case in which there are summary offenses joined with the misdemeanor charges that are the subject of the appeal, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Speller*, 311 Pa. Super. 569, 458 A.2d 198 (1983).

Official Note: Rule 6010 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended August 28, 1998, effective immediately; renumbered Rule 1010 March 1, 2000, effective April 1, 2001; **Comment revised March 3, 2006, effective September 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

FINAL REPORT¹

New Pa.R.Crim.P. 589 (Pretrial Disposition of Summary Offenses Joined with Misdemeanor or Felony Charges); amendments to Pa.Rs.Crim.P. 502, 542, 543, 546, 551, 622, and 648; and revision of the Comments to Pa.Rs.Crim.P. 313, 400, 504, 560, 585, 586, 587, and 1010

Joinder of Summary Offenses with Misdemeanor, Felony, or Murder Charges

On March 9, 2006, effective September 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Pa.R.Crim.P. 589, amended Rules of Criminal Procedure 502, 542, 543, 546, 551, 622, and 648, and approved the revision of the Comments to Rules of Criminal Procedure 313, 400, 504, 560, 585, 586, 587, and 1010. These rule changes, which are the culmination of a number of years of work by the

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

Committee, clarify the procedures for handling cases in which a summary offense is joined with misdemeanor, felony, or murder charges both when the case is before the issuing authority and after the case is held for court.

I. INTRODUCTION

The question of how to handle cases in which a summary offense is joined with misdemeanor, felony, or murder charges ("joined summary offense") has been raised a number of times with the Committee in correspondence from members of the bench and bar, and more recently in inquiries the Committee is receiving from the Common Pleas Case Management System (CPCMS). The correspondents have indicated that there is a great deal of diversity statewide in the procedures employed for handling summary offenses that are joined with misdemeanor, felony, or murder charges, even among judges and magisterial district judges within the same judicial districts, and that this lack of uniformity is confusing for members of the bench and bar. According to the correspondents, the problems with the lack of uniformity arise throughout the criminal justice process—in the context of an accelerated rehabilitative disposition ("ARD") program; when a case is within the jurisdiction of the minor judiciary, both at and following the preliminary hearing; and after a case is held for court in pretrial and trial proceedings. The correspondents asked the Committee to consider specifically (1) the impact that the joined summary offenses might have on the defendant's eligibility for ARD, and (2) whether there should be one uniform procedure for handling the summaries (a) when a defendant is accepted into an ARD program; (b) at the preliminary hearing; and (c) when the case is held for court.

The Committee reviewed the rules, the various procedures being used statewide, and the case law. The Committee's research, as well as the members' experiences, confirmed what the correspondents had noted—there are widespread variations in the procedures from judicial district to judicial district, and even from judge to judge within judicial districts, and this lack of uniformity is creating a great deal of confusion for members of the minor judiciary, the judges and clerks in the courts of common pleas, members of the bar, and defendants. Furthermore, the obvious cause of this lack of uniformity is that there are no statewide rules that establish clear procedures, and the case law offers little guidance. In view of these considerations, the Committee agreed that the criminal justice system would be benefited by rules that establish a uniform procedure for handling these joined cases.

In developing the proposal, the Committee noted that, pursuant to the Rule 103 definition of "court case,"² once a summary offense is joined with misdemeanor, felony, or murder charges, the joined summary offense becomes part of the "court case," and, therefore, the joined summary offense should remain with and be treated as part of the "court case." In addition, the Committee agreed that to promote judicial economy and the efficient administration of justice, when the case is before the minor judiciary and the circumstances warrant the disposition of the summary offense alone, the issuing authority should be responsible for the disposition. However, once a case that includes a joined summary offense has been held for court and has been forwarded to the court of common pleas, when the circumstances warrant the disposition of the summary offense alone, it makes no

sense to return the summary offense to the minor judiciary, and therefore the judge in the court of common pleas ("CP judge") should dispose of the summary offense. These points formed the Committee's guiding principles as we worked through the rules.

II. DISCUSSION OF RULE CHANGES

The Committee approached this project by examining the rules in groupings consistent with the "chapter" organization of the rules: ARD; preliminary proceedings when the case is before the minor judiciary; pretrial proceedings after the case is held for court; trial procedures in the court of common pleas; and procedures in Philadelphia Municipal Court.

A. ARD Cases: Rule 313

A number of the questions posed to the Committee concerned the handling of joined summary offenses in court cases in which the defendant is potentially eligible for ARD, and seem to fall into two broad categories. First, if the defendant is going to be admitted into ARD on the misdemeanor or felony charge, how should the summary offense be handled? Second, what is the effect of the joined summary offense on ARD eligibility if the defendant pleads guilty to the summary offense or if the CP judge finds the defendant guilty of the summary offense. Would these "convictions" be considered by the district attorney as a bar to admitting the defendant into ARD? We also considered whether these "convictions" would be a bar to future prosecution if the defendant failed to complete the ARD program.

Proceeding with the Committee's basic premise that cases with joined summary offenses are "court cases" within the Rule 103 definition, the Committee reached the following conclusions. First, there would be no reason why a CP judge could not include the summary offense in the ARD disposition. Second, if the summary offense is not included in the ARD disposition, and the summary offense has not been disposed of prior to the ARD hearing, the CP judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. Third, by virtue of the charging function and the broad discretion given to district attorneys in deciding ARD eligibility, see, e.g., *Commonwealth v. Benn*, 544 Pa. 144, 675 A.2d 261 (1996), the district attorney has discretion to determine which offenses may be considered for ARD. The district attorney may nolle pros or withdraw the summary offense, or may recommend the inclusion of the summary offense in the ARD program. Fourth, if the summary offense is disposed of by a guilty plea or a guilty verdict, there may be a "*Campana*" or Crimes Code Section 110 issue that should be addressed.

Based on these considerations, the Committee ultimately agreed that the ARD issue should be addressed by revising the Comment to Rule 313 (Hearing, Manner of Proceeding) to make it clear that if the summary offense has not been disposed of by the time of the ARD hearing, then the CP judge may not remand the summary offense to the issuing authority, but must dispose of the summary offense at the ARD hearing, and that it may be necessary for the CP judge to have the defendant execute a "*Campana*" waiver prior to disposing of the summary offense to avoid any problems should the defendant fail to complete the ARD program on the misdemeanor or felony charge.

² Rule 103 defines "court case" as "a case in which one or more of the offenses charged is a misdemeanor, felony, or murder of the first, second, or third degree."

B. Proceedings Before Issuing Authority

1. Preliminary Hearings: Rules 542 and 543

The second consideration for the Committee concerned how the joined summary offenses should be handled at the preliminary hearing. The Committee examined Rules 542 (Preliminary Hearing; Continuances) and 543 (Disposition of Case at Preliminary Hearing), and agreed that to further the "court case" premise, the issuing authority should dispose of the joined summary offense only in those cases in which the Commonwealth fails to establish a prima facie case and the Commonwealth requests that the issuing authority dispose of the summary offense. This would occur, for example, when the Commonwealth does not intend to refile the misdemeanor, felony, or murder charge; or the Commonwealth withdraws all the misdemeanor, felony, and murder charges. To accomplish this, a new paragraph (D) has been added to Rule 542 that provides:

In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, the issuing authority shall not proceed on the summary offense except as provided in Rule 543(F).

Correlative to the new Rule 542(D) provision, a new paragraph (F) has been added to Rule 543. Paragraph (F)(1) implements the joined summary offense policy by providing that in any case in which the Commonwealth establishes a prima facie case, the issuing authority is to forward the summary offense to the court of common pleas with the other charges held for court. Paragraphs (F)(2) and (F)(3) set forth the two exceptions noted above: when the Commonwealth does not intend to refile the misdemeanor, felony, or murder charge; or the Commonwealth withdraws all the misdemeanor, felony, and murder charges. The Rule 543 Comment has been revised to amplify these changes.

In addition, a new paragraph (E) has been added to Rule 543 to address cases in which the Commonwealth does not establish a prima facie case. A new Comment provision makes it clear that, when the complaint is dismissed, (1) the issuing authority should discharge the defendant unless there are outstanding detainers preventing the defendant's release, and (2) the Commonwealth may refile some or all of the charges, including the summary offense.

2. Dismissal or Withdrawal of Charges: Rules 546 and 551

Two other issues arose concerning the joined summary offenses when the case is before the issuing authority. First, how should the joined summary be handled when the case is going to be dismissed pursuant to Rule 546 (Dismissal Upon Satisfaction or Agreement)? The Committee agreed that, in this situation, the joined summary offense is part of the court case and should be dismissed with the misdemeanor. Although this reasoning seems apparent on the face of the rule, in view of the ongoing confusion in this area, the introductory paragraph to the rule has been amended to make the "same case" concept clear, with further explanation in the Rule 546 Comment. The Comment also has been revised by the addition of a cross-reference to Rule 551 alerting the parties and the courts that there is another option besides dismissing the entire case.

Rule 551 (Withdrawal of Prosecution Before Issuing Authority), which provides the Commonwealth with the option to withdraw some or all of the charges, presents a slightly different issue. The Committee reasoned that, if only some of the charges are withdrawn and the remain-

der are held for court, the joined summary offense, unless withdrawn, would be forwarded to the court of common pleas as required by Rule 543(F). However, if all the misdemeanor, felony, and murder charges are withdrawn and only the summary offense remains, the Committee did not see any utility in requiring the summary offense to be forwarded to the court of common pleas, and agreed that the issuing authority should dispose of the summary offense in the same manner that any summary offense is disposed of pursuant to Rule 454 (Trial in Summary Cases). To make this concept clear, the Rule 551 Comment has been revised by the addition of a paragraph explaining the process and cross-referencing Rule 543(F).

As part of the discussion of Rule 551, some members commented that the provision "may withdraw the prosecution" in the text of the rule could be confusing since the Commonwealth is not required to withdraw all the charges, but may withdraw some of the charges and proceed on the rest of the charges. In view of this, the phrase "the prosecution" has been replaced with "one or more of the charges" in the text of the rule and with "charges pending" in the title to the rule.

C. Pretrial Proceedings After Case Held for Court

1. Filing Information: Rule 560

When the case is held for court and the case includes a joined summary offense, the Committee agreed that the summary offense should be charged in the information. Although there is case law on point, see *Commonwealth v. Hoffman*, 406 Pa. Super. 583, 594 A.2d 772 (1991), some members suggested that because the rule does not specifically require this procedure even though paragraph (5) requires a statement of the elements of the offense charged, the joined summary offense is not uniformly being included in the information. To ensure the joined summary offenses are properly included in the information, a short cautionary explanation with a citation to *Hoffman*, supra, has been added to the Rule 560 Comment.

2. Pretrial Disposition of Joined Summary: New Rule 589, and Rules 585, 586, and 587

The Committee next considered the handling of the joined summary offense in the context of the pretrial proceedings under Chapter 5, after the case is held for court and the information is filed. The handling of the joined summary offense only becomes an issue when there is a dismissal or a nolle prosequi of all the misdemeanor, felony, or murder charges. We agreed that, consistent with the "court case" concept and to promote judicial economy, the CP judge must dispose of the remaining joined summary offense, and may not return the summary offense to the issuing authority for disposition. However, the Committee noted that none of the existing rules provide an appropriate place to clarify the procedures for the pretrial handling of joined summary offenses. Accordingly, new Rule 589 (Pretrial Disposition of Summary Offenses Joined with Misdemeanor or Felony Charges) has been adopted to specifically address this matter. The new rule is divided into two paragraphs. Paragraph (A) provides that "when there is a dismissal of all the misdemeanor, felony, and murder charges, unless the Commonwealth appeals the disposition, the trial judge shall dispose of the summary offense." Paragraph (B) makes it clear that the judge may not remand the summary offense.

In discussing this new rule and the treatment of joined summary offenses, several members expressed concern about the potential for double jeopardy issues or conflicts with the Rules of Appellate Procedure if the summary offense is disposed of in cases in which the Commonwealth appeals the pretrial disposition of any of the misdemeanor, felony, or murder charges. From the Committee's review of the Appellate Rules of Procedure, the members agreed that, pursuant to Rule of Appellate Procedure 1701 (Effect of Appeal Generally), any appeal by the Commonwealth of a pretrial disposition postpones further action on the case pending the appeal, and this postponement would include the disposition of any joined summary offenses. The Committee also noted that there are several pretrial proceedings from which the Commonwealth would be permitted to appeal, such as a granting of a suppression motion. Although none of the Criminal Rules addressing pretrial court case procedures set forth procedures for the time period pending an appeal, the members opined that the bench and bar are cognizant of these procedures. Notwithstanding this generally accepted knowledge, the Committee agreed the addition to the Rule 589 Comment of a cross-reference to Rules of Appellate Procedure 311, 903, and 1701 with a further elaboration that the disposition of the joined summary offenses would be delayed pending the Commonwealth's appeal would aide the bench and bar. The Comment also includes cross-references to Rules 585 (Nolle Prosequi) and 586 (Court Dismissal Upon Satisfaction or Agreement).

Correlative revisions have been made to the Comments to Rules 585, 586, and 587 (Motion for Dismissal) providing clarifications about the handling of the joined summary offense within the context of each rule. The Rule 585 Comment revision explains that (1) the CP judge may order a nolle prosequi on all the charges including the joined summary offense, and (2) when the nolle prosequi is of all the misdemeanor, felony, or murder charges, the CP judge must dispose of the joined summary offense. The Rule 586 Comment revision explains that the dismissal of the case may include a dismissal of the joined summary offense. Finally, the Rule 587 Comment revision explains that a dismissal of the prosecution includes a dismissal of the joined summary offense.

D. Trial Procedures: Rules 622 and 648

The last procedural area concerning joined summary offenses the Committee discussed was trials in the court of common pleas, both when there is a jury and when the judge is the trier of fact. Again reaffirming the principle that, consistent with the "court case" concept and to promote judicial economy, the joined summary offense should be handled by the CP judge and not remanded to the issuing authority the Committee looked at Rules 622 (Time for Court Action Following Non-Jury Trial) and 648 (Verdicts). Although neither rule specifically addresses the handling of the joined summary offense, the Committee thought that these rules are the best place in Chapter 6 to clarify the procedure. Accordingly, Rule 622 has been amended by adding a new paragraph (B) that requires the CP judge to dispose of the joined summary offense. Similarly, Rule 648 has been amended by adding a new paragraph (F) that specifically prohibits the CP judge from remanding the joined summary offense to the issuing authority, no matter how the misdemeanor, felony, or murder charges are disposed, and requires that the summary offense be disposed of in the court of common pleas. Finally, a cross-reference to Rule 543 has been added to the Comments of both rules.

E. Correlative Changes

1. Summary Motor Vehicle Offenses: Rules 400, 502, and 504

During the Committee's consideration of the issue of joined summary offenses, several members questioned whether summary motor vehicle offenses in jurisdictions with traffic courts would be treated in the same manner as other summary offenses. This issue generated a great deal of discussion, particularly following the 2002 changes to 18 Pa.C.S. § 110(1)(ii).³ As initially developed, the Committee had proposed the Comments to Rules 400 (Means of Instituting Proceedings in Summary Cases), 502 (Instituting Proceedings in Court Cases), and 504 (Contents of Complaint) be revised to provide direction with regard to the charging of summary motor vehicle offenses when there are other summary offenses or misdemeanor, felony, or murder charges arising from the same criminal episode in jurisdictions that have traffic courts. Upon further reflection, the Committee agreed this proposal could be mischievous given the uncertainty created by the amendments to Section 110. Accordingly, the Comments to Rules 400, 502, and 504 have been revised merely to refer to the traffic court enabling statutes, 42 Pa.C.S. §§ 1301—1342, and to *Commonwealth v. Masterson*, 275 Pa. Super. 166, 418 A.2d 664 (1980), (a disposition in the Philadelphia Traffic Court is not a bar to a subsequent prosecution on a related misdemeanor or felony in common pleas court because, relying on the exclusive jurisdiction, there is no single court that could try both offenses).⁴ This approach (1) alerts the bench and bar to the distinction between (a) the charging of summary vehicle code offenses that arise in the same criminal episode as other summary offenses or misdemeanor, felony, or murder charges in jurisdictions that have traffic courts established pursuant to 42 Pa.C.S. §§ 1301—1342 and (b) the charging of these summary vehicle code offenses in all other jurisdictions, (2) recognizes the current state of the law, and (3) leaves the implications of the amendments to Section 110 as applied to traffic court jurisdiction to the interpretation of the courts.

2. Philadelphia Municipal Court: Rule 1010

As a result of the Committee's research into joinder, we noted that the Superior Court in *Commonwealth v. Speller*, 311 Pa. Super. 569, 458 A.2d 198 (1983), held that when there is a non-traffic summary offense joined with a misdemeanor in a Philadelphia Municipal Court case, upon appeal of the disposition in the Municipal Court, the district attorney is required to include the summary offense in the information the district attorney is required to prepare pursuant to Rule 1010 (Procedure on Appeal). Because the joined summary is coming to the Court of Common Pleas in a slightly different manner than the

³ Act 82 of 2002 amended Section 110 by deleting the words "jurisdiction of a single court" and replacing them with "same judicial district as the former prosecution." The Committee also reviewed, in the context of the March 3, 2006 rule changes in general, the changes to 18 Pa.C.S. § 110 and the principle joinder cases that relied upon the phrase "jurisdiction of a single court" as the legal basis for determining that disposition of a summary offense by a magisterial district judge did not preclude the trial in a court of common pleas of a misdemeanor, felony, or murder charge arising from the same criminal episode because the summary offense and the court case were not within the "jurisdiction of a single court." See, for example, *Commonwealth v. Ceyer*, 546 Pa. 586, 687 A.2d 815 (1996). The Committee concluded the 2002 changes to Section 110 do not create a problem. However, the "but see" reference to the string of cases cited in the Rule 400 Comment addressing Section 110 and the "within the jurisdiction of a single court" language in addition to the compulsory joinder rule has been deleted as no longer necessary.

⁴ Rule 502(2)(a) and (2)(b) also have been amended by the addition of "murder" to the references to misdemeanor and felony to conform to the Rule 103 definition of "court case."

joined summaries in other court cases, the Rule 1010 Comment has been revised to include a cross-reference to *Speller*, supra, to acknowledge this variation.

[Pa.B. Doc. No. 06-481. Filed for public inspection March 24, 2006, 9:00 a.m.]

[234 PA. CODE CHS. 4 AND 7]

Order Approving the Revision of the Comments to Rules 431 and 706; No. 341 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 9th day of March, 2006, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of efficient administration because the proposed changes are perfunctory in nature, and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Comments to Rules of Criminal Procedure 431 and 706 are approved in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2006.

Madame Justice Baldwin did not participate in the decision of this matter.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 4. PROCEDURES IN SUMMARY CASES
PART D. Arrest Procedures in Summary Cases
PART D(1). Arrests With a Warrant

Rule 431. Procedure When Defendant Arrested With Warrant.

* * * * *

Comment

For the procedure in court cases following arrest with a warrant initiating proceedings, see Rules 516, 517, and 518. See also the Comment to Rule 706 (Fines or Costs) that recognizes the authority of a common pleas court judge to issue a bench warrant for the collection of fines and costs and provides for the execution of the bench warrant as provided in either paragraphs (C)(1)(c) or (C)(1)(d) and (C)(2) of this rule.

* * * * *

Official Note: Rule 76 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; amended August 9, 1994, effective January 1, 1995; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 431 and amended March 1, 2000, effective April 1, 2001; amended August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; amended June 30, 2005, effective August 1, 2006; Comment revised March 9, 2006, effective August 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the March 9, 2006 Comment revision adding the cross-reference to Rule 706 published with the Court's Order at 36 Pa.B. 1396 (March 25, 2006).

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART A. Sentencing Procedures

Rule 706. Fines or Costs.

* * * * *

Comment

See generally Commonwealth ex rel. Benedict v. Cliff, 451 Pa. 427, 304 A.2d 158 (Pa. 1973).

Under this rule, when a defendant fails to pay the fine and costs, the common pleas court judge may issue a bench warrant for the collection of the fine and costs. When a "failure to pay" bench warrant is issued, the bench warrant must be executed by a police officer following the procedures set forth in Rule 431(C)(1)(c) and (C)(2), or, if the defendant is unable to pay, the police officer must proceed as provided in Rule 150 (Bench Warrants).

* * * * *

Official Note: Rule 1407 approved July 23, 1973, effective 90 days hence; renumbered Rule 706 and amended March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective August 1, 2006.

Committee Explanatory Reports:

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

Final Report explaining the March 9, 2006 Comment revision concerning fine and cost warrants published with the Court's Order at 36 Pa.B. 1396 (March 25, 2006).

FINAL REPORT¹

Revision of the Comments to Pa.Rs.Crim.P. 431 and 706

"Fine and Costs" Bench Warrants Issued by Judges of the Courts of Common Pleas

On March 9, 2006, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comments to Rules of Criminal Procedure 431 (Procedure When Defendant Arrested with a Warrant) and 706 (Fine and Costs) clarifying that judges of the Courts of Common Pleas are permitted to issue "fine and costs" bench warrants in court cases in the same manner that magisterial district court judges do pursuant to Rule 431.

The proposal evolved from the Committee's review of the arrest warrant forms that were under consideration for inclusion on the Common Pleas Case Management System (CPCMS).² The AOPC's CPCMS staff asked the Committee whether common pleas court judges are au-

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

² The Committee, as part of our ongoing work with the AOPC's Common Pleas Case Management System (CPCMS) staff, which includes review of all the forms being incorporated into the system, has been addressing numerous questions, such as these form questions, that are raised by the CPCMS staff.

thorized to issue "fine and cost" warrants similar to the "fine and cost" warrants issued by magisterial district court judges pursuant to Rule 431.

Rule 431(C) provides, inter alia, that

(C) *Bench Warrants*

(1) When a bench warrant is executed, the police officer shall either:

* * * * *

(c) accept from the defendant the amount of restitution, fine, and costs due as specified in the warrant if the warrant is for collection of restitution, fine, and costs after a guilty plea or conviction; or

(d) if the defendant is unable to pay, promptly take the defendant for a hearing on the bench warrant as provided in paragraph (C)(3).

(2) When the defendant pays the restitution, fines, and costs, or collateral pursuant to paragraph (C)(1), the police officer shall issue a receipt to the defendant setting forth the amount of restitution, fine, and costs received and return a copy of the receipt, signed by the defendant and the police officer, to the proper issuing authority.

Although there is no comparable rule in the rules governing court cases, the Committee noted that Rule 706, which provides the procedures in a court case for handling failures to pay fines and costs, is comparable to Rule 456 (Default Procedures: Restitution, Fines, and Costs) governing the procedures in summary cases for handling failures to pay fines and costs. In view of this, and because the Committee was unable to find any Committee rule history to the contrary,³ the Committee reasoned that there is nothing in the rules precluding Common Pleas Court Judges when issuing warrants for failure to pay fines and costs to authorize the police officer executing the warrant to accept the fines and costs in lieu of taking the defendant into custody. The Committee also agreed, because of the questions from the CPCMS staff, a provision in the rules making this clear would be beneficial to the members of the bench and bar.

The Committee discussed whether a separate rule that would be comparable to Rule 431 should be added to the court case rules. We decided, because the warrant forms will be available on the CPCMS and the procedures for execution of fine and cost warrants are enumerated in Rule 431, that a Comment provision alerting the Common Pleas Court Judges to this procedure would be sufficient.

Accordingly, the Rule 706 Comment has been revised by the addition of a cross-reference to Rule 431. Because Rule 431 is an "execution of warrant" rule, the Rule 706 Comment language first notes that common pleas court judges may issue a "failure to pay warrant." The remainder of the Comment provision explains that the "failure to pay warrant" must be executed by a police officer following the provisions in Rule 431(C)(1)(c) and (C)(2). If the defendant is unable to pay at the time of the execution of the warrant, the police officer must follow the procedures in Rule 150 (Bench Warrants).

³ For a discussion about fine and costs warrants in the summary case context, see the Committee's explanatory Report at 13 Pa.B. 2948, 2964, 2965 (10/1/1983).

A clarifying paragraph also has been added to the Rule 431 Comment explaining that the application of the Rule 431 procedures in court cases is limited to the procedures in paragraphs (C)(1)(c) and (C)(2). The other Rule 431 provisions do not apply in the context of a common pleas court case.

[Pa.B. Doc. No. 06-482. Filed for public inspection March 24, 2006, 9:00 a.m.]

[234 PA. CODE CH. 5]

Order Amending Rule 535; No. 340 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 9th day of March, 2006, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 33 Pa.B. 6408 (December 27, 2003) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 835), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 535 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2006.

Madame Justice Baldwin did not participate in the decision of this matter.

Annex A

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

PART C(2). General Procedures in all Bail Cases

Rule 535. Receipt for Deposit; Return of Deposit.

(A) Any deposit of cash in satisfaction of a monetary condition of bail shall be given to the issuing authority, the clerk of courts, or another official designated by the president judge by local rule pursuant to Rule 117(C). The issuing authority, clerk, or other official who accepts the deposit shall give the depositor an itemized receipt, and shall note on the bail bond the amount deposited and the name of the person who made the deposit. The defendant shall sign the bail bond, and be given a copy of the signed bail bond.

* * * * *

(4) At the time bail is being deposited, no inquiry shall be made of the depositor whether he or she consents to have the deposit retained to be applied toward the defendant's fines, costs, or restitution, if any.

* * * * *

Comment

[This rule is not intended to change current practice.]

* * * * *

[A] Paragraph (A) was amended in 2006 to make it clear that the clerk of courts or other official accepting a deposit of cash bail is not permitted to

request that the depositor agree to have the cash bail deposit retained after the full and final disposition of the case to be applied toward the payment of the defendant's fines, costs, or restitution, if any. See, e.g., *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978), which held that a deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines. [See *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978).]

* * * * *

Official Note: Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended March 3, 2004, effective July 1, 2004; amended June 30, 2005, effective August 1, 2006; **amended March 9, 2006, effective August 1, 2006.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 9, 2006 changes to paragraph (A) concerning deposits of bail published with the Court's Order at 36 Pa.B. 1398 (March 25, 2006).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 535 (Receipt for Deposit; Return of Deposit)

Application of Bail Deposit to Fines, Costs, Restitution

On March 9, 2006, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.R.Crim.P. 535 (Receipt for Deposit; Return of Deposit) to make it clear that the clerk of courts or other individual accepting a deposit of bail may not ask the depositor to consent to have the bail money applied toward fines and costs.

I. INTRODUCTION

The amendments to Pa.R.Crim.P. 535 (Receipt for Deposit; Return of Deposit) provide in the text of the rule the specific prohibition that, at the time bail is deposited, the court official who accepts a deposit of bail may not inquire of the depositor whether the depositor consents to have the cash bail deposit retained to be applied toward the defendant's fines, costs, or restitution, if any. This amendment is not a change to the current law concerning the use of bail money deposits, but rather is a clarification of the provision in the Rule 535 Comment that cross-references *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978), in which the Court held that "a deposit of cash to satisfy a defendant's monetary bail

condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines."²

The Committee undertook a review of the issue of using monetary bail deposits to pay a defendant's court costs and fines following an inquiry from the Common Pleas Case Management System (CPCMS) staff whether the monetary bail deposit may be retained to offset the defendant's fines, costs, restitution, and attorney's fees. The CPCMS staff noted monetary bail deposits are being retained for this purpose in some judicial districts notwithstanding the language in the Rule 535 Comment, and these judicial districts asked that the CPCMS be designed to accommodate the practice.

II. DISCUSSION

The Committee approached the issue from two perspectives: (1) whether the practice in some judicial districts of using bail deposits to offset fines, costs, and restitution is permissible under the rules and (2) if not, whether the Criminal Rules should be amended to permit the practice. From a review of the Criminal Rules, the Constitution, and case law, the members concluded that the practice is contrary to the purpose of bail, which is to ensure a defendant's appearance at all court proceedings, and conflicts with Rule 535(D), which provides that "the deposit *shall* be returned to the depositor, less any *bail-related* fees or commissions authorized by law, and the reasonable *costs*, if any, *of administering* the percentage cash bail program." (Emphasis added.)

In considering whether Rule 535 should be amended to permit a court official at the time bail is deposited to ask a bail depositor to agree to the use of the bail deposit to offset fines, costs, and restitution, in addition to being contrary to the purpose of bail, the members identified a number of practical concerns about such a practice:

- (1) requesting the depositor to agree may be coercive on and confusing to the bail depositor, who frequently will not fully understand the nature and consequences of the agreement he or she is being asked to make;
- (2) requesting the defendant's agreement easily could become an improper condition of release on bail;
- (3) permitting the practice could lead to the unintended and unacceptable collateral consequences of police officers no longer releasing defendants pursuant to Rule 519(B) or bail authorities no longer utilizing ROR or conditional release in order to ensure the collection of fines and costs; and
- (4) such a practice is inequitable and unfair because, for example, some defendants are given ROR and others are required to post a monetary condition of bail for the same offenses, such as when you have a resident defendant and a non-resident defendant.

In view of these considerations, the Committee agreed the rules should not be amended to permit the practice; rather, the rules should be amended to include a specific prohibition against the practice. The Committee further agreed the amendment should be incorporated into the text of Rule 535 and should be limited to a prohibition on the request for consent to use the bail deposit to offset fines, costs, and restitution at the time the monetary bail

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

² This provision was added to the bail rules in 1995 as part of the general reorganization and revision of the bail rules. See Committee explanatory Final Report, 35 Pa.B. 4116 (September 30, 1995).

deposit is made, leaving the questions about when, if ever, the bail deposits may be used to offset fines, costs, and restitution to the courts.

The new language has been added as new paragraph (A)(4), with a correlative explanatory paragraph added to the current provision in the Comment that cites to *Commonwealth v. McDonald*. In addition, although the provision in new paragraph (A)(4) is not a change in the law or what has been the intent of the rules, because it is a change in what is the current practice in some judicial districts, the first sentence of the Comment that provides "this rule is not intended to change current practice" has been deleted.

[Pa.B. Doc. No. 06-483. Filed for public inspection March 24, 2006, 9:00 a.m.]

Title 25—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; (Amending 1793 S 1989); No. 0091-4 MD 2006

Order

And Now, this 2nd day of March, 2006, Dauphin County Local Rule of Criminal Procedure 106 is amended as follows:

Rule 106. Continuances Where Case Set For Jury Trial

(a) All motions for a continuance shall be in writing and filed with the Clerk of Courts no later than 4:00 p.m. on the [**Wednesday**] **Tuesday** prior to the week of criminal jury trials during which the case is scheduled for trial. A copy of the motion shall be served on opposing counsel by the same deadline.

The motion shall contain a procedural history of the case, beginning with date of filing of the criminal complaint, and a recitation of any prior continuances sought. The motion shall aver whether opposing counsel has been contacted concerning the motion and shall state counsel's position thereon.

In cases which have been permanently **attached or temporarily assigned for disposition**, the motion shall be addressed to the assigned judge. All other cases shall be referred to the motions judge.

* * * * *

COMMENT: Subsection (a)'s language that the "motion shall contain a procedural history of the case, beginning with the date of filing of the criminal complaint, and a recitation of any prior continuances sought" establishes the Court's expectation that the motion contain dates of previously-sought continuances. Furthermore, if a case is not called during a particular term of court without a formal motion being made and granted, its rescheduling to the next term of court is a de facto continuance which should be disclosed as part of the procedural history of the case.

This subsection's language also requires that a continuance motion will include any limiting or scheduling provisions previously dictated. For example, provisions in a prior court order that no further continuances will be granted or that trial will commence on a certain date/time must be disclosed.

This rule shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 06-484. Filed for public inspection March 24, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that Barry Ira Bank of North Potomac, Maryland, has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated January 26, 2006, 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 February 25, 2006.

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. 06-485. Filed for public inspection March 24, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Electronic Devices for Dogs

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, proposed to amend § 141.18 (relating to permitted devices).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 24, 2006, meeting of the Commission. Comments can be sent, until April 14, 2006, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has recently received a number of requests from various persons who use dogs to hunt a variety of game species to amend existing regulations to specifically permit the use of electronic devices used for the purpose of locating dogs while hunting or training. The devices specifically requested for permitted use are e-collars, radio-telemetry tracking systems and beeper collars. The requests have resulted from fears that strict interpretation of the provisions prohibiting use of electronic devices to hunt or take wildlife could put persons who use electronic devices to locate their dogs while hunting or training at risk of being found in violation.

From a fundamental perspective, the Commission accepts the use of electronic devices to locate dogs while hunting or training just as much as it currently accepts the use of electronic devices to locate fellow hunters (that is, two-way radios, cell phones, and the like). Use of electronic devices in this manner does not give a hunter an unfair advantage over game or violate principles of fair chase. However, the Commission is concerned that the specific permitted use of these types of electronic devices intended to locate dogs while hunting or training will encourage hunters to misuse these devices to also locate game. Despite this concern, after consideration of the relevant issues, the Commission believes that it is appropriate to accommodate these requests. Therefore, the Commission is proposing to amend § 141.18 to specifically permit the use of electronic devices used for locating dogs while hunting or training, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

Section 322(c)(5) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the commission to "promulgate regulations relating to . . . the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and

appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 141.18 was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.18 to specifically permit the use of electronic devices used for locating dogs while hunting or training, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

3. Persons Affected

Persons wishing to use electronic devices to locate dogs while hunting or training will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-228. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.18. Permitted devices.

The following devices may be used to hunt or take wildlife:

* * * * *

(3) Electronic devices used for locating dogs while training or hunting, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

[Pa.B. Doc. No. 06-486. Filed for public inspection March 24, 2006, 9:00 a.m.]

**[58 PA. CODE CH. 147]
Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, proposed to amend §§ 147.552—147.554 (relating to application; permit; and subpermit).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 24, 2006, meeting of the Commission. Comments can be sent, until April 14, 2006, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission recognizes the unique challenges faced by farmers in this Commonwealth's most urban areas. White-tailed deer have certainly proven themselves able to create significant agricultural destruction, even in moderate numbers. Unfortunately, for farmers in highly developed or urban areas deer population issues are complicated. As a measure to help combat high deer populations and their associated problems, the Commission provides farmers with a number of deer management programs, including agricultural deer control permits. The permits generally allow for a focused deer harvest in a designated area in addition to the harvest authorized by the various traditional hunting seasons. Unfortunately, it appears that despite the availability of these permits, farmers in Wildlife Management Units (WMU) 5C and 5D continue to suffer significant agricultural destruction.

In response to the aforementioned damage, a number of farmers or those representing their interests, or both, have requested additional relief from the Commission. Specifically, these individuals are requesting that the following requirements be eliminated for permittees in WMUs 5C and 5D: 1) minimum of 2 years and current enrollment in one of the Commission's public access programs; 2) conspicuous posting of deer control permit signs on the boundaries of and along all public roadways traversing the permitted property; and 3) limitation preventing permittees from issuing more than one subpermit to a qualified individual. Although the Commission's staff has some reservation in eliminating public access requirements from agricultural deer control permits, the Commission is nonetheless convinced that it needs to provide some measure of additional relief to affected farmers in WMUs 5C and 5D. Therefore, the Commission is proposing to amend §§ 147.552, 147.553 and 147.554 to modify the public access, signage posting and subpermit issuance requirements for agricultural deer control permit permittees in WMUs 5C and 5D.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to

regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 147.552, 147.553 and 147.554 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 147.552, 147.553 and 147.554 to modify the public access, signage posting and subpermit issuance requirements for agricultural deer control permit permittees in WMUs 5C and 5D.

3. Persons Affected

Persons wishing to obtain an agricultural deer control permit or operate under the authority of another's agricultural deer control permit in WMUs 5C and 5D will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-227. No fiscal impact; (8) recommends adoption.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
AGRICULTURE**

§ 147.552. Application.

* * * * *

(b) [Applications] Except in wildlife management units 5C and 5D, applications will only be accepted from persons who have been enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone—P.1-2-3) for a minimum of 2 years and are currently enrolled in the Program.

* * * * *

§ 147.553. Permit.

The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every 5 acres of land that is under cultivation unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.

* * * * *

(3) *Posting.* **[Deer]** Except in wildlife management units 5C and 5D, deer control permit signs provided by the Commission shall be conspicuously posted on the boundary of and along all public roadways traversing the property by the landowner/cooperator on all contiguous acres of the farm under agreement. Posting shall be completed prior to February 1.

* * * * *

§ 147.554. Subpermit.

The permittee may acquire from the Commission subpermits, not to exceed the number provided for in § 147.553 (relating to permit), to be issued to qualified individuals of the permittee's choosing for the purpose of removing deer from the permittee's property by shooting. There is no fee charged for the subpermit. Qualifications are as follows:

* * * * *

(3) A permittee may not issue more than one subpermit to a person to take deer on the permittee's land enrolled in the Agricultural Deer Control Program, **except in wildlife management units 5C and 5D, where a permittee may not issue more than two subpermits to a person.**

* * * * *

[Pa.B. Doc. No. 06-487. Filed for public inspection March 24, 2006, 9:00 a.m.]

STATEMENTS OF POLICY

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 170]

Nonbusiness Income—Application of *Canteen Corporation* Decision

The Department of Revenue (Department) has adopted a statement of policy under the authority in § 3.2 (relating to statements of policy). The statement of policy adds § 170.3 (relating to nonbusiness income—application of *Canteen Corporation* decision) and takes effect upon publication in the *Pennsylvania Bulletin*.

This statement of policy is promulgated by the Department to clarify the scope and application of *Canteen Corp. v. Commonwealth*, 818 A.2d 594 (Pa. Cmwlth. 2003) to the Corporate Net Income Tax.

Specific questions regarding information provided in this statement of policy should be directed to the Department of Revenue, Office of Chief Counsel, Dept. 281061, Harrisburg, PA 17128-1061.

(*Editor's Note:* Title 61 of the *Pennsylvania Code* is amended by adding a statement of policy in § 170.3 to read as set forth in Annex A.)

GREGORY C. FAJT,
Secretary

Fiscal Note: 15-434. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE VI. CORPORATION TAXES

CHAPTER 170. CORPORATION TAX PRONOUNCEMENTS—STATEMENTS OF POLICY

§ 170.3. Nonbusiness income—application of *Canteen Corporation* decision.

(a) *Canteen Corp. v. Commonwealth*, 818 A.2d 594 (Pa. Cmwlth. 2003) will not be applied to taxable years beginning after December 31, 1998.

(b) The policy implications are as follows:

(1) It is the policy of the Department of Revenue that the part of the decision in *Canteen Corp. v. Commonwealth*, 818 A.2d 594 (Pa. Cmwlth. 2003), which held that gains or losses from section 338 transactions produce nonbusiness income, does not apply to taxable years beginning after December 31, 1998, because of statutory amendments to the definition of "business income." In accordance with § 153.81 (relating to elections under 26

U.S.C.A. § 338) taxable income generated as a result of a section 338 election will be treated as business income.

(2) The part of the decision which held that the fictional sale of assets by the target corporation must be recognized by the Commonwealth will be followed so that the target corporation's sales factor will include, when required by law, the proceeds assigned to each asset which is deemed to have been sold.

(c) The rationale for this statement of policy is as follows:

(1) The Commonwealth Court in *Canteen* reasoned that the Commonwealth could not include the fictional gain produced by this Federal election in taxable income and then ignore the additional fiction that under this election the company is deemed to have sold all of its assets in a complete liquidation and distribution of assets. Following this reasoning, the Commonwealth Court relied on the Pennsylvania Supreme Court's holding in *Laurel Pipe Line v. Board of Finance and Revenue*, 537 Pa. 205, 642 A.2d 472 (1994) that the gain realized from a partial liquidation of a discrete business segment and distribution of proceeds to shareholders is nonbusiness income.

(2) The Pennsylvania Supreme Court in *Laurel Pipe Line* emphasized that the statutory definition of the functional test of business income is conjunctive in that it required "the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations" to find business income. The court held that the pipeline was not disposed of as an integral part of Laurel's regular trade or business; therefore, the gain was nonbusiness income.

(3) The act of June 22, 2001, (P. L. 353, No. 23) (Act 23), made it clear through the amended definition of "business income" that the functional test of business income is disjunctive in that it merely requires that "if either the acquisition, the management, or the disposition of the property constitutes an integral part of the taxpayer's regular trade or business operations" the income is business income.

(i) Therefore, although this type of disposition is not an integral part of taxpayer's regular trade or business, the gain or loss realized from the sale of any asset that was either acquired or managed as an integral part of the taxpayer's regular trade or business operations is business income.

(ii) In addition, Act 23 further provided that "business income . . . includes all income which is apportionable under the Constitution of the United States." As of March 25, 2006, no United States Supreme Court decision has addressed the imposition of a state corporate income tax relative to corporate liquidations.

(d) This section shall be effective immediately and apply to all open cases, tax settlements and appeals.

[Pa.B. Doc. No. 06-488. Filed for public inspection March 24, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking (Department), 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 March 7, 2006.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-1-06	MoreBank Philadelphia Philadelphia County	470 West Cheltenham Avenue Philadelphia Philadelphia County	Commenced Operations

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-1-06	Community First Bank, National Association Reynoldsville Jefferson County <i>To:</i> Community First Bank Reynoldsville Jefferson County	444 Main Street Reynoldsville Jefferson County	Filed

Application represents request for conversion from a National association to a State-chartered banking institution.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-28-06	Keystone Nazareth Bank & Trust Company, Bethlehem, and The Trust Company of Lehigh Valley, Allentown Surviving Institution— Keystone Nazareth Bank & Trust Company, Bethlehem	Bethlehem	Effective

Subsequent to the merger of The Trust Company with and into the bank, Paragon Group, Inc., the parent holding company of The Trust Company merged with and into Keystone Nazareth Bank & Trust Company and its corporate existence ceased. Also, the former main office of The Trust Company became a branch office of Keystone Nazareth Bank & Trust Company: 1620 Pond Road, Allentown, Lehigh County.

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-21-06	United-American Savings Bank Pittsburgh Allegheny County	3515 Washington Road McMurray Washington County	Filed
3-2-06	East Penn Bank Emmaus Lehigh County	2985 MacArthur Road Whitehall Township Lehigh County	Filed
3-7-06	Graystone Bank Lancaster Lancaster County	3599 Gettysburg Road Camp Hill Cumberland County	Approved
3-7-06	Integrity Bank Camp Hill Cumberland County	301 Colonial Road Harrisburg Lower Paxton Township Dauphin County	Approved
3-7-06	Integrity Bank Camp Hill Cumberland County	6085 Allentown Boulevard Harrisburg Lower Paxton Township Dauphin County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-6-06	Mid Penn Bank Millersburg Dauphin County	<i>To:</i> 4642 State Route 209 Elizabethville Dauphin County <i>From:</i> 2 East Main Street and 11-13 East Main Street (Drive-Up) Elizabethville Dauphin County	Filed

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>
3-1-06	Butler Armco Employees Credit Union, Butler, and West Penn Northern Division Employees Federal Credit Union, Arnold Surviving Institution— Butler Armco Employees Credit Union, Butler	Butler	Effective

The Department's website at www.banking.state.pa.us includes public notices for more recently filed applications.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-489. Filed for public inspection March 24, 2006, 9:00 a.m.]

Action on Applications

The Department of Banking (Department), 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 March 14, 2006.

BANKING INSTITUTIONS**Charters**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-8-06	Northwest Merger Subsidiary II, Inc. Warren Warren County	Warren	Approved

Northwest Merger Subsidiary II, Inc. (Subsidiary II) is being formed solely to facilitate the merger of Maryland Permanent Bank & Trust Company (Maryland) with and into Northwest Savings Bank. Subsidiary II will merge with and into Maryland and its corporate existence will cease to exist.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-8-06	Northwest Savings Bank, Warren, PA, and Maryland Permanent Bank & Trust Company, Owings Mills, MD Surviving Institution— Northwest Savings Bank	Warren	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-1-06	Citizens & Northern Bank Wellsboro Tioga County	1510 Dewey Avenue Williamsport Lycoming County	Opened
3-2-06	Pocono Community Bank Stroudsburg Monroe County	Route 209 Brodheads ville Monroe County	Opened
3-9-06	York Traditions Bank York York County	2305 Susquehanna Trail North York Manchester Township York County	Approved
3-9-06	Allegiance Bank of North America Bala Cynwyd Montgomery County	2960 Skippack Pike Lansdale Montgomery County	Approved
3-9-06	Embassy Bank for the Lehigh Valley Bethlehem Northampton County	Trexlertown Marketplace Intersection of Hamilton Boulevard and Mill Creek Road Allentown Lower Macungie Township Lehigh County	Approved
3-9-06	Allegheny Valley Bank of Pittsburgh Pittsburgh Allegheny County	333 Allegheny Avenue Oakmont Allegheny County	Approved
3-9-06	Fulton Bank Lancaster Lancaster County	116-118 West Market Street West Chester Chester County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-9-06	Northwest Savings Bank Warren Warren County	<i>To:</i> 100 Market Place Drive Edinboro Washington Township Erie County <i>From:</i> 108 Washington Towne Boulevard Edinboro Washington Township Erie County	Approved
3-9-06	Fidelity Savings Bank Pittsburgh Allegheny County	<i>To:</i> 100 Broadway Street Carnegie Allegheny County <i>From:</i> 17 West Main Street Carnegie Allegheny County	Approved
3-10-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 3835 Peach Street Erie Erie County <i>From:</i> 1520 West 26th Street Erie Erie County	Filed
3-10-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 815 East 38th Street Erie Erie County <i>From:</i> 1702 East 38th Street Erie Erie County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-3-06	CSB Bank Curwensville Clearfield County	BILO Supermarket Route 255 (Million Dollar Highway) St. Marys Elk County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Charter Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
3-13-06	K of C Federal Credit Union Philadelphia Philadelphia County	Philadelphia	Approved
	<i>To:</i> K of C Credit Union Philadelphia Philadelphia County		
	Application represents conversion from a Federally-chartered associational-based credit union to a State-chartered community-based credit union; said conversion will be accomplished by filing Articles of Conversion with the Department of State which will include but not be limited to: the proposed name of the converted credit union and its new field of membership which will include persons who live, work, worship, perform volunteer service, attend school, and businesses and other legal entities located in the Counties of Philadelphia, Bucks, Delaware and Montgomery in this Commonwealth.		
3-14-06	Diamond Credit Union Pottstown Montgomery County	Pottstown	Approved
	Application represents conversion from an occupational-based credit union to a community-based charter; said conversion will be accomplished by filing Articles of Amendment with the Department of State which will reflect an amendment to Article IV, section 7 of the credit union's Articles of Conversion to extend the field of membership of the credit union to include ". . . persons who live, work, worship, regularly conduct business, or attend school in Berks County, Collegeville Borough, Douglass Township, East Coventry Township, East Greenville Borough, East Nantmeal Township, East Vincent Township, Green Lane Borough, Limerick Township, Lower Frederick Township, Lower Pottsgrove Township, Marlborough Township, New Hanover Township, North Coventry Township, Pennsburg Borough, Perkiomen Township, Pottstown Borough, Red Hill Borough, Royersford Borough, Schwenksville Borough, Skippack Township, South Coventry Township, Spring City Borough, Trappe Borough, Upper Frederick Township, Upper Hanover Township, Upper Pottsgrove Township, Upper Providence Township, Warwick Township, West Pottsgrove Township, and West Vincent Township, Pennsylvania."		

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
3-8-06	Greater Greensburg Industrial Credit Union, Greensburg, and Westmoreland Community Federal Credit Union, Greensburg Surviving Institution— Westmoreland Community Federal Credit Union, Greensburg	Greensburg	Approved
3-14-06	Freedom Credit Union, Philadelphia, and The Church of the Redeemer Federal Credit Union, Philadelphia Surviving Institution— Freedom Credit Union, Philadelphia	Philadelphia	Approved

The Department's website at www.banking.state.pa.us includes public notices for more recently filed applications.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-490. Filed for public inspection March 24, 2006, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of April 2006

The Department of Banking (Department), under the authority contained in section 301 of the Act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of April 2006 is 7 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.65 to which was added 2.50 percentage points for a total of 7.15 that by law is rounded off to the nearest quarter at 7 1/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-491. Filed for public inspection March 24, 2006, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the

date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0080284 (Sew)	New Oxford Manor Mobile Home Village 510 Dauberton Drive New Oxford, PA 17350	Adams County Mount Pleasant Township	UNT to South Branch Conewago Creek 7-F	Y
PA0084603 (Sew)	Fairmount Homes 333 Wheat Ridge Drive Ephrata, PA 17522-8558	Lancaster County West Earl Township	Conestoga River 7-J	Y
PA0082601 (Sew)	James Decker, Jr. Hartslog Courts R. R. 7, Box 919 Altoona, PA 16601	Huntingdon County Porter Township	UNT to Crooked Creek 11-B	Y
PA0081183 (Sew)	Margaret Carbaugh Happy Hollow Restaurant 10910 Raystown Road Saxton, PA 16678	Bedford County Liberty Township	UNT to Sugar Camp Run 11-D	Y
PA0081302 (Sew)	South Londonderry Township Municipal Authority P. O. Box 3 Campbelltown, PA 17010-0003	Lebanon County South Londonderry Township	Spring Creek 7-D	Y
PA0083887 (Sew)	Brad Shover Brush Creek Country Estates 225 Pine Hill Road Landisburg, PA 17040	Bedford County East Providence Township	Brush Creek 11-C	Y
PA0081396 (Sew)	Laurelwood Mobile Home Park P. O. Box 506 Elizabethtown PA 17022	York County Newberry Township	UNT to Bennett Run 7-F	Y
PA0029572 (Sew)	Village of Laurel Run Health Care Facility 6375 Chambersburg Road Fayetteville, PA 17222-8303	Adams County Franklin Township	Clear Run 13-C	Y
PA0086088 (Sew)	Wooded Acres Homeowners Association 316 Schubert Road Bethel, PA 19507-0024	Berks County Bethel Township	Little Swatara Creek 7-D	Y
PA0081949 (Sew)	West Earl Sewer Authority 157 West Metzler Road P. O. Box 725 Brownstown, PA 17508-0725	Lancaster County West Earl Township	Conestoga Creek 7-J	Y

Southwest Region: Oil and Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

PA0253286, Industrial Waste, **CNX Gas Company, LLC**, 4000 Brownsville Rd., South Park, PA 15129. This proposed facility is located in Center Township, **Greene County**.

Description of Proposed Activity: Treatment Facility for Coal Bed Methane Fluids.

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0209902	Ina B. and Michael J. Mailliard SFTF 694 Sunol Road Cochranton, PA 16314	Greenwood Township Crawford County	UNT to Sandy Creek 16-G	Y
PA0020044	Fredonia Municipal Authority Hadley Road Fredonia, PA 16124	Fredonia Borough Mercer County	Mill Run 20-A	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.

PA0026859A2, Sewage, **Pennsylvania American Water**, 4 Wellington Boulevard, Wyomissing, PA 19610. This existing facility is located in South Coatesville Borough, **Chester County**.

Description of Proposed Activity: This application is for amendment of an NPDES permit to increase the existing discharge of treated sewage from the Coatesville Sewage Treatment Plant from 3.85 mgd to 7.0 mgd.

The receiving stream, West Branch Brandywine Creek, is in the State Water Plan watershed 3H and is classified for WWF, MF, aquatic life, water supply, recreation and fishing. West Branch Brandywine Creek is a tributary to Brandywine Creek. There are no public water supply intakes identified downstream in this Commonwealth. The confluence with Brandywine Creek is approximately 15 river miles downstream from the discharge point. The State Line is approximately 9.5 river miles downstream from the confluence. A Wilmington, Delaware, water supply intake is located on Brandywine Creek approximately 7.5 river miles downstream from the State Line.

The proposed sewage effluent limits for Outfall 001 based on an existing design flow of 3.85 mgd are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	
CBOD ₅					
(5-1 to 10-31)	355	533	11.07	16.61	22.14
(11-1 to 4-30)	711	1,066	22.14	33.21	44.28
Total Suspended Solids			30	45	60
Ammonia (as N)					
(5-1 to 10-31)	64		2.0		4.0
(11-1 to 4-30)	193		6.0		12.0
Phosphorus (as P)	48		1.48		2.96
Fecal Coliform			200/100 ml		1,000/100 ml
Total Residual Chlorine			0.2		0.7
Total Nitrogen	M/R		M/R		
Copper, Total	0.48		0.015		0.030
Dissolved Oxygen			minimum of 5.0 mg/l at all times		
pH (Standard Units)			within limits of 6.0 to 9.0 Standard Units at all times		
M/R = Monitor/Report					

The proposed sewage effluent limits for Outfall 001 based on a proposed design flow of 4.6 mgd are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	
CBOD ₅					
(5-1 to 10-31)	355	533	9.3	13.9	18.6
(11-1 to 4-30)	711	1,066	18.5	27.8	37.0
Total Suspended Solids			30	45	60
Ammonia (as N)					
(5-1 to 10-31)	64		1.7		3.4
(11-1 to 4-30)	193		5.0		10.0
Phosphorus (as P)	48		1.3		2.6
Fecal Coliform			200/100 ml		1,000/100 ml
Total Residual Chlorine			0.17		0.54
Total Nitrogen	M/R		M/R		
Copper, Total	0.45		0.014		0.028

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen			minimum of 5.0 mg/l at all times		
pH (Standard Units)			within limits of 6.0 to 9.0 Standard Units at all times		
M/R = Monitor/Report					

The proposed sewage effluent limits for Outfall 001 based on a proposed design flow of 7.0 mgd are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	355	533	6.1	9.2	12.2
(11-1 to 4-30)	711	1,066	12.2	18.3	24.4
Total Suspended Solids			30	45	60
Ammonia (as N) (5-1 to 10-31)	64		1.1		2.2
(11-1 to 4-30)	193		3.3		6.6
Phosphorus (as P)	48		0.82		1.64
Fecal Coliform			200/100 ml		1,000/100 ml
Total Residual Chlorine			0.11		0.36
Total Nitrogen	M/R		M/R		
Copper, Total	0.42		0.013		0.026
Dissolved Oxygen			minimum of 5.0 mg/l at all times		
pH (Standard Units)			within limits of 6.0 to 9.0 Standard Units at all times		
M/R = Monitor/Report					

The proposed monitoring requirements for stormwater Outfalls 002 and 003 are as follows:

<i>Parameters</i>	<i>Average Annual (mg/l)</i>	<i>Average Semi-Annual (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Monitor and Report		Monitor and Report
COD	Monitor and Report		Monitor and Report
Oil and Grease	Monitor and Report		Monitor and Report
pH (STD Units)	Monitor and Report		Monitor and Report
Total Suspended Solids	Monitor and Report		Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report		Monitor and Report
Phosphorus (as P)	Monitor and Report		Monitor and Report
Iron (Dissolved)	Monitor and Report		Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator.
2. Average Weekly Reporting.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights
6. Change of Ownership.
7. Total Residual Chlorine Requirement.
8. Sludge Disposal Requirement.
9. WET Testing.
10. Imax Requirements.
11. Requirements Applicable to Stormwater Outfalls.
12. Watershed Reopener.
13. Training Plan for Treatment System Operators.
14. Prior Approval Needed for Increased Discharge Rates.

PA0012416, Industrial Waste, **PA American Water Rock Run Water Treatment Plant**. Mailing address is 4 Wellington Boulevard, Reading, PA 19610. This facility is located at Waterworks and Red Mill Roads, Coatesville, PA 19320, West Caln Township, **Chester County**.

Description of Activity: This application is for renewal of an NPDES permit to discharge filter backwash water and settled sludge supernatant to Rock Run Reservoir which discharges to Rock Run.

The receiving reservoir and stream, Rock Run, is in the State Water Plan Watershed 3H-Brandywine and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for PA American Water Company is located on Rock Run Reservoir and is near the discharge point.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.14 mgd.

<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 ₅			10	Monitor and Report	
Total Suspended Solids	23.4		20	40	
Total Nitrogen				Monitor and Report	
Ammonia-Nitrogen				Monitor and Report	
Phosphorus as P	0.12		0.10	0.20	0.25
Iron, Total	2.3		2.0	4.0	5.0
Maganese, Total	1.2		1.0	2.0	2.5
Aluminum, Total	0.93		0.8	1.6	2.1
Chloroform				Monitor and Report	Monitor and Report
Dichlorobromomethane				Monitor and Report	Monitor and Report
Chlorodibromomethane				Monitor and Report	Monitor and Report
pH (Standard Unit)			6.0 (min)		9.0 (max)
Dissolved Oxygen			5.0 (min)		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Discharge must not cause nuisance or health hazard.
2. Sludge disposal according to applicable regulations.

PA0053635, Industrial Waste, **Buckeye Terminals, LLC**, SIC 486, **Petroleum Bulk Station and Terminal**, 5002 Buckeye Road, P. O. Box 368, Emmaus, PA 18049. This facility is located at 8 South Malin Road, Frazer, PA 19355.

Description of Activity: This application is for renewal of an NPDES permit to discharge stormwater from an oil/water separator.

The receiving stream, Little Valley Creek, is in the State Water Plan watershed 3F-Wissahickon and is classified for Exception Value, aquatic life, water supply and recreation. The nearest downstream public surface water supply intake for PA American Water Company is located on Schuylkill River and is approximately 8 miles below the point of discharge.

The proposed effluent limits for Outfall 001 in Table 1 will be in effect from permit issuance through end of year 1.

Table 1

<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>
Benzene				Monitor and Report	Monitor and Report
Total BTEX				Monitor and Report	Monitor and Report
Toluene				Monitor and Report	Monitor and Report
Ethylbenzene				Monitor and Report	Monitor and Report
Xylenes, Total				Monitor and Report	Monitor and Report
Oil and Grease				Monitor and Report	Monitor and Report

The proposed effluent limits in Table 2 will take effect from beginning of permit term year 2 through expiration.

Table 2

<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>
Benzene			0.001		0.0025
Total BTEX			0.1		0.25
Toluene				Monitor and Report	Monitor and Report
Ethylbenzene				Monitor and Report	Monitor and Report
Xylenes, Total				Monitor and Report	Monitor and Report
Oil and Grease			15		30

In addition to the effluent limits, the permit contains the following major special conditions:

1. Discharge must not cause nuisance or health hazard.
2. Monitoring of parameters on quarterly basis.

PA0012424, Industrial Waste, SIC 2816, **Quaker Color Division McAdoo & Allen**, 201 South Hellertown Avenue, Quakertown, PA 18951. This proposed facility is located in Quakertown Borough, **Bucks County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge noncontact cooling water and stormwater from the facility.

The receiving stream, Beaver Run, is in the State Water Plan watershed 2D Three Mile Run and is classified for WWF. The nearest downstream public water supply intake for New Hope Borough is located on Delaware River and is 31 miles below the point of discharge.

The proposed effluent limits for Outfalls 001—004.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	within limits of 6.0 to 9.0 Standard Units at all times		

The proposed limits for Monitoring Points MP 105, MP 106 and MP 109 are:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	within limits of 6.0 to 9.0 Standard Units at all times		
Temperature			110°F

The proposed limits for Stormwater Discharge from Outfalls 005—014 are:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		Monitor and Report	
COD		Monitor and Report	
Oil and Grease		Monitor and Report	
pH		Monitor and Report	
Total Suspended Solids		Monitor and Report	
Total Kjeldahl Nitrogen		Monitor and Report	
Total Phosphorus		Monitor and Report	
Iron (Dissolved)		Monitor and Report	

PA0244074, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in Worcester Township, **Montgomery County**.

Description of Proposed Activity: The applicant proposes to discharge treated sewage from a facility known as Stony Creek Farms WWTF. The facility is located near Township Line Road and North Wales Road. This is a revised notice.

The receiving stream, Stony Creek, is in the State Water Plan watershed 3F and is classified for TSF, MF. The nearest downstream public water supply intake for City of Norristown is located on Schuylkill River at Norristown, PA.

The proposed effluent limits for Outfall 001 are based on a design flow of 42,863 gpd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10			20
Total Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.0			6.0
Nitrite + Nitrate as N	Monitor and Report			Monitor and Report
Phosphorus, Total	0.5			1.0
Fecal Coliform		50/100 ml as a geometric mean		
pH		between 6.0 and 9.0 standard units at all times		
Dissolved Oxygen		Minimum of 6 mg/l at all times		
Temperature (°F)				Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Responsible Operator.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater.
5. Necessary Property Rights.
6. Small Stream Discharge.
7. Sewage Sludge Disposal.
8. Submit Data for TMDL/WLA Analysis.
9. I-Max Limits.
10. No Discharge Report.
11. 2/Month Monitoring.
12. UV Disinfection.
13. Laboratory Certification.

NPDES Permit No. PA0055875, Amendment No. 2, Sewage, SIC 4952, The **Upper Hanover Authority Macoby Creek Sewage Treatment Plant**, 1704 Pillsbury Road, East Greenville, PA 18041. This facility is located on Frye Road, Pennsburg, PA 18073, **Montgomery County**.

Description of Proposed Activity: Expansion of Macoby Sewage Treatment Plant and increased discharge flow to Macoby Creek.

The receiving stream, Macoby Creek, is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA is located on Perkiomen Creek and is approximately 15 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.40 mgd, and will take effect upon completion of plant expansion.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	15		20
Total Suspended Solids	10	15		20
Ammonia as N	1.5			3
Phosphorus as P	0.3			
Total Nitrogen	Monitor and Report			
Fecal Coliform	200#/100 ml			Monitor and Report
Dissolved Oxygen	6.0 (Minimum)			
pH (Standard Units)	within limits of 6.0 to 9.0 at all times			

In addition to the effluent limits, the permit contains the following major special conditions:

1. Macoby Creek is part of Effluent Dominated Stream Program.
2. Discharge is to dry swale/intermittent creek and then to small stream.

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

PA-0060348, Sewage, **Department of Transportation, Bureau of Design**, P.O. Box 3060, Harrisburg, PA 17105-3060, Safety Rest Area No. 62. This proposed facility is located in Palmyra Township, **Pike County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, UNT to Kleinhans Creek, is in the State Water Plan watershed 1C and is classified for HQ-CWF. The nearest downstream public water supply intake for East Stroudsburg is located on Delaware River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.015 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0		50.0
Total Suspended Solids	30.0		60.0
NH ₃ -N (5-1 to 10-31)	9.0		18.0
Phosphorus as "P" (issuance through year 3) (begin year 4 through expiration)	Monitor and Report		Monitor and Report
	0.5		1.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean		
	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1.2		2.8

PAS802223, Industrial Stormwater, **Rolling Frito Lay Sales, LP**, 5 Danforth Drive, Easton, PA 18045. This proposed facility is located in Palmer Township, **Northampton County**.

Description of Proposed Activity: Issuance of a new Industrial Stormwater Permit.

The receiving stream, Bushkill Creek, is in the State Water Plan watershed 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:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total 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.

PA0060089, Sewage, **Middle Smithfield Township Municipal Authority**, 25 Municipal Drive, East Stroudsburg, PA 18301. This proposed facility is located in Middle Smithfield Township, **Monroe County**.

Description of Proposed Activity: Renewal of NPDES permit.

The receiving stream, Bushkill Creek, is in the State Water Plan watershed 1D and is classified for HQ water and TS. The nearest downstream public water supply intake for East Stroudsburg/Stroudsburg Intake is located on the Delaware River.

The proposed effluent limits for Outfall 001 based on a design flow of 1.00 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	40.0	60.0
NH ₃ -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Dissolved Oxygen	a minimum of 6.0 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		

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

Application No. PA 0087700, Sewage, **South Londonderry Township Municipal Authority**, P. O. Box 3, Campbelltown, PA 17010-0003. This facility is located in South Londonderry Township, **Lebanon County**.

Description of activity: The application is for an amendment of an NPDES permit for existing discharge of treated sewage.

The receiving stream, Killinger Creek, is in Watershed 7-D and classified for TS, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Swatara Creek, approximately 20 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.315 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)			18.0
Total Residual Chlorine	0.12		0.40
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,500/100 ml as a geometric average	
Total Copper	Monitor and Report		
Total Phosphorus	Monitor and Report		
Total Kjeldahl Nitrogen	Monitor and Report		
Total Nitrogen	Monitor and Report		

Persons may make an appointment to review the Department of Environment Protection files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0098612, Industrial Waste, SIC, 4911, **Ebensburg Power Company**, 2840 New Germany Road, Ebensburg, PA 15931-0845. This application is for renewal of an NPDES permit to discharge treated process water, cooling water and stormwater from Ebensburg Cogeneration Plant in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, South Branch Blacklick Creek and UNT to Howells Run, classified as CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township, Municipal Authority, 707 South Pike Road, Sarver, PA 16055, 108 miles below the discharge point.

Outfall 101: existing discharge, design flow of 0.072 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			30	60	
Oil and Grease			15	20	
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

Outfall 001: existing discharge, design flow of 0.193 mgd, interim effluent limits.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			30	100	
Oil and Grease			15	30	
Free Available Chlorine			0.2	0.5	
Total Residual Chlorine			0.5	1.0	
Temperature (°F)				110.0	
The 126 priority pollutants (40 CFR 423, Appendix A) contained in chemicals added for cooling tower maintenance with the exception of chromium and zinc.			Nondetect—See Condition No. 6 in Part C		
Chromium			0.2	0.2	
Zinc			1.0	1.0	
pH	not less than 6.0 nor greater than 9.0				

Outfall 001: existing discharge, design flow of 0.193 mgd, final effluent limits.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			30	100	
Oil and Grease			15	30	
Free Available Chlorine			0.2	0.5	
Total Residual Chlorine			0.5		1.0
Temperature (°F)					
December 1 to April 30				110.0	
May 1 to May 15				101.6	
May 16 to May 31				105.6	
June 1 to June 15				90.8	
June 16 to June 30				94.8	
July 1 to July 31				87.2	
August 1 to August 31				83.5	
September 1 to September 15				76.8	
September 16 to September 30				70.8	
October 1 to October 15				66.7	
October 16 to October 31				62.7	

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
November 1 to November 15				61.3	
November 16 to November 30				70.6	
The 126 priority pollutants (40 CFR 423, Appendix A) contained in chemicals added for cooling tower maintenance with the exception of chromium and zinc.			Nondetect—See Condition No. 6 Part C		
Chromium			0.2	0.2	
Zinc			1.0	1.0	
pH	not less than 6.0 nor greater than 9.0				

Outfall 002: existing stormwater discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
	The permittee is authorized to discharge uncontaminated stormwater runoff from areas in and around the facility. There are, at this time, no specific effluent limitations on this outfall.				

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

PA0223034, Industrial Waste. **Duferco Farrell Corp.**, 15 Roemer Blvd., Farrell, PA 16121-2299. This proposed facility is located in City of Farrell, **Mercer County**.

Description of Proposed Activity: an existing discharge of treated industrial waste, noncontact cooling water and stormwater.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Shenango River and PA American Water Company intake located at New Castle, approximately 16 miles below point of discharge.

The receiving stream, Shenango River, is in watershed 20-A and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Suboutfall 104 based on a design flow of 0.0547 mgd.

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX	XX			
Total Suspended Solids	250	480		XX	1,052
Oil and Grease			15		30
Lead	1.0	3.1	XX	XX	6.8
Zinc	1.4	4.1	XX	XX	9.0
Total Iron			1.5	3.0	3.75
pH	6.0 to 9.0 standard units at all times				

The proposed effluent limits for Suboutfall 504 based on a design flow of 0.648 mgd.

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX	XX			
Total Suspended Solids	1,427	3,808	XX	XX	704
Oil and Grease		954	XX	XX	177
Total Iron			XX		
pH	6.0 to 9.0 standard units at all times				

The proposed effluent limits for Outfall 004 based on a design flow of 16.06 mgd.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
Oil and Grease			15		30
Total Iron	435			4.0	
Temperature (°F)				XX*	
pH			6.0 to 9.0 standard units at all times		
*—Daily Average					
XX—Monitor and report on monthly DMRs.					

The EPA waiver is not in effect.

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

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

WQM Permit No. 4506403, Sewerage, **Middle Smithfield Township Municipal Authority**, 25 Municipal Drive, East Stroudsburg, PA 18301. This proposed facility is located in Middle Smithfield Township, **Monroe County**.

Description of Proposed Action/Activity: This project involves the expansion of the existing treatment facility serving Winona Lake from 22,000 gpd to 50,000 gpd.

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

WQM Permit No. 3106401, Sewerage, **Gary and Susan Aungst**, 45 Evergreen Road, McVeytown, PA 17051. This proposed facility is located in Juniata Township, **Huntingdon County**.

Description of Proposed Action/Activity: Construction of a small flow sewage treatment system to serve their single family residence at the intersection of Ripplin Lane and River Road.

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

WQM Permit No. WQG0119061, Sewerage, SIC 4952, **Candlelight Inn, Inc.**, 132 Welliver Road, Bloomsburg, PA 17815. This proposed facility will be located in Montour Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant is seeking a permit to authorize the construction and operation of a small flow treatment facility to serve Buster's Bar & Restaurant.

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

WQM Permit No. 0288436-A3, Sewerage, **Municipality of Penn Hills**. This proposed facility is located in Penn Hills Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for replacement project for the Plum Creek Sewage Treatment Plant.

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. 1006401, Sewerage, **Cooper Lake Farms, Inc.**, 205 Currie Road, Slippery Rock, PA 16057. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to service the Cooper Lake Campground.

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

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

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

NOTICES

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10G370R	East Vincent Development Co., LP 654 Enterprise Drive Limerick, PA	Chester	East Vincent Township	Stony Run (HQ-TSF) Schuylkill River (HQ-TSF)
PAI011506017	The Fox Company 955 Chesterbrook Boulevard Suite 125 Chesterbrook, PA 19087	Chester	Tredyffrin Township	Valley Creek (EV)
PAI011506018	Turnpike Commission P. O. Box 67676 Harrisburg, PA	Chester	East Whiteland, Charlestown and Tredyffrin Townships	Cedar Hollow Run Valley Creek (EV)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024506004	Pocono Mtn. School District P. O. Box 200 Pocono Mtn. School Rd. Swiftwater, PA 18370-0200	Monroe	Paradise Township	Tributary to Forest Hills Run HQ-CWF

Carbon County Conservation District: 5664 Interchange Rd., Lehighton, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021306001	John Herman Carbon Development, LLC 3701 Perkiomen Ave. Reading, PA 19606	Carbon	Kidder Township	Black Creek HQ-CWF and Lehigh River HQ-CWF

Northampton County Conservation District: Greystone Bldg., Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024806007	LAM Contractors, Inc. Attn: Dino Montes 125 Boro Vu Drive Northampton, PA 18067	Northampton	Plainfield Township	Bushkill Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030506001	Keith Evans Shobers Run Golf Company, LLC 5950 Berkshire Lane Suite 990 Dallas, TX 75225	Bedford	Bedford Township	Shobers Run and three UNTs to Shobers Run HQ-CWF
PAI030506002	Department of Transportation Engineering District 9-0 1620 North Juniata Street Hollidaysburg, PA 16648-1080	Bedford	Bedford Township	Shobers Run HQ-CWF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041406006	Alan Lichtenwalner Poe Valley State Park 1405 New Lancaster Valley Milroy, PA 17063	Centre County	Penn Township	Poe Creek HQ-CWF

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3978.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041806001	LMR Tire Service Center P. O. Box 171 Lamar, PA 16848	Clinton County	Porter Township	Fishing Creek HQ
PAI041806002	Penn Duch Farms, LP P. O. Box 759 Ephrata, PA 17522	Clinton County	Beech Creek Township	Twin Run CWF Monument Run HQ

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051106001	Raeger Mountain, LP 912 Greengate North Plaza Greensburg, PA 15601	Cambria	Jackson and West Taylor Townships	Laurel Run (HQ-CWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056306002	Tri County Joint Municipal Auth. P. O. Box 758 Fredericktown, PA 15333	Washington	Amwell, North Bethlehem and South Strabane Townships	UNT to Little Chartiers Creek and Daniels Run (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)

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

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

Application No. 6206501, Public Water Supply	
Applicant	Miracle Mountain Ranch Mission Inc
Township or Borough	Spring Township Warren County
Responsible Official	Mark Carpenter, Director
Consulting Engineer	Harvey H. Stone, P. E. Stone Consulting & Design, Inc. 324 PA Avenue West P. O. Box 306 Warren PA 16365
Application Received Date	03/13/2006
Description of Action	Convert existing system from Transient to Public Water Supply. System will supply population at ranch; components being well, chlorine contact tank, storage tanks and distribution system.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. 0206502MA, Minor Amendment.

Applicant	Fawn-Frazer Joint Water Authority 326 Donnellville Road Natrona Heights, PA 15065
Township or Borough	Springdale Township
Responsible Official	James Norris, Chairperson Fawn-Frazer Joint Water Authority 326 Donnellville Road Natrona Heights, PA 15065
Type of Facility	Interconnection
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Application Received Date	March 9, 2006
Description of Action	Addition of submersible pump within the pitless booster station at the existing Springdale Borough Interconnection.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth

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

WA 06-1011A, Water Allocations. **Pennsylvania-American Water, Berks County**. Service area expansion to include Douglassville system Douglassville and Glen Alsace districts are becoming one system. Consulting Engineer: Steven E. Riley, Entech Engineering, Inc. Date application received: 2/2/2006.

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 Stan-

dard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Rosenblum/Hecht Property, Lower Merion Township, **Montgomery County**. Michael Cromer, Walter B. Satterthwaite Associates, Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of Mandy Rosenblum, 210 Ladbrooke Rd., Bryn Mawr, PA 19010 and Elizabeth Hecht has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil. The future use of the property will remain residential.

Nicolet Industries Site, Ambler Borough, **Montgomery County**. Darryl Borrell, Manko, Gold, Katcher & Fox, LLP, 401 City Line Ave., Suite 500, Bala Cynwyd, PA 19004 on behalf of Arnold Frumin, AMA/American Marketing Assoc., Inc., 57 Old Post No. 2 Road, Greenwich, CT 06830 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted with PAH. The proposed future use of the property will be residential for low-rise condominiums. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer* on February 13, 2006.

436 Bridge Street Property, Phoenixville Borough Township, **Chester County**. Bruce Speidel, EBI Consulting, 6876 Susquehanna Trail South, York, PA 17403 on behalf of Charles Morelli, 451 Swedesford Road, Fraizier, PA 19355 has submitted a Notice of Intent to Remediate. Soil at this site was impacted with leaded gasoline. The subject property will continue to remain an auto repair facility. A summary of the Notice of Intent to Remediate was reported to have been published in the *Phoenixville Newspaper* on January 19, 2006.

Sunoco Elverson Valve Station #9000-0020, Elverson Borough, **Chester County**. Lisa Holderbach, Aquaterra Tech., Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Mr. and Mrs. Rod McCarthy, 18 Parkside Dr., Elverson, PA 19520, Mr. and Mrs. David Eldon, 13 Parkside Dr., Elverson PA 19520, Janet Stockett, 19 Parkside Dr., Elverson PA 19520 and Merle Stolfus, Stolfus Enterprises, Ltd., 26 East Main Street, Elverson, PA 19520 has submitted a Notice of Intent to Remediate. Groundwater at this site was impacted with unleaded gasoline. The intended future use of the property is to remain as a pipeline valve station and surrounding properties will remain residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local New* on January 19, 2006.

Northeast Regional Field Office: Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Suburban Heating Oil Partners—New Milford Facility, New Milford Borough, **Susquehanna County**. J. Neil Ketchum, P. G., Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110 has submitted a Notice of Intent to Remediate (on behalf of his client, Suburban Heating Oil Partners, c/o Richard D. Williams, P. O. Box 4833, Syracuse, NY 13221) concerning the remediation of site soils and groundwater found or suspected to have been impacted by petroleum products due to historic site use as a petroleum distribution facility. The applicant proposes to meet the Site-Specific 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 continuous non-residential use as a petroleum distribution facility.

Proposed Dickson City CVS Property (80-86 Main Street), Dickson City Borough, **Lackawanna County**. Paul Ladd, Consultant, Ransom Environmental Consultants, Inc., Browns Wharf, Newburyport, MA 01950 has submitted a Notice of Intent to Remediate (on behalf of his client, Carrier Coal Enterprises, 103 E. Drinker Street, Dunmore, PA 18512) concerning the remediation of site soils and groundwater found or suspected to have been impacted by petroleum products due to historic gasoline station and automotive service center operations at the site. The applicant proposes to meet the Site-Specific 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 development of a CVS pharmacy.

Former Sciolaro Property (Brushy Mountain Road), Stroud Township, **Monroe County**, Rebecca Gross, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Notice of Intent to Remediate (on behalf of her client, Charleen Sciolaro, 16085 Waterford Creek Circle, Hamilton, VA 20158) concerning the remediation of soils found to have been impacted by fuel

oil No. 2. The applicant proposes to remediate the site to meet the residential Statewide Health Soil Standard, and the proposed future use of the property will remain as a residential one. A summary of the Notice of Intent to Remediate was published in *Pocono Record* on December 14, 2005. A Final Report was simultaneously submitted.

Former Cross Country Clothes (West and Station Alleys), Borough of Northampton, **Northampton County**. Dawn Healy, Project Scientist, HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109 has submitted a Notice of Intent to Remediate (on behalf of her client, Posh Properties, Inc. 2216 Willow Park Road, Bethlehem, PA 18017) concerning the remediation of site soils suspected to have been impacted by chlorinated solvents due to historic operations at the site. 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 future use of the site is expected to be for nonresidential purposes.

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

Arthur J. Keister Property, Kelly Township, **Union County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of Arthur J. Keister, Jr., c/o Attorney Lonnie C. Hill, 47 North Hill St., Lewisburg, PA 17837-1501 has submitted a Notice of Intent to Remediate groundwater contaminated with chlorinated solvents and dissolved metals. The applicant proposes to remediate the site to meet the Statewide Health and Background Standards. The current and future use of the property will be for nonresidential purposes.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application for Determination of Applicability 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

General Permit Application No. WMGR002D011. Appleton Papers Inc., 100 Paper Mill Rd., Roaring Spring, PA 16673-1488. The beneficial use of wastewater treatment sludge generated at paper and pulp mills for use as a soil additive to: establish or reestablish agricultural productivity on disturbed land; establish herbaceous wildlife habitat; facilitate revegetation on disturbed land at permitted and abandoned mine sites. The application for determination of applicability was accepted as complete by on March 1, 2006.

Persons interested in obtaining more information about the General Permit application may contact the General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17101-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Closure plans received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to close a solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

MAX Environmental Technologies, Bulger Facility, Smith Township, Washington County. Reclosure of residual waste Impoundments 1 and 1A. MAX submitted a plan on November 15, 2005, to consolidate Impoundment 1A into Impoundment 1, reclose Impoundment 1 by rebuilding its intermediate cover with offsite generated residual waste, install a cap and replace the final cover. The Department of Environmental Protection has scheduled a public meeting to discuss this proposal for March 29, 2006, at the VRW facility in Slovan, PA. Comments on this proposal will be accepted within 45 days from the publication of this notice.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users 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.

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

67-05109A: Metropolitan Edison Co. (P. O. Box 16001, Reading, PA 19612) for construction of four portable 1,500 KW diesel-fired peak electrical generating units at their existing Queen Street Substation in York Township, **York County**.

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

33-132A: Matson Lumber Co. (132 Main Street, Brookville, PA 15825) for construction of a wood-fired boiler rated at 18.9 mmBtu/hr in Union Township, **Jefferson County**. This is a State-only facility.

33-174A: Brownlee Lumber Co., Inc. (Hazen Richardsville Road, Brookville, PA 15825) for construction of a wood fired boiler rated at 6 mmBtu/hr and multiclone in Warsaw Township, **Jefferson County**. The facility is a minor facility.

43-343A: Woodcraft Industries, Inc. (62 Grant Road, Pymatuning, PA 16148) for installation of a 14.33 mmBtu wood-fired boiler at Pymatuning Lumber Yard, Pymatuning Township, **Mercer County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

PA No. 01032: TDPS Materials (2nd Street and Erie Avenue, Philadelphia, PA 19120) for removal of the requirement to test for benzene and dioxins/furans from Plan Approval No. 01032 for their hot mix asphalt drum plant, to increase the allowable sulfur content of fuel oil burned in the hot mix asphalt drum plant on the condition that equivalent sulfur dioxide emission rate limits are met, and to allow the burning of nonhazardous

waste derived fuels in the hot mix asphalt drum plant in the City of Philadelphia, **Philadelphia County**. Facility-wide emission limits for criteria pollutants will remain the same. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00030: Swarthmore College, 500 College Avenue, Swarthmore, PA 19081 for renewal of their Title V Operating Permit in Swarthmore Borough, **Delaware County**. The initial permit was issued on 04-30-2001. The facility is a university campus that operates boilers and emergency generators. As a result of potential emissions of NO_x, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is not subject to Compliance Assurance Monitoring (CAM) under 40 CFR Part 64.

The renewal incorporates the provisions from Plan Approval Nos. 23-0030 and 23-0030A and contains all applicable requirements including monitoring, recordkeeping and reporting. The changes in the renewed Title V Operating Renewal are considered minor and will not result in an increase of emissions.

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

06-05066: Exide Technologies (Box 13995, Reading, PA 19612) for operation of a secondary lead smelter (Reading Smelter) in the Borough of Laureldale/Muhlenberg Township, **Berks County**. The facility is subject to 40 CFR Part 63, Subpart X, National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelters (MACT). The smelter furnaces are subject to 40 CFR Part 60, Subpart L, Standards of Performance for Secondary Lead Smelters (NSPS) and 40 CFR Part 52, Prevention of Significant Deterioration (PSD). This action is a renewal of the Title V Operating Permit issued in 2000.

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.

15-00099: Multiserv Plant 64 (South 1st Avenue, Coatesville, PA 19320) for operation of their scrap metal cutting/reprocessing plant in South Coatesville, East Fallowfield Township, **Chester County**. The permit is for a non-Title V (State-only) facility. Multiserv Plant is a scrap metal cutting/reprocessing plant consisting of a scrap cutting machine (torch) and two baghouses. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

06-03075: VF Factory Outlet, Inc. (801 Hill Avenue, Reading, PA 19610) for a boiler house in Wyomissing Borough, **Berks County**. The facility is not subject to Title V (State-only operating permit). The permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

67-05031: Wayneco, Inc. (800 Hanover Road, York, PA 17404) for operation of their wood furniture manufacturing facility in Jackson Township, **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.

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

41-00045: RP's Machinery Sales, Inc. (P. O. Box 507, Jersey Shore, PA 17740) for operation of a steel (bridge parts) fabrication facility in Piatt Township, **Lycoming County**.

The facility incorporates an electric arc welding operation, a portable welder and associated 40 horsepower gasoline-fired engine, two oxygen/propane burning machines, a wheel-blast machine, a surface coating (painting) operation, a 275 horsepower diesel-fired compressor, three small wood-fired furnaces and seven small No. 2 fuel oil-fired furnaces. The PM emissions from the wheel-blast machine are controlled by a cartridge collector. The facility's air contaminant emissions are not expected to exceed 92.68 tons of CO, 39.54 tons of NO_x, 22.94 tons of VOCs, 6.39 tons of SO_x and 15.72 tons of PM including PM₁₀ per year.

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

The Department of Environmental Protection 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 Operating Permit 41-399-020, issued on December 30, 1993.

The previously-established conditions include a condition requiring the air contaminant emissions from the wheel-blast machine to be controlled by a cartridge collector.

The Department additionally proposes to incorporate into the operating permit to be issued a number of new conditions including:

1. A condition restricting the fuel fired in the No. 2 fuel oil-fired furnaces to virgin No. 2 fuel oil to which no reclaimed or reprocessed oil or other waste materials have been added.
2. A condition restricting the fuel fired in the wood-fired furnaces to wood.
3. A condition restricting the fuel fired in the air compressor to virgin diesel fuel to which no reclaimed or reprocessed oil or other waste materials have been added.

4. Conditions requiring the permittee to provide samples, or analyses, of the fuel used in the No. 2 fuel oil-fired furnaces, the wood-fired furnaces and the air compressor.

5. A condition requiring spare cartridges to be kept on hand for the cartridge collector.

6. A condition restricting the fuel used in the oxygen/propane burning machines to propane.

7. A condition restricting the fuel used in the 40 horsepower engine associated with the portable welder to virgin gasoline to which no waste materials have been added.

8. Conditions restricting the portable welder's operation to no more than 6,000 hours in any 12-consecutive month period and requiring the maintenance of records of the number of hours the welder operates each month.

9. A condition prohibiting the coatings used in the surface coating operation from containing more than 6.68 pounds of VOCs per gallon of coating solids, as applied, unless the quantity of VOCs emitted from the surface coating operation never exceeds 3 pounds per hour, 15 pounds per day and 2.7 tons per year.

10. A condition requiring the maintenance of records of coating usage and composition.

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

43-00337: Bessemer and Lake Erie R. R. (85 Ohl Road, Greenville, PA 16125-2370) for locomotive maintenance and railroad car repair in Greenville, **Mercer County**.

61-00187: Millcraft SMS SVC LLC—Oil City (671 Colbert Ave., Oil City, PA 16301) for operation of their Plating and Polishing Plant in Oil City, **Venango County**.

**COAL AND NONCOAL MINING
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

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

Permit No. 11900106 and NPDES No. PA 0598909. Cloe Mining, Inc., P. O. Box I, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface auger mine in Barr and West Carroll Townships, **Cambria County**, affecting 196.5 acres. Receiving streams: Hoppel Run and UNTs to/and West Branch Susquehanna River, classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 3, 2006.

Permit No. 56900105 and NPDES Permit No. 0598852. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit revision—land use change on Wilmore Coal Company property from forest to wildlife habitat in Paint Township, **Somerset County**, affecting 165 acres. Receiving streams: UNTs to/and Shade Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received on March 6, 2006.

Knox District Mining Office: White Memorial Building, P. O. Box 669m 310, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

24030101 and NPDES Permit No. PA0242306. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1416,

Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface strip operation in Horton Township, **Elk County** affecting 53.2 acres. Receiving streams: Little Toby Creek to the Clarion River to the Allegheny River, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application Received: December 4, 2002. Application Returned: February 2, 2006. Application Reinstated: March 9, 2006.

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

17010104 and NPDES No. PA0243060. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), transfer of an existing bituminous surface mine from Larson Enterprises, Inc. (P. O. Box 96, Kylertown, PA 16847), located in Morris Township, **Clearfield County**, affecting 55.9 acres. Receiving stream: UNT to Moshannon Creek classified for the following use: CWF. Application received: March 6, 2006.

Noncoal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹		greater than 6.0; less than 9.0	
pH ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 342-1900.

4275SM14(T) and NPDES No. PA0124532. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, revision of an existing noncoal (industrial minerals) operation to deepen the quarry, add additional mining and support area, add an additional sediment pond, add a NPDES discharge point, and change the postmining land use on New Enterprise Stone & Lime Company's property from forest and cropland to unmanaged natural habitat (251.4 acres) and permanent water impoundment (137.4 acres) in Warriors Mark and Snyder Townships, **Huntingdon and Blair Counties**, affecting 415.3 acres. Receiving streams: Logan Spring Run; UNT to Little Juniata River; and to Little Juniata River classified for the following uses: WWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 3, 2006.

Permit No. 05910301 and NPDES Permit No. PA0599085. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, Church Street, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Napier and West St. Clair Townships, **Bedford County**. Receiving streams: UNT to Dunning Creek and to Dunning Creek classified for the following uses: WWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 7, 2006.

Permit No. 05960301 and NPDES Permit No. PA0213373. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, Church Street, New Enterprise, PA 16664, renewal of NPDES Permit, Snake Spring Valley Township, **Bedford County**. Receiving stream: Raystown Branch Juniata River classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received March 7, 2006.

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

59060801. John DiMichele (R. R. 1, Box 1364, Rushville, PA 18828). Commencement, operation and restoration of a small noncoal industrial mineral operation for mining blue stone in Delmar Township, **Tioga County**, affecting 5.0 acres. Receiving stream: Johnson Run, tributary to East Branch, Stony Fork. Application received: March 6, 2006.

08010818. Cutrite Stone Management, Inc. (P. O. Box 5850, Miller Place, NY 11764), transfer of an existing small industrial minerals (flagstone) permit from Brian M. Edsall. The site is located in Asylum Township, **Bradford County**, affecting 2.0 acres. Application received March 1, 2006.

4773SM5 and NPDES Permit No. PA0115533. Hanson Aggregates (2200 Springfield Pike, Connelville, PA 15425), renewal of NPDES Permit, Muncy Creek Township, **Lycoming County**. Receiving streams: UNT to Wolfe Run and UNTs to Muncy Creek. NPDES renewal application received March 8, 200

Pottsville District Mining Office: 5 West Laurel Blvd., Pottsville, PA 17901, (570) 621-3118.

52060301 and NPDES Permit No. PA0224511. Springbrook Enterprises, Inc., (HC 8, Box 8210, Hawley, PA 18428), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Blooming Grove Township, **Pike County** affecting 29.6 acres, receiving stream: Billings Creek, classified for the following use: CWF. Application received February 23, 2006.

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.

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)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-990. BT Office Center Drive, LP, 2600 Philmont Avenue, Suite 212, Huntingdon Valley, PA 19006, Upper Dublin Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following activities across Pine Run (TSF associated with a proposed commercial development located along Virginia Drive:

1. To install and maintain approximately 48 linear feet of open bottom concrete arch culvert consisting of a 32-foot span by an approximately 8-foot 0-inch rise and associated wingwalls.

2. To construct and maintain an emergency access drive onto the Turnpike Slip Ramp and associated cross drain pipe impacting 0.07 acre of wetlands (PFO). This work also includes the construction of 0.13 acre of replacement wetlands within the floodplain of Pine Run at the terminus of a proposed subsurface stormwater management facility to compensate for the impacted wetlands.

3. To perform minor grading along the stream banks of the incised channel to improve the transition of flood flows into the floodplain.

4. To install and maintain a temporary access road during construction.

5. To install and maintain five utility line crossings.

6. To install and maintain a high-water alarm structure.

This site is located approximately 700 feet southwest of the intersection of Susquehanna Road and Dreshertown Road, (Ambler, PA USGS Quadrangle N: 2.6 inches; W: 6.7 inches).

E46-989. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Montgomery, Lower Gwynedd, Horsham and Upper Dublin Townships, **Montgomery County**, ACOE Philadelphia District.

To rehabilitate, maintain and reconstruct an approximately 10-mile segment of the Fort Washington Expressway (SR 0309). This project has been divided into four design/construction sections (100-103) and the limit for the entire project is between Ogontz Avenue in Cheltenham Township (Germantown, PA Quadrangle N: 14.6 inches; W: 5.0 inches) and approximately 0.5 mile north of Welsh Road (SR 0063) in Montgomery Township (Ambler, PA Quadrangle N: 15.5 inches; W: 13.9 inches) and traverses through Springfield, Whitemarsh, Upper Dublin, Lower Gwynedd and Horsham Townships in Montgomery County. The total permanent and temporary wetland impact for the entire project covers 5.37 acres. The project includes provisions for the construction of replacement wetlands and rehabilitation of stream reaches at various locations along Sandy Run in Springfield and Whitemarsh Townships with the construction of the first segment, Section 100, Permit No. E46-921.

This permit is for Section 101 and is the fourth submission for the SR 309 Expressway Improvement Project located in Montgomery, Horsham, Lower Gwynedd and Upper Dublin Townships. The limit of work extends between Highland Avenue in Upper Dublin Township (Ambler, PA Quadrangle N: 4.2 inches; W: 11.1 inches) to approximately 0.5 mile north of Welsh Road (SR 0063) in Montgomery Township (Ambler, PA Quadrangle N: 15.5 inches; W: 13.9 inches).

The reconstruction/rehabilitation work in Section 101 includes the following activities:

1. To extend and maintain an existing 6-foot high by 6-foot wide concrete arch culvert that carries Watercourse W20, a UNT to Wissahickon Creek (TSF) under SR 0309 at Station 10+807. The enclosure will be extended 26.6 feet downstream and 72.8 feet upstream with cast-in-place reinforced concrete box culvert extensions to accommodate the proposed embankment.

2. To extend and maintain an existing 6-foot high by 8-foot wide concrete box culvert that carries Watercourse W18, a UNT to Honey Run (TSF) under SR 0309 at Station 11+870. The enclosure will be extended 32.5 feet downstream and 26.5 feet upstream with cast-in-place reinforced concrete box culvert extensions to accommodate the proposed embankment.

3. To extend and maintain an existing 7.5-foot high by 8-foot wide concrete arch culvert that carries Watercourse W11, a UNT to Tannery Creek (TSF) under SR 0309 at Station 12+360. The enclosure will be extended 24.8 feet downstream with a cast-in-place reinforced concrete box culvert extension to accommodate the proposed embankment.

4. To extend and maintain an existing 11-foot high by 16-foot wide concrete arch culvert that carries Watercourse W13, a UNT to Valley Brook Creek (TSF) under SR 0309 at Station 12+800. The enclosure will be extended 20.1 feet downstream with a cast-in-place reinforced concrete box culvert extension to accommodate the proposed embankment.

5. To extend and maintain an existing 9-foot high by 12-foot wide concrete arch culvert that carries Watercourse W14, a UNT to Park Creek (WWF) under SR 0309 at Station 13+240. The enclosure will be extended 22.0 feet downstream and 23.6 feet upstream with cast-in-place reinforced concrete box culvert extensions to accommodate the proposed embankment.

6. To place fill and impact 0.62 acre of wetland (PFO, PSS, PEM and PAB) for a retaining wall, roadway and embankment fill at numerous locations along SR 0309. The work includes 0.45 acre of temporary wetland impacts.

7. Additionally, 683 linear feet of Intermittent Streams will be impacted at numerous locations along SR 0309 associated with the construction of this section.

8. Work also includes 1.28 acres of wetland creation for 0.63 acre of additional wetland impacts in Sections 101—103 and for 0.63 acre of temporary wetland impacts (as requested by the United States Army Corps of Engineers) at two locations in Springfield and Whitmarsh Townships.

E23-458. Wawa, Inc., 260 Baltimore Pike, Wawa, PA 19063, Aston Township, **Delaware County**, ACOE Philadelphia District.

To place fill in 0.07 acre of wetlands (PEM) associated with the construction of a Wawa Retail Store on a 2.14-acre lot at 5008 Pennell Road. The project is situated at the intersection of Pennell Road, SR 452, and Marianville Road in Aston Township, Delaware County (Marcus Hook PA, Quadrangle N: 20.86 inches; W: 7.29 inches). The applicant has proposed 0.08 acre of off-site wetland replacement in Concord Township, Delaware County.

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

E54-325. Schuylkill County, 401 North Second Street, Pottsville, PA 17901 in South Manheim Township, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a concrete adjacent box beam bridge having a single span of 50 feet and a minimum underclearance of approximately 5.28 feet across Bear Creek. The project also includes a de minimis area of wetland impact equal to 0.01 acre and a 150-foot long channel change in a tributary to Bear Creek to accommodate improvements to the vertical roadway geometry. The bridge is known as County Bridge No. 112 and is located along Township Road T676 (Woodland Drive), just south of SR 0895 (Auburn, PA Quadrangle N: 21.4 inches; W: 16.1 inches)

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

E21-377: Skipjack Pennsylvania LLC, 7061 Columbia Gateway Drive, Columbia, MD 21046 in Silver Spring Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 70-foot wide conspan arch modular bridge with a single span of 32 feet with an effective height of 6 feet across Trindle Spring Run (CWF) in order to construct Warm Sunday Way roadway of the proposed development called Rivendell Subdivision located about 900 feet downstream of Wood Drive (Mechanicsburg, PA Quadrangle N: 20.5 inches; W: 1.4 inches, Latitude: 40° 06' 46"; Longitude: 77° 0' 36") in Silver Spring Township, Cumberland County.

E28-329: Tex R. Myers, 13204 Worlytown Road, Greencastle, PA 17225 in Antrim Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain: 1) a 60-foot long, 6-inch uniform depression, 8-foot by 4-foot box culvert; 2) a 40-foot long, 12-inch uniform depression, 22-foot by 5-foot box culvert; 3) two 8-inch sanitary sewer line crossings; and 4) fill and grading within the floodway to facilitate the development of Stone Mill Estates. All activities are associated with two UNTs to Conococheague Creek (CWF). The project is located off of SR 11 onto Williamsport Pike approximately 1.7 miles on right side (Williamson, PA Quadrangle N: 2.0 inches; W: 0.8 inch Latitude: 39° 45' 37"; Longitude: 77° 45' 28") in Antrim Township, Franklin County.

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

E53-411. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830. SR 0244 Bridge Replacement and SR 4025 Wetland Crossing in Oswayo Township, **Potter County**, ACOE Pittsburgh District (Oswayo, PA Quadrangle N: 9.0 inches; W: 0.9 inches).

To remove existing structures and construct, operate and maintain a single span prestressed spread box beam bridge to carry SR 0244 over Brizzee Hollow Run (HQ-CWF); and to construct, operate and maintain SR 4025 crossing a wetland (Exceptional Value Wetlands) associated to Brizzee Hollow Run. The single span bridge shall be constructed with a minimum clear span of 32 feet, underclearance of 6 feet, and roadway width of 28 feet. The road crossing the wetland shall be constructed with corrugated plastic culvert pipe that shall have a minimum diameter of 3 feet and a length of 80 feet. Since Brizzee Hollow Run is a wild trout stream, no construction or future repair work shall be done in or along the stream channel between October 1 and December 31 without the prior written approval of the Fish and Boat Commission. Construction in-stream of bridge and wetland crossing appurtenances shall be conducted during stream low flow and dry work conditions by dams and pumping or diverting stream flow around work areas. The bridge replacement and wetland crossing project will impact 0.03 acre of permanent wetland impact, 0.04 acre of temporary wetland impact and 120 feet of permanent impact to Brizzee Hollow Run that is located along the north and south right-of-way of SR 0244 at the intersection of SR 4025 and SR 0244. This permit also authorizes construction, operation, maintenance and removal of temporary cofferdams, stream diversions roadway crossings. Temporary structures shall be constructed of clean rock, which is free of fines. Upon project completion, all temporary structures shall be removed with the disturbed areas restored to original contours and elevations.

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

E10-410, Richard Dororthy, Bayberry North Association, 3468 Broadhead Road, Monaca, PA 15061. Donovan Property Subdivision, in Adams Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle Latitude: 40° 40' 26.6"; Longitude: 80° 3' 0").

To construct and maintain a 138-foot plate arch stream enclosure having a clear span of 20 feet and a maximum height of 6 feet 4 inches in Kaufman Run (WWF) and to

place and maintain fill in 0.88 acre of Forested and Emergent Wetlands also tributary to Kaufman Run for the purpose of constructing a residential subdivision approximately 1 mile south of SR 0228 along the eastern side of Adams Ridge Road.

E25-706, Edinboro Family Homes, LP, 502 East 12th Street, Erie, PA 16503. Edinboro Family Homes in the Borough of Edinboro, **Erie County**, ACOE Pittsburgh District (Cambridge Springs NE, PA Quadrangle N: 2.5 inches; W: 16.6 inches).

The applicant proposes to fill 0.306 acre of PEM wetland and 0.167 acre of PSS wetland and to construct and maintain 0.478 acre of PSS wetlands as mitigation associated with the construction of a 29 single family home residential housing subdivision (general occupancy development with comprehensive supportive services to assist low-income residents) located adjacent to and directly south of the intersection of Scots Glen Drive and Dunbarton Road. The project includes the installation and maintenance of a pedestrian bridge over a PSS wetland to access a community area. The project proposes to directly impact 0.306 acre of PEM wetland and 0.167 acre of PSS wetland.

E25-707, Erie Waterworks, 340 West Bayfront Parkway, Erie, PA 16507-0729. Myrtle Street Storm Sewer Extension, in the City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 1.53 inches; W: 12.97 inches).

The applicant proposes extending the existing Myrtle Street storm sewer outlet north of the Bayfront Highway near the foot of Myrtle Street to develop a storage site involving: 1) to construct and maintain a 6-foot wide by 4-foot high box culvert storm sewer extension stream enclosure having a length of 238 feet in a UNT Presque Isle Bay and connected to the existing culvert with an 8-foot high by 8-foot wide transition box with manhole; and 2) to construct and maintain an 18-inch HDPE plastic stormwater outfall to a UNT to Presque Isle Bay. The project proposes to impact 238 feet of watercourse. The UNT to Presque Isle Bay is classified as a WWF.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each

general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0096571 Sewage	Bethlehem Center School District 194 Crawford Avenue Fredericktown, PA 15333	Washington County Deemston Borough	Black Dog Hollow	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0031640	General McLane High School 11771 Edinboro Road Edinboro, PA 16412	Washington Township Erie County	UNT to Conneauttee Creek 16-A	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0081281, Sewage, **Cavalry Heights, Inc.**, Cavalry Heights MHP, 2160 Hanover Road, Gettysburg, PA 17325. This proposed facility is located in Mount Pleasant Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a dry swale to a UNT of White Run in Watershed 13-D.

NPDES Permit No. PA0084182, Sewage, **Peters Township Municipal Authority**, Fort Loudon STP, 5000 Steele Avenue, P. O. Box 19, Lemasters, PA 17231. This proposed facility is located in Peters Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to the West Branch Conococheague Creek in Watershed 13-C.

NPDES Permit No. PA0084191, Sewage, **Peters Township Municipal Authority**, Mercersburg Junction STP, 5000 Steele Avenue, P. O. Box 19, Lemasters, PA 17231. This proposed facility is located in Peters Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to the West Branch Conococheague Creek in Watershed 13-C.

NPDES Permit No. PA0081370, Sewage, **Timeless Towns of America, Inc.**, 2636 Emmitsburg Road, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Marsh Creek in Watershed 13-D.

NPDES Permit No. PA0247715, Sewage, **Richard Klein, Greater Gettysburg Development Company, LLC**, 601 Mason Dixon Road, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Rock Creek in Watershed 13-D.

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

PA0009270, Industrial Waste SIC, 2047, **Del Monte Corporation**, One Market Street, San Francisco, CA 94119-3575. This existing facility is located in South Centre Township, **Columbia County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater.

The receiving stream, Susquehanna River, is in the State Water Plan watershed 5D and classified for: WWF. The nearest downstream public water supply intake for Danville Water Authority is located on Susquehanna River is 17 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.671 mgd.

Parameter	Mass Units (lbs/day)			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			6.0			9.0
BOD ₅	810	1,620				289
TSS	985	1,970				352
Oil and Grease				15	30	30
Ammonia-N				7.8	13.3	
Total Chlorine 5/1-9/30				0.5		1.6
Fecal Coliforms 5/1-9/30					200 geometric mean	

Parameter	Mass Load Pounds			Concentration (mg/l)		
	Monthly	Annual	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
Ammonia-N	Report			Report		
Kjeldahl-N	Report			Report		
Nitrite/Nitrate-N	Report			Report		
Total Nitrogen-N	Report	Report		Report		
Total Phosphorus	Report	Report		Report		

PAS804806, Industrial Waste, SIC 7542, **Davidson Brothers, Inc.**, 450 Runville Road, Bellefonte, PA 16823. This existing facility is located in Boggs Township, **Centre County**.

Description of Proposed Activity: Truck washing facility is seeking a stormwater discharge permit.

The receiving stream, Wallace Run, is in the State Water Plan watershed 9C and is classified for: HQ-CWF. The nearest downstream public water supply intake for the Pennsylvania-American Water Company at Milton, PA is located on the West Branch Susquehanna River, 83 miles below the discharge.

The Permittee must comply with one of the two following options: (1) the permittee must perform annual inspections of the facility in lieu of monitoring and submit annual inspection reports in accordance with the stormwater special condition; or (2) the permittee must monitor and report monitoring results for the water quality parameters in the following list in accordance with the permit's stormwater special condition.

Discharge Parameter	Units	Sample Type	Measurement Frequency
C-Biochemical Oxygen Demand (5-day)	mg/l	1 Grab	1/year
Chemical Oxygen Demand	mg/l	1 Grab	1/year
Oil and Grease	mg/l	1 Grab	1/year
pH	s.u.	1 Grab	1/year
Total Suspended Solids	mg/l	1 Grab	1/year
Total Kjeldahl Nitrogen	mg/l	1 Grab	1/year
Total Phosphorous	mg/l	1 Grab	1/year
Iron (Total)	mg/l	1 Grab	1/year

In addition to the effluent limits, the permit contains the following major special condition: Requirements Applicable to Stormwater Outfalls.

The EPA waiver is in effect.

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

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

WQM Permit No. 1306401, Sewerage, **Weatherly Borough**, 10 Wilber Street, Weatherly, PA 18255. This proposed facility is located in Weatherly Borough, **Carbon County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

WQM Permit No. 3606401, Sewerage, **East Cocalico Township**, 102 Hill Road, Denver, PA 17517. This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a sewer diversion chamber and 12-inch sewer to divert excess East Cocalico Township wasteflow from the Adamstown treatment facility to the Ephrata treatment facility.

WQM Permit No. 0105407, Sewerage, **Richard Klein, Greater Gettysburg Development Company, LLC**, 601 Mason Dixon Road, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a collection system, three pump stations and an extended aeration treatment facility with denitrification to serve the Gettysburg Commons Community.

WQM Permit No. 4473401, Amendment 05-1, Sewerage, **Brown Township Municipal Authority**, 7748 State Route 655, Reedsville, PA 17084. This proposed facility is located in Brown Township, **Mifflin County**.

Description of Proposed Action/Activity: Amendment approves the construction/modification of sewage facilities consisting of addition of new biosolids digestion, thickening and holding tanks; replacement of comminuter with mechanical screen; organic rerating of the aeration tanks.

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

WQM Permit No. 0205410, Sewerage, **Pittsburgh Water and Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the Banksville Road Combined Sewer Rehabilitation and Reconstruction.

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

WQM Permit No. WQG018442, Sewerage, **Gwendolyn J. and Jeffrey A. Dolby**, 1660 Rehobeth Church Road, Clarion, PA 16214. This proposed facility is located in Clarion Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment facility.

WQM Permit No. WQG018445 Sewerage, **Melissa A. Hockenberry**, 390 Chestnut Street, Apt. 10, Meadville, PA 16335. This proposed facility is located in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment facility.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI012306001	Gannon Companies, LLC Gannon Companies Development 10 Davis Avenue, 2nd Floor Frazer, PA 19355	Delaware	Edgmont Township	Ridley Creek (HQ-TSF)
PAS105312R	Philadelphia Authority for Industrial Development Philadelphia Naval Business Center Development 1413 Langley Avenue Quarters A Philadelphia, PA 19112	Philadelphia	City of Philadelphia	Delaware River (MF)

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

PAS10F076-2R, Construction Stormwater Discharge, **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. The facilities are located in Huston and Patton Townships, **Centre County**.

Description of Proposed Activity: Proposed amendment of existing permit for discharges of stormwater detention basins, associated with the I-99 construction project, used for treatment of water affected by contact with pyritic materials. The amendment is to add effluent limits for hexavalent chromium at outfalls 002 (west and east) and outfall 007.

Be advised that this notice was incorrectly published as a final action on December 3, 2005. It is republished here as an application notice.

The receiving streams are as follows:

<i>Stream Name</i>	<i>State Water Plan Watershed</i>	<i>Classification</i>
Bald Eagle Creek	9C	TSF
Buffalo Run	9C	HQ-CWF
Waddle Creek	9C	HQ-CWF

The nearest existing downstream public water supply intake for Pennsylvania-American Water Company, located on West Branch Susquehanna River at Milton, is 132 river miles below the points of discharge.

On 3/17/05, the Department approved a Social or Economic Justification (SEJ), under 25 Pa. Code § 93.4c(b)(1)(iii) for interim discharges, at technology based treatment levels, from Outfalls 003 through 008 to Buffalo Run and Outfall 009 to Waddle Creek. The SEJ approval is valid only for an interim period ending 12/31/07, at which time the discharge of pollutants from these Outfalls must either meet nondegrading effluent quality or be abated by the removal of polluting pyritic materials from the discharge source areas.

The proposed interim effluent limits, effective until December 31, 2007, for all Outfalls 001—009, which will discharge to Bald Eagle Creek, Buffalo Run and Waddle Creek are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		monitor and report	
copper		monitor and report	
lead		monitor and report	
aluminum			
dissolved		monitor and report	
total	1.0	1.5	2.0
iron			
dissolved		monitor and report	
total	3.0	6.0	7.0
manganese			
dissolved		monitor and report	
total	2.0	4.0	5.0
nickel		monitor and report	
zinc			
dissolved		monitor and report	
total	0.5	0.75	1.0
cadmium		monitor and report	
chromium		monitor and report	
chromium hexavalent			
(002 West and 002 East only)	0.180	0.270	0.360
(007 only)	0.038	0.057	0.076
alkalinity		greater than acidity	
sulfates		monitor and report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 001 and 002, which will discharge to Bald Eagle Creek, are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		monitor and report	
copper		monitor and report	
lead		monitor and report	
aluminum			
dissolved		monitor and report	
total	1.0	1.5	2.0
iron			
dissolved		monitor and report	
total	3.0	6.0	7.0
manganese			
dissolved		monitor and report	
total	2.0	4.0	5.0
nickel		monitor and report	
zinc			
dissolved		monitor and report	
total	0.5	0.75	1.0
cadmium		monitor and report	
chromium		monitor and report	
alkalinity		greater than acidity	
sulfates		monitor and report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 003 through 008, which will discharge to Buffalo Run, are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum			
dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
iron			
dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156
manganese			
dissolved	0.002	0.003	0.004
total	0.006	0.009	0.012
nickel		nondetect	
zinc			
dissolved	0.006	0.009	0.012
total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	14	21	28
total suspended solids	8	12	16
pH		6.5 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfall 009, which will discharge to Waddle Creek, are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum			
dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
iron			
dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156
manganese			
dissolved	0.002	0.003	0.004
total	0.006	0.009	0.012
nickel		nondetect	
zinc			
dissolved	0.006	0.009	0.012
total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	21	31.5	42
total suspended solids	28	42	56
pH		6.5 to 9.0 (standard units)	

In addition to the effluent limits, the permit contains the following major special conditions:

1. Sampling requirements.
2. Requirements for retention of records.
3. Recording requirements.
4. Testing requirements.
5. Quality assurance/quality control requirements.
6. Submission of Discharge Monitoring Reports.
7. Requirements for management of precipitated solids.

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Buckingham Township Bucks County	PAG2000905112	Allen and Diane Menard Menard Tract 3234 Ash Mill Road Doylestown, PA 18901	Tributary Mill Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000905134	Daniel Traynor Traynor Minor Subdivision 413 Fairhill Road Hatfield, PA 19440	UNT West Branch Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Buckingham Township Bucks County	PAS10D538R	Toll Brothers, Inc. Villages at Buckingham 250 Gibraltar Road Horsham, PA 19044	Neshaminy Creek (MF, TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000904157	Middletown Township Community Park 3 Municipal Way Langhorne, PA 19047	Core Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Doylestown Township Bucks County	PAG2000906013	John Gribb Gribb Tract 30 South Main Street Doylestown, PA 18901	UNT Cooks Run Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000904177	Mack and Roedel Custom Builders, LLC The Preserve at Thompson Mill 5910 Stover Mill Road Doylestown, PA 18901	Jericho Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000905107	Worthington Custom Builders, Inc. McMullen Property P. O. Box 653 New Hope, PA 18938-0653	Houghs Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Warwick and Buckingham Townships Bucks County	PAG2000904109	Department of Transportation Rt. 2095, Section 10S Site 7000 Geerdes Boulevard King of Prussia, PA 19406	UNT Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Morrisville Borough Bucks County	PAG2000905109	Delaware River Joint Toll Bridge Comm. Trenton-Morrisville Bridge Rehab 110 Wood Street Morrisville, PA 19067	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAR10D541-R2	NJ Transit NJ Transit Morrisville Train Station Yard One Penn Plaza East Newark, NJ 01105-2246	Pennsylvania Canal/Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000905021	Mnop, Inc. Makefield Executive Quarters Oxford Valley Road Yardley, PA 19067	Iron Work Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Penn Township Chester County	PAG2001505102	Kane Core, Inc. P. O. Box 1301 Skippack, PA 19474-1301	Mid Branch White Clay Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Archbald Borough Lackawanna County	PAG2003505024 Phase II Grading	Austin J. Burke SLIB Co. 222 Mulberry Street Scranton, PA 18503	Wildcat Creek CWF	Lackawanna Co. Cons. District (570) 281-9495
Cass Township Schuylkill County	PAG2005405033	Schuylkill Headwaters Association P. O. Box 1385 Pottsville, PA 17901	West Branch of Schuylkill River CWF	Schuylkill Co. Cons. District (570) 622-3742
Hellertown Borough Northampton County	PAG2004805035	Ashley Development Corp. 559 Main St. Bethlehem, PA 18018	Saucon Creek-East Branch CWF	Northampton Co. Cons. District (610) 746-1971
Warriors Mark Township Huntingdon County	PAG203104005	Terry and Jane Branstetter 3008 Pennington Road Tyrone, PA 16886	Logan Spring Run WWF	Huntingdon County Conservation District R. D. 1, Box 7C, Rt. 26 South Huntingdon, PA 16652
Windsor Township Berks County	PAG20006050411	William Graybill Balfour Beatty Construction 125 Technology Drive Suite 003 Canonsburg, PA 15317	UNT to Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Muhlenberg Township Berks County	PAG2000606003	Barry Newman Newman Development Group, LLC 1000 Germantown Pike, Suite E-2 Plymouth Meeting, PA 19462	Laurel Run WWF, MF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Ontelaunee Township Berks County	PAG2000604113	Nina Seidel Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Willow Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Southampton Township Cumberland County	PAG2002106005	JLG Industries, Inc. Parking Lot Expansion 1 JLG Drive McConnellsburg, PA 17233	UNT Bulls Head Branch CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812
North Newton Township Cumberland County	PAG2002106006	Randy Shuman Re's Run P. O. Box 177 Newville, PA 17241	Green Spring Creek CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812
Leymone and Wormleysburg Boroughs Cumberland County	PAG2002105061	Norfolk Southern Railway Company Norfolk Southern Lemoyne Connector Engineering Department Box 7-142 1200 Peachtree, NE Atlanta GA 30309-3579	Susquehanna River WWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812
Lower Allen Township Cumberland County	PAG2002105063	Lauth Construction, Inc. Progressive Insurance Claim Center— Hartzdale Drive 410 Pennsylvania Ave. Indianapolis, IN 46280	Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812
Town of Bloomsburg Columbia County	PAG2001906003	Bloomsburg University Eric Milner Buckingham Maintenance Center 400 E. 2nd St. Bloomsburg, PA 17815	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Bald Eagle Township Clinton County	PAG2001806001	Clinton County Solid Waste Authority P. O. Box 209 McElhattan, PA 17748	Bald Eagle Creek WWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3978
Cambria County Richland Township	PAG2001105023	Andrew Garbarino KIDCO, LLP 110 Main Street Johnstown, PA 15907	UNT to Stonycreek River (CWF)	Cambria County Conservation District (814) 472-2120
Butler County Adams Township	PAG2001005016	Kingsridge Subdivision S & A Custom Built Homes, Inc. 501 Rollingridge Drive Suite 200 State College PA 16801	UNT Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Butler County Connoquenessing Borough and Forward Township	PAG2001005037	Leslie Farm Subdivision Manor Development Group II 109 Gateway Avenue Suite 202 Wexford, PA 15090	UNT Connoquenessing Creek WWF	Butler Conservation District (724) 284-5270

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Mercer County Hempfield Township	PAG2004304001(1)	Department of Transportation P. O. Box 398 255 Elm Street Oil City, PA 16301	Little Shenango River TSF	Mercer Conservation District (724) 662-2242
Mercer County Sandy Lake Township	PAG2004305014	Oakview Elementary School Lakeview School District 2482 Mercer Street Stoneboro, PA 16153	UNT Sandy Creek WWF	Mercer Conservation District (724) 662-2242
Warren County Conewango Township	PAG2006205003	Farm Colony 4 Terrance Palmer Ashford Partners, LLC 103 Gamma Drive Suite 130 Pittsburgh, PA 15238	Conewango Creek WWF	Warren Conservation District (814) 563-3117
<i>General Permit Type—PAG-3</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Adams County Gettysburg City	PAR603592	Consolidated Scrap Resources, Inc. P. O. Box 389 York, PA 17405	UNT to Rock Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County West Manchester Township	PAR603519	Consolidated Scrap Resources, Inc. P. O. Box 389 York, PA 17405	UNT to Codorus Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County York City	PAR603580	Consolidated Scrap Resources, Inc. P. O. Box 389 York, PA 17405	Codorus Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Blair Township	PAR603583	Charles L. Walter Walter's Auto Wrecking R. R. 1, Box 518-A Hollidaysburg, PA 16648	Halter Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Muncy Township Lycoming County	PAR234815	Charlotte Pipe and Foundry Company 4210 Old Charlotte Highway P. O. Box 1339 Monroe, NC 28111	Wolf Run Creek (CWF)	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Town of Bloomsburg Columbia County	PAR604831	Kassab Brothers 449 West Ninth Street P. O. 251 Bloomsburg, PA 17815	Storm Drain to Susquehanna CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
East Huntingdon Township Westmoreland County	PAR216153	Carry All Products P. O. Box 201 Connellsville, PA 15425	Jacob's Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Pittsburgh Allegheny County	PAR206149	Gottlieb, Inc. 5603 Grand Avenue Pittsburgh, PA 15225	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location County & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cambria County Munster Township	PAG046321	Sister Servants of the Most Sacred Heart of Jesus 1872 Munster Road Portage, PA 15946	UNT of North Branch Little Conemaugh River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Westmoreland County Mount Pleasant Township	PAG046106	Robert Merz R. D. 1, Box 56A Acme, PA 15610	Jacobs Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Hayfield Township Crawford County	PAG049234	Melissa A. Hockenberry SFTF 390 Chestnut Street Apt. 10 Meadville, PA 16335	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clarion Township	PAG049231	Gwendolyn J. and Jeffrey A. Dolby 1660 Rehobeth Church Road Clarion, PA 16214	UNT to Brush Run 17-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-7

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Weirton West Virginia	PAG079908	Valero Terrestrial Corporation R. D. 2, Box 410 Colliers, WV 26035	Brooke County Compost Facility R. D. 2, Box 410 Colliers, WV 26035	BWSFR (717) 787-8184

General Permit Type—PAG-9

<i>Facility Location & County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Hempfield Township Westmoreland County	PAG096106	Hapchuk Sanitation R. D. 10, Box 276 Greensburg, PA 15601	Hapchuk Sanitation	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

General Permit Type—PAG-10

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Saucon Township Northampton County	PAG102209	Columbia Gas Transmission Corporation	East Branch Saucon Creek CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511)

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 2803506, Public Water Supply.
 Applicant **Mont Alto Municipal Authority**
 Municipality Quincy Township
 County **Franklin**
 Type of Facility Project is for the addition of new Well No. 3 to augment the existing sources of supply.
 Consulting Engineer William T. Hemsley, P. E. Nasaux-Hemsley, Inc. 56 N. 2nd St. Chambersburg, PA 17201
 Permit to Construct Issued: 12/21/2005

Permit No. 3604511, Public Water Supply.
 Applicant **Hempfield Hill Estates**
 Municipality West Hempfield Township
 County **Lancaster**

Type of Facility Installation of an anion exchange system to remove nitrates from the drinking water.
 Consulting Engineer James R Fisher, P. E. Fisher Engineering, Inc. 1522 W. Main Street Ephrata, PA 17522
 Permit to Construct Issued: 2/14/2006
Permit No. 0505501, Public Water Supply.
 Applicant **Snake Spring Township Municipal Authority**
 Municipality Snake Spring Township
 County **Bedford**
 Type of Facility Application for a new system to serve residence on Snake Spring Township. System will consists of 2 wells and related treatment.
 Consulting Engineer Timothy A. Cooper, P. E. Stiffler McGraw & Associates, Inc. 19 N. Juniata Street Hollidaysburg, PA 16648
 Permit to Construct Issued: 12/15/2005
Permit No. 2805504, Public Water Supply.
 Applicant **Heritage Hills Retirement Home**
 Municipality Antrim Township
 County **Franklin**
 Type of Facility Application for a well and treatment to serve the existing retirement home.
 Consulting Engineer Robert Schemmerling Civil Design & Management, Inc. 41 S. Antrim Way Greencastle, PA 17225
 Permit to Construct Issued: 12/15/2005
Permit No. 3605508, Public Water Supply.
 Applicant **Ephrata Area Joint Authority**
 Municipality Ephrata Borough
 County **Lancaster**
 Type of Facility Installation of a nano-membrane (RO) system to treat existing Well No. 4.
 Consulting Engineer James C. Elliot, P. E. Gannett Fleming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100
 Permit to Construct Issued: 1/10/2006
Permit No. 2805509 MA, Minor Amendment, Public Water Supply.
 Applicant **Washington Township Municipal Authority**
 Municipality Washington Township
 County **Franklin**

Type of Facility Improvements to the Well Nos. 5 and 6 facility and the addition of 2 concrete detention tanks.

Consulting Engineer Harry E Bingaman, P. E.
Glance Assoc., Inc.
3705 Trindle Rd.
Camp Hill, PA 17011

Permit to Construct Issued: 1/10/2006

Permit No. 3805509, Public Water Supply.
Applicant **Mount Gretna Authority**
Municipality West Cornwall Township
County **Lebanon**

Type of Facility Installation of an interconnection with the Mt. Gretna Camp Meeting Association.

Consulting Engineer David J Gettle
Kohl Bros., Inc.
P. O. Box 350
Myerstown, PA 17067

Permit to Construct Issued: 2/28/2006

Permit No. 2106501 MA, Minor Amendment, Public Water Supply.

Applicant **North Middleton Authority**
Municipality North Middleton Township
County **Cumberland**

Type of Facility Repair and repainting of the existing elevated finished water storage tank.

Consulting Engineer Peter Lusardi, P. E.
CET Engineering Services
1240 N. Mountain Rd.
Harrisburg, PA 17112

Permit to Construct Issued: 3/6/2006

Operations Permit issued to **Dallastown YOE Municipal Authority**, 7670085, Dallastown, **York County** on 3/9/2006 for the operation of facilities approved under Construction Permit No. 6704509 MA.

Operations Permit issued to **Dallastown YOE Municipal Authority**, 7670085, Dallastown, **York County** on 3/9/2006 for the operation of facilities approved under Construction Permit No. 6704510 MA.

Operations Permit issued to **Saxton Borough Municipal Authority**, 4050021, Saxton Borough, **Bedford County** on 1/6/2006 for the operation of facilities approved under Construction Permit No. 0504501.

Operations Permit issued to **Marietta Gravity Water Company**, West Hempfield Township, **Lancaster County** on 2/10/2006 for the operation of facilities approved under Construction Permit No. 3604513 MA.

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

Permit No. M.A.—Construction Public Water Supply.
Applicant **United Water Pennsylvania**
Township or Borough Bloomsburg

County **Columbia**
Responsible Official Thomas Schink
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Type of Facility Public Water Supply—Construction

Consulting Engineer N/A
Permit Issued Date 3/8/2006

Description of Action Maintenance to the 800,000 gallon Bloomsburg University storage tank.

Permit No. M.A.—Construction Public Water Supply.

Applicant **Penn Township Supervisors**
Township or Borough Penn Township
County **Centre**
Responsible Official Warren Sasseraman
Penn Township Supervisors
P. O. Box 125
Coburn, PA 16832-0125

Type of Facility Public Water Supply—Construction

Consulting Engineer Eric S. Lundy, P. E.
Nittany Engineering & Associates, LLC
P. O. Box 700
136 West Main Street
Millheim, PA 16854-0700

Permit Issued Date 3/10/2006

Description of Action Addition of corrosion control to comply with the lead and copper rule.

Permit No. 1405502—Construction Public Water Supply.

Applicant **Penn Township Supervisors**
Township or Borough Penn Township
County **Centre**
Responsible Official Warren Sasseraman
Penn Township Supervisors
P. O. Box 125
Coburn, PA 16832-0125

Type of Facility Public Water Supply—Construction

Consulting Engineer Eric S. Lundy, P. E.
Nittany Engineering & Associates, LLC
P. O. Box 700
136 West Main Street
Millheim, PA 16854-0700

Permit Issued Date 3/10/2006

Description of Action Construction of Well No. 2.

Permit No. M.A.—Construction Public Water Supply.

Applicant **Municipal Authority of the Borough of Mansfield**
Township or Borough Mansfield Borough
County **Tioga**

Responsible Official Ronald Weed
Municipal Authority of the
Borough of Mansfield
19 East Wellsboro Street
Mansfield, PA 16933

Type of Facility Public Water
Supply—Construction

Consulting Engineer Kirt L. Ervin, P. E.
US Engineering, LLC
75 Jardin Circle
Highland, IL 62249

Permit Issued Date 3/10/2006

Description of Action Renovations and repairs to the
500,000 gallon Fourth Street
tank.

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

Operations Permit issued to **Seven Springs Municipal Authority**, 290 Lagoon Lane, Champion, PA 15622, (PWS ID 4560024) Saltlick Township, **Fayette County** on March 9, 2006, for the operation of facilities approved under Construction Permit No. 2603502.

Operations Permit issued to **Green Township Municipal Authority**, Commodore System, P. O. Box 129, 77 Musser Street, Commodore, PA 15729, (PWS ID 5320011) Green Township, **Indiana County** on March 7, 2006, for the operation of facilities approved under Construction Permit No. 3288506A1.

Permit No. 6305502MA, Minor Amendment. Public Water Supply.

Applicant **Pennsylvania-American
Water Company**
800 Hersheypark Drive
Hershey, PA 17033

Borough or Township Chartiers Township

County **Washington**

Type of Facility Kish Avenue water storage tank

Permit to Construct March 7, 2006
Issued

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

Operations Permit issued to **Hickory Hill Country Village, a Division of Thomas Mobile Home Park**, 1962 US 19, Waterford, PA 16441, PWS ID 6250067, Waterford Township, **Erie County**, on March 10, 2006, for the operation of a second well, new pump house, finished water storage and new distribution piping to support expansion project. This action is approved under construction Permit No. 2503502, issued May 11, 2004.

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, (717) 705-4707.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Williamstown Borough	200 South West Street Williamstown, PA 17098	Dauphin

Plan Description: The approved plan provides for the expansion of the Williamstown Borough Sewer Authority wastewater treatment facility to a capacity of 0.45 mgd. The plan also provides for extensions of the public sewer system to areas of Williams Township as indicated in the plan and a sewer line replacement project for portions of the existing collection system. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Duncansville Borough	1145 Third Avenue Duncansville, PA 16635	Blair

Plan Description: The approved plan provides for an upgrade and expansion of the Duncansville Municipal Authority's wastewater treatment facility to 1.75 mgd. The wastewater treatment facility upgrades include modifications under future compliance with the requirements established in the Commonwealth's Chesapeake Bay Point Source Nutrient Reduction Strategy. The plan also provides for the upgrade of two existing sewer lines—one line in Allegheny Township, the other in Duncansville Borough. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Harrisburg City	10 North Market Street Harrisburg, PA 17101	Dauphin

Plan Description: The approved plan provides for modifications to the existing CSO chambers in accordance with the LTCP, studies the effects of added stormwater on future BNR modifications to the Authority's AWTF under the Chesapeake Bay Point Source Nutrient reduction Strategy and also studies construction of a Paxton Creek Relief Interceptor/CSO treatment project. Future plan revisions are anticipated for any proposed AWTF-BNR modification and interceptor relief projects. 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.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Taylor Township	P. O. Box 627 Hustontown, PA 17229	Fulton

Plan Description: The approved plan provides for the construction of a new Hustontown Joint Sewer Authority

sewage treatment facility with stream discharge to replace an existing community onlot sewage disposal system. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Conewago Township	3279 Old Hershey Road Elizabethtown, PA 17022	Dauphin

Plan Description: The approved plan provides additional sanitary needs survey information under implementation of your 1998 Official Plan (DEP Code No. A1-22910-ACT) that identified the Route 743/Old Hershey Road service area. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information con-

cerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Sunoco Elverson Valve Station #9000-0020, Elverson Borough, **Chester County**. Lisa Holderbach, Aquaterra Tech., Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Mr. and Mrs. Rod McCarthy, 18 Parkside Dr., Elverson, PA 19520, Mr. and Mrs. David Eldon, 13 Parkside Dr., Elverson PA 19520, Janet Stockett, 19 Parkside Dr., Elverson PA 19520 and Merle Stoltzfus, Stoltzfus Enterprises, Ltd., 26 East Main Street, Elverson, PA 19520 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Standard.

436 Bridge Street Property, Phoenixville Borough, **Chester County**. Bruce Speidel, EBI Consulting, 6876 Susquehanna, Trail South, York, PA 17403 on behalf of Charles Morelli, 451 Swedesfrod Rd., Fraizier, PA 19355 has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard Report.

Daniel Moss Residence, Limerick Township, **Montgomery County**. Kenneth Gollon, Lewis Env. Group, 455 Railroad Plaza, Royersford, PA 19468 on behalf of Daniel Moss Residence, 136 Souder Rd., Royersford, PA 19468 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard Report.

Park West Town Center, City of Philadelphia, **Philadelphia County**. Jamey A. Stynchula, P. G., Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Colin Jones, The Goldenberg Group, Inc. and WPFSl, 650 Pkwy., Suite 300, Blue Bell, PA 19422 has submitted a Baseline Env. Report concerning remediation of site soil contaminated and groundwater contaminated with organics and PCB. The report is intended to document remediation of the site to meet the Specific Industrial Area Standard.

Georgia-Pacific/Connelly Containers Facility, Lower Merion Township, **Montgomery County**. Jeffrey Goudsward, Penn Env. & Remediation, Inc., on behalf of Richard Heany, Righter's Ferry Assoc., LP, 700 South Henderson Rd, Suite 225, King of Prussia, PA 19406 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with petroleum hydrocarbon compounds, VOCs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Essington Sunoco Pipeline, Tinicum Township, **Delaware County**. Lisa Holderbach, Aquaterra Tech, 122 S. West Chester, Philadelphia, PA 19381 on behalf of Robert Rizzo, Tinicum Developers, 76 Industrial Highway, Essington, PA 19029 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of site soil contaminated with

unleaded gasoline and MTBE. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Lansdale Holding Group Assoc., LP, Lansdale Borough **Montgomery County**. Donald A. Coleman, P. G., Penn Env & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Peter Economou, Lansdale Holding Group Assoc., LP, 230 Windsor Ave., 1st Floor, Narberth, PA 19072 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with other organics and chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard Final Report.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Former Cross Country Clothes (West and Station Alleys), Borough of Northampton, **Northampton County**. Brendan O'Donnell, P. G., HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109 has submitted a Notice of Intent to Remediate (on behalf of his client, Posh Properties, Inc. 2216 Willow Park Road, Bethlehem, PA 18017) concerning the remediation of site soils suspected to have been impacted by chlorinated solvents due to historic operations at the site. The report was submitted in order to demonstrate attainment of the Statewide Health Standard.

ITT/GOULDS PUMPS—Ashland Foundry, Ashland Borough, **Schuylkill County**. Sonya Y. Ward, P. G., Senior Project Manager, ENSR, 2005 Cabot Boulevard West, Suite 100, Langhorne, PA 19047 has submitted a combined Remedial Investigation Report and Risk Assessment Report (on behalf of her client, ITT Industries, c/o Anne Wilmot, 10 Mountainview Road, Upper Saddle River, NJ 07458) concerning the remediation of soils and groundwater found or suspected to have been contaminated with inorganics (metals), petroleum products and PCE as the result of historic site operations. The reports were submitted in partial fulfillment of the Site-Specific Standard.

Former Sciolaro Property (Brushy Mountain Road), Stroud Township, **Monroe County**. Ms. Rebecca Gross, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Final Report (on behalf of her client, Charleen Sciolaro, 16085 Waterford Creek Circle, Hamilton, VA 20158) concerning the remediation of soils found to have been impacted by fuel oil No. 2. The report was submitted to document attainment of the residential Statewide Health Soil Standard. A Notice of Intent to Remediate was simultaneously submitted.

Elementis Pigments, Inc., City of Easton, **Northampton County**. Michael Gonshor, Principal Hydrogeologist, Roux Associates, Inc. 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066, has submitted a Final Report (on behalf of his client Elementis America, Inc., Wyckoffs Mill Road, P. O. Box 700, Highstown, NJ 08520) concerning the remediation of groundwater found or suspected to have been impacted with lead, VOCs and semi-VOCs as the result of historic petroleum UST releases. The report was submitted to document attainment of the nonresidential Statewide Health Standard.

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

Reading Buttonwood, LLP, City of Reading, **Berks County**. HDR/LMS, 609 Hamilton Street, Allentown, PA 18108, on behalf of reading Buttonwood, LLP, c/o Markward Group, 5925 Tilghman Street, Suite 600,

Allentown, PA 18104, submitted a combined remedial investigation and Final Report concerning remediation of site soils and groundwater contaminated with petroleum products from unregulated underground storage tanks. The report is intended to document remediation of the site to the Site-Specific Standard.

The Willows Development, City of Lebanon, **Lebanon County**. MACTEC Engineering and Consulting, Inc., 242 Princeton Avenue, Suite 113, Hamilton, NJ 08619, on behalf of RLI Beneficial Willows, LLC, 3131 Clark Road, Suite 203, Sarasota, FL 34231 and George, Christianson, Aspens, Inc., 411 Chestnut Street, Lebanon, PA 17042, submitted a Final Report concerning remediation of site soils contaminated with inorganics. The report is intended to document remediation of the site to the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Park West Town Ctr., City of Philadelphia, **Philadelphia County**. Jamey A. Stynchula, P. G., Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Colin Jones, The Goldenberg Group, Inc. and WPFSI, 650 Pkwy., Suite 300, Blue Bell, PA 19422 has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with organics and PCB. The Baseline Environmental Report was approved by the Department on March 10, 2006.

Daniel Moss Residence, Limerick Township, **Montgomery County**. Kenneth Gollon, Lewis Env. Group, 455 Railroad Plaza, Royersford, PA 19468 on behalf of Daniel Moss Residence, 136 Souder Rd., Royersford, PA 19468 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard Report and was approved by the Department on March 9, 2006.

CVS Pharmacy No. 7073, Pennsburg Borough, **Montgomery County**. Justin Lauterbach, RT Env. Svc., Inc, Pureland Complex, 510 Heron Dr., Suite 306, Bridgeport, NJ 08014 on behalf of Brenna Jordan, Pennsburg, CVS, Inc., 1 CVS Dr., Woonsocket, RI 02895 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic and lead. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on March 9, 2006.

Hi-Line Storage System, East Rockhill Township, **Bucks County**. David Farrington, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of Frederick Seiz, Seiz Corp./Hi-Line Storage Systems, Hi-Line Drive and N. Ridge Rd., Perkasio PA 19844 has submitted a supplemental Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents and lead. The Remedial Investigation Report was approved by the Department on December 22, 2005.

Former Tacony Warehouse, City of Philadelphia, **Philadelphia County**. William Schmidt, Pennoni Assoc., Inc., One Drexel Plaza, 3001 Market St., Philadelphia, PA 19104 on behalf of Scott Blow, Kaplan @ Tacony, LP, 701 Margaret Ct., South Plainfield, NJ 07080 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, PCB, No. 2 fuel oil, pesticides and inorganics. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan was approved by the Department on February 13, 2006.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Buckeye Pipeline Macungie Station—12" Line Release, Lower Macungie Township, **Lehigh County**. Groundwater & Environmental Services, Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341 submitted a Final Report (on behalf of their client, Buckeye Pipeline Company, 5002 Buckeye Road, Emmaus, PA 18049 concerning the remediation of soils contaminated with unleaded gasoline as the result of an accidental release. The report demonstrated attainment of the Statewide Health Standard and was approved on November 2, 2005. The report was submitted within 90 days of the July 13, 2005 release.

William Kendall Property, Barrett Township, **Monroe County**. Philip Cicoello, Principal, PVI Services, Inc., 16 South Avenue West, No. 138, Cranford, NJ 07016 submitted a Final Report (on behalf of his client, William Kendall, 401 Summit Drive, Buck Hill Falls, PA 18323 concerning the remediation of groundwater found or suspected to have been contaminated with No. 2 fuel oil. The report demonstrated attainment of the residential Statewide Health Standard and was approved on February 8, 2006.

Former Sciolaro Property (Brushy Mountain Road), Stroud Township, **Monroe County**. Rebecca Gross, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of her client, Charleen Sciolaro, 16085 Waterford Creek Circle, Hamilton, VA 20158) concerning the remediation of soils found to have been impacted by fuel oil No. 2. The report demonstrated attainment of the residential Statewide Health Soil Standard and was approved on February 22, 2006.

Scottsville Site, Meshoppen Township and Windham Township, **Wyoming County**. Teresa Blauch, RETTEW Associates, 3020 Columbia Avenue, Lancaster, PA 17603 submitted a Final Report (on behalf of the property owner, Ken Skuba, Wyoming Land Conservancy, Inc., 66 Allen Lane, Drums, PA 18222) concerning the remediation of soils found or suspected to have been impacted by inorganics and PAHs. The report demonstrated attainment of the residential Statewide Health Soil Standard and was approved on February 1, 2006.

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

Sunshine Textile Services, Inc. Borough of Bloomsburg, **Columbia County**. Austin James Assoc., Inc. P. O. Box U, Pocono Pines, PA 18350 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on March 8, 2006.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Former Paul's Chrome Plating, Adams Township, **Butler County**. Joseph Scalamogna, Core Compliance Group, Inc., 131 Glenbrook Drive, Cranberry Township, PA 16066, on behalf of Fred Hesperheide, Paul's Chrome, 90 Pattison Street, Evans City, PA 16033, has submitted a Final Report concerning the remediation of site Soil and Groundwater contaminated with Chrome Plating Liquids. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on March 8, 2006.

International Paper, South Yard, City of Erie, **Erie County**. Pat Pontoriero, MACTEC, 700 N. Bell Avenue, Pittsburg, PA 15106 on behalf of Monica Brower,

GEIDC, 5240 Knowledge Parkway, Erie, PA 16510 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with Arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standards.

International Paper, South Yard, City of Erie, Erie County. Pat Pontoriero, MACTEC, 700 N. Bell Avenue, Pittsburgh, PA 15106 on behalf of Monica Brower, GEIDC, 5240 Knowledge Parkway, Erie, PA 16510 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with Arsenic. The report is intended to document remediation of the site to meet the Site Specific Standards.

International Paper South Yard, City of Erie, Erie County. Pat Pontoriero, MACTEC, 700 N. Bell Avenue, Pittsburgh, PA 15106 on behalf of Monica Brower, GEIDC, 5240 Knowledge Parkway, Erie, PA 16510 has submitted a Remedial Investigation Report and a Final Report concerning the remediation of site Soil and Groundwater contaminated with Arsenic. The Remedial Investigation Report demonstrated attainment of the Site Specific Standards and the Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on March 13, 2006.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Permit Reissued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR090R040. ICM of Pennsylvania, Inc., 638 Lancaster Avenue, Malvern, PA 19355.

General Permit No. WMGR090R040 was originally issued to D. M. Stoltzfus & Son, Inc., 330 Quarry and Snake Hill Roads, Talmage, PA 17580-0084 for the processing and beneficial use of reclaimed asphalt pavement (RAP) materials generated at the Talmage Quarry site located in **Lancaster County**, as a roadway construction material.

Based on a notification of a change of ownership and the information provided, the processing and beneficial use of RAP materials generated at the Talmage Quarry site is now under the ownership and management of ICM of Pennsylvania, Inc. Notice is hereby given of the reissuance of General Permit No. WMGR090R040 granting ICM of Pennsylvania, Inc. the processing and beneficial use of RAP materials generated at this site as specified in the General Permit. Central Office approved the reissuance of this General Permit on March 9, 2006.

Persons interested in reviewing the General Permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a General Permit to operate municipal waste processing facilities and the beneficial use of municipal waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM017D004. Longwood Gardens, P. O. Box 501, Kennett Square, PA 19348.

General Permit No. WMGM017004 is for the beneficial use of processed manure, yard waste and food waste for use as a soil amendment processed at its facility located in East Marlboro Township, Chester County. The General Permit was issued by Central Office on January 9, 2006.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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.

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

40-310-062GP3: Mericle Construction, Inc. (100 Baltimore Drive, Wilkes-Barre, PA 18702) on March 8, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at their facility at Armstrong Road, Jenkins Township, **Luzerne 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.

09-0175: Hanson Aggregates BMC, Inc. (852 Swamp Rd., Penns Park, PA 18943) on March 14, 2006, to operate a new pit conveyor in Wrightstown Township, **Bucks County**.

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

48-304-032A: Victaulic Co. of America (4901 Kesslersville Road, Easton, PA 18040) on March 6, 2006, to construct a cold box core machine in Forks Township, **Northampton County**.

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

06-03054A: Martin Stone Quarries, Inc. (P. O. Box 297, Old Route 100, Bechtelsville, PA 19505) on March 8, 2006, to construct a cone crusher, two screens and various conveyors at their Bechtelsville Quarry in Colebrookdale Township, **Berks County**.

06-05065B: Glen Gery Corp. (423 South Pottsville Pike, 423 S. Pottsville Pike, Shoemakersville, PA 19555-9742) on March 9, 2006, to install two dry limestone adsorptions units in Perry Township, **Berks County**.

36-03160A: G/S/M Industries, Inc. (3249 Hempland Road, Lancaster, PA 17601-6913) on March 7, 2006, to construct a new coating booth in East Hempfield Township, **Lancaster County**.

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

18-315-001C: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) for construction of two 68-million Btu per hour natural gas and propane-fired boilers in Castanea Township, **Clinton County**.

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

PA-63-00649F: Spartech Polycom (55 South Washington Street, Donora, PA 15033) on March 8, 2006, to install four extrusion lines at their existing Donora Plant 1, a thermoplastic compounder at Donora Bureau, **Washington County**.

PA-04-00699F: NGC Industries, Inc. d/b/a/ National Gypsum Company (2001 Rexford Road, Charlotte, NC 28211) on March 13, 2006, to authorize installation of a 120 ton per hour Cage Mill and associated equipment at their Shippingport Plant in Shippingport Borough, **Beaver County**.

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

10-333A: Penn United Technology, Inc. (799 North Pike Road, Cabot, PA 16023) on March 1, 2006, to install batch vapor solvent degreasing equipment in Jefferson Township, **Butler County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

15-0115C: QVC, Inc. (1200 Wilson Drive, West Chester, PA 19380) on March 7, 2006, to operate an emergency generator (2,000) kW in West Goshen Township, **Chester County**.

15-0004E: Alcoa Flexible Packaging, LLC (520 Lincoln Avenue, Downingtown, PA 19335) on March 7, 2006, to operate a rotogravure press No. 9 in Downingtown Borough, **Chester County**.

23-0003E: ConocoPhillips Co. (4101 Post Road, Trainer, PA 19061-3812) on March 7, 2006, to operate a gasoline and diesel desulfurization in Trainer Borough, **Delaware County**.

46-0091: Sunoco Partners Marketing and Terminal, LP (1801 Market Street-19/10 PC, Philadelphia, PA 19103) on March 10, 2006, to operate a vapor combustion unit in Upper Moreland Township, **Montgomery County**.

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

41-00018: Springs Window Fashions, LLC (8601 State Route 405, Montgomery, PA 17752) on March 9, 2006, by means of the administrative amendment requirements of 25 Pa. Code § 127.450, to incorporate conditions established in Plan Approval 41-00018A, issued on July 27, 2005, for the modification of two coil coating lines (Nos. 7 and 8) in Clinton Township, **Lycoming County**.

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

04-00013B: Jewel Acquisition, LLC (1200 Midland Avenue, Midland, PA 15059) on March 8, 2006, to modify the Direct Roll Anneal and Pickle Line at the Midland Facility in Midland Borough, **Beaver County**. This is a Plan Approval Extension.

04-00013A: Jewel Acquisition, LLC (100 River Road, Brackenridge, PA 15014) on March 13, 2006, to upgrade the meltshop and install a new Steckel Mill at Midland Facility in Midland Borough, **Beaver County**. This is a Plan Approval Extension.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

67-05008: York International Corp. (P. O. Box 1592-361Q, York, PA 17405-1592) on March 3, 2006, for refrigeration and heating equipment in Spring Garden Township, **York County**. This Title V Operating Permit was administratively amended to make changes in Site Level Condition Nos. 10 and 13. This is Revision No. 1.

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.

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

36-03020: The Bachman Co. (150 Industrial Drive, Ephrata, PA 17522-9252) on March 6, 2006, to operate their pretzel manufacturing plant in Ephrata Borough, **Lancaster County**.

67-05068: Highway Materials, Inc. (1750 Walton Road, P. O. Box 1667, Blue Bell, PA 19422-0465) on March 8, 2006, to operate their Wrightsville Plant in Wrightsville Borough, **York County**. 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.

17-00057: Petroleum Development Corp. (103 East Main Street, Bridgeport, WV 26330) on February 23, 2006, issued a State-only operating permit for their Tate

compressor station in Greenwood Township, **Clearfield County**. The facility's main sources include a 115 hp natural gas fired reciprocating internal combustion compressor engine and a glycol dehydration system. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00058: Petroleum Development Corp. (103 East Main Street, Bridgeport, WV 26330) on February 28, 2006, issued a State-only operating permit, for their Passmore compressor in Bell Township, **Clearfield County**. The facility's main sources include a 180 hp natural gas fired reciprocating internal combustion compressor engine and a glycol dehydration system. The Stateonly operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

49-00035: Warrior Run School District (4800 Susquehanna Trail, Turbotville, PA 17772) on February 22, 2006, issued a State-only (Synthetic Minor) operating permit for their Middle/High School building in Lewis Township, Elementary School building in Watsonstown Borough and Elementary School Building in Turbotville Borough, **Northumberland County**. The facility's main sources include three coal-fired boilers, two No. 2 oil-fired boilers, two natural gas-fired boilers, four emergency generators, two cold cleaning parts washers and one woodworking shop. The facility has taken restrictions to limit potential SOx emissions below Title V thresholds. The State-only (Synthetic Minor) 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.

65-00877: Allegheny Ludlum Corp (100 River Road, Brackenridge, PA 15014-1597) on February 28, 2006, to operate a landfill with the main source of emissions being fugitive dust from plant roads at their Route 356 Landfill in Allegheny Township, **Westmoreland County**.

04-00446: AES Beaver Valley LLC (394 Frankfort Road, Monaca, PA 15061-2254) on March 8, 2006, for their co-generation facility that sells electricity and steam to neighboring companies in Monaca, **Beaver County**. As a result of the potential levels of NOx emitted from this facility, it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

OP-32-00085: PolyVision Corp. (2170 Barr Slope Road, Dixonville, PA 15734) on March 9, 2006, to operate specialty display products manufacturing at the Dixonville Plant in Dixonville, **Indiana County**.

26-00057: Matt Canestrone Construction, Inc. (P. O. Box 234 Belle Vernon, PA 15012) on March 10, 2006, to

operate a barge/rail/truck transshipping terminal at the LaBelle site in Luzerne Township, **Fayette County**. This is a State-only Operating Permit.

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

37-051F: Remacor, Inc. (Route 168, West Pittsburgh, PA 16160) on February 27, 2006, to restart an existing Magnesium grinding line at their West Pittsburgh Plant in Taylor, **Lawrence County**.

37-00300: North American Forgemasters Co. (710 Moravia Street, New Castle PA 16101-3948) on February 22, 2006, to manufacture hot-formed forged products in New Castle, **Lawrence County**.

43-00335: J. Bradley McGonigle Funeral Home and Crematory, Inc. (1090 East State Street, Sharon, PA 16146) on March 6, 2006, to operate a crematorium in Sharon, **Mercer County**.

43-00336: PA Rail Car Co. (33 Carbaugh Street, West Middlesex, PA 16159) on March 6, 2006, to refurbish damaged railcar doors in West Middlesex, **Mercer County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.

V04-002: Newman and Co., Inc. (6101 Tacony Street, Philadelphia, PA 19135) on March 10, 2006, to operate a paperboard manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions' sources include a 118 mmBtu/hr boiler, twenty nine space heaters, and two power washers. The facility also has a stage II vapor recovery system for a 3,000-gallon gasoline tank, a 973,000 Btu/hr fire pump and a trim waste blower system.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

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

10-00001: AK Steel Corp. (Route 8 South, P. O. Box 832, Butler, PA 16003) for their Butler facility located in Butler Township, **Butler County**. The de minimis increase is the result of modification to the Box Annealing Operations at the Hilltop Facility. The only increases in air emissions from the modified Box Annealing Operations will be in the form of NOx, which will increase by no more than 0.110 ton per year. The Department has started a list of de minimis increases as prescribed in 25 Pa. Code § 127.449(i).

Since the March 11, 2005, Title V Permit re-issuance date, AK Steel Corporation has notified the Department of the following de minimis emission increase at the Butler Works facility:

Date	Source	PM10 (tons)	NOx (tons)	CO (tons)	SOx (tons)	VOC (tons)
3/2/2006	Box Annealing	None	0.110	None	None	None
Total Reported Increases		None	0.110	None	None	None
Allowable		0.6 ton/source 3 tons/facility	1 ton/source 5 tons/facility	4 tons/source 20 tons/facility	1.6 tons/source 8 tons/facility	1 ton/source 5 tons/facility

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56950108 and NPDES No. PA0213195. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 112.25 acres. Receiving stream: UNTs to Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 16, 2005. Permit issued: March 2, 2006.

Greensburg District Mining Office: Armbrust Building, RR 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

26000104. Patterson Coal Company (20 Elizabeth Drive, Smithfield, PA 15478). Permit revised to add 8.4 acres to the permit and include an occupied dwelling waiver to the barrier for one additional house at a surface mining site located in German, Georges and South Union Townships, **Fayette County**, now affecting 183.7 acres. Receiving streams: UNTs to North Branch Browns Run, to North Branch Browns Run, to the Monongahela River; and UNTs to Jennings Run, to Jennings Run, to the Monongahela River. Application received: December 8, 2005. Revised permit issued: March 9, 2006.

26000103. J Construction Company (R. R. 2, Box 626, Farmington, PA 15437). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Fairchance Borough and Georges Township, **Fayette County**, affecting 7.0 acres. Receiving stream: Muddy Run. Application received: December 7, 2005. Renewal issued: March 9, 2006.

Knox District Mining Office: White Memorial Building, P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33050103 and NPDES Permit No. PA0257991. Cookport Coal Co., Inc. (425 Market Street, Kittanning, PA 16201) Commencement, operation and restoration of a bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 63.5 acres. Receiving stream: Nicely Run. Application received: August 23, 2005. Permit Issued: March 9, 2006.

1380-33050103-E-1. Cookport Coal Co., Inc. (425 Market Street, Kittanning, PA 16201) Application for a stream encroachment to conduct mining activities within 100 feet of Nicely Run in Perry Township, **Jefferson County**. Receiving stream: Nicely Run. Application received: August 23, 2005. Permit Issued: March 9, 2006.

16050110 and NPDES Permit No. 0257982. (77 Truitt Lane, Fairmount City, PA 16224) Commencement, operation and restoration of a bituminous strip and auger operation in Redbank Township, **Clarion County** affecting 65.0 acres. Receiving streams: UNTs to Pine Creek. Application received: August 23, 2005. Permit Issued: March 9, 2005.

Pottsville District Mining Office: 5 West Laurel Blvd, Pottsville, PA 17901, (570) 621-3118.

54950202R2. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 148.0 acres. Receiving stream: none. Application received June 29, 2005. Renewal issued March 9, 2006.

54851319R4. K & C Coal Company (540 Center Street, Ashland, PA 17921), renewal of an existing anthracite underground mine operation in Porter Township, **Schuylkill County** affecting 7.94 acres. Receiving stream: East Branch Rausch Creek. Application received November 14, 2005. Renewal issued March 9, 2006.

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10960301. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0227196 in Marion Township, **Butler County** affecting 116.7 acres. Receiving streams: UNTs to Blacks Creek and UNT to Slippery Rock Creek. Application received: January 18, 2006. Permit Issued: March 6, 2006.

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

7774SM3A1C3 and NPDES Permit No. PA0224499. Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), correction to an existing quarry operation to include NPDES Permit for discharge of treated mine drainage in Maxatawny Township, **Berks County** affecting 205.0 acres. Receiving stream: Sacony Creek. Application received November 10, 2005. Correction issued March 7, 2006.

64052805. Kevin Schrader (P. O. Box 262, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Buckingham Township, **Wayne County** affecting 5.0 acres. Receiving stream: none. Application received July 8, 2005. Permit issued March 7, 2006.

58050846. Jack McKeeby (P. O. Box 571, New Milford, PA 18834-0571), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received September 16, 2005. Permit issued March 7, 2006.

34052801. Spring Hollow Building & Landscape Stone, Inc. (1166 Rapps Dam Road, Phoenixville, PA 19460), commencement, operation and restoration of a quarry operation in Turbett and Spruce Hill Townships,

Juniata County affecting 5.0 acres. Receiving stream: none. Application received September 22, 2005. Permit issued March 7, 2006

47050801. Roger W. Wintersteen (177 Kitchen Road, Danville, PA 17821-9330), commencement, operation and restoration of a quarry operation in West Hemlock Township, **Montour County** affecting 5.0 acres. Receiving stream: none. Application received on September 29, 2005. Permit issued March 7, 2006.

15052801. Limestone Properties, LLC (1020 Broad Run Road, Landenberg, PA 19350), commencement, operation and restoration of a quarry operation in Avondale Borough, **Chester County** affecting 5.0 acres. Receiving stream: none. Application received October 26, 2005. Permit issued March 7, 2006.

40052803. Dotzel Trucking (1898 Slocum Road, Mountaintop, PA 18707), commencement, operation and restoration of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres. Receiving stream: none. Application received October 27, 2005. Permit issued March 7, 2006.

58060801. Clyde Very (R. R. 3, Box 3574, Nicholson, PA 18446), commencement, operation and restoration of a quarry operation in Lathrop Township, **Susquehanna County** affecting 2.0 acres. Receiving stream: none. Application received December 15, 2005. Permit issued March 8, 2006.

15052802. Limestone Properties, LLC (1020 Broad Run Road, Landenberg, PA 19350), commencement, operation and restoration of a quarry operation in Avondale Borough, **Chester County** affecting 5.0 acres. Receiving stream: none. Application received October 31, 2005. Permit issued March 8, 2006.

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.

Cambria District Mining Office: 186 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32064001. Great Lakes Geophysical, Inc., P. O. Box 127, Williamsburg, MI 49690. Oil and gas seismic exploration blasting project in Conemaugh Township, **Indiana County**. Duration of project 6 months. Permit issued March 9, 2006.

07064001. Grannas Brothers Stone & Asphalt, P. O. Box 488, Hollidaysburg, PA 16648. Construction blasting for Logan Town Mall Project in Logan Township, **Blair County**. Duration of blasting 375 days. Permit issued March 9, 2006.

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

14064003. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Chemcut Gravity Sewer Project located in Ferguson Township, **Centre County** with an expiration date of June 1, 2006. Permit issued March 10, 2006.

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

21064113. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Silver Spring Square in Hampden and Silver Spring Townships, **Cumberland County** with an expiration date of January 31, 2007. Permit issued March 7, 2006.

28064123. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Chambersburg Crossings in Green Township, **Franklin County** with an expiration date of March 3, 2007. Permit issued March 7, 2006.

01064103. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Gettysburg Commons in Straban Township, **Adams County** with an expiration date of February 28, 2007. Permit issued March 8, 2006.

21064112. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Foxwood Subdivision in Silver Spring Township, **Cumberland County** with an expiration date of December 30, 2006. Permit issued March 8, 2006.

22064109. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Mayberry in West Hanover Township, **Dauphin County** with an expiration date of December 30, 2006. Permit issued March 7, 2006.

28064122. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Antietam Commons in Washington Township, **Franklin County** with an expiration date of December 30, 2006. Permit issued March 8, 2006.

28064124. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Quality Inn Suites in Chambersburg Borough, **Franklin County** with an expiration date of March 3, 2007. Permit issued March 8, 2006.

67064104. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Ashley Farms in Dover Township, **York County** with an expiration date of February 28, 2007. Permit issued February 28, 2007. Permit issued March 8, 2006.

67064105. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Spring Valley Manor in Dover Borough, **York County** with an expiration date of March 31, 2007. Permit issued March 8, 2006.

67064106. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Farm Lane Estates, Jackson Township, **York County** with an expiration date of December 30, 2006. Permit issued March 8, 2006.

48064002. Controlled Demolition, Inc. (2737 Meryman's Mill Road, Phoenix, MD 21131), demolition blasting for felling of 4 reinforced concrete silos in Nazareth Borough, **Northampton County** with an expiration date of March 31, 2006. Permit issued March 8, 2006.

23064001. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Traditions at Ridley Creek in Brookhaven Borough, **Delaware County** with an expiration date of December 31, 2006. Permit issued March 8, 2006.

21064004. Kesco, Inc. (P. O. Box 95, Adrian, PA 16210-0095), construction blasting at The Lodges at Green Ridge Village in West Pennsboro Township, **Cumberland County** with an expiration date of March 31, 2006. Permit issued March 8, 2006.

09064001. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938), construction blasting for the Perkasio Sewer Extension Project in Perkasio Borough, **Bucks County** with an expiration date of October 30, 2006. Permit issued March 8, 2006.

06064101. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Clematis and Keller Streets storm sewer project in Sinking Spring Borough, **Berks County** with an expiration date of March 6, 2007. Permit issued March 9, 2006.

09064106. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Grandview Outpatient Center in West Rockhill Township, **Bucks County** with an expiration date of November 1, 2006. Permit issued March 9, 2006.

09064107. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938), construction blasting for the Villas at Lamplighter in Warrington Township, **Bucks County** with an expiration date of March 1, 2007. Permit issued March 9, 2006.

36064118. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Home Depot in West Earl Township, **Lancaster County** with an expiration date of December 31, 2007. Permit issued March 9, 2006.

36064120. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Penn Cinema in Lititz Borough and Manheim Township, **Lancaster County** with an expiration date of December 31, 2007. Permit issued March 9, 2006.

39064104. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for The Estates at Brookside in Macungie Borough, **Lehigh County** with an expiration date of March 7, 2007. Permit issued March 9, 2006.

40064105. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for E & B Giftware in the Humboldt Industrial Park in Hazleton City, **Luzerne County** with an expiration date of March 6, 2007. Permit issued March 9, 2006.

40064106. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Simmons Warehouse in the Humboldt Industrial Park in Hazleton City, **Luzerne County** with an expiration date of March 6, 2007. Permit issued March 9, 2006.

36064122. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in East Earl Township, **Lancaster County** with an expiration date of August 30, 2006. Permit issued March 10, 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

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

E23-457. Chadds Ford Township, P. O. Box 181, Chadds Ford, PA 19317-0181, Chadds Ford Township, **Delaware County**, 19317-0181.

To perform the following water obstruction and encroachment activities associated with the proposed Turner's Mill Wastewater Treatment Plant, within the 100-year floodplain of Harvey's Run, a tributary to the Brandywine Creek:

1. To construct and maintain a 0.15 mgd wastewater treatment plant. Work will include associated fill to raise the first floor elevation of the building 1 1/2 feet above the base flood elevation and for the construction of an adjacent parking lot.

2. To construct and maintain one 24-inch RCP stormwater outfall and an associated level spreader device.

3. To construct and maintain an access road to Ring Road (SR 3027). Work will include the placement of fill, a 24-inch RCP stormwater basin outfall and an associated level spreader device.

The site is located on the southwest corner of Baltimore Pike (SR 0001) and Ring Road (SR 3027) (Wilmington North USGS Quadrangle Latitude: 39° 52' 22.5" Longitude: 75° 34' 48.1").

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E23-454. Ridley Township Municipal Marina Authority, 100 E. MacDade Boulevard, Folsom, PA 19033, Ridley Township, Delaware County, ACOE Philadelphia District.

To maintain an existing marina situated in and along the 100-year floodway of the Darby Creek, (WWF-MF). Work will include:

1. Install and maintain a sewage pump station.
2. To rehabilitate and maintain an existing boat launching ramp with new piers and floating docks.

The site is located approximately 0.5 mile south of the intersection of Chester Pike and Swarthmore Avenue (Bridgeport; NJ-PA Quadrangle; N: 22.00 inches, W: 8.9 inches).

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

E44-126. Brown Township Municipal Authority, 7748 State Road 655, Reedsville, PA 17084-9148 in Brown Township, **Mifflin County**, ACOE Baltimore District.

To place and maintain approximately 1,607 cubic yards of fill volume represented by the new structures within the floodplain of Kishacoquillas Creek (TSF) and Honey Creek (HQ-CWF) for the purpose of constructing additions to an existing wastewater treatment plant located in Reedsville (Burnham, PA Quadrangle N: 6.66; W: 13.48; Latitude: 40° 39' 42"; Longitude: 77° 35' 50") in Brown Township, Huntingdon County.

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

E19-250. Arthur Hess, 155 Taylor Drive, Berwick, PA 18603. Perimeter Blocks, in North Centre Township, **Columbia County**, ACOE Baltimore District (Mifflinville, PA Quadrangle N: 11.0 inches; W: 11.0 inches).

To construct a landscaping wall having three sides in a private yard. The walls will measure approximately 20-30 yards on each side. The elevation of the top of wall shall not exceed the existing berm height for the North Branch of Briar Creek. The project is located at the intersection of SR 93 and Taylor Drive in North Centre Township, Columbia County. The project will not impact wetlands or streams while causing about 0.005 acre of earth disturbance. The UNT to North Branch of Briar Creek is a CWF stream. This permit was issued under Section 105.13(e) "Small Projects."

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

E63-443 A1. Dredge Docks, Inc., 1290 Maple Street, Crescent, PA 15046. Denbo Landing culvert in Centerville Borough, **Washington County**, Pittsburgh ACOE District (Carmichaels, PA Quadrangle N: 22.3 inches; W: 9.2 inches and Latitude: 39° 59' 50"—Longitude: 79° 56' 26"). To amend permit E63-443 which authorized the construction and maintenance of a 525-foot long barge dock along the left bank of the Monongahela River (WWF) near river mile 59.8 to include the reissuance and time extension on the original permit and authorize the excavation and the expansion of an existing pond, the construction and maintenance of a 12-inch diameter discharge culvert for a distance of approximately 805 feet and the discharge culvert outfall to the Monongahela River and the construction and maintenance of another stormwater outfall to the Monongahela River. The total stream impact is approximately 805 feet of a tributary to the Monongahela River.

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

E25-705. Robert Minich, 140 Sunset Beach Road, North East, PA 16428. Retaining Wall Modification and Home Construction, in North East, **Erie County**, ACOE Pittsburgh District (North East, PA-NY Quadrangle N: 21.1 inches; W: 11.2 inches).

The applicant proposes to conduct the following activities within the floodway of Sixteen Mile Creek at the property located at 140 Sunset Beach Road: 1) to reconstruct and maintain a damaged 36-foot long by 8-foot high retaining wall with new dimensions of 36 feet long by 10 feet high and consisting of 2-foot by 2-foot by 6-foot concrete blocks; and 2) to remove the existing house and to construct and maintain house and deck having dimensions of approximately 90 feet by 22 feet within the approximate footprint and same hydraulic shadow location of the existing structure. This permit application is the result of an enforcement action, and the structures have already been constructed. The retaining wall was damaged during the hurricane related floods of 2004. Sixteenmile Creek is a perennial stream classified as a WWF and MF. The project proposes to directly impact approximately 50 feet of stream and approximately 2,000 square feet of floodway.

Cambria District: Environmental Program Manager, 286 Industrial Park Rd., Ebensburg, PA 15931-4119.

E10-09-001. Mountain Watershed Association, P. O. Box 408, Melcroft, PA 15642. Acid Mine Drainage Treatment Project, in Saltlick Township, **Fayette County**, Pittsburgh ACOE District.

The applicant proposes to construct an acid mine drainage (AMD) treatment system that will treat 63% of the total iron load and 31% of the aluminum load entering the Indian Creek Watershed from abandoned mines. The project will impact 1.86 acres of AMD-impacted scrub/shrub wetland and 3.83 acres of emergent wetland (of which 0.62 acre is AMD-impacted), for a total of 5.69 acres of wetland impacts (of which 3.21 acres is non-AMD impacted). Compensatory replacement of aquatic resources will be provided by the construction of 3.3 acres of PEM replacement wetland and water quality improvements to 66.0 acres (10.9 miles) of riverine habitat. (Donegal Quadrangle N: 8.55 inches, W: 3.4 inches).

SPECIAL NOTICES

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Ferrier Run Watershed in Indiana County

Ebensburg District Mining Office: 437 South Center Street, Ebensburg, PA 15931, (814) 472-1898.

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Ferrier Run Watershed in Indiana County. The meeting will be held on March 16, 2006, at 7 p.m. at the Robert Shaw Building Conference Room, Indiana University, Indiana, PA. Individuals who plan to make a presentation at the public meeting should contact Tim Kania, Cambria District Mining Office at (814) 472-1900 no later than 4 p.m. on Friday, March 9, 2006. The Department will consider all comments in developing the final TMDL for the Ferrier Run Watershed which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Ferrier Run Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Ferrier Run Watershed has been identified as impaired on the 1998 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
44125 (NA)	Ferrier Run	1.4

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Ferrier Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the Ferrier Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Ferrier Run Watershed. Written comments must be postmarked by May 15, 2006, and sent to Tim Kania, Department of Environmental Protection,

Cambria District Mining Office, 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1898, tkania@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Robert Shaw Building Conference Room, contact Tim Kania, (814) 472-1900, tkania@state.pa.us.

The proposed TMDL for the Ferrier Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Penn Run Watershed in Indiana County

Ebensburg District Mining Office: 437 South Center Street, Ebensburg, PA 15931, (814) 472-1898.

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Penn Run Watershed in Indiana County. The meeting will be held on March 16, 2006, at 7 p.m. at the Robert Shaw Building Conference Room, Indiana University, Indiana, PA. Individuals who plan to make a presentation at the public meeting should contact Tim Kania, Cambria District Mining Office at (814) 472-1900 no later than 4 p.m. on Friday, March 9, 2006. The Department will consider all comments in developing the final TMDL for the Penn Run Watershed which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Penn Run Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Penn Run Watershed has been identified as impaired on the 1998 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
44276 (5077)	Penn Run	2.4 and 1.4

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo

Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Penn Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the Penn Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Penn Run Watershed. Written comments must be postmarked by May 15, 2006, and sent to Tim Kania, Department of Environmental Protection, Cambria District Mining Office, 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1898, tkania@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Robert Shaw Building Conference Room, contact Tim Kania, (814) 472-1900, tkania@state.pa.us.

The proposed TMDL for the Penn Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Tearing Run Watershed in Indiana County

Ebensburg District Mining Office: 437 South Center Street, Ebensburg, PA 15931, (814) 472-1898.

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Tearing Run Watershed in Indiana County. The meeting will be held on March 16, 2006, at 7 p.m. at the Robert Shaw Building Conference Room, Indiana University, Indiana, PA. Individuals who plan to make a presentation at the public meeting should contact Tim Kania, Cambria District Mining Office at (814) 472-1900 no later than 4 p.m. on Friday, March 9, 2006. The Department will consider all comments in developing the final TMDL for the Tearing Run Watershed which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Tearing Run Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Tearing Run Watershed has been identified as impaired on the 1998 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
44112 (5067)	Tearing Run	2.0

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Tearing Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the Tearing Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Tearing Run Watershed. Written comments must be postmarked by May 15, 2006, and sent to Tim Kania, Department of Environmental Protection, Cambria District Mining Office, 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1898, tkania@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Robert Shaw Building Conference Room, contact Tim Kania, (814) 472-1900, tkania@state.pa.us.

The proposed TMDL for the Tearing Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 06-492. Filed for public inspection March 24, 2006, 9:00 a.m.]

Air Quality Technical Advisory Committee; Special Meeting

The Air Quality Technical Advisory Committee will meet at 9 a.m. on March 30, 2006, in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting will be held to discuss the Department of Environmental Protection's (Department) draft regulation for the control of mercury emissions from electric generating units.

Questions concerning the meeting should be directed to Terry L. Black, (717) 787-2030, tblack@state.pa.us. The agenda and meeting materials for the March 30, 2006, meeting will be available through the Public Participation Center on the Department's website at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Susan Ferree at (717) 787-9495 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-493. Filed for public inspection March 24, 2006, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keyword: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. 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 2006.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting 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.

Draft Technical Guidance—Substantive Revision

DEP ID: 383-3301-107. Title: Laboratory Reporting Instructions for Lead and Copper under the Lead and Copper Rule. Description: This guidance, issued on February 1, 1999, provides instructions to community and nontransient, noncommunity water systems and certified laboratories for the reporting of drinking water lead and copper tap monitoring results as required by the Federal Lead and Copper Rule, published on June 7, 1991, and as implemented in 25 Pa. Code Chapter 109, Subchapter K (relating to lead and copper). Minor revisions to this rule became effective on August 10, 2002 (32 Pa.B. 3894). This guidance was revised to incorporate changes to reporting requirements under the revised regulations and to incorporate additional changes that were necessary for the

Commonwealth to obtain primacy for the Lead and Copper Rule. Written Comments: The Department is seeking comments on the substantive revisions to draft technical guidance #383-3301-107. Interested persons may submit written comments on this draft technical guidance document by April 24, 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 Dawn Hissner, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Operations, Monitoring and Training Division, Rachel Carson State Office Building, 11th Floor, 400 Market Street, Harrisburg, PA 17105-8467, dhissner@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 Dawn Hissner, (717) 787-0130, dhissner@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-494. Filed for public inspection March 24, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

[Correction]

Public Comment on Federal Fiscal Year 2007 Combined Agency State Plan Attachments

The Department of Labor and Industry's Office of Vocational Rehabilitation has submitted a correction to the document which appeared at 36 Pa.B. 1190 (March 11, 2006). The contact persons for the following two offices have been changed. Also, the time for the meeting of the Erie BBVS District Office has been changed to 1 p.m. to 3 p.m.

Erie BBVS District Office
(Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren Counties)
Perkins Family Restaurant
280 Conneaut Lake Road, Meadville, PA 16335
(814) 336-6000 (Restaurant)
Erie BBVS D. O.: (866) 521-5073 (Voice)
(888) 884-5513 (TTY)
Date: April 3, 2006 Time: 10 a.m.—2 p.m.
Contact Person: Christine Palotas

Erie BVRS District Office
(Clarion, Crawford, Erie, Forest, Mercer, Venango and Warren Counties)
Conference Room
3200 Lovell Place, Erie, PA 16503
(800) 541-0721 (Voice) (888) 217-1710 (TTY)
Date: April 12, 2006 Time: 1 p.m.—3 p.m.
Contact Person: Bruce Best

[Pa.B. Doc. No. 06-403. Filed for public inspection March 10, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. Note that the time and date of the meeting are tentative and interested parties are encouraged to contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us to confirm that information. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

Final-Form

Reg. No.	Agency/Title	Received	Public Meeting
31-3	State Employees' Retirement Board Preliminary Provisions	3/9/06	4/20/06
31-4	State Employees' Retirement Board Membership, Credited Service and Eligibility for Benefits	3/9/06	4/20/06
15-426	Department of Revenue Sales and Use Tax; Prebuilt Housing	3/10/06	4/20/06
31-5	State Employees' Retirement Board Administrative Duties of the Board	3/14/06	4/20/06

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 06-495. Filed for public inspection March 24, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Farouk M. Georgy, M. D.; Prehearing

Appeal of Farouk M. Georgy, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-012

On or before March 14, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's January 25, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for April 5, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 30, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 21, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before March 28, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-496. Filed for public inspection March 24, 2006, 9:00 a.m.]

Germantown Hospital and Medical Center; Hearing

Appeal of Germantown Hospital and Medical Center under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-036

On or before March 16, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's January 20, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for April 6, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 3, 2006. A hearing shall occur on April 25, 2006, in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA.

On or before April 17, 2006, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 23, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before March 30, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-497. Filed for public inspection March 24, 2006, 9:00 a.m.]

Hospital of the University of Pennsylvania and Sara Marder, M. D.; Prehearing

Appeal of Hospital of the University of Pennsylvania and Sara Marder, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-032

On or before March 23, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's January 31, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for April 13, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 7, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 30, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before April 6, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-498. Filed for public inspection March 24, 2006, 9:00 a.m.]

Sarwat Jahan, M. D.; Prehearing

Appeal of Sarwat Jahan, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-031

On or before March 22, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's January 20, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for April 12, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings

Administrator on or before April 6, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 29, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before April 5, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-499. Filed for public inspection March 24, 2006, 9:00 a.m.]

David Martin, C.R.N.A.; Prehearing

Appeal of David Martin, C.R.N.A. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-013

On or before March 14, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's January 25, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for April 4, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 30, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 21, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before March 28, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-500. Filed for public inspection March 24, 2006, 9:00 a.m.]

QCC Insurance Co. (a subsidiary of Independence Blue Cross); QCC-1-06 Individually Underwritten Nongroup Personal Choice Product; Rate Filing

On March 1, 2006, the Insurance Department (Department) received from QCC Insurance Co. (a subsidiary of Independence Blue Cross) a filing for a new nongroup personal choice product to be issued on June 1, 2006.

The plan is a high-deductible plan designed to be used in conjunction with a health savings account. Two options will be offered: one with a deductible of \$2,500 and the other \$5,100. Rates for the new plan will be determined based on the age of the oldest spouse and the underwriting classification of all insureds covered.

Unless formal administrative action is taken prior to April 15, 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. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Sabater, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jsabater@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-501. Filed for public inspection March 24, 2006, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Joy Robinson; file no. 05-119-11357; State Farm Mutual Insurance; doc. no. P06-02-010; March 30, 2006, 10 a.m.

Appeal of Joseph and Heidi Kovacs; file no. 05-119-11385; Nationwide Insurance Company; doc. no. P06-02-011; April 5, 2006, 10 a.m.

Appeal of Ben and Patricia Lambiotte; file no. 06-193-14203; PA National Mutual Casualty Insurance Company; doc. no. P06-02-039; April 26, 2006, 10 a.m.

Appeal of Melissa L. Stouffer; file no. 05-188-11963; Leader Preferred Insurance Company; doc. no. P06-02-037; April 27, 2006, 10 a.m.

Appeal of Douglas Brotzman and Holly Boatwright; file no. 05-193-12472; Leader Insurance Co.; doc. no. P06-02-038; May 4, 2006, 10 a.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Franz and Bettina Liebler; file no. 05-265-11954; Liberty Mutual Fire Insurance Company; doc. no. PH06-02-003; March 24, 2006, 4 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Denise A. Angell; file no. 05-303-11408; Insurance Company of State of Pennsylvania; doc. no. PI06-02-018; April 12, 2006, 9 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-502. Filed for public inspection March 24, 2006, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurer has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policy. The hearing will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Erie Insurance Company; file no. 06-193-13983; Diane and Jon Kulick; doc. no. P06-02-019; April 6, 2006, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-503. Filed for public inspection March 24, 2006, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Thomas J. Long; file no. 05-266-12537; Erie Insurance Exchange; doc. no. PH06-02-004; March 23, 2006, 3 p.m.

Appeal of Richard R. Stott; file no. 06-266-13485; Nationwide Insurance Company; doc. no. PH06-02-040; May 30, 2006, 11 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-504. Filed for public inspection March 24, 2006, 9:00 a.m.]

Transportation Services Inc.; Hearing

Appeal of Transportation Services Inc. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 02-0275(M); Doc. No. UT06-02-022

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on April 6, 2006. A hearing shall occur on April 19, 2006, at 1 p.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before March 23, 2006. Answers to petitions to intervene, if any, shall be filed on or before March 30, 2006.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-505. Filed for public inspection March 24, 2006, 9:00 a.m.]

Diane Zarconi, M. D.; Prehearing**Appeal of Diane Zarconi, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-02-007**

On or before March 7, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's December 29, 2005, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for March 28, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 23, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 14, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before March 21, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-506. Filed for public inspection March 24, 2006, 9:00 a.m.]

LIQUOR CONTROL BOARD**Expiration of Leases**

The following Liquor Control Board lease will expire:

Philadelphia County, Wine & Spirits Shoppe #5135, 5101 Lancaster Avenue, Philadelphia, PA 19131.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,500 net useable square feet of new or existing retail commercial space within a 1/2 mile radius of Jefferson and 52nd Streets, Philadelphia.

Proposals due: April 14, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 06-507. Filed for public inspection March 24, 2006, 9:00 a.m.]

OFFICE OF THE BUDGET**Commonwealth Financing Authority Certification**

I, Michael M. Masch, Secretary of the Budget, hereby certify in accordance with and as required by section 1543(e) of the act of April 1, 2004 (P. L. 163, No. 22), 64 Pa.C.S. § 1543(e), that:

(1) sufficient surplus revenue will exist in the General Fund for Commonwealth fiscal years 2006-2007 and 2007-2008 to pay any liabilities which will be incurred by the Commonwealth during those fiscal years if the Commonwealth Financing Authority incurs an additional \$250,000,000 of indebtedness; and,

(2) the aggregate amount of liabilities which will be incurred by the Commonwealth for its fiscal years 2006-2007 and 2007-2008 as a result of the activities of the Commonwealth Financing Authority are \$36,939,000 and \$85,165,000 respectively.

MICHAEL J. MASCH,
Secretary

[Pa.B. Doc. No. 06-508. Filed for public inspection March 24, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION**Investigation Into Pennsylvania American Water Company's High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements; Doc. No. I-00050109**

Public Meeting held
March 2, 2006

Commissioners Present: Wendell F. Holland, Chairperson, statement follows; James H. Cawley, Vice Chairperson, recusing; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Final Investigation Order and Release of Staff Report

By the Commission:

At our December 15, 2005 Public Meeting, the Commission adopted the Joint Motion of Chairman Wendell F. Holland and Commissioner Kim Pizzingrilli that directed the Law Bureau and the Bureau of Fixed Utility Services (FUS) to investigate an incident that occurred at the Pennsylvania American Water Company's (PAWC) Yellow Breeches Water Treatment Plant (YB Plant) in Fairview Township, Cumberland County, that resulted in excessive levels of fluoride in its drinking water.¹ This incident affected approximately 34,000 customers of PAWC located in eastern Cumberland County and northern York County. Specifically, the elevated level of fluoride concentration was the result of a chemical spill of approximately 372 gallons of hydrofluorosilic acid in the fluoridation process at the plant. The Commission also directed Law Bureau and FUS to review and to evaluate the Commission's existing regulations and to submit a report to the Commission within 60 days of the entry date of the order incorporating the motion.² That order was entered on December 23, 2005.

The order concluded that it was critically important that the Commission determine: (1) whether all operational aspects of the utility were fully functioning to adequately respond to the situation in a timely manner;

¹ Pursuant to 66 Pa.C.S. § 331(a), the Commission may, on its own motion and whenever it may be necessary in the performance of its duties, investigate and examine the condition and management of a public utility.

² In addition to the investigation by the Commission, the Pennsylvania Department of Environmental Protection (DEP), and the Office of Consumer Advocate (OCA) also are conducting their own independent investigations of this incident.

(2) whether the public received information in a timely manner; (3) whether adequate supplies of drinking water were provided and/or available in convenient locations; (4) whether the information provided to the public was sufficient to inform consumers of the effects of excessive fluoride; (5) whether the reporting requirements in the Commission's regulations at 52 Pa. Code § 67.1 were properly followed; (6) whether enhancements need to be made to the Commission's reporting requirements; and (7) whether additional steps can be taken by the Commission to assist utilities in responding to future emergency situations, particularly in keeping the public informed and assisting consumers as needed.

The Commission also noted in its order that it was equally important to evaluate not only this incident but to ensure that the regulated utilities are prepared to respond to future incidents. In addition, the Commission noted that as part of the self-certification process in its regulations at 52 Pa. Code §§ 101.1–101.7, utilities are to develop and maintain several types of emergency and security-related plans. Furthermore, the order directed that utilities should also assess whether technological enhancements in communications can be made to keep the public better informed as they respond to the operational issues involved in resolving emergency situations.

Staff Investigation and Findings

Pursuant to the December 23, 2005 order, Commission staff conducted an investigation into the cause of the high fluoride incident, the level of compliance by PAWC with the Public Utility Code and our regulations with regard to safe and reliable water service, and the applicable notification procedures. The investigation also addressed whether these procedures were complied with and whether any improvements in the notification procedures are warranted. As part of its inquiry, Commission staff met with representatives from DEP, the Cumberland County Emergency Management Services, PAWC, and the OCA. Commission staff prepared an investigative report based upon the site visit, meetings with PAWC, and the representatives of the agencies listed above. The Commission wishes to acknowledge that PAWC cooperated fully with its investigation, including making its employees and facilities available and responding fully to all data requests.

A. Operational Response of PAWC

This order will address the seven areas of concern noted in the Commission's December 23, 2005 order. The first area of concern is the operational response of PAWC. In the report, Commission staff noted that PAWC admitted that the fluoride spill was the result of operator error when the Plant Operator No. 1 on duty chose to bypass the manually-operated, spring loaded switch that controls the pumping of fluoride from the storage tank to the two day tanks by inserting a plastic circular union between a pipe and the switch which kept the switch depressed so as to keep the pump continuously pumping fluoride in to the two day tanks. Plant Operator No. 1 used the bypass mechanism at approximately 7:30 A.M. and then left the area with the bypass in place to perform other duties in the plant. Plant Operator No. 1 never disengaged the bypass he created before ending his shift at 8:30 A.M. Plant Operator No. 2, who started his shift at 8:00 A.M., was alerted that the SCADA system was malfunctioning. Strong hydrofluorosilic acid fumes kept him from entering the building to turn off the switch. As a result, the pump kept pumping fluoride until approximately 1:30 P.M., when it was deactivated by the Hazardous Material Response team.

At 2:30 P.M., after several water samples had been taken, DEP and PAWC decided to issue a "DO NOT CONSUME" advisory to the public. The "DO NOT CONSUME" advisory was actually released to the public at approximately 4:20 P.M. after PAWC and DEP officials agreed on the final version of the advisory. Water samples continued to be taken through the evening and into the night for analysis. It was not until between midnight and 8 A.M. the next day that the samples indicated that the fluoride levels had dropped to an acceptable level. At approximately noon on Sunday, December 11th, PAWC lifted the "DO NOT CONSUME" advisory.

PAWC notified the Commission of the spill on Sunday, December 11, 2005, at approximately 1:30 P.M. (after the advisory had been lifted) by voice mail to a member of the FUS Water Division and a member of the Bureau of Consumer Services' Hotline. PAWC did not speak with the Commission's designated emergency contact person until Monday, December 12, 2005.

PAWC's own internal investigation found that bypassing this switch was a common occurrence among its operators with some even using a block of wood to create the bypass. PAWC, however, stated that it did not have any prior knowledge that the operators were using any sort of bypass, which it also asserted was against company policy.

PAWC agreed to review the layout of all of its other plants in Pennsylvania to determine if any of them had similar safety issues. After review, PAWC verified to Commission staff that none of its other seven water treatment plants that use bulk storage tanks to store liquid fluoride are similar to the YB Plant in terms of plant layout, containment methods, or in their set up of SCADA monitoring that could lead to a similar fluoride incident such as occurred at the YB Plant.

Additionally, PAWC has taken several steps to ensure that this type of incident is not repeated. PAWC has replaced the switch at the YB Plant with one that is not as susceptible to tampering. PAWC has also installed a probe in the spill containment unit that will set off an alarm when any liquid leaks into the containment unit. Moreover, PAWC has committed to providing operator education and training relating to how to avoid and respond to situations involving chemicals. We recommend that such training emphasize the importance of not bypassing switches or other safety devices controlling chemicals under any circumstances and that such conduct is against company policy. Such improper actions warrant strong disciplinary action, including possible termination of employment.

Lastly, PAWC states that its new water plant, which will replace the YB Plant, will begin operation in the spring of 2006. This plant will be technologically advanced in terms of spill containment and automatic controls. According to PAWC, the new plant's modernized features will further minimize the likelihood of this type of spill occurring in the future.

In the Commission's judgment, PAWC's admission that the operator's action to override the switch causing the spill was a common practice among its operators and that the company only learned of during its own internal investigation raises serious public safety concerns. PAWC and all utilities are reminded that this type of conduct can never be tolerated, and that utilities must take all necessary steps to ensure that a similar lapse in safety procedures does not occur in the future.

On the other hand, we support the remedial steps taken by PAWC in the wake of this incident to minimize the risk of similar operator errors and misconduct from occurring in the future. We believe that what occurred here can happen in other water plants as well, especially older, less technologically advanced plants. We, therefore, direct all water utilities to perform regular self-inspections of their plants to ensure they comply with all state and federal safety regulations. We especially encourage water utilities to review their existing operations and safety features to ensure they have adequate safeguards in place to avoid any chemical spills that can disrupt their operations. In this latter regard, the water utilities should particularly examine whether their plants are susceptible to similar bypass devices being used to pump chemicals into their tanks. If they are, preventive measure such as replacing switches or incorporating alarm systems should be performed immediately.

We agree with the OCA's input that treatment plant operators must have sufficient training and retraining as part of their business practices to avoid the type of situation that occurred at the YB Plant. With this order, all water utilities are hereby put on notice that the failure to identify and correct the types of safety deficiencies identified in this investigation may result in prosecution and the imposition of appropriate sanctions.

B. Timeliness and Adequacy of Public Notice

The second, fourth and sixth area of concern is the timeliness and adequacy of public notice and possible enhancements to the Commission's reporting requirements. A significant aspect of the investigation focused on both the level of sufficiency and timeliness of the "DO NOT CONSUME" advisory notice provided by PAWC to the public following the fluoride spill and on whether enhancements are needed to the Commission's reporting/notice requirements. The OCA provided valuable input on each of these reporting/notice issues.

In its comments, the OCA was critical of both the timeliness and adequacy of PAWC's public notice efforts. The OCA states that while PAWC may have met the minimum requirements in its tariff, Rule 14.1,³ and applicable DEP regulations at 25 Pa. Code § 109.408, regarding notice to the public, PAWC did not "provide actual, timely notice to many of the affected customers." *OCA Comments* at 6. Similarly, on the issue of adequacy of the public notice, the OCA correctly points out that the press release used by PAWC failed: (1) to identify when the fluoride spill entered the drinking water distribution system, 25 Pa. Code § 109.411(a)(2); (2) to include any of the required adverse health effects language, 25 Pa. Code § 109.411(a)(3) & (d)(1) or (d)(2); and (3) to identify the population at risk, including any subpopulations of customers that are particularly vulnerable to the contaminant in their drinking water, 25 Pa. Code § 109.411(a)(4). *OCA Comments* at 4.

In addition to the notice-deficiency issues identified by the OCA, PAWC also acknowledged, in response to our inquiry, that it did not use its website to notify the public about the incident and its water advisory. In fact, it was not until Monday morning, December 12, 2005, a full two days after the incident, that PAWC first used its website when it announced that the "DO NOT CONSUME" advisory had been lifted.

³ Rule 14.1 of the PAWC Tariff Water Pa PUC No., at 35, states, in relevant part, that "the company will, so far as circumstances permit, notify Customers to be affected by any interruption in the water service."

While both DEP and PAWC agree that PAWC complied with the existing notification procedures established in DEP's regulations, we find that the utilized notification procedures adopted by PAWC failed to notify adequately large numbers of consumers in a timely and reasonable manner about the hydrofluorosilic acid spill and the "DO NOT CONSUME" advisory. For its part, the OCA believes that the public notice issue for service interruptions needs to be addressed in a specific Commission regulation or other directive such as a policy statement.

In evaluating this recommendation, the Commission is cognizant of the detailed public notice requirements already contained in DEP's regulations and further understand that DEP is currently reviewing those regulations for possible amendment. We do not agree that it is necessary to impose an additional layer of public notice regulations on water utilities. At the same time, however, we agree with the OCA's objective that it would be beneficial for the Commission to provide guidance to the industry on the types of notice necessary to meet the reasonable standard imposed on utilities under 66 Pa.C.S. § 1501.

We, therefore, direct the Law Bureau and the Bureau of Fixed Utility Services to prepare a proposed Policy Statement on Public Notice Standards Relating to Unscheduled Water Service Interruptions to be considered at a future public meeting. The objective of this new policy statement will be to provide guidance to the industry regarding the types of public notice that will be deemed acceptable and appropriate in meeting the reasonable standard in section 1501 when there are unscheduled water service interruptions.

The policy statement should suggest actual and timely notice whenever a situation arises where the water is unsafe to drink, taking full advantage of existing technology such as the Reverse 911, e-mail and text message notifications to customers who have elected to receive such notice, and fax/e-mail notification to local radio and television stations, cable systems, newspapers, and other media. *OCA Comments* at 6-7. Other types of direct/personal notification, such as doorknob flyers, where feasible, should be considered. The use of the affected utility's and the Commission's website should also be considered. This policy statement should also include language that makes it clear that all water utilities must conform to the public notice requirements established by DEP which concern unscheduled service interruptions. After tentative approval at a future public meeting, the policy statement will then be subject to a 30-day public comment period by interested parties before final action is taken to adopt, modify, or reject the final proposal.

C. Adequacy of Alternative Drinking Water Supplies

The third area of concern is the adequateness of alternative drinking water supplies. PAWC provided water buffaloes with potable water at two locations in its service territory after issuing the "DO NOT CONSUME" advisory. The OCA's only comment on this issue was that the Commission should encourage water utilities to provide safe drinking water supplies to as many locations as reasonably possible within the affected area whenever the drinking water is unsafe to drink. PAWC reported no problems or complaints about the number of water buffaloes it used in this particular instance. PAWC also stated that it did not experience an unusual demand for drinking water that could not be met by the alternative supplies it offered to the public at no charge. Similarly,

DEP did not indicate that more water buffaloes were needed to meet the demand for drinking water in this case.

From the information gathered in this investigation, the adequateness of alternative drinking water supplies was not a serious issue in relation to this particular incident. Perhaps that was due in part to the fact that the advisory lasted less than a day and that the contaminant was fluoride and not a more serious or dangerous chemical. We do agree with the OCA that water utilities must take this responsibility seriously whenever their water supplies become unsafe to drink, and they must take every necessary step to ensure sufficient alternative drinking water supplies are available to their customers whenever there is a "DO NOT CONSUME" advisory in place.

D. Compliance with 52 Pa. Code § 67.1 (Notice to Commission)

The fifth issue is PAWC's compliance with 52 Pa. Code § 67.1. PAWC asserted to staff that its failure to notify Commission officials until the day after the spill did not violate 52 Pa. Code § 67.1 because this provision was not applicable as there was no "service interruption" as defined by that section. Specifically, subsection 67.1(c) provides that a utility "shall notify the Commission by telephone within one hour after preliminary assessment of conditions reasonably indicates" that there is under subsection (b) "an unscheduled service interruption" affecting "2,500 or 5.0%, whichever is less, of their total customers . . . in a single incident for six or more projected consecutive hours."

PAWC's position is that the term "service interruption" is not defined in the regulation but asserts that the common understanding of this term requires an outage, supply cut-off, or cessation of service. PAWC contends that since this fluoride incident did not result in a loss of water service, i.e., customers did have water that could be used for all purposes other than consumption, there was no service interruption. The OCA disagrees with PAWC's interpretation of section 67.1, and encourages the Commission to clarify, by regulation or order, that the phrase "service interruption" in section 67.1 refers not only to water outages but also to situations where the water is available but unsafe to drink.

The Commission disagrees with PAWC's interpretation that the requirement in 52 Pa. Code § 67.1 to notify the Commission of an incident by telephone is only triggered when there is a total outage of service. Without a doubt, water for consumption is the most vital and important aspect of service provided by a water utility, and if consumers cannot drink it, then from their perspective, and ours, service has been interrupted.

By this order, the Commission puts the water industry on notice that "service interruption" covers any interruption of service that affects the quantity or quality of water delivered to the customer. In arriving at this conclusion, we take administrative notice that a similar regulation of DEP defines a "service interruption" as "affecting quantity or quality of the water delivered to the customer." 25 Pa. Code § 109.708 (emphasis added).

The Commission believes it is necessary to take the additional step of amending our regulations to ensure that regulated water utilities have a clear understanding of what the Commission deems a "service interruption." It is critically important that utilities affected by 52 Pa. Code § 67.1 understand their obligation to provide the Commission with telephone and written notification

in the event of a service interruption that affects either the quantity or quality of the water delivered to the customer. This will enable the Commission to ensure that utilities are furnishing adequate, efficient, safe and reasonable service consistent with the Public Utility Code. 66 Pa.C.S. § 1501.

Until this regulation is promulgated, however, we fully expect all water utilities in the future to act accordingly in providing us with telephone and written notification as prescribed by this interpretation of section 67.1 as any other interpretation of this phrase would eviscerate the otherwise clear intent of section 67.1's notice provisions.

E. Additional Steps to Inform and Assist Consumers

The seventh issue concerns whether additional steps can be taken by the Commission to assist utilities in responding to future emergency situations, particularly keeping the public informed and assisting consumers as needed. During the course of the investigation, PAWC advised that its failure to contact the designated Commission emergency contact person about the incident was partially attributable to the company's inability to obtain up-to-date emergency contact information on the Commission's home web page after the accident occurred. This attempt to shift responsibility partially to the Commission loses any credibility, however, when we learned from FUS that it had directly provided PAWC with the Commission's emergency contact information after another incident occurred earlier in 2005 affecting the same water treatment plant.

In any event, we note that it is each utility's responsibility to have current Commission emergency contact information readily accessible at their facilities. However, we will consider possible options for making the Commission's emergency contact information more readily available to utilities in the future.⁴

In its comments, the OCA made several helpful suggestions that the Commission may use to assist utilities in responding to future emergency situations. They are: (1) hold a public input meeting to hear from affected consumers on the topic of how they can best be notified of future emergency situations; (2) create an opt-in e-mail and text alert mechanism on its website to complement the use of such mechanisms by individual utilities; (3) during emergencies, the Commission could post updates on its website and provide a toll-free hotline for questions; and (4) direct all regulated utilities to modify their respective tariffs to include specific references to applicable state and federal public notice requirements. *OCA Comments* at 8. In this latter regard, the OCA offered the following suggested tariff language insert:

As soon as preliminary assessment of conditions reasonably indicates that customers will experience service that is unsuitable for household purposes or otherwise inadequate, the Company shall, at a minimum, provide notice to customers in accordance with the regulations of the Commission, 52 Pa. Code § 67.1, et seq., and the Pennsylvania Department of Environmental Protection, [25 Pa. Code § 109.407, et seq.]

Id.

In regard to a possible public input hearing, the Commission believes that this issue can be addressed at

⁴ We note that 52 Pa.C.S. § 67.1(c) and (d) state that the Commission will maintain telephone lines for the purpose of emergency notification from utilities and the Commission will notify each utility of the emergency numbers to be called. The Commission has met its obligations under these provisions. Specifically, FUS maintains a Commission emergency contact list and has provided this information to each utility in the state. It is, in turn, the duty of each utility to maintain current contact information, as certified to the Commission pursuant to 52 Pa.C.S. §§ 101.1—101.7.

the time that the policy statement discussed above is developed, if it is determined that such a hearing will aid the process. On the tariff issue, while the OCA recommends that all regulated water utilities should file a tariff amendment within 90 days of the entry of the order to indicate that they comply with 52 Pa. Code § 67.1 and DEP's regulations at 25 Pa. Code §§ 109.407–109.416, we believe this requirement is onerous and unnecessary to impose on utilities since they are required by law to comply with these stated provisions. Rather than impose the burden of filing amended tariffs, the Commission finds sufficient that all regulated water utilities be served a copy of this order to remind them of their legal obligation to comply with Commission regulations.

Regarding the recommendations made by the OCA that would require changes to our website, we note that the primary responsibility for alerting water customers rests with the utility, and we also note DEP recently announced that it will propose revised notification procedures for the companies to adopt that incorporate the suggestions advocated by the OCA. DEP's proposals will, for example, embrace current technology advances in the communications field that will allow utilities to provide an opt-in system so customers can request to be contacted by e-mail, text message, beeper, cell phone or other personal electronic devices. Accordingly, we decline to adopt the OCA's website and toll-free hotline recommendations at this time since they appear to be duplicative of DEP's current initiatives regarding customer notice.

F. Obligation to Update Emergency Response Plans

In addition to the seven previously identified areas that were to be examined, the Commission's investigation also uncovered that the Emergency Response Plan adopted by PAWC for the YB Plant dated 1993 is clearly outdated. PAWC admitted that its PAWC's Emergency Response Plan for its Central Operations is also outdated, and this plan, in any event, was not at the YB Plant at the time of the incident. While staff did not undertake an exhaustive review of these plans, our summary review revealed that neither plan, for example, has current phone contacts for the Commission even though the Commission has provided to all public utilities emergency contact information and will continue to provide utilities with updated contact information as required. Commission staff found that the phone numbers in these two plans were woefully out-of-date and basically useless. PAWC advised that its new plant scheduled to be operational in March 2006 will have an updated and accurate Emergency Response Plan. This response does not address, however, PAWC's failure to have updated and accurate information in the current plans.

Pursuant to section 67.1 of our regulations, the Commission has a duty to maintain telephone lines for the purpose of emergency notification from utilities. 52 Pa. Code § 67.1. The Commission fulfills this obligation by providing all utilities with current emergency numbers of our emergency personnel. It is incumbent upon the utility to retain updated contact information in their Emergency Response Plan. Indeed, the Commission's *Public Utility Preparedness Through Self-Certification* regulations requires that Emergency Response Plans of jurisdictional utilities include notification of the appropriate emergency services and emergency preparedness support agencies and organizations. 52 Pa. Code § 101.3(a)(4)(iii). In order for a utility to adhere to this requirement, the regulations require that it annually certify to the Commission that its plans have been reviewed and updated. 52 Pa. Code § 101.3(d). As stated

above, PAWC admitted that its relevant Emergency Response Plans did not contain current Commission emergency contact numbers.

The findings of this report should be a reminder to all utilities that it is critically important to update their Emergency Response Plans, at a minimum, on an annual basis so that they are prepared in the event of an emergency. Utilities have an obligation pursuant to 52 Pa. Code §§ 101.1–101.7 to develop and maintain written physical and cyber security, emergency response and business continuity plans, and to review, test and update them annually. In addition, an annual self-certification form is required to be filed with the Commission attesting that the plans have been updated and tested. A copy of this order will be served on all local exchange carriers, electric distribution companies, natural gas distribution companies, and water and wastewater utilities to serve as a reminder of their important obligations under our regulations at 52 Pa. Code §§ 101.1–101.7.

Finally, to address this deficiency in the present case, we hereby direct PAWC to review all its Emergency Response Plans for plants within Pennsylvania and to verify, with FUS, that all its plans are up to date. In addition, we shall direct the Bureau of Audits to initiate a general program to audit, as it deems appropriate, water utility emergency response plans to ensure they comply with all applicable laws and regulations, including the self-certification process as provided in our regulations at 52 Pa. Code §§ 101.1–101.7, and to take whatever further action may be warranted.

Conclusion

Based upon this investigation, we conclude that the spill was a result of operator error, the incident was not reported to appropriate Commission personnel in a timely manner, and the public was not adequately notified that a "DO NOT CONSUME" advisory was in effect. The public was also not notified of the possible dangers of drinking water with an elevated level of fluoride concentration. As a result of this incident and investigation, PAWC has taken swift and positive steps to ensure that this type of chemical spill incident does not occur again. Because the purpose of this investigation was remedial and not punitive, we will not impose any fines against PAWC for failing to comply with applicable public utility laws and regulations.

Moreover, to provide assistance to utilities and consumers, the Staff's investigation report will be made public. In this way, the Commission, in cooperation with utilities and other state agencies, can work together to address the notice and safety issues involved in chemical spills and to improve every water utility's performance in this important area; *Therefore,*

It Is Ordered That:

1. The staff investigation report is released to the public.
2. All jurisdictional water utilities are encouraged to perform regular self-inspections of their plants to ensure safety compliance and to provide operator education and safety training relating to how to avoid and respond to situations involving chemical spills.
3. The Law Bureau and the Bureau of Fixed Utility Services are directed to prepare a proposed Policy Statement on Public Notice Standards Relating to Unscheduled Water Service Interruptions to provide guidance to the industry regarding the types of public notice that will be deemed acceptable and appropriate in meeting the

reasonable standard in section 1501 of the Public Utility Code when there are unscheduled water service interruptions.

4. All jurisdictional water utilities are encouraged to take every necessary step to ensure sufficient alternative drinking water supplies are available to their customers whenever there is a "DO NOT CONSUME" advisory in place.

5. A proposed rulemaking is hereby instituted to amend 52 Pa. Code § 67.1 to address the Commission's interpretation of the phrase "service interruption" to cover any interruption of service that affects either the quantity or quality of the water delivered to the customer.

6. Pennsylvania American Water Company is directed to review all of its Emergency Response Plans for plants within Pennsylvania and to verify with the Bureau of Fixed Utility Services that all of its plans are up to date. This review shall be completed within 90 days of the entry date of this order.

7. The Bureau of Audits is directed to initiate a general program to audit, as it deems appropriate, water utilities' Emergency Response Plans to ensure that they are up to date and comply with all applicable laws and regulations, including the self-certification process as provided in 52 Pa. Code §§ 101.1—101.7, and to take whatever further action may be warranted.

8. Copies of this order be served on the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, the central and regional offices of the Pennsylvania Department of Environmental Resources, the Pennsylvania Chapter of the National Association of Water Companies, and all jurisdictional local exchange carriers, electric distribution companies, natural gas distribution companies, and water and wastewater utilities.

9. A copy of this order be published in the *Pennsylvania Bulletin*.

10. This docket be marked closed.

JAMES J. MCNULTY,
Secretary

Staff Report on Investigation into Pennsylvania American Water Company's High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements; Doc. No. I-00050109

I. History of the Proceeding

On December 10, 2005, an incident occurred at the Pennsylvania American Water Company's (PAWC) Yellow Breeches Water Treatment Plant (YB Plant) in Fairview Township, Cumberland County, which resulted in excessive levels of fluoride in its drinking water. This incident affected approximately 34,000 customers of PAWC located in eastern Cumberland County and northern York County. Specifically, the elevated level of fluoride concentration was the result of a chemical spill of approximately 372 gallons of hydrofluorosilic acid (fluoride) used in the fluoridation process at the plant.⁵ On Saturday, December 10, 2005, the Pennsylvania Department of Environmental Protection (DEP) authorized a "DO NOT CONSUME" advisory between 2:30 P.M. and 3:00 P.M. for PAWC's entire distribution system for that plant; the restriction was subsequently lifted around noon, 12:00 P.M., on Sunday, December 11, 2005.

⁵ Subsequently, PAWC determined that less than 100 gallons of the 372 gallons spilled actually reached the plant's potable water supply.

At its December 15, 2005 Public Meeting, the Commission adopted the Joint Motion of Chairman Wendell F. Holland and Commissioner Kim Pizzigrilli that directed the Law Bureau and the Bureau of Fixed Utility Services (FUS) to investigate the high fluoride incident as well as to review and to evaluate the Commission's existing regulations and to submit a report to the Commission within 60 days of the entry date of the Order incorporating the motion.⁶ That Order was entered on December 23, 2005.

The Order concluded that it was critically important that the Commission determine: (1) whether all operational aspects of the utility were fully functioning to adequately respond to the situation in a timely manner; (2) whether the public received information in a timely manner; (3) whether adequate supplies of drinking water were provided and/or available in convenient locations; (4) whether the information provided to the public was sufficient to inform consumers of the effects of excessive fluoride; (5) whether the reporting requirements in the Commission's regulations at 52 Pa. Code § 67.1 were properly followed; (6) whether enhancements need to be made to the Commission's reporting requirements; and (7) whether additional steps can be taken by the Commission to assist utilities in responding to future emergency situations, particularly in keeping the public informed and assisting consumers as needed.

The Commission also noted in its Order that it was equally important to evaluate not only this incident but to ensure that the regulated utilities are prepared to respond to future incidents. In addition, the Commission noted that as part of the self-certification process in its regulations at 52 Pa. Code §§ 101.1—101.7, utilities are to develop and maintain several types of emergency and security-related plans. Furthermore, the Order directed that utilities should also assess whether technological enhancements in communications can be made to keep the public better informed as they respond to the operational issues involved in resolving emergency situations.

II. Factual Findings

Pursuant to the December 23, 2005 Order, Commission staff conducted an investigation into the cause of the high fluoride incident, the level of compliance by PAWC with the Public Utility Code and our regulations with regard to safe and reliable water service, and the applicable notification procedures. The investigation also addressed whether these procedures were complied with and whether any improvements in the notification procedures are warranted. As part of its inquiry, Commission staff met with representatives from DEP, the Cumberland County Emergency Management Services, PAWC, and the OCA and made a site visit of the water treatment plant in question and the new plant scheduled to go on line this spring.⁷

PAWC has acknowledged that the December 10, 2005 incident at the YB Plant was the result of human error. The YB Plant consists of two filter plants known as Plant 1 and Plant 2. Plant 1 was built in 1907 and Plant 2, where the spill occurred, was built in the 1950's. The two plants are within 50 yards of each other.

Plant Operator No. 1 started his shift, midnight to 8 A.M., on December 10, 2005. He was the only employee

⁶ In addition to the investigation by the Commission, DEP and the Office of Consumer Advocate (OCA) also are conducting their own independent investigations of this incident.

⁷ Commission staff acknowledges that PAWC cooperated fully with its investigation. PAWC made its employees and facilities available upon request and responded fully to all our data requests.

working in the YB Plant other than a security guard on duty. At approximately 7:30 A.M., while the filter backwash was still in process, Plant Operator No. 1 started to refill the fluoride day tanks that are located on the third floor of Plant 2. The bulk fluoride tank is stored in a 1,950 gallon tank also located on the third floor of Plant 2 near the day tanks. The bulk tank has a maximum allowed volume of 1,500 gallons due to weight load limitations on the floor. A diaphragm pump is used to feed the liquid fluoride from the bulk tank into the two day tanks. At the time of the incident, the switch that controlled the pump was a spring-loaded switch that must be manually pressed by the operator in order for the pump to operate. The switch was constructed to prevent the pump from running unattended and causing an overflow of and spill from the day tank. Utilizing proper procedure, i.e., the operator manually holding the switch down, it takes about 20 minutes to fill the day tanks; a process that has to be repeated daily, 365 days a year.

On this particular morning and against Company policy, Plant Operator No. 1 chose to bypass the switch's shut off mechanism by inserting a plastic circular union between a nearby pipe and the switch which kept the switch depressed and the pump pumping fluoride into the day tanks. Plant Operator No. 1 then left the area with the bypass in place to perform other duties in the plant.

Plant Operator No. 1 never disengaged the bypass he had created before ending his shift at 8:30 A.M. The pump kept pumping fluoride to the day tanks from approximately 7:30 A.M. until the pump was deactivated by the Hazardous Materials Response Team (HAZ MAT) at approximately 1:30 P.M. that day when they were finally able to enter inside the plant in appropriate protective gear and disengage the jammed switch.

When the spill exceeded the spill containment unit capacity, the fluoride spilled onto the floor. The growing spill reached the Supervisory Control and Data Acquisition (SCADA) computer system, located directly beneath the fluoride tanks on the floor below, and caused it to malfunction. When the SCADA reading device located in Plant 2 malfunctioned, Plant Operator No. 2, who had started his shift at 8 A.M. on December 10th and was in Plant 1, went to Plant 2 to determine what caused it to malfunction. When he opened the door to Plant 2, he could not enter the building to turn off the switch or to prevent the treated water containing the high fluoride levels from being pumped into the distribution system because of the strong hydrofluorosilicic acid fumes. He immediately contacted the PAWC supervisory officials on call about the leak. Plant Operator No. 2 also called Plant Operator No. 1 who recalled that he had forgotten to disengage the fluoride switch bypass. The PAWC officials contacted York County Emergency Management Agency (York EMA) to advise it of the chemical spill and recommended that HAZ MAT be dispatched. Sometime shortly thereafter, York EMA notified DEP of the incident. HAZ MAT arrived at the plant at approximately 10:45 A.M.

Sometime thereafter, York EMA notified DEP of the incident. PAWC also considered diluting the concentration by increasing the production of drinking water at its Silver Spring Water Treatment Plant; however, that plant was already operating at near its maximum production capacity.

Throughout the morning and early afternoon, PAWC, in conjunction with the HAZ MAT and DEP, worked on sampling the water and trying to stop the spill. At

approximately 1:30 P.M., HAZ MAT disengaged the bypass and stopped the pumping of fluoride by closing two valves.

At approximately 2:30 P.M., some of the several water samples taken indicated a result of 20 parts per million (ppm) and these results were shared with DEP. At that time, it was still undetermined the levels needed to raise health issues. There was discussion that 50 ppm may cause problems for dialysis patients. At 2:30 P.M., DEP and PAWC decided to issue a "DO NOT CONSUME" advisory to the public. The "DO NOT CONSUME" advisory was released to the public at approximately 4:20 P.M. after several edits by PAWC and DEP officials.

It was decided by PAWC and DEP that due to the uncertainty of the triggering mechanism that they would elevate the situation to a "Tier I" event⁸ per DEP regulations because of the potential short-term health risk exposure effects. Under DEP regulations, a Tier I event requires public notice within 24 hours of its occurrence. While DEP's regulations require notice to the public within 24 hours of a Tier 1 event, the regulations also make clear that notification must be provided "as soon as possible," leaving no doubt that notice should be provided as early as possible.

Water samples continued to be taken through the evening and into the night for analysis. It was not until between midnight and 8 A.M. the next day that the samples indicated that the fluoride levels had dropped to below 2 ppm. At approximately noon on Sunday, December 11th, PAWC lifted the "DO NOT CONSUME" advisory.

PAWC notified the Commission of the spill on Sunday, December 11, 2005, at approximately 1:30 P.M. (after the advisory had been lifted) via a voice mail to a member of the FUS Water Division and a member of the Bureau of Consumer Services' Hotline. PAWC did not speak with the Commission's designed emergency contact person until Monday, December 12, 2005. PAWC advised that following its own internal investigation into the incident, it fired Plant Operator No. 1 on December 16, 2005, for his actions in causing the spill. On January 18, 2006, PAWC sent letters to the 34,000 affected customers to explain what had happened on December 10, 2006.

Cumberland County Emergency Management Services officials' main complaint was the lack of notice of the spill, i.e., not being advised by PAWC or DEP as to what was happening before the public notice finally came out. The Cumberland County Emergency Management Services' officials expressed frustration in not being able to provide more accurate information to their elected officials who were concerned about the public safety within their county.

In staff's meeting with DEP officials, DEP expressed concerns regarding whether PAWC complied with its notice requirements as set forth in its regulations. DEP also noted that PAWC failed to have a company spokesperson on hand to assume responsibility in notifying the public and media as it is required to do, and that there were conflicting public notices as a result of the lack of coordination between DEP and PAWC. DEP also acknowl-

⁸ DEP has a three-tier notice system. A Tier 1 notice is required for situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. These situations have the potential to cause acute health effects within hours or days of the time that the contaminant is consumed. A Tier 2 notice is required for other situations with the potential to have serious, but not immediate, adverse effects on human health. These situations have the potential to cause chronic health effects that may occur after persons consume a contaminant at levels over the health standard for many years. A Tier 3 notice is required for all other situations not included in Tier 1 or 2. *United States Environmental Protection Agency, Publication Notification Regulations for Public Water Systems, May 4, 2000.*

edged that there was a delay in the release of the public notice due to its inability to obtain accurate information from the federal Environmental Protection Agency regarding what level of fluoride concentration would be considered a health risk. Finally, DEP was also reviewing PAWC's Emergency Response Plan and similar documents to ensure they are adequate and up-to-date. DEP's investigation is ongoing and the DEP will provide the Commission with a copy of the report when it is final.⁹

Commission staff also met with the OCA staff and received comments from the OCA that were filed on February 7, 2006. The OCA's comments addressed each of the seven identified areas of concern discussed in the Commission's December 23, 2005 Order. The OCA noted in its comments that the fluoride spill presents an opportunity for the Commission to provide additional guidance to utilities on notice requirements. The OCA stated that utilities must be prepared to give actual, personal, timely notice to customers in any event that endangers public health and safety; it is not enough to rely upon broadcast stations and newspapers to deliver the message.

In addition, the OCA stated that Commission report should be made public and that the Commission should follow the release of the report with a public input hearing. Furthermore, the OCA stated that the water utilities must evaluate their treatment plants and ensure that older plants, as well as new plants, have adequate safeguards. Finally, the OCA stated that the Commission should encourage water utilities to provide safe water supplies at as many locations in or near the affected service areas as possible during all periods when water is unsafe or otherwise unavailable. The OCA's comments will be discussed in greater detail in the next section of this report.

III. Analysis

As discussed above, the December 23, 2005 Order concluded that the instant review focus on the following seven critically important areas: (1) whether all operational aspects of the utility were fully functioning to adequately respond to the situation in a timely manner; (2) whether the public received information in a timely manner; (3) whether adequate supplies of drinking water were provided and/or available in convenient locations; (4) whether the information provided to the public was sufficient to inform consumers of the effects of excessive fluoride; (5) whether the reporting requirements in 52 Pa. Code § 67.1 were properly followed; (6) whether enhancements need to be made to the Commission's reporting requirements; and (7) whether additional steps can be taken by the Commission to assist utilities in responding to future emergency situations, particularly in keeping the public informed and assisting consumers as needed. We will address each of these areas below.

A. Operational Response (Issue 1)

PAWC admitted that the fluoride spill was the result of operator error when the plant operator on duty bypassed the manually-operated, spring-loaded switch that controls the pumping of fluoride from the storage tank to the two day tanks by inserting a plastic circular union between a pipe and the switch. This artificial bypass kept the switch depressed so as to keep the pump pumping fluoride into the two day tanks. PAWC's own internal investigation also found that bypassing this switch was a common

occurrence among its operators with some using, alternatively, a block of wood to create the bypass. PAWC, however, stated that it did not have any prior knowledge that the operators were using any sort of bypass, which it also asserted was against company policy.

In addition, the day tanks into which the fluoride was pumped rests in a spill containment unit that is intended to take in any overflow if the day tanks' capacity is exceeded. However, in this case, when the capacity of the spill containment unit was also exceeded, the fluoride spilled onto the floor, which ultimately shorted the SCADA system when the system's wires and instruments became wet from the fluoride, and into the water tanks.

As part of staff's investigation, PAWC agreed to review the layout of the chemical tanks at all its plants in Pennsylvania to determine if any of them have similar safety issues—no alarm system in containment unit, spring-loaded switch controlling the pump that can be manually bypassed, etc.—that needed to be corrected. PAWC subsequently verified in writing to Commission staff that none of its other seven water treatment plants that use bulk storage tanks to store liquid fluoride are similar to the YB Plant in terms of plant layout, containment methods, or in their set up of SCADA monitoring that could lead to a similar fluoride incident such as occurred at the YB Plant.

Additionally, PAWC has replaced the switch at the YB Plant with one that is not as susceptible to tampering. PAWC also stated that while an alarm in the day tank is not standard practice because the switch controlling the pump at the time was spring-loaded (so that it must be held down in order to pump the fluoride into the day tanks), PAWC has nevertheless installed a probe in the spill containment unit that will set off an alarm when any liquid leaks into the containment unit.

PAWC has also committed to providing operator education and training relating to how to avoid and respond to situations involving chemical spills. Such training should also emphasize the importance of not bypassing switches or other safety devices controlling chemicals under any circumstances and that such conduct is against company policy that warrants strong disciplinary action, including possible termination of employment.

Finally, PAWC states that its new water plant will begin operation in the spring of 2006. This plant will be technologically advanced in terms of spill containment and automatic controls. According to PAWC, the new plant's modernized features will further minimize the likelihood of this type of spill occurring in the future.

From staff's perspective, PAWC's admission that the operator's action to override the switch causing the spill and that this override was a common practice among its operators at that plant is very disturbing. We believe PAWC and all other utilities must be reminded that this type of conduct can never be tolerated, and that utilities must take all necessary steps to ensure that similar occurrences do not occur in the future.

We do support, on the other hand, the steps taken by PAWC to minimize the risk of similar operator errors from occurring again. However, we believe what occurred here can happen in other water plants as well, especially in older, less technologically advanced plants. We, therefore, recommend that the Commission encourage all water utilities to perform regular self-inspections of their plants to ensure they comply with all state and federal safety regulations.

⁹ On February 16, 2006, the Governor's Office issued a press release directing DEP to strengthen the notification procedures that public water utilities must follow to alert residents when there is an imminent threat to drinking water supplies.

We especially encourage water utilities to review their existing operations and safety features to ensure they have adequate safeguards in place to avoid any chemical spills that can disrupt their operations. In this latter regard, the water utilities should particularly examine whether their plants are susceptible to similar attempts to bypass safety features used to control the pumping of chemicals. If they are, then preventive measures such as replacing switches or incorporating alarm systems should be performed immediately. We also agree with the OCA that treatment plant operators must have sufficient training and retraining as part of their business practices to avoid the type of situation that occurred at the YB Plant. The Commission should place all water utilities on notice that the failure to identify and correct the types of safety deficiencies identified in this investigation may result in prosecution and the imposition of appropriate sanctions.

B. Timeliness and Adequacy of Public Notice and Possible Enhancements to the Commission's Reporting Requirements (Issues 2, 4 and 6)

A significant aspect of the investigation focused on both the sufficiency and timeliness of the DO NOT CONSUME advisory notice provided by PAWC to the public following the hydrofluorosilic acid spill and also on whether enhancements are needed to the Commission's reporting/notice requirements. We particularly want to thank the OCA for its valuable input on each of these reporting/notice issues.

As discussed above, the OCA was critical of both the timeliness and adequacy of PAWC's public notice efforts. On the issue of timeliness, while the OCA acknowledged that PAWC may have met the minimum requirements in its tariff, Rule 14.1,¹⁰ and applicable DEP regulations at 25 Pa. Code § 109.408, regarding notice to the public, PAWC did not "provide actual, timely notice to many of the affected customers." *OCA Comments* at 6. Similarly, on the issue of adequacy of the public notice, the OCA correctly points out that the press release used by PAWC failed: (1) to identify when the fluoride spill entered the drinking water distribution system, 25 Pa. Code § 109.411(a)(2); (2) to include any of the required adverse health effects language, 25 Pa. Code § 109.411(a)(3) & (d)(1) or (d)(2); and (3) to identify the population at risk, including any subpopulations of customers that are particularly vulnerable to the contaminant in their drinking water, 25 Pa. Code § 109.411(a)(4). *OCA Comments* at 4.

In addition to the notice-deficiency issues identified by the OCA, PAWC also acknowledged, in response to our inquiry, that it did not use its website to notify the public about the incident and its water advisory. In fact, it was not until Monday morning, December 12, 2005, a full two days after the incident, that PAWC first used its website to announce that the DO NOT CONSUME advisory had been lifted.

While both DEP and PAWC agree that PAWC complied with the existing notification procedures established in DEP's regulations, we find that the utilized notification procedures adopted by PAWC failed to notify adequately large numbers of consumers in a timely and reasonable manner about the hydrofluorosilic acid spill and the DO NOT CONSUME advisory. The OCA believes that the public notice issue for service interruptions needs to be addressed in a specific Commission regulation or other directive such as a policy statement.

¹⁰ Rule 14.1 of PAWC Tariff Water PA PUC No., at 35, states, in relevant part, that "[t]he Company will, so far as circumstances permit, notify Customers to be affected by any interruptions in the water service."

In evaluating this recommendation, Commission staff is cognizant of the detailed public notice requirements already contained in DEP's regulations and further understand that DEP is currently reviewing those regulations for possible amendment. We do not propose, therefore, that it is necessary to impose an additional layer of public notice regulations on water utilities. At the same time, however, we agree with the OCA's objective that it would be beneficial for the Commission to provide guidance to the industry on the types of notice necessary to meet the reasonable service standard imposed on utilities under the Public Utility Code at 66 Pa.C.S. § 1501.

We, therefore, recommend that the Commission direct the Law Bureau and the Bureau of Fixed Utility Services to prepare a proposed Policy Statement on Public Notice Standards Relating to Unscheduled Water Service Interruptions to be considered at a future Public Meeting. The objective of this new policy statement will be to provide guidance to the industry regarding the types of public notice that will be deemed acceptable and appropriate in meeting the reasonable standard in section 1501 when there are unscheduled water service interruptions. The policy statement should suggest actual and timely notice whenever a situation arises where the water is unsafe to drink, taking full advantage of existing technology such as the Reverse 911, e-mail and text message notifications to customers who have elected to receive such notice, and fax/e-mail notification to local radio and television stations, cable systems, newspapers, and other media. *OCA Comments* at 6-7. Other types of direct/personal notification, such as doorknob flyers, where feasible, should be considered. The use of the affected utility's and the Commission's website should also be considered. This Policy Statement should also include language that makes it clear that all water utilities must conform to the public notice requirements established by DEP which concern unscheduled service interruptions. After tentative approval at a future public meeting, the policy statement will then be subject to a 30-day public comment period by interested parties before final action is taken to adopt, modify, or reject the final proposal.

C. Adequateness of Alternative Drinking Water Supplies (Issue 3)

PAWC provided water buffaloes with potable water at two locations in its service territory after issuing the DO NOT CONSUME advisory. The OCA's only comment on this issue was that the Commission should encourage water utilities to provide safe drinking water supplies to as many locations as reasonably possible within the affected area whenever the drinking water is unsafe to drink. PAWC, for its part, reported no problems or complaints about the number of water buffaloes it used in this particular instance. PAWC also stated that it did not experience an unusual demand for drinking water that could not be met by the alternative supplies it offered to the public at no charge. Similarly, DEP did not indicate that the lack of water buffaloes was a problem in this case.

From the information we gathered in our review, the adequateness of alternative drinking water supplies was not a serious issue in relation to this particular incident. Perhaps that was due in part to the fact that the advisory lasted less than a day and that the contaminant was fluoride and not a more serious or dangerous chemical. We do agree with the OCA that water utilities must take

this responsibility seriously whenever their water supplies become unsafe to drink, and that in this regard they must take every necessary step to ensure sufficient alternative drinking water supplies are available to their customers whenever there is a DO NOT CONSUME advisory in place.

D. Compliance with 52 Pa. Code § 67.1 (Issue 5)

PAWC asserted to staff that its failure to notify Commission officials until the day after the spill did not violate 52 Pa. Code § 67.1 because this provision was not applicable as there was no “service interruption” as defined by that section. Specifically, subsection 67.1(c) provides that a utility “shall notify the Commission by telephone within one hour after preliminary assessment of conditions reasonably indicates” that there is under subsection (b) “an unscheduled service interruption” affecting “2,500 or 5.0%, whichever is less, of their total customers . . . in a single incident for six or more projected consecutive hours.” PAWC’s position is that the term “service interruption” is not defined in the regulation but asserts that the common understanding of this term requires an outage, supply cut-off, or cessation of service. PAWC contends that since this fluoride incident did not result in a loss of water service, i.e., customers did have water that could be used for all purposes other than consumption, there was no service interruption. The OCA, for its part, disagrees with PAWC’s interpretation of section 67.1, and encourages the Commission to clarify, by regulation or order, that the phrase “service interruption” in section 67.1 refers not only to water outages but also to situations where the water is available but unsafe to drink.

Commission staff disagrees with PAWC’s interpretation of 52 Pa. Code § 67.1’s provision for telephonic notification of an incident to the Commission that it is not triggered unless there is total outage of service. Without a doubt, water for consumption is the most vital and important aspect of service provided by a water utility, and if consumers cannot drink it, then from their perspective, and ours, service has been interrupted. In arriving at this conclusion, we also take administrative notice that a similar regulation of DEP defines a “service interruption” as “affecting quantity or quality of the water delivered to the customer.” 25 Pa. Code § 109.708 (emphasis added). We believe it would serve little purpose and, in fact, would be confusing to interpret the phrase “service interruption” in section 67.1 as it relates to water utilities differently than the term is defined in the DEP regulation.

We recommend, therefore, that the Commission should put the water industry on notice that “service interruption” in section 67.1, as the Commission defines it, covers any interruption of service that affects either the quantity or quality of the water delivered to the customer. Any other interpretation of this phrase would eviscerate the otherwise clear intent of its notice provisions. We would fully expect all water utilities in the future to act accordingly in providing us with telephone and written notification as prescribed by this section. Further, we recommend that the Commission should direct in its Order that failure to do so by any water utility in the future may lead to an investigation by the Commission and possible sanctions being imposed on the utility, including, but not limited to, civil penalties under 66 Pa.C.S. § 3301.

E. Additional Steps to Assist Utilities in Future Emergency Situations (Issue 7)

During the course of the investigation, PAWC advised that its failure to contact the designated Commission emergency contact person about the incident was partially attributable to the company’s inability to obtain up-to-date emergency contact information on the Commission’s home web page after the accident occurred. It is each utility’s responsibility to have current Commission emergency contact information readily accessible at their facilities, an issue we will address further in Subsection F, below. In the instant case, PAWC’s attempt to shift responsibility partially to the Commission loses any credibility because FUS had directly provided PAWC with the Commission’s emergency contact information after another incident earlier in 2005 affecting the same water treatment plant. Notwithstanding this finding, the Commission may wish to consider possible options for making its emergency contact information more readily available to utilities in the future.¹¹

The OCA, in its comments, made several recommendations that can be taken by the Commission to assist utilities in responding to future emergency situations. They are: (1) hold a public input meeting to hear from affected consumers on the topic of how they can best be notified of future emergency situations; (2) create an opt-in e-mail and text alert mechanism on its website to complement the use of such mechanisms by individual utilities; (3) during emergencies, the Commission could post updates on its website and provide a toll-free hotline for questions; and (4) direct all regulated utilities to modify their respective tariffs to include specific references to applicable state and federal public notice requirements. *OCA Comments* at 8. In this latter regard, the OCA offered the following suggested tariff language insert:

As soon as preliminary assessment of conditions reasonably indicates that customers will experience service that is unsuitable for household purposes or otherwise inadequate, the Company shall, at a minimum, provide notice to customers in accordance with the regulations of the Commission, 52 Pa. Code § 67.1, et seq., and the Pennsylvania Department of Environmental Protection, [25 Pa. Code § 109.407, et seq.]

Id.

In regard to a possible public input hearing, we believe that issue can be addressed by Commission staff assigned to develop the policy statement discussed in Subsection B above if they determine such a hearing will aid their process. On the tariff issue, we agree with the OCA that notice language for water utilities should be inserted into their tariffs as the utilities are already required to meet these existing legal standards. However, the language the OCA proposes is not technically correct as the Commission’s regulation only provides notice to the Commission and not to customers. We, therefore, recommend that all water utilities should be directed to review their existing tariffs to ensure language identical or comparable to the following modified language is inserted into their existing tariffs filed with the Commission:

¹¹ We note that 52 Pa.C.S. § 67.1(c) and (d) state that the Commission will maintain telephone lines for the purpose of emergency notification from utilities and the Commission will notify each utility of the emergency numbers to be called. The Commission has met its obligations under these provisions. Specifically, FUS maintains a Commission emergency contact list and has provided this information to each utility in the state. It is, in turn, the duty of each utility to maintain current contact information, as certified to the Commission pursuant to 52 Pa.C.S. §§ 101.1–101.7.

As soon as preliminary assessment of conditions reasonably indicates that customers will experience service that is unsuitable for household purposes or otherwise inadequate, the Company shall, at a minimum, provide notice to the Commission in accordance with the regulations of the Commission, 52 Pa. Code § 67.1, et seq., and notice to customers in accordance with regulations of the Pennsylvania Department of Environmental Protection, [25 Pa. Code § 109.407, et seq.]

As to the other two recommendations made by the OCA that would require changes to our website, we note that the primary responsibility for alerting water customers rests with the utility, and we also note DEP recently announced that it will propose revised notification procedures for the companies to adopt that incorporate the suggestions advocated by the OCA. DEP's proposals will, for example, embrace current technology advances in the communications field that will allow utilities to provide an opt-in system so customers can request to be contacted by e-mail, text message, beeper, cell phone or other personal electronic devices. Accordingly, we recommend that the Commission not adopt the OCA's website and toll-free hotline proposals at this time as they appear to be duplicative of DEP's current initiatives regarding customer notice.

F. PAWC's Failure to Properly Update Its Emergency Response Plan

In addition to the seven previously identified areas that were to be examined, the Commission's investigation also uncovered that the Emergency Response Plan adopted by PAWC for the YB Plant dated 1993 is clearly outdated. PAWC similarly admitted that the PAWC's Emergency Response Plan for its Central Operations is also outdated. PAWC officials also acknowledged that the Central Operations Plan was not at the YB Plant at the time of the incident. While staff did not undertake an exhaustive review of these plans, our summary review revealed that neither plan, for example, has current phone contacts for the Commission even though the Commission has provided to all public utilities emergency contact information and will continue to provide utilities with updated contact information as required. Commission staff found that the phone numbers in these two plans were woefully out-of-date and basically useless. PAWC advised that its new plant scheduled to be operational in March 2006 will have an updated and accurate Emergency Response Plan.

This promise does not address, however, PAWC's failure to have updated and accurate information in the current plans. This failure to update the plans is especially troubling because PAWC has an obligation each year to certify to the Commission and DEP that its plans are up-to-date pursuant to 52 Pa. Code §§ 101.1—101.7 and 25 Pa.C.S. § 109.707, respectively. Specifically, the Commission's regulation provides, in pertinent part:

52 Pa. Code § 101.3. Plan requirements.

- (a) A jurisdictional utility shall develop and maintain written physical and cyber security, emergency response and business continuity plans. . . .
- (b) A jurisdictional utility shall review and update these plans annually.
- (c) A jurisdictional utility shall maintain and implement an annual testing schedule of these plans.

(d) A jurisdictional utility shall demonstrate compliance with subsections (a)—(c), through submittal of a Self Certification Form which is available at the Secretary's Bureau and on the Commission's website.

DEP's regulation on the same topic provides as follows:

25 Pa. Code § 109.707. Emergency response plan.

- (a) A community water supplier shall develop a plan for the provision of safe and adequate drinking water under emergency circumstances, and submit the plan to the Department for approval by December 8, 1985. . . .
- (c) The plan shall be reviewed and updated at least annually.

To address this deficiency, we recommend that PAWC should be directed to review all its Emergency Response Plans for plants within Pennsylvania and to verify within the next several months, through a Commission field review, that all its plans are up to date. In addition, we encourage the Bureau of Audits to consider auditing, as it deems appropriate, water utility emergency response plans to ensure they comply with all applicable laws and regulations, including the self-certification process as provided in our regulations at 52 Pa. Code §§ 101.1—101.7, and to take whatever further action may be warranted.

V. Conclusion

Commission staff's investigation found that the fluoride spill at PAWC's YB Water Treatment Plant on December 10, 2005, was the result of operator error. Commission staff is satisfied that PAWC has taken the necessary corrective steps at this plant to ensure that a similar spill will not occur in the future. These corrective steps included replacing the manually-operated, spring loaded switch that controls the pumping of fluoride into the day tanks at the plant, adding an alarm system in the containment unit in which the day tanks sit, and providing additional operator education and training relating to how to avoid and respond to situations involving chemical spills. It is critically important that all water utilities learn from this incident and adopt similar precautionary measures to avoid chemical spills affecting their potable water supplies. The Commission must place the industry on notice that it will not tolerate lax safety standards at water plants located in Pennsylvania, and that water utilities act at their peril if they allow unsafe conditions to persist at their plants.

In regard to our findings on the public notification issue, while PAWC appears to have met the existing DEP notification procedures established in its regulations, more clearly could have been done to ensure actual and timely notification of the affected population in this case. We do not recommend, however, that the Commission, at this time, attempt to impose another layer of public notification regulations, given DEP's already detailed public notification requirements and its current efforts to amend its regulations in response to the same shortfalls identified by our investigation. Instead, we believe a more productive course would be to develop and adopt a Policy Statement on Public Notice Standards Relating to Un-scheduled Water Service Interruptions that would provide guidance to the industry on the types of notice that would comply with the Commission's interpretation of the reasonable service standard contained in the Public Utility Code at 66 Pa.C.S. § 1501.

On the issue of compliance with the Commission's existing regulation at 52 Pa. Code § 67.1, we disagree with PAWC's interpretation that this section was not applicable because there was no "service interruption" because consumers still had water during the disruption. Adoption of such a narrow interpretation of our regulation would exclude an important class of disruptions where the quality of the drinking water has been contaminated as occurred in this case. This interpretation would also create confusion with a similar regulation of DEP addressing service interruptions that expressly includes disruptions that affect the quality, as well as the quantity, of the water delivered to customers. The Commission must make clear that its interpretation of this regulation includes disruptions affecting the quality and quantity of drinking water available to the public.

Finally, another troubling finding was that PAWC's Emergency Response Plans for the affected plant and its operations in the region were both woefully out of date. This failure to have updated and accurate information in the current plans is also disturbing because PAWC has an obligation each year to certify to the Commission and DEP that its plans are up-to-date pursuant to their respective regulations. PAWC should be directed to review all their plans for plants within Pennsylvania to verify that they are current. The Bureau of Audits should also consider examining the need to audit water utility emergency response plans to ensure they comply with all applicable laws and regulations, and to take whatever further action may be warranted.

Statement of Chairman Wendell F. Holland

*Public Meeting March 2, 2006; MAR-2006—L-0022**

Investigation into Pennsylvania-American Water Company's High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements; Doc. No. I-00050109

Before us for consideration is the Investigation into Pennsylvania-American Water Company's (PAWC) High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements. The investigation was initiated as a result of the Commission's December 15, 2005 adoption of the Motion Commissioner Kim Pizzingrilli and I prepared jointly. Staff found, among other things, that PAWC:

- 1) Acknowledged that the incident was a result of human error (a plant operator bypassed a switch and forgot to disengage it when he left; PAWC has since implemented corrective measures);
- 2) Did not report to appropriate Commission personnel in a timely manner;
- 3) Did not properly notify the public of the possible dangers of drinking water with an elevated level of fluoride concentration;
- 4) Did not identify the population at risk, including any subpopulations of customers that are particularly vulnerable to the contaminant in their drinking water;
- 5) Did not use its website to notify the public about the water advisory;
- 6) Admitted that the Emergency Response Plan for the plant where the spill occurred had not been updated since 1993;

7) Admitted that the Emergency Response Plan for its Central Operations is also outdated;

8) Had phone numbers for Commission contacts within these two Emergency Response Plans which Staff deemed to be "woefully out of date and basically useless";¹² and

9) Nonetheless, certified to the Commission that its physical and cyber security, emergency response and business continuity plans were current, pursuant to Commission requirements at 52 Pa. Code §§ 101.1—101.7.

Staff recommendations include, among other things, that the investigatory report be released to the public and that a proposed Policy Statement be prepared on Public Notice Standards Relating to Unscheduled Water Service Interruptions. While I wholeheartedly agree with these recommendations, I would like to offer several comments on the report, along with:

- 1) A differing opinion related to what constitutes the provision of adequate alternative water during an emergency;
- 2) A recommendation that interim customer notification enhancements be implemented prior to the adoption of the proposed policy statement (which could take at least six months to enable time for public comment); and
- 3) A further recommendation that customer notification guidelines be extended to include service issues affecting the character of service, beyond those of contamination, as will be explained.

First, however, I offer my thanks to our Staff for diligently producing this productive and insightful report in such an expeditious manner, particularly considering the very tight timeframe. Next, I must commend the other commenters, most particularly the Office of Consumer Advocate (OCA), whose input was invaluable.

Appropriate Notice—I completely agree with OCA's statement that "utilities must be prepared to file actual, personal, timely notice to customers in any event that endangers public health and safety; it is not enough to rely upon broadcast stations and newspapers to deliver the message."¹³ Innumerable reasons abound as to why this antiquated notification methodology does not come anywhere close to meeting the needs of today's threats from terrorism, meeting, in "real time," the needs and expectations of today's customers, and does not utilize today's technological capabilities. If a contaminant is found in the water, all customers need to know as immediately as possible. Had the fluoride spill involved a lethal contaminant, I shudder to think of what could have happened.

Institute Interim Enhancements—Our directive to initiate a proposed policy statement on customer notification guidelines should help mitigate this situation. But that process will take time, particularly to enable input from all essential parties. In the interim, I recommend and encourage PAWC and all other water utilities to take whatever immediate steps that can be taken now prior to the issuance of guidelines. This can be tested and enhanced over time. The interim steps should be looked upon as a living protocol with enhancements continuously adopted as technology advances and experience of what is effective becomes known.

¹² Staff Report on Investigation into Pennsylvania American Water Company's High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements, Docket No. I-00050109, page 20.

¹³ *Ibid.*, p. 8

These interim or additional forms of notification (depending on the incident) can be as simple and as immediate as:

1) Including a recording on the utility's 24/7 emergency phone line that a particular situation has occurred in a particular location, the potential impact, and a listing of actions customers can take, with updates as often as needed, and

2) The same information should be available on the utility's web site as soon as possible.

Still fairly simple, but requiring additional effort, would be for utilities today to begin review of Reverse 911, instant faxing, text messages, or email blasts to customers on an opt-in basis, to supplant traditional messages to the media. Review of these newer methods should have already begun at all large water companies. Smaller water utilities should be reviewing their customer notification procedures as well to determine if they be enhanced, taking into account their level of resources being less than those of the larger water utilities.

Expand Customer Notification to All Adverse Situations—There is no question that customer notification enhancements should be implemented in all safety related issues such as the fluoride spill. But I believe customer notification enhancements can be taken a step further within our new proposed notification guidelines. Enhanced customer notification should be extremely beneficial in situations that may not appear to have direct or immediate health and safety ramifications (as specified within boil water or do not consume advisories), but customers should be alerted that their water quality or quantity may be affected. These situations can include localized events such as a main break, hydrant repair, flushing or other event that most assuredly can be expected to adversely impact at least a number of customers. With notice, a number of common household activities could be rescheduled if customers knew their water could be either in short supply, discolored, sediment-laden or otherwise unpleasant to use on a short-term basis while the problem was being fixed. Customers could then choose if they wanted to drink this type of water, serve it to their family and friends, make ice cubes, cook with it, wash dishes with it, bathe or shower in it, or do the laundry.

I believe that the notifications procedures used by PAWC are no longer appropriate today, especially in light of today's advances in technology. Just imagine the benefits of sparing customers from the adverse impact of service challenges cited above. Imagine if the customer were a restaurant that unknowingly served food prepared with such water, served drinking water and washed dishes. Similarly, imagine the implications if the customer were a hospital, nursing home or school with or without being given the helpful knowledge to take precautionary steps. Imagine the benefits of an "Adverse Service Possibility Alert."

I use the "just imagine" scenario to make this point about philosophical points of view. When management is considering how to proceed, a review of its actions should always include placing themselves in the shoes of the customers to see if the customers' needs and expectations are being met. Everyone then benefits: the customers, the shareholders, the community.

I recommend incorporating within the new notification guidelines a method of notifying customers (who choose to be notified) so that they can be alerted that an event happened and that:

a) Their water quality or quantity could be affected, and

b) They may choose to double check the appearance and quantity of their water service prior to starting any water using activity.

PAWC's Emergency Response Plan—In this post-September 11, 2001 era, with companies having allocated significant expenditures and resources to assess vulnerability and to implement those recommendations, and with all the innumerable lessons to have been learned from the responses to Hurricanes Katrina and Rita, I am appalled to learn from the Staff report that PAWC's Emergency Response Plan for the Yellow Breeches plant had not been updated since 1993. If ever there were a time that emergency preparedness activities were on the forefront of water utilities' radar screen, that time is indeed now and has been since September 11, 2001 or possibly dating back to the Oklahoma City bombings. If there ever were a time that a plan from 1993 could be more out-of-date, it would be now.

The recent flooding of last fall would have been yet another trigger of emergency plan review (which should be ongoing, not annual). This glaring failure leads me to yet another glaring failure related to PAWC's utility self-certification obligation to the Commission and to the DEP that its plans are current, pursuant to 52 Pa. Code §§ 101.1—101.7 and 25 Pa.C.S. § 109.707. Commission regulations require utilities to review and update their physical and cyber security, emergency response and business continuity plans on an annual basis. I ask myself how could PAWC file with this Commission signed statements certifying compliance when the Emergency Response Plan for its Yellow Breeches plant had not been updated since 1993.

I wholeheartedly agree with Staff's recommendation that PAWC review all of its Emergency Response Plans and verify that they are current. I completely agree that the Audits Bureau should be encouraged to audit all utilities' progress with their emergency response plans to ensure no other utility is deficient in this area.

Availability of Alternative Water—While the Staff investigation did not find sufficient evidence to fault PAWC with regard to its provision of alternative water supplies during the time period when the "Do Not Consume Alert" was in effect, logic dictates another direction. Imagine 30,000 customers without drinking water and with no knowledge of when safe water would be available. Imagine standing in line at night in the cold (and/or in the ice, snow or rain) to obtain water in a "container" you have brought with you (if you knew to do so). Imagine if that "container" is an unsanitary bucket or other non-sanitized vessel. Imagine that bottled water is not available. Imagine if you are a senior citizen or injured or have the flu. Imagine, over time, local food and supply stores are running low or out of their bottled water. I find PAWC's provision of alternative water—water buffaloes at two locations—even if it met current standards—to be unacceptable.

Free bottled water needs to be available at numerous sites conveniently located throughout the service area. If the outage or contamination is potentially of a longer duration, utility coordination must be done with local vendors. In that way, it can be ensured that adequate

quantities of bottled water will be shipped into the area to supplement what the water utility should provide.

Definition of "Service Interruption"—I am perplexed by PAWC's interpretation of "service interruption" as used in the context of Commission outage reporting requirements at 52 Pa. Code § 67.1. The company explained to Staff that its failure to notify the Commission until the day after the spill was because the event did not result in an "outage, supply cut-off, or cessation of service."¹⁴ If customers cannot drink the water, it would seem obvious that, since it is no longer available for drinking or cooking (and possibly bathing or cleaning, depending on the incident or information delivered about the incident), service has been interrupted for these household purposes. I wholeheartedly agree with Staff's statement that: "Without a doubt, water for consumption is the most vital and important aspect of service provided by a water utility, and if consumers cannot drink it, then from their perspective, and ours, service has been interrupted."¹⁵

Future Ramifications—This incident has several ramifications—namely, spills, terrorism, emergency response preparedness for disasters, and notifying customers as soon as possible by utilizing today's technology. I reiterate Staff's conclusion: we will not tolerate lax safety standards at water plants in the Commonwealth. We also will not tolerate avoidance of taking care of customers' needs by providing them with less than timely and useful information.

For utility management to determine the appropriate notification actions, management need only place itself in the shoes of the customer. The ultimate guide is to determine, as if they were the customer, and their family would be affected personally, what information would be essential in order to protect their own health and safety and that of their family.

On the one hand, I view this incident as a wake-up call to the management of PAWC, that the failures admitted to must not be repeated. This incident has provided PAWC with an opportunity to take corrective measures (some of which have already been completed) and, going forward, to participate in the development and implementation of enhanced customer notification procedures that should improve customers' daily lives. Finally, the entire water industry, both in this state, as well as nationwide, should benefit from the lessons learned in this incident. In fact, the energy industry could benefit from lessons learned here as well.

[Pa.B. Doc. No. 06-509. Filed for public inspection March 24, 2006, 9:00 a.m.]

Natural Gas Service

A-123100F0036. UGI Utilities, Inc. Application of UGI Utilities, Inc. for approval to render natural gas distribution services to the public in portions of Honey Brook Township, Chester County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant,

¹⁴ *Ibid.*, p. 17.

¹⁵ *Ibid.*

on or before April 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: UGI Utilities, Inc.

Through and By Counsel: Mark C. Morrow, Esquire, 460 North Gulph Road, King of Prussia, PA 19406

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-510. Filed for public inspection March 24, 2006, 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 April 17, 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-00122492. Martha Camacho (1131 Hammaker Drive, Harrisburg, Dauphin County, PA 17110)—persons, upon call or demand, in the City of Harrisburg and within an airline distance of 10 statute miles of the limits of said city.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under the application.*

A-00122508. Bradley A. Kleffel t/a Brad's Home and Farm Care (5490 Berne Road, Mohrsville, Berks County, PA 19541)—household goods in use, from points in the Counties of Berks, Lehigh and Schuylkill, to points in Pennsylvania, and vice versa.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-511. Filed for public inspection March 24, 2006, 9:00 a.m.]

Telecommunications

P-00052178. Budget Phone, Inc. Petition of Budget Phone, Inc. for designation as an Eligible Telecommunications Carrier (ETC) under section 214(e) of the Telecommunications Act of 1996 and 47 CFR 54.101—54.207.

Budget Phone, Inc. petitions for designation as an ETC for applicable State and/or Federal universal service funding. The petition seeks approval for a service area which extends to certain facilities-based residential local exchange service areas of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint-United Telephone Company of Pennsylvania, Inc., as set forth in the respective approved tariffs. The Pennsylvania Public Utilities Commission (Commission) invites interested parties to comment on this petition. Interested parties must submit comments on the Budget Phone, Inc. petition within 7 days of publication in the *Pennsylvania Bulletin*. Reply comments must be submitted within 14 days of publication in the *Pennsylvania Bulletin*.

Copies of the petition may be obtained from the Commission, Office of the Secretary, upon request. The contact person at the Commission is Elizabeth A. Lion Januzzi, Assistant Counsel, Law Bureau, (717) 772-0696.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-512. Filed for public inspection March 24, 2006, 9:00 a.m.]

Telecommunications

P-00001797. D & E Systems, Inc. Petition of D & E Systems, Inc. for designation as an Eligible Telecommunications Carrier (ETC) under section 214(e) of the Telecommunications Act of 1996 and 47 CFR 54.101, 54.201—54.203 and 54.205—54.207.

D & E Systems, Inc. petitions for designation as an ETC for applicable State and/or Federal universal service funding. The petition seeks approval for a service area which extends to the facilities-based residential local exchange services within the area comprised of the service areas of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint-United Telephone Company of Pennsylvania, Inc., as set forth in the respective approved tariffs. The Pennsylvania Public Utilities Commission (Commission) invites interested parties to comment on this petition. Interested parties must submit comments on the D & E Systems, Inc. petition within 7 days of publication in the *Pennsylvania Bulletin*. Reply comments must be submitted within 14 days of publication in the *Pennsylvania Bulletin*.

Copies of the petition may be obtained from the Commission, Office of the Secretary, upon request. The contact person at the Commission is Elizabeth A. Lion Januzzi, Assistant Counsel, Law Bureau, (717) 772-0696.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-513. Filed for public inspection March 24, 2006, 9:00 a.m.]

Wastewater Service

A-230061F2000 and A-230106. Deer Haven, LLC. Application of Deer Haven, LLC for approval: 1) for Deer Haven, LLC to acquire all common stock, assets and customers of Edwin, Inc.; 2) for Deer Haven, LLC to begin to supply wastewater collection and treatment service to the public in portions of Palmyra Township, Pike County;

and 3) for Edwin, Inc. to abandon its certificate of public convenience as a wastewater provider to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before April 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Deer Haven, LLC

Through and By Counsel: Janet L. Miller, Esquire, Hawke, McKeon, Sniscak & Kennard, LLC, 100 North Tenth Street, P. O. Box 1778, Harrisburg, PA 17105-1778

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-514. Filed for public inspection March 24, 2006, 9:00 a.m.]

Wastewater Service

A-230041F2000. Paul P. Miller t/a Rustic Acres Sewer Treatment Plant. Application of Paul P. Miller t/a Rustic Acres Sewer Treatment Plant for approval, nunc pro tunc, of the abandonment or discontinuance of wastewater service to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before April 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Paul P. Miller t/a Rustic Acres Sewer Treatment Plant

Through and By: Paul P. Miller, Owner, One Miller Lane, Elizabeth, PA 15037

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-515. Filed for public inspection March 24, 2006, 9:00 a.m.]

Water Service

A-210104F0069. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Robeson Township, Berks County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before April 10, 2006. The documents filed in

support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-516. Filed for public inspection March 24, 2006, 9:00 a.m.]

Water Service

A-210069F2000 and A-210124. Deer Haven, LLC.

Application of Deer Haven, LLC for approval: 1) for Deer Haven, LLC to acquire all common stock, assets and customers of Lakeside Water Systems, Inc.; 2) for Deer Haven, LLC to begin to supply water service to the public in portions of Palmyra Township, Pike County; and 3) for Lakeside Water Systems, Inc. to abandon its certificate of public convenience as a water provider to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before April 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Deer Haven, LLC

Through and By Counsel: Janet L. Miller, Esquire, Hawke, McKeon, Sniscak & Kennard, LLC, 100 North Tenth Street, P. O. Box 1778, Harrisburg, PA 17105-1778

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-517. Filed for public inspection March 24, 2006, 9:00 a.m.]

Water Service

A-212285F0132. Pennsylvania-American Water Company and Community Association of Pocono Farms, Inc.

Application of Pennsylvania-American Water Company and Community Association of Pocono Farms, Inc. for approval of: 1) the transfer, by sale, of the water works property and rights of the Community Association of Pocono Farms, Inc. to Pennsylvania-American Water Company; and 2) the commencement by Pennsylvania-American Water Company of water service to the public in additional portions of Coolbaugh Township, Monroe County presently being served by Community Association of Pocono Farms, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before April 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-518. Filed for public inspection March 24, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #06-007.P, 17 Inch LCD Monitors, until 2 p.m. on Thursday, April 13, 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 April 4, 2006. The cost of the bid document is \$10 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-519. Filed for public inspection March 24, 2006, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #06-028.P, Supply & Install Retractable Awning, until 2 p.m. on Tuesday, April 11, 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 March 28, 2006. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-520. Filed for public inspection March 24, 2006, 9:00 a.m.]

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

**Bureau of Professional and Occupational Affairs v.
Efrat Miodovnik, N.H.A.; Doc. No. 0290-62-06**

Efrat Miodovnik of Boston, MA was suspended by the State Board of Examiners of Nursing Home Administrators (Board), based on respondent's failure to pay the \$1,000 civil penalty levied and complete 48 hours of continuing education for the period of July 1, 2000, through June 30, 2002, in accordance with the Final Adjudication and Order dated April 13, 2005.

Individuals may obtain a copy of the Order of Suspension by writing to Roberta L. Silver, Board Counsel, State Board of Examiners of Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649.

This Final Order of Suspension represents the final 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.

BARRY S. RAMPER, II,
Chairperson

[Pa.B. Doc. No. 06-521. Filed for public inspection March 24, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
Location: Harrisburg, Pa.
Duration: 12/1/93-12/30/93
Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

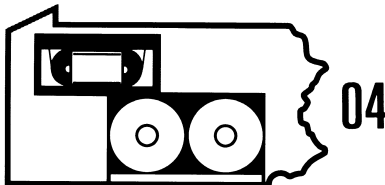
DO BUSINESS WITH STATE AGENCIES

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.patreaury.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



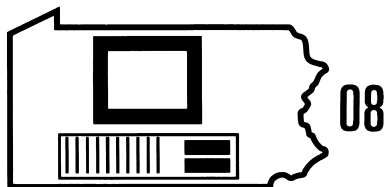
Audio/Video

MU-2049 Project consists of a new voicemail system to replace our 48-port AVT voicemail system operating with Call Express Enterprise software release 5.03. This system is to be integrated with the university's Ericsson MD-110 telephone system, at software release BC11, SP14. Interested bidders may request a copy of the RFP by sending an e-mail to mchapel@mansfield.edu or by calling Peg Chapel at (570) 662-4148.

Department: State System of Higher Education
Location: Mansfield University, 115 Sherwood Street, Mansfield, PA 16933
Duration: Bid due on May 2, 2006 at 2:00 p.m.
Contact: Peg Chapel, 570-662-4148

RO 0003131 Bloomsburg University of Pennsylvania is seeking Internet Service Providers to supply 45 Megabit burstable to 100 Megabit Tier One Internet Service to the Bloomsburg University's Residence Hall population for a term of three years. Tentative schedule calls for bid award on April 14, 2006 with a project completion of August 7, 2006. Please e-mail dshambur@bloomu.edu if you are interested in receiving a bid proposal.

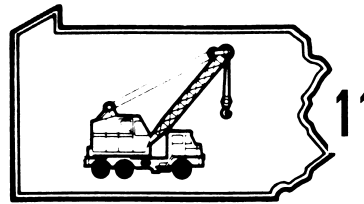
Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: Completion date of August 7, 2006
Contact: Diann Shamburg, 570-389-4312



Computer Related Services

05-0006 Thaddeus Stevens College of Technology is seeking an IT Consultant.

Department: State
Contact: Nancy Froeschle, 717 299-7787



Demolition—Structural Only

117636 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 0065 (also known as Ohio River Boulevard) in the Borough of Avalon, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. The contractor will also be required to comply with FHWA, State and local regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: Borough of Avalon
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0885-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 0885 (also known as Fifth Avenue) in the City of Pittsburgh, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. The contractor will also be required to comply with FHWA, State and local 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: Michael Sudar, (412) 429-4830

0079-A23 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of both commercial and residential dwellings located adjacent to State Route 0079 (along Brookside Drive) in the Township of Robinson, 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 local, State and FHWA regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

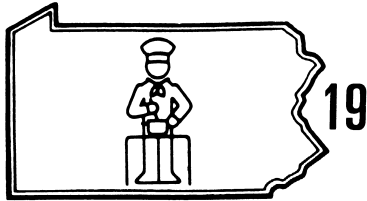
Department: Transportation
Location: Township of Robinson
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0088-A09 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 0088 (also known as Library Road) in the City of Pittsburgh and the Borough of Castle Shannon, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. The contractor will also be required to comply with 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 and Borough of Castle Shannon
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0018-B13 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of both commercial and residential dwellings located adjacent to State Route 0018 (along College Avenue and Fourth Avenue) in the City of Beaver Falls, Beaver 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 local, State and FHWA regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

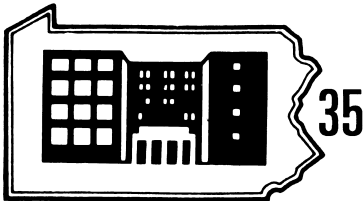
Department: Transportation
Location: City of Beaver Falls
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830



Food

8429 Canned and dry goods for the Ebensburg Center for March 2006 through August 2006; for weekly scheduled deliveries. Bids may be requested from the Ebensburg Center (Contact Information below). Awards will be made in the best interest of the Commonwealth.

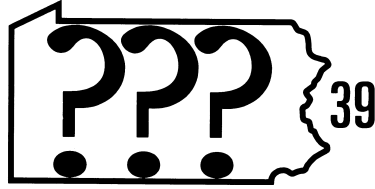
Department: Public Welfare
Location: Ebensburg Center, P.O. Box 600, RT. 22 West, 4501 Admiral Peary Highway, Ebensburg, PA 15931
Duration: March 2006 through August 2006
Contact: Nannette C. McCreary, 814-472-0288



Real Estate Services

93960 Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 13,997 useable square feet of office space in Indiana County, PA within Armstrong, Burrel, Center, Cheryhill or White Townships. Downtown locations will be considered. For more information on SFP No. 93960, which is due on May 1, 2006, visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Public Welfare
Location: 505 North Office Building Harrisburg, PA 17125
Contact: Cynthia T. Lentz, 717-787-0952



Miscellaneous

MU-VIDEO-2006 Project consists of the production of 10 two-five minute videos and 1 seven-ten minute video, each highlighting a specific department or program. It will involve working with the Director of Enrollment Management concerning the concept, approach, production and post-production. Interested bidders may request a copy of the RFP by sending a e-mail to mchapel@mansfield.edu or by calling Peg Chapel at (570) 662-4148.

Department: State System of Higher Education
Location: Mansfield University, 115 Sherwood Street, Mansfield, PA 16933
Duration: Completed December 1, 2007
Contact: Peg Chapel, 570-662-4148

SU-05-21 Printing of Admissions Recruitment materials: Printer must be equipped with two 4-color offset presses, one that can accommodate a 25 by 38 inch sheet, must be capable of reading a designer-supplied QuarkXpress 6.5 application file MAC disk, printer must be able to correct images in Photoshop. All printing must be completed on the premises of the printer awarded the job. Printer must be able to guarantee that all deadlines can be met. Bids are due 4:00 p.m. on April 10, 2006. Vendors interested in receiving a bid package must fax a request to Mona Holtry, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; fax (717) 477-1350 or e-mail mmholt@ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: Delivery required by June 1, 2006.
Contact: Mona M. Holtry, 717-477-1386

CN00019438 Vendor required to furnish and install a security fence at Laurel Mountain Maintenance Shop, DCNR Forest District 4, Westmoreland County, PA. Work shall include, but is not limited to, the furnishing of all labor, superintendence, materials, tools and equipment, and miscellaneous items, and performing all work necessary to complete all construction to the satisfaction of, and subject to the approval of, the Department. Vendor will also remove and dispose of existing fence with the exception of the existing gate, which will be reinstalled at a location identified on a drawing. Interested vendors must be registered with the Commonwealth and have a registered vendor number. To register and obtain number, call CVMU 1-866-775-2868. Bid Opening: March 23, 2006, 2 p.m.

Department: Conservation and Natural Resources
Location: DCNR Forest District 4, P.O. Box 519, Laughlintown, PA 15655-0519
Duration: Upon execution and receipt of purchase order and terminate June 16, 2006
Contact: Naomi Rudisill, 717-783-0749

[Pa.B. Doc. No. 06-522. Filed for public inspection March 24, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary