

PENNSYLVANIA BULLETIN

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Pages 2493—2618

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for the Pennsylvania Gaming
Control Board's Temporary Regulations

Part I

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

No. 378, May 2006

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2006.

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THE GOVERNOR

GOVERNOR'S OFFICE

Notice of Veto

May 16, 2006

*To the Honorable, the Senate of
the Commonwealth of Pennsylvania*

I am returning herewith, without my approval, Senate Bill 997.

This bill, if enacted, would have severe fiscal consequences for the FY 2006-07 Budget. By signing this legislation independent of a FY 2006-07 budget agreement, state spending could be increased well above anticipated levels.

Senate Bill 997 effectively reverses an agreement that was one of the foundations of the FY 2005-06 Budget. This change could potentially cost the commonwealth an additional \$103 million above what has been contemplated in my proposed FY 2006-07 Budget. It could increase reimbursement rates for one class of providers—nursing homes—well above the 4% increase proposed for all other Medicaid providers, such as physicians and hospitals.

Clearly, nursing homes are an important component of our long term living system. Pennsylvania has treated its skilled nursing facilities very well, particularly when compared to other states. Between 2000 and 2005, nursing facility per diem payment rates in the Commonwealth increased an average of 4.9% per year for a total increase over that time of nearly 30%. National comparative surveys have consistently ranked Pennsylvania nursing home payments among the highest in the nation. For example, in a 2004 AARP Policy Institute Study, Pennsylvania per diem payment rates for nursing homes were the eighth highest in the country. While my administration has proposed a 4% increase in rates here in Pennsylvania in this year's budget, the federal government has actually frozen payment rates and only one state of 23 that responded to a recent survey was proposing a higher percentage increase than what I proposed. In fact, 11 states are proposing a nursing home rate freeze or rate reduction for FY 2006-07.

The Executive Branch has honored the agreement negotiated last year to develop changes to the payment formula, consistent with the timeline set in the budget legislation, and in time to achieve needed savings in the upcoming FY 2006-07 Budget. If the revised Department of Public Welfare (DPW) regulations are not adopted by July 1, 2006, or if some other legislative solution is not forthcoming, it may be necessary to add more than \$103 million in state funds to the long term care appropriation in the FY 2006-07 Budget. As AARP of Pennsylvania noted recently in a letter requesting that I veto this legislation, "We are particularly concerned that nursing home funding increases that would occur as a result of Senate Bill 997 may come at the expense of home- and community-based care programs . . ." Senate Bill 997 also would prevent implementation of changes designed to rebalance the long term care system, consistent with the clear preference of consumers to receive needed services in their homes and communities.

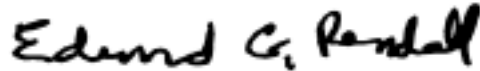
In addition, this bill places at risk up to \$290 million in supplemental Medicaid contributions from the County Intergovernmental Transfer (IGT), which is used to provide an array of services for seniors. The language in Senate Bill 997 would limit state payments to nursing homes to those covered by the extant regulations of the department and the state Medicaid Plan. The supplemental IGT payments are distributed pursuant to a contract between the counties and the Commonwealth and are not covered by either the regulations or the state plan. Senate Bill 997, if enacted, could impair the commonwealth from entering into an Intergovernmental Transfer agreement with the counties.

THE GOVERNOR

Moreover, in a May 11, 2006, letter, the County Commissioners Association of Pennsylvania expressed its reluctance to commit to the Intergovernmental Transfer if certain changes proposed in the regulations developed by DPW are not adopted. "Once again, if the passage of Senate Bill 997 ultimately prevents a county carve-out, it will certainly make the IGT process more difficult." Obviously, enacting Senate Bill 997 into law would prevent DPW from implementing this proposed regulatory change before the next IGT agreement would be negotiated.

On November 30, 2004, when I vetoed House Bill 176, I wrote: "I intend to enforce a 'pay as you go' budget process for Pennsylvania. I will not sign legislation that either significantly increases spending or reduces revenue without a specific plan to pay for it." And I have repeated this admonition several times since that veto, namely that I cannot agree to legislation that increases spending without identifying the source to pay for that increased spending. For all of these reasons, I cannot sign Senate Bill 997.

Sincerely,



Governor

[Pa.B. Doc. No. 06-918. Filed for public inspection May 26, 2006, 9:00 a.m.]

GENERAL ASSEMBLY

Recent Actions during the 2006 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during 2006 Regular Session

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2006 GENERAL ACTS ENACTED—ACT 036 through 045					
036	May 11	HB0015	PN4008	Immediately	Crimes Code (18 Pa.C.S.) and Vehicle Code (75 Pa.C.S.)—Substance Abuse Education and Demand Reduction Fund, driving under influence of alcohol or controlled substance and penalties
037	May 11	HB0121	PN3939	60 days	Vehicle Code (75 Pa.C.S.)—omnibus amendments
038	May 11	HB0137	PN2311	Immediately*	Vehicle Code (75 Pa.C.S.)—motorcycle lamp requirements and restrictions on highway and bridge use
039	May 11	HB0218	PN3877	60 days	Downtown Location Law—definitions
040	May 11	HB0601	PN3940	60 days	Vehicle Code (75 Pa.C.S.)—operating privilege disqualification, revocation or suspension and testing for amount of alcohol or controlled substance
041	May 11	HB0750	PN0841	60 days	Judicial Code (42 Pa.C.S.)—compulsory arbitration
042	May 11	HB0983	PN3880	Immediately*	Commerce and Trade (12 Pa.C.S.)—Infrastructure and Facilities Improvement Program approvals and film production grant program
043	May 11	HB2319	PN4052	60 days	Prohibition of Illegal Alien Labor on Assisted Projects Act—enactment
044	May 11	SB1081	PN1512	Immediately	Military Affairs (51 Pa.C.S.)—educational assistance program eligibility and limitations
045	May 12	SB0999	PN1790	Immediately*	Pennsylvania Election Code—omnibus amendments
2006 APPROPRIATION ACTS ENACTED—ACT 001A					
001A	May 11	HB2380	PN3942	Immediately	General Appropriation Act of 2005—omnibus amendments

* denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 06-919. Filed for public inspection May 26, 2006, 9:00 a.m.]

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 4]

Amendments to Pa.Rs.Crim.P. 403, 409, 414, 424
and 454

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 403, 409, 414, 424, and 454 to (1) permit delay of sentencing in summary cases for determination of intermediate punishment status and (2) to provide procedures for entry of guilty pleas in summary cases involving sentences of imprisonment. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

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

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

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 100
Mechanicsburg, PA 17055
fax: (717) 795-2106
e-mail: criminal.rules@pacourts.us

no later than Friday, June 16, 2006.

By the Criminal Procedural Rules Committee

NICHOLAS J. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART B. Citation Procedures

Rule 403. Contents of Citation.

(A) Every citation shall contain:

(1) the name and address of the organization, and badge number, if any, of the law enforcement officer;

(2) the name and address of the defendant;

(3) a notation if the defendant is under 18 years of age and whether the parents or guardians have been notified of the charge(s);

(4) the date and time when the offense is alleged to have been committed, provided however, if the day of the week is an essential element of the offense charged, such day must be specifically set forth;

(5) the place where the offense is alleged to have been committed;

(6) a citation of the specific section and subsection of the statute or ordinance allegedly violated, together with a summary of the facts sufficient to advise the defendant of the nature of the offense charged;

(7) the date of issuance;

(8) a notation if criminal laboratory services are requested in the case;

(9) a verification by the law enforcement officer that the facts set forth in the citation are true and correct to the officer's personal knowledge, or information and belief, and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

(B) The copy delivered to the defendant shall also contain a notice to the defendant:

(1) that the original copy of the citation will be filed before the issuing authority of the magisterial district designated in the citation, the address and number of which shall be contained in the citation; and

(2) that the defendant shall, within 10 days after issuance of the citation:

(a) plead not guilty by:

(i) notifying the proper issuing authority in writing of the plea and forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law. If the amount is not specified, the defendant shall forward the sum of \$50 as collateral for appearance at trial; or

(ii) appearing before the proper issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require. If the defendant cannot afford to pay the collateral specified in the citation or the \$50, the defendant must appear before the issuing authority to enter a plea; or

(b) plead guilty by:

(i) notifying the proper issuing authority in writing of the plea and forwarding an amount equal to the fine and costs when specified in the statute or ordinance, the amount of which shall be set forth in the citation; or

(ii) appearing before the proper issuing authority for the entry of the plea and imposition of sentence, when the fine and costs are not specified in the citation **or when required to appear pursuant to Rule 409(B)(3), 414(B)(3), or 424(B)(3)**; or

(c) appear before the proper issuing authority to request consideration for inclusion in an accelerated [**dispositive**] rehabilitative **disposition** program;

(3) that all checks forwarded for fine and costs or for collateral shall be made payable to the magisterial district number set forth on the citation;

(4) that failure to respond to the citation as provided above within the time specified:

(a) shall result in the issuance of a summons when a violation of an ordinance or any parking offense is charged, or when the defendant is under 18 years of age, and in all other cases shall result in the issuance of a warrant for the arrest of the defendant; and

(b) shall result in the suspension of the defendant's driver's license when a violation of the Vehicle Code is charged;

(5) that failure to indicate a plea when forwarding an amount equal to the fine and costs specified on the citation shall result in a guilty plea being recorded; and

(6) that, if the defendant is convicted or has pleaded guilty, the defendant may appeal within 30 days for a trial de novo.

Comment

A law enforcement officer may prepare, verify, and transmit a citation electronically. The law enforcement officer contemporaneously must give the defendant a paper copy of the citation containing all the information required by this rule. Nothing in this rule is intended to require the defendant to sign the citation.

Paragraph (A)(3) requires the law enforcement officer who issues a citation to indicate on the citation if the defendant is a juvenile and, if so, whether the juvenile's parents were notified. See the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

Paragraph (A)(8) requires the law enforcement officer who issues a citation to indicate on the citation whether criminal laboratory services are requested in the case. This information is necessary to inform the district justice that, in addition to any fines, restitution, or costs, the district justice may be required to sentence the defendant to pay a criminal laboratory user fee. See 42 Pa.C.S. § 1725.3 which requires that a defendant be sentenced to pay a criminal laboratory user fee in certain specified cases when laboratory services are required to prosecute the case.

[If the law enforcement officer specifies the fine and costs in the citation, the defendant may plead guilty by mail.] As provided in paragraph (D)(2)(b)(i), the defendant may plead guilty by mail only when fine and costs are set forth in the citation. The law enforcement officer may specify the fine and costs in the citation only when the penalty provided by law does not include a possible sentence of imprisonment and the statute or ordinance fixes the specific amount for the fine. [Consequently, if by statute a sentence of imprisonment is authorized for the offense(s) charged, such sentence may only be imposed if neither the fine nor costs is specified in the citation and the defendant therefore must personally appear before the issuing authority.]

Paragraph (B)(4)(a) provides for notice to the defendant who is under 18 years of age that a summons will be issued if the defendant fails to respond to the citation.

Paragraph (B)(4)(b) provides notice to the defendant that his or her license will be suspended if the defendant fails to respond to the citation or summons within the time specified in the rules. See 75 Pa.C.S. § 1533.

Paragraph (B)(5) provides a uniform procedure for handling cases in which a defendant returns the fines and costs but fails to sign the citation and, therefore, does not indicate a plea. See Rule 407.

Paragraph (B)(6) was amended in 2000 to make it clear in a summary criminal case that the defendant may file an appeal for a trial de novo following the entry of a guilty plea. See Rule 460 (Notice of Appeal).

It is intended that the notice to the defendant, required by paragraph (B) to be on the copy of the citation delivered to the defendant, shall be simply worded so the plain meaning of the notice is easily understandable.

For consequences of defects in a citation, see Rule 109.

With regard to the "proper" issuing authority as used in these rules, see Rule 130.

See Rule 401 for procedures for instituting cases in which there is a parking violation. When the parking violation information is electronically transmitted as permitted by Rule 401(A), only a summons is issued as provided in Rule 411.

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; Comment revised February 6, 2003, effective July 1, 2003; amended August 7, 2003, effective July 1, 2004; **amended , 2006, effective , 2006.**

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the June 3, 1993 amendments published with the Court's Order at 23 Pa.B. 2809 (June 19, 1993).

Report explaining the July 25, 1994 amendments published with Court's Order at 24 Pa.B. 4068 (August 13, 1994).

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, 2000 amendments concerning appeals from guilty pleas published with the Court's Order at 30 Pa.B. 1509 (March 18, 2000).

Final Report explaining the February 6, 2003 Comment revisions cross-referencing Rule 401 concerning electronic transmission of parking citations published with the Court's Order at 33 Pa.B. 973 (February 22, 2003).

Final Report explaining the August 7, 2003 amendments to paragraph (B)(4)(a) concerning juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Report explaining the proposed amendments to paragraph (B)(2)(b)(ii) and revisions to the Comment published at 36 Pa.B. 2511 (May 27, 2006).

PART B(1). Procedures When Citation is Issued to Defendant

Rule 409. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the citation; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the citation **or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).**

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of fine and costs specified in the citation.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain, and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, **or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment;** and

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs.

Comment

The rule was amended in 2006 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and **[(b)](B)**. The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2006 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303. **[For procedure upon default in payment of fine or costs, see Rule 456.]**

For procedure upon default in payment of fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461, and 462.

For procedures regarding arrest warrants, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules 121 and 122.

Official Note: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule **[430] 75**. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 409 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; **amended , 2006, effective , 2006.**

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

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 August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Report explaining the proposed amendments to paragraphs (B)(3) and (C)(4) published at 36 Pa.B. 2511 (May 27, 2006).

Comment

PART B(2). Procedures When Citation Failed

Rule 414. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the summons **or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).**

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of fine and costs specified in the summons.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain, and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2) the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, **or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment;** and

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs.

The rule was amended in 2006 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing [**is**] in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2006 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

For procedure upon default in payment of fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461, and 462.

For arrest warrant procedures, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules [**122 and 121**] **121 and 122.**

Official Note: Previous rule, originally numbered Rule 136, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 64 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule [**455**] **84.** Present Rule 64 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 414 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; **amended** , **2006 effective** , **2006.**

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 [(9/15/90)] (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

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 August 7, 2002 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Report explaining the proposed amendments to paragraphs (B)(3) and (C)(4) published at 36 Pa.B. 2511 (May 27, 2006).

PART C. Procedures in Summary Cases When Complaint Filed

Rule 424. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the summons **or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).**

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of fine and costs specified in the summons.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain, and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, **or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment;** and

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs.

Comment

The rule was amended in 2006 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2006 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

For procedure upon default in payment of fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461, and 462.

For procedures regarding arrest warrants, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules [122 and 121] 121 and 122.

Official Note: Previous rule, originally numbered Rule 140, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 69 September 18, 1973, effective January 1, 1974; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1,

1986, and not replaced in these rules. Present Rule 69 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 424 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; **amended** , **2006 effective** , **2006**.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

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 August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Report explaining the proposed amendments to paragraphs (B)(3) and (C)(4) published at 36 Pa.B. 2511 (May 27, 2006).

PART E. General Procedures in Summary Cases

Rule 454. Trial in Summary Cases.

(A) Immediately prior to trial in a summary case:

(1) the defendant shall be advised of the charges in the citation or complaint;

(2) if, in the event of a conviction, there is a reasonable likelihood of a sentence of imprisonment or probation, the defendant shall be advised of the right to counsel and

(a) upon request, the defendant shall be given a reasonable opportunity to secure counsel; or

(b) if the defendant is without financial resources or is otherwise unable to employ counsel, counsel shall be assigned as provided in Rule 122; and

(3) the defendant shall enter a plea.

(B) If the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the issuing authority shall try the case in the same manner as trials in criminal cases are conducted in the courts of common pleas when jury trial has been waived; however, in all summary cases arising under the Vehicle Code or local traffic ordinances, the law enforcement officer observing the defendant's alleged offense may, but shall not be required to, appear and testify against the defendant. In no event shall the failure of the law enforcement officer to appear, by itself, be a basis for dismissal of the charges against the defendant.

(C) The attorney for the Commonwealth may appear and assume charge of the prosecution. When the violation of an ordinance of a municipality is charged, an attorney representing that municipality, with the consent of the attorney for the Commonwealth, may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

(D) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, **except as provided in paragraph (E).**

(E) If the defendant may be sentenced to intermediate punishment, the issuing authority may delay imposing sentence pending confirmation of the defendant's eligibility for intermediate punishment.

(F) At the time of sentencing, the issuing authority shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state the date on which payment is due. If the defendant is without the financial means to pay the amount in a single remittance, the issuing authority may provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal within 30 days for a trial de novo in the court of common pleas, and that if an appeal is filed:

(a) the execution of sentence will be stayed and the issuing authority may set bail or collateral; and

(b) the defendant must appear for the de novo trial or the appeal may be dismissed;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period, and advise that, if the defendant fails to appear on that date, a warrant for the defendant's arrest will be issued; and

(4) issue a written order imposing sentence, signed by the issuing authority. The order shall include the information specified in paragraphs (E)(1) through (E)(3), and a copy of the order shall be given to the defendant.

Comment

No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U. S. 654 (2002), *Scott v. Illinois*, 440 U. S. 367 (1979), and *Argersinger v. Hamlin*, 407 U. S. 25 (1972). See Rules 121 and 122.

The affiant may be permitted to withdraw the charges pending before the issuing authority. See Rule 457 (Withdrawal of Charges in Summary Cases).

Paragraph [**(E)**] **(F)**(2)(b) is included in the rule in light of *North v. Russell*, 427 U. S. 328 (1976). For the procedures for taking, perfecting, and handling an appeal, see Rules 460, 461, and 462.

As the judicial officer presiding at the summary trial, the issuing authority controls the conduct of the trial generally. When an attorney appears on behalf of the Commonwealth or on behalf of a municipality pursuant to paragraph (C), the prosecution of the case is under the control of that attorney. When no attorney appears at the summary trial on behalf of the Commonwealth or a municipality, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Although the scheduling of summary trials is left by the rules to the discretion of the issuing authority, it is intended that trial will be scheduled promptly upon receipt of a defendant's plea or promptly after a defendant's arrest. When a defendant is incarcerated pending a summary trial, it is incumbent upon the issuing authority to schedule trial for the earliest possible time.

When the defendant was under 18 years of age at the time of the offense, if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority may not conduct the trial, but must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

Under paragraph [(E)](F)(2)(a), the issuing authority should explain to the defendant that if an appeal is filed, any sentence, including imprisonment, fines, or restitution, will be stayed.

When setting the specific date for the defendant to appear for execution of a sentence of imprisonment pursuant to paragraph [(E)](F)(3), the issuing authority should set the earliest possible date for sentencing after the appeal period expires.

When a defendant has waived the stay of the sentence of imprisonment pursuant to Rule 461, the issuing authority may fix the commencement date of the sentence to be the date of conviction, rather than after the 30-day stay period has expired. The defendant, of course, still would be able to pursue an appeal under Rules 460-462.

For the statutory authority to sentence a defendant to pay a fine, see 42 Pa.C.S. § 9726.

For the statutory authority to sentence a defendant to pay restitution, see 42 Pa.C.S. § 9721(c) and 18 Pa.C.S. § 1106(c). See also 18 Pa.C.S. § 1106(c)(2)(iv), which prohibits the court from ordering the incarceration of a defendant for failure to pay restitution if the failure results from the defendant's inability to pay.

Before imposing both a fine and restitution, the issuing authority must determine that the fine will not prevent the defendant from making restitution to the victim. See 42 Pa.C.S. §§ 9726(c)(2) and 9730(b)(3).

Paragraph (E) permits an issuing authority to delay imposing sentence in summary cases in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing.

See Rule 456 for the procedures when a defendant defaults in the payment of restitution, fines, or costs.

A defendant should be encouraged to seek an adjustment of a payment schedule for restitution, fines, or costs before a default occurs. See Rule 456(A).

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; amended March 26, 2004, effective July 1, 2004; **amended** , **2006, effective** , **2006.**

Committee Explanatory Reports:

Final Report explaining the October 28, 1994 amendments published with the Court's Order at 24 Pa.B. 5841 (November 26, 1994).

Final Report explaining the April 18, 1997 Comment revision cross-referencing new Rule 87 published with the Court's Order at 27 Pa.B. 2119 (May 3, 1997).

Final Report explaining the October 1, 1997 amendments to paragraph (E) and the Comment concerning the procedures at the time of sentencing published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).

Final Report explaining the February 13, 1998 Comment revision concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

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 February 28, 2003 amendments published with the Court's Order at [32] 33 Pa.B. 1326 (March 15, 2003).

Final Report explaining the August 7, 2003 changes to the Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Final Report explaining the March 26, 2004 changes concerning *Alabama v. Shelton* published with the Court's Order at 34 Pa.B. 1929 (April 10, 2004).

Report explaining the proposed amendments adding paragraph (E) concerning intermediate punishment published at 36 Pa.B. 2511 (May 27, 2006).

REPORT

Amendments to Pa.Rs.Crim.P. 403, 409, 414, 424, and 454

Summary Guilty Pleas

BACKGROUND

The proposed amendments Pa.Rs.Crim.P. 403 (Contents of Citation), 409 (Guilty Pleas), 414 (Guilty Pleas), 424 (Guilty Pleas), and 454 (Trial in Summary Cases) are intended to address two issues regarding the entry of guilty pleas in summary cases: (1) the timing of sentencing in order to determine a defendant's eligibility for intermediate punishment; and (2) procedures for the entry of guilty pleas in cases in which there is a likelihood of a sentence of imprisonment or a mandatory sentence of imprisonment.

Intermediate Punishment

The first issue is whether the Criminal Rules should provide that sentencing may be delayed to determine whether or not a defendant is eligible for intermediate punishment (IP). Specifically, under 42 Pa.C.S. § 9804 and § 9763, defendants may be sentenced to intermediate punishment for certain offenses, including violation of 75 Pa.C.S. § 1543(b) (driving with a license under a DUI-related suspension), but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment.¹ Often this information will not be available

¹ Under 42 Pa.C.S. § 9804 (County Intermediate Punishment Programs), a defendant punished under 75 Pa.C.S. § 1543(b) may only be admitted to an intermediate punishment program if he or she undergoes a drug or alcohol assessment and is determined to be in need of drug or alcohol treatment. This restriction is also contained in 42 Pa.C.S. § 9763 (Sentence of County Intermediate Punishment), which states that a defendant who is to be sentenced for a Section 1543(b) offense "may only

to the issuing authority at sentencing, especially when the defendant appears personally to enter a guilty plea.

Presently, Rules 409(C)(4), 414(C)(4), and 424(C)(4) require the sentence to be imposed at the time that the plea is entered with no provision for delaying imposition of sentence to determine eligibility for intermediate punishment.

The Committee believes that the rules should permit the issuing authority the flexibility in the timing of sentencing to determine eligibility.

Pleading Guilty by Mail in Cases with Sentences of Imprisonment

The second issue regards the situation that arises when a police officer cites a defendant for summary offenses, with a possible sentence of imprisonment, including a charge under 75 Pa.C.S. § 1543(b), which carries a mandatory sentence of imprisonment. Communications with the Committee point out that there have been occasions in which the officer charges an offense that carries a likelihood of a sentence of imprisonment and includes on the citation the total of the fines and costs. Because the fines and costs have been specified on the citation, a defendant potentially may plead guilty by mail, not realizing that a sentence of imprisonment should be imposed since Rules 409(a)(2), 414(A)(2), and 424 (a)(2) only require an appearance if the fines and costs are not specified. The Comment to Rule 403 contributes to the confusion by providing:

If the law enforcement officer specifies the fine and costs in the citation, the defendant may plead guilty by mail. The officer may specify the fine and costs only when the penalty provided by law does not include imprisonment and the statute or ordinance fixes the specific amount for the fine. Consequently, if by statute a sentence of imprisonment is authorized for the offense(s) charged, such sentence may only be imposed if neither the fine nor costs is specified in the citation and the defendant therefore must personally appear before the issuing authority.

Related to this issue is the question of how to handle the situation in which a defendant is charged with an offense that carries a possible jail sentence but to which he or she pleads guilty by mail because the police officer has listed the amount of the fines and costs on the citation. Under the Rule 403 Comment language, a defendant in that situation could not receive confinement. The Committee believes that this not only frustrates the statutory intent but also is a usurpation of the judicial function of the issuing authority by the police.

II. DISCUSSION OF THE PROPOSED RULE CHANGES

To address the first issue, the Committee is proposing that the summary guilty plea rules, Rules 409, 414, and 424, and Rule 454 be modified to permit an issuing authority to delay the guilty plea/sentencing proceeding to investigate those cases in which intermediate punishment might be available to the defendant. Paragraph (C)(4) of Rules 409, 414, and 424 and Rule 454(E) would be amended by the addition of language authorizing the issuing authority to delay sentencing for this purpose and the Comments would provide a further explanation

To address the second issue, the Committee is proposing a modification to the summary guilty plea rules to provide that an issuing authority must not accept a guilty

plea that is mailed in when the offense charged has a mandatory sentence of incarceration and that an issuing authority has the discretion to not accept guilty pleas in those cases when there is a possible sentence of incarceration. Paragraphs (B)(3) of Rules 409, 414, and 424 would be amended to prohibit the issuing authority from accepting a mailed in guilty plea in these cases. The issuing authority would also be required to notify the defendant of the rejection of the guilty plea by mail, to appear in person to enter the plea, and of the right to counsel, and to notify the affiant that the guilty plea by mail had not been accepted. The Comments to the guilty plea rules would provide additional guidance about this new procedure.

The Committee is also recommending that Rule 403(B)(2)(b)(ii) include a cross-reference to the new provisions in Rules 409(B)(3), 414(B)(3), and 424(B)(3) concerning acceptance of guilty pleas by mail and a revision of the Rule 403 Comment to remove the troublesome language that the possibility of a jail sentence could be precluded by the police officer listing fines and costs on the citation.

[Pa.B. Doc. No. 06-920. Filed for public inspection May 26, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Local Rules of Criminal Procedure; No. 335 Misc. of 2006

Order

Beaver County L.R.Crim.P. No. 117 is adopted effective August 1, 2006. The Court Administrator shall:

(1) file seven certified copies of this Order and the following rule with the Administrative Office of Pennsylvania Courts;

(2) distribute 2 certified copies of this Order and the attached rule and a computer diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(3) file one certified copy of this Order and the following rule with the Criminal Procedural Rules Committee of the Pennsylvania Supreme Court.

The Clerk of Courts shall keep a copy of the following rule available for public inspection and copying pursuant to Pa.R.Crim.P. No. 105(c)(5).

By the Court

ROBERT E. KUNSELMAN,
President Judge

RULE OF CRIMINAL PROCEDURE

L.R. 117. Coverage Magisterial District Judges

(1) All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays from 9:00 A.M. to 5:00 P.M. Prevailing time.

(2) Magisterial District Judges shall be available twenty-four hours per day, every day of the calendar year to provide continuous coverage for the issuance of search warrants, pursuant to Pa.R.Crim.P. No. 203, arrest war-

be sentenced to county intermediate punishment after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments)."

rants pursuant to Pa.R.Crim. No. 513, requests to accept bail, and emergency orders under the Protection from Abuse Act.

The Magisterial District Judges shall satisfy this rule by remaining on call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the Court Administrator. The schedule shall be distributed and publicized pursuant to past practice.

(3) Magisterial District Judges shall be available during non-regular business hours each day at 6:00 A.M., 2:00 P.M. and 10:00 P.M. for the purpose of providing the services set forth in Pa.R.Crim.P. No. 117(A)(2)(a), (b), (c) and (d). The availability of each Magisterial District Judge shall be on a rotating basis pursuant to the same schedule proposed pursuant to subdivision (2) and shall be publicized pursuant to past practice.

(4) Magisterial District Judges shall be available during normal business hours for all other business.

(5) Each Magisterial District Judge shall be available to preside over preliminary hearings at the Beaver County Courthouse, or such other location that may be established for "Central Court," on a rotating basis pursuant to a schedule prepared by the Court Administrator.

(6) This rule shall be effective August 1, 2006 provided the requirements of Pa.R.Crim.P. No. 105(c) have been complied with.

[Pa.B. Doc. No. 06-921. Filed for public inspection May 26, 2006, 9:00 a.m.]

BERKS COUNTY

Rules of Court; No. 98-8009 Prothonotary; No. 1-AD-2006 Clerk of Courts

Order

And Now, this 26th day of April, 2006, it is hereby *Ordered* and *Decreed* that the following local rule, Rule 1920.42 Filing of Praecepta to Transmit Record, in the 23rd Judicial District composed of Berks County is hereby amended as follows:

Rule 1920.42 Filing of Praecepta to Transmit Record

(c) An administrative fee of \$85.00, in addition to any fees imposed by the Commonwealth, shall be paid upon the filing of the praecipe to transmit the record.

All other provisions of Berks County Rule of Civil Procedure 1920.42 shall remain in full force and effect. Said amendment to become effective thirty days after the publication of the amendment in the *Pennsylvania Bulletin*.

The District Court Administrator is *Ordered* and *Directed* to:

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

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

3. File one (1) certified copy with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania.

4. File one (1) certified copy with the Berks County Law Library.

5. Keep continuously available for public inspection and copying, one (1) copy in the Office of the Prothonotary of Berks County.

By the Court

ARTHUR E. GRIM,
President Judge

[Pa.B. Doc. No. 06-922. Filed for public inspection May 26, 2006, 9:00 a.m.]

CARBON COUNTY

Adoption of Local Rules of Civil Procedure 1910.10 Alternate Hearing Procedures and 1910.12 Office Conference, Hearing, Record, Exceptions, Order; No. 1 DR 2006

Amended Administrative Order No. 11-2006

And Now, this 12th day of May, 2006, pursuant to Pennsylvania Rule of Civil Procedure 1910.10, it is hereby

Ordered and *Decreed* that, effective July 1, 2006, the Carbon County Court of Common Pleas hereby *Adopts* Local Rule of Civil Procedure CARB.R.C.P. 1910.10 governing alternative hearing procedures in Domestic Relations matters and Local Rule of Civil Procedure CARB.R.C.P. 1910.12 governing the office conference, hearing, record, exceptions and order in Domestic Relations matters.

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

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

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

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

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

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

6. Keep continuously available for public inspection a copy of the Order in the Domestic Relations' Office.

By the Court

ROGER N. NANOVIC,
President Judge

RULE 1910.10—ALTERNATE HEARING PROCEDURES

Pursuant to Pennsylvania Rule of Civil Procedure 1910.10, the Carbon County Court of Common Pleas hereby adopts the alternative hearing procedures set forth in Pennsylvania Rule of Civil Procedure 1910.12.

RULE 1910.12—OFFICE CONFERENCE. HEARING. RECORD. EXCEPTIONS. ORDER

When Exceptions are filed to the report of a Hearing Officer, the party filing the exceptions shall, within ten (10) days of the filing of the Hearing Officer's report, arrange for the transcribing of the testimony of the hearing before the Hearing Officer in accordance with Carbon County Local Rule of Judicial Administration 5000.5 for filing with the Court. Said party shall pay the stenographer for the transcript in accordance with Carbon County Local Rule of Judicial Administration 5000.7. Absent good cause shown, failure of the excepting party to arrange for the transcript and pay the cost thereof, as provided herein, shall result in the dismissal of said Exceptions by the Court upon motion.

[Pa.B. Doc. No. 06-923. Filed for public inspection May 26, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated May 15, 2006, Marie Elena Klarman is Suspended on Consent from the Bar of this Commonwealth for a period of one year and one day,

retroactive to January 16, 2006. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 06-924. Filed for public inspection May 26, 2006, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Jose Matos Quinones having been suspended for a period of ninety days from the practice of law before the Board of Immigration Appeals, the Immigration Courts and the Department of Homeland Security by Order of the Board of Immigration Appeals dated September 16, 2005, the Supreme Court of Pennsylvania issued an Order dated May 15, 2006, suspending Jose Matos Quinones from the practice of law in this Commonwealth for a period of ninety days. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 06-925. Filed for public inspection May 26, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 4—ADMINISTRATION

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CH. 241]

Preliminary Provisions

The State Employees' Retirement Board (Board) is deleting the definition of "class of service multiplier" in § 241.1 (relating to definitions). The definition is no longer needed, as it has been outmoded by changes in the benefit structure of the State Employees' Retirement System (System). Notice of proposed rulemaking was published at 35 Pa.B. 4923 (September 3, 2005).

A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101 (717) 787-9657 or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101 (717) 787-7317.

C. *Statutory Authority*

This proposed rulemaking is being made under 71 Pa.C.S. § 5902(h) (relating to administrative duties of the board).

D. *Background and Purpose*

Prior to March 1, 1974, 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code) (Retirement Code) contained various benefit formulas which applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit. The definition proposed to be deleted clarified the System's determination that persons who entered State service after March 1, 1974, would not be able to have their post-1974 retirement benefits calculated pursuant to earlier law. Subsequent amendments to the Retirement Code removed the various class of service multipliers and substituted a Class "A" retirement benefit formula.

The definition is unnecessary, outmoded and irrelevant. Deleting this definition will avoid confusion on the part of members of the System and its personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

On November 2, 2005, the Independent Regulatory Review Commission (IRRC) suggested that the Board replace the definition with a cross reference to the definition of the term "class of service multiplier" found in 71 Pa.C.S. § 5102 (relating to definitions).

After thoughtful consideration of IRRC's suggestion, the Board respectfully declines to replace the definition with a cross reference to 71 Pa.C.S. § 5102. That section contains a complete list of the System's classes of service and their respective benefit multipliers. It is the Board's opinion that the cross reference to 71 Pa.C.S. § 5102 will not add anything.

E. *Benefits, Costs and Compliance*

Benefits

This final-form rulemaking benefits the System and its members. This definition is unnecessary, outmoded and irrelevant. Repealing this definition will avoid confusion on the part of members of System and the agency's personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposal.

Compliance Costs

The final-form rulemaking will not impose any additional compliance costs on state employees.

F. *Sunset Review*

A sunset review date has not been established.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2005, the Board submitted a copy of the proposed amendment to IRRC and the Chairpersons of the House State Government Committee and the Senate Finance Committee. In addition to submitting the proposed amendment, the Board provided IRRC and the Committees with a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form rulemaking was deemed approved by the House and Senate Committees on April 18, 2006. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), the final-form rulemaking was approved by IRRC effective April 19, 2006.

H. *Public Comments*

The Board has received no public comments.

I. *Findings*

The Board finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Board in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

J. *Order*

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

(a) The regulations of the Board, 4 Pa. Code Chapter 241, are amended by amending § 241.1 to read as set forth at 35 Pa.B. 4923.

(b) The amendment shall be submitted to the Office of Attorney General for approval as to legality as required by law.

(c) The Secretary of the Board shall certify this order and 35 Pa.B. 4923 and deposit them with the Legislative Reference Bureau as required by law.

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

ERIC HENRY,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2251 (May 6, 2006).)

Fiscal Note: Fiscal Note 31-3 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-926. Filed for public inspection May 26, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CH. 243]

Membership, Credited Service and Eligibility for Benefits

The State Employees' Retirement Board (Board) has deleted § 243.8. The section is no longer needed, as it has been outmoded by changes in the benefit structure of the State Employees' Retirement System (System). Notice of proposed rulemaking was published at 35 Pa.B. 4922 (September 3, 2005).

A. *Effective Date*

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA 17108-1147, (717) 787-9657 or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 787-7317.

C. *Statutory Authority*

This final-form rulemaking is being made under 71 Pa.C.S. § 5902(h) (relating to administrative duties of the board)

D. *Background and Purpose*

Section 234.8 listed the classes of service closed to new members as of March 1, 1974. Before that date, 71 Pa.C.S. §§ 5101—5956 (relating to State Employee's Retirement Code) (Retirement Code) contained various benefit formulas that applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit.

By rescinding § 234.8, the System desires to remove a regulation from the *Pennsylvania Code* that has been rendered obsolete and irrelevant due to subsequent changes to the Board's enabling legislation. More than 30 years have passed since the classes of membership referenced in the regulation were closed to new members; therefore, there are few, if any, Commonwealth employees subject to the regulation.

On November 2, 2005, the Independent Regulatory Review Commission (IRRC) suggested that the Board retain both subsections of this regulation because there are still active members of System who have service

credit in Classes C, D-3 and E-2. After thoughtful consideration of IRRC's comment, the Board has decided not to adopt the IRRC's suggestion.

The Board acknowledges that each of the categories contain active members of the System who are still employed and making contributions to the System. However, a full listing of classes of service together with their respective benefit multipliers is contained in 71 Pa.C.S. § 5102 (relating to definitions). Additionally, changes in both statutory and case law since the original promulgation of this regulation have rendered this regulation obsolete. As currently promulgated, the regulation presents an inaccurate description of the System's benefit structure and therefore should be rescinded.

E. *Benefits, Costs and Compliance*

Benefits

This final-form rulemaking benefits the System and its members. Section 248.8 is unnecessary, outmoded and irrelevant. Rescinding this section will avoid confusion on the part of members of the System and the Board's personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposal.

Compliance Costs

The final-form rulemaking is not expected to impose any additional compliance costs on State employees.

F. *Sunset Review*

A sunset review date has not been established.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2005, the Board submitted a copy of the proposed amendment to IRRC and the Chairpersons of the House State Government Committee and the Senate Finance Committee. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form rulemaking was deemed approved by the House and Senate Committees on April 18, 2006. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), the final-form rulemaking was approved by IRRC on April 19, 2006.

H. *Public Comments*

The Board has received no public comments.

I. *Findings*

The Board finds that:

(1) Public notice of intention to adopt the administrative amendment was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment is necessary and appropriate for the administration of the Retirement Code.

J. Order

The Board, acting under the Retirement Code and the Commonwealth Documents Law, including particularly those sections specified in the several authority sections specified with respect to each provision of the rules and procedures of the System modified by this order, orders:

(a) The regulations for the Board, 4 Pa. Code Chapter 243, are amended by deleting § 243.8 to read as set forth at 35 Pa.B. 4922.

(b) The amendment shall be submitted to the Office of Attorney General for approval as to legality as required by law.

(c) The Secretary of the Board shall certify this order and 35 Pa. B. 4922 and deposit them with the Legislative Reference Bureau as required by law.

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

ERIC HENRY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 36 Pa.B. 2251 (May 6, 2006).)

Fiscal Note: Fiscal Note 31-4 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-927. Filed for public inspection May 26, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD
[4 PA. CODE CH. 249]
Administrative Duties of the Board

The State Employees' Retirement Board (Board) amended § 249.2 (relating to the administrative duties of the Board) by deleting subsection (a) dealing with the inspection of minutes of the Board's meetings. This subsection has been rendered obsolete. Notice of proposed rulemaking was published at 35 Pa.B. 5013 (September 10, 2005).

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101 (717) 787-9657 or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA, 17101, (717) 787-7317.

C. Statutory Authority

This final-form rulemaking is being made under 71 Pa.C.S. § 5902(h) (relating to administrative duties of the Board).

D. Background and Purpose

The Board is responsible for implementing the retirement benefit program outlined in 71 Pa.C.S. Part XXV (relating to Public Employees' Retirement Code) (Retirement Code). Section 249.2(a) provides that the minutes of the Board's meetings will be available for public inspection at the Board's offices during normal working hours. Subsection (a) further provides that the minutes will be

the only records made available for public inspection. This final-form rulemaking will remove a regulation that directly conflicts with the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law. The deletion of subsection (a) removes an outmoded and unenforceable regulation that directly conflicts with the Right-to-Know Law.

E. Benefits, Costs and Compliance

Benefits

This final-form rulemaking benefits the System and its members. This provision was unnecessary, outmoded and irrelevant. Repealing this provision will avoid confusion on the part of members of the System and its personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no additional costs to the Commonwealth, its citizens or State employees associated with this proposal.

Compliance Costs

This final-form rulemaking is not expected to impose any additional compliance costs on State employees.

F. Sunset Review

A sunset review date has not been established.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 25, 2005, the Board submitted a copy of the proposed amendment to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate Finance Committee. In addition to submitting the proposed amendment the Board has provided IRRC and the Committees with a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

On November 10, 2005, IRRC advised the Board that it had no objections, comments or recommendations to offer on the proposed regulation.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form rulemaking was deemed approved by the House and Senate Committees on April 18. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective April 19, 2006.

H. Public Comments

The Board has received no public comments.

I. Findings

The Board finds that:

(1) Public notice of intention to adopt the administrative amendment was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law (CDL) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment is necessary and appropriate for the administration of the Retirement Code.

J. Order

The Board, acting under the Retirement Code and the CDL, including particularly those sections specified in the several authority sections herein specified with respect to

each provision of the rules and procedures of the System modified by this order, orders:

(a) The regulations for the Board, 4 Pa. Code Chapter 249, are amended by amending § 249.2 to read as set forth at 35 Pa.B. 5013.

(b) The amendment shall be submitted to the Office of Attorney General for approval as to legality as required by law.

(c) The Secretary of the Board shall certify this order and 35 Pa.B. 5013 and deposit them with the Legislative Reference Bureau as required by law.

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

ERIC HENRY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2251 (May 6, 2006).)

Fiscal Note: Fiscal Note 31-5 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-928. Filed for public inspection May 26, 2006, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHARMACY [49 PA. CODE CH. 27] Technology and Automation

The State Board of Pharmacy (Board) amends §§ 27.1, 27.14 and 27.16 (relating to definitions; supplies; and construction and equipment requirements) and adds §§ 27.201—27.204 (relating to technology and automation) to read as set forth in Annex A. The final-form rulemaking adds definitions, updates §§ 27.14 and 27.16 and adds sections for electronically transmitted prescriptions, computerized recordkeeping systems, central fill pharmacies and automated medication systems.

Notice of proposed rulemaking was published at 34 Pa.B. 3146 (June 19, 2004). Publication was followed by a 30-day public comment period. The Board received comments from the Department of Health (Department), Cardinal Health, Diamond Pharmacy Services, WebMD, Rx.com, Neighbor Care and the Pennsylvania Society of Health-System Pharmacists (PSHP). The House Professional Licensure Committee (HPLC) submitted seven comments to the proposed rulemaking. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted seven comments to the proposed rulemaking. The Board discussed the comments at its August 17, 2004, and September 21, 2004, public meetings. The Board submitted the final rulemaking package to the SCP/PLC, the HPLC and IRRC on November 28, 2005. On December 12, 2005, the Board withdrew the final rulemaking package to address concerns raised by HPLC.

Summary of Comments and Responses to Proposed Rulemaking

§ 27.1 Definitions.

HPLC recommended revision of the definition of “automated medication system” and suggested alternate language. The Board has amended the definition accordingly. IRRC recommended adding a definition of the term “automatic counting device” to the final-form rulemaking. The Board has added a definition of “automatic counting device” as IRRC suggested. The PSHP and IRRC queried whether the definition of “automated medication system” would prohibit the use of automated compounding systems from a central location to fill or prepare intravenous medications or the batching of products for use in a centralized pharmacy. An automated compounding system is not included in the definition of “automated medication system.” Therefore, the definition would not prohibit the use of automated compounding systems.

The HPLC and IRRC recommended rewriting the definition of “originating pharmacy” so that a licensee can clearly determine when a central fill pharmacy or a central processing center is an “originating pharmacy.” The Board has amended the definition accordingly and has also amended the definitions of “central fill pharmacy” and “delivering pharmacy” to obviate any confusion between the terms used to describe pharmacies in the centralized prescription processing regulation.

IRRC commented that the definition of “prescription” should be amended to include electronic orders. The Board has amended the final-form rulemaking accordingly.

IRRC next questioned what a central processing center does. A central processing center is not a fully functional pharmacy in that it is not a place where drugs are dispensed. A central processing center is a facility that performs the refill authorizations, counseling, interventions, billing or other functions related to the practice of pharmacy. This facility would generally consist of an office and a computer and would only perform cognitive functions, not filling and labeling. It is important to license this facility as a pharmacy to give the Board jurisdiction over the facility itself, as the functions performed at the facility are integral to the practice of pharmacy.

After the final rulemaking was submitted, the HPLC raised additional concerns regarding the central processing center. HPLC was concerned that the Board was creating a new type of license in licensing a central processing center as a pharmacy. The Board notes that it is not creating a new type of license. A central processing center will be issued the same pharmacy permit that all pharmacies are issued. To address the HPLC’s concerns, the Board has amended the final-form rulemaking to remove the confusing language. The Board has further amended the definition of “central processing center” to clarify that a central processing center does not dispense drugs. A central processing center is used solely for processing information related to the practice of pharmacy.

The PSHP asked whether the central pharmacy and a satellite pharmacy in an institution would be designated as one of the defined pharmacy terms for centralized prescription processing. The pharmacy terms (“originating pharmacy,” “central fill pharmacy,” “central processing center” and “delivering pharmacy”) only pertain to centralized filling of prescriptions. Since institutions generally fill drug orders for patients of the institution, these

are not contemplated as coming under the central fill regulation. However, the terms would apply to an institution's outpatient pharmacy that fills prescriptions using a centralized filling process. By definition, satellite pharmacies do not fill outpatient prescriptions and would not come into play in the centralized prescription filling process.

§ 27.14. Supplies.

The HPLC recommended that § 27.14 contain language that makes it clear that an exception to the inventory requirements is in § 27.203(b) (relating to centralized prescription processing). IRRC also commented on the need to cross-reference this section with § 27.203(b). The Board has amended the final-form rulemaking accordingly. The Board also amended this section to exempt central processing centers from maintaining the minimum equipment, supplies and reference library. This exemption is appropriate because central processing centers will not dispense drugs. Therefore, it is unnecessary to require a central processing center to maintain equipment and supplies that are only used to dispense drugs. Instead, central processing centers will only be required to maintain equipment, supplies and a reference library recognized by the pharmacy community as meeting the minimum standards of practice as a central processing center.

§ 27.16. Construction and equipment requirements.

The Board amended the final-form rulemaking to add provisions that were overlooked in the proposed rulemaking. The amendments create an exception for central processing centers to the minimum size requirements of the prescription area and the requirement to have a sink used solely for pharmaceutical purposes. This amendment was made because central processing centers by definition will not have a prescription area or dispense drugs. It follows that the central processing center would not need a sink used solely for pharmaceutical purposes.

§ 27.201. Electronically transmitted prescriptions.

The HPLC commented that subsection (a) should be rewritten without parentheses. The Board has amended the final-form rulemaking accordingly. IRRC recommended that the definition of "electronically transmitted prescription" be amended to allow any method of electronic communication that can reliably provide the information required by § 27.201(b) and the Board has done so. IRRC commented that § 27.201(a) was difficult to comprehend. With the amendments to this section, the Board believes the final-form rulemaking is clear as to the Board's intent and is comprehensible to pharmacists and information technologists who are subject to the regulations. WebMD commented that § 27.201(a) excluded computer-to-facsimile machine electronic prescriptions. The Board agrees and has amended the section with language suggested by WebMD.

IRRC commented that subsection (b) does not address section 3(a) of the act of November 24, 1976 (P. L. 1163, No. 259) (35 P. S. § 960.3(a)), known as the Generic Equivalent Drug Law, and recommended that the Board address the requirements of this section in the final-form rulemaking. WebMD also requested that the Board include guidance as to how a prescriber's generic substitution instructions would be communicated in electronically transmitted prescriptions. The Generic Equivalent Drug Law instructs prescribers what must be imprinted on a prescription blank and what must be written to indicate that the brand medication should be dispensed. The Board cannot change the final-form rulemaking to ad-

dress the Generic Equivalent Drug Law because the Board does not have the authority to impose an affirmative duty on a professional not licensed by the Board. The Board believes it does not have the statutory or regulatory authority to place requirements on prescribers.

WebMD commented that the regulations would prohibit prescribers' use of electronic data interchange (EDI) networks to deliver electronically transmitted prescriptions to the pharmacy of the patient's choice. EDI networks access electronically transmitted prescriptions to route the prescriptions between prescribers and pharmacies. An EDI network scans the prescription to ensure that information required by law has been entered into the appropriate data field. EDI networks decrypt the prescription's content and convert it to a format that can be received by means of a point-to-point transmission over telephone lines and printed at the pharmacy's facsimile machine. The EDI network does not actually read the prescription, nor substantively alter the prescription information. WebMD suggested alternate language to § 27.201(a) to allow EDI networks to deliver electronically transmitted prescriptions between prescribers and pharmacies. The Board agrees and has amended the final-form rulemaking with the language suggested by WebMD.

IRRC commented that given the importance of the Electronic Transactions Act (ETA) (73 P. S. §§ 2260.101—2260.5101) to this final-form rulemaking, it would be appropriate to address electronic prescription requirements in a separate subsection. The Board believes that references to the ETA are clear and the requirements of an electronic prescription are clearly stated in subsection (b). The Board cannot possibly cover every detail of electronic prescriptions. This technology is already in use at many pharmacies; however, until now it has not had specific regulations to govern its use. Pharmacies were left to apply this technology within the requirements of the regulations pertaining to paper prescriptions. The regulations are intended to provide minimum standards to protect the public by the use of this technology. Finally, the Board notes that developing further regulations at this time may be counter-productive. The Board suggests pharmacists working with the new regulations will provide the genesis for further rulemaking in the areas of automation and computer-based technology.

IRRC commented that subsection (b)(5) should be a separate subsection. The Board has amended the final-form rulemaking accordingly.

The PSHP asked whether the term "prescription" as used in § 27.201 included orders or drug orders as defined in the Board regulations. The terms "prescription" and "drug order" are separately defined in § 27.1 and a drug order is not included under the term "prescription."

§ 27.202. Computerized recordkeeping systems.

The HPLC commented that subsection (a) should be rewritten without parentheses. The Board has amended the final-form rulemaking accordingly. IRRC inquired why the Board is not requiring backup of computerized recordkeeping systems in this section. First, the Board notes that subsection (e) requires the computerized recordkeeping system to have adequate safeguards to prevent accidental erasure of information, which would accomplish the same goal as backing up the system. The Board is not using specific language such as "backing up the system" because newer technology negates the need to do this. New technology uses mirror drives and other means to ensure the safety of information without the need for back up of the system.

In subsection (d), IRRC and the PSHP questioned how the number of refills could be verified unless the patient brings the original prescription vial/container with them to the pharmacy, or if the patient is phoning in their refill. Upon further review of subsection (d), the Board removed that language in the final-form rulemaking. It deems the language unnecessary as pharmacists may use professional judgment in filling or refilling prescriptions regardless of the type of recordkeeping system in use.

The PSHP asked if the Board has considered requiring minimum contingency plans in case of a system failure. In the draft stage of the final-form rulemaking, similar provisions were included, but after careful thought were removed by the Board. These provisions can be too restrictive and would not apply to all systems. Furthermore, technological changes could render any minimum contingency plans obsolete and require frequent updating of the regulations.

§ 27.203. Centralized prescription processing.

The HPLC recommended that in subsection (a) the word "provided" be replaced with "if the following requirements are met." The Board has amended the final-form rulemaking accordingly.

Rx.com commented that other states have added language to their central fill rules that explicitly allow home delivery by central fill pharmacies. The Board notes that if the central fill pharmacy is delivering the filled prescription then it would also be the delivering pharmacy as defined by § 27.1. The Board amended the definitions of "central fill pharmacy," "delivering pharmacy" and "originating pharmacy" to clarify its intent. Because the Board's current regulations already allow for home delivery of medications by pharmacies, it is unnecessary to add specific language to the central fill regulations to allow home delivery.

In the final-form rulemaking, the Board added exemptions that were overlooked during the proposed rulemaking. A central processing pharmacy is exempt from the minimum size requirement for a prescription area as well as the requirement to have a sink used solely for pharmaceutical purposes. These exemptions are cross-referenced in § 27.16(b).

§ 27.204. Automated medication systems.

The HPLC noted that the regulations required pharmacies to have policies and procedures in place, to have policies of operation and to operate according to a written program, but there was no duty imposed on pharmacies to actually create these policies or programs. In response, the Board amended the appropriate sections to create a duty to write or adopt these policies or programs. IRRC asked who has the responsibility to write the policies and procedures. The responsibility is on the pharmacy to maintain these policies and procedures. Therefore, the owner of the pharmacy permit should have these as part of the supplies in the pharmacy and it would be up to each pharmacy how to create these. These policies could be created by any number of people. For example, the permit owner or pharmacist manager could write the policies and procedures or pharmacies could adopt policies and procedures prepared by the manufacturer of the automated medication systems.

IRRC next commented that subsection (b) uses the term "other identifier" and questions what the Board would consider an adequate method of electronically recording the activity of each pharmacist, technician or other authorized personnel. The Board notes that this term is already used in § 27.18(b)(1) (relating to stan-

dards of practice) in reference to prescribers and is not a new term. There are several means to identify a pharmacist other than initials, such as an employee number or name or by recording the information through biometrics, retina scans or bar code scans.

The HPLC commented that the Board should rewrite subsection (b)(4) so that the language clearly and accurately reflects the Board's policy. IRRC also commented that paragraph (4) was not clear. The regulation requires an audit trail to be established so that each pharmacist, technician or other authorized personnel who works on the automated medication system is identified. The Board has amended this subsection with language that clearly states that each pharmacist who works on the automated medication system will be held responsible for the transaction performed by that pharmacist. The pharmacist will also be responsible for transactions performed by personnel under the supervision of the pharmacist. Because the system has been validated, a final check of the filled prescription is unnecessary. That is, in a regular retail pharmacy situation, a pharmacist is required to check the filled prescription before it is dispensed. This pharmacist's initials are usually listed on the prescription label. The last sentence of paragraph (4) indicates that the Board will hold each pharmacist who worked with the automated medication system responsible for the pharmacist's actions and the actions of the technicians and other authorized personnel working under the pharmacist's supervision.

IRRC questioned whom the Board meant by "qualified support personnel" in subsection (d)(6). Cardinal Health also commented that subsection (d)(6) would limit access to an automated medication system to only pharmacists and qualified support personnel under the supervision of a licensed pharmacist and would prevent other healthcare professionals legally authorized to administer drugs from accessing the system. To clarify the issue expressed by Cardinal Health, the Board amended the definition of "automated medication system" in the final-form rulemaking to clarify that automated medication system does not refer to machines such as a unit based dispensing cabinet and amended the language of § 27.204(d)(6) to remove the term "qualified support personnel" and add the term "the pharmacist's designee" to allow the pharmacist operating the automated medication system greater latitude to designate who can access the system. The Board also notes in response to Cardinal Health's concerns that subsection (d)(7) specifically allows pharmacists to identify circumstances under which a licensed medical practitioner could remove medications from the automated medication system for distribution to a patient.

General Comments

The Department commented that the regulations might conflict with certain sections of the *Pennsylvania Code*. In particular, 28 Pa. Code § 25.53(b) (relating to prescription orders) requires prescribers to handwrite "brand necessary" or "brand medically necessary" and subsection (d) requires controlled substance prescriptions to be written in indelible ink, indelible pencil or typewriter. The Board notes that section 303 of the ETA (73 P. S. § 2260.303) would make these provisions unenforceable with regard to electronic prescriptions. The Department further commented that 28 Pa. Code § 25.56(a) and (b) (relating to prescription recordkeeping) requires prescription records of controlled substances in Schedules I and II to be maintained separately and controlled substances III—V to be marked with a red letter "C." Pharmacies still have

to comply with all applicable State and Federal regulations, so any pharmacy that stores prescription records on a computer will still have to adhere to this regulation. The Board's regulations do not supersede this requirement. The Board notes that when other laws or regulations prohibit the use of electronic prescriptions, these regulations would not apply. The Board urges the Department to update its regulations to take into consideration electronic prescriptions and computerized recordkeeping.

The PSHP asks whether the Board plans to reference the requirements of patient confidentiality contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936) in these regulations. The Board does not intend to specifically reference HIPAA's confidentiality provisions. Confidentiality is already addressed in § 27.19(i) (relating to prospective drug review and patient counseling) and requires pharmacists to regard all information obtained as confidential unless State or Federal law or regulations require or authorize the disclosure.

The HPLC and IRRC requested that the Board consult the Department regarding its concerns before the final rulemaking was submitted. The Board has consulted with the Department and has addressed the Department's concerns in this preamble.

IRRC noted that several sections require compliance with "State and Federal laws and regulations" and commented that the Board should replace this language with specific citations to the applicable laws or regulations. The Board chose this language for two reasons: 1) several different State and Federal laws apply to the practice of pharmacy and it would be cumbersome to list each specific law and regulation; and 2) the specific area of law involving technology and automation is still evolving and there are regulations that have yet to be promulgated that would pertain to the Board's regulations. For example, the Federal Drug Enforcement Administration is in the process of promulgating Federal regulations pertaining to electronic prescribing of controlled substances. In other places in the Pharmacy Act (act) and regulations, there are general references to State and Federal laws. See section 8(11) of the act (63 P. S. § 390-8(11)) and §§ 27.14(b)(1) and (2), 27.18(p)(3) and 27.19(i)(2)(iii). References to adhering to State and Federal laws and regulations are common throughout the regulations of other pharmacy boards around the Nation. The Board is confident that its licensees are given appropriate guidance in the regulations as to what standards they must adhere to.

Statutory Authority

The final-form rulemaking is authorized under sections 4(j) and 6(k)(1) and (9) of the act (63 P. S. §§ 390-4(j) and 390-6(k)(1) and (9)).

Fiscal Impact and Paperwork Requirements

The Board had identified no fiscal impact or paperwork requirements to State or local governments associated with the final rulemaking.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 8, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 3146, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period,

as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC and the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 4, 2006, the final-form rulemaking was approved by the HPLC. On April 18, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 19, 2006, and approved the final-form rulemaking.

Additional Information

Individuals who need information about the final-form rulemaking should contact Melanie Zimmerman, R.Ph., Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

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

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

(3) This final rulemaking is necessary and appropriate for the administration of the act.

(4) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 34 Pa.B. 3146.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.1, 27.14 and 27.16 and by adding §§ 27.201—27.204 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The amendment of § 27.16 was not included in the proposal at 35 Pa.B. 3146.)

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

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

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

EDWARD J. BECHTEL, R.Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2251 (May 6, 2006).)

Fiscal Note: Fiscal Note 16A-5410 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY GENERAL PROVISIONS

§ 27.1. Definitions.

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

* * * * *

Automated medication system—

(i) A process that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing and distribution of medications, and which collects, controls and maintains all transaction information.

(ii) The term does not include an automatic counting device or unit-based dispensing cabinet.

Automatic counting device—A device used in a pharmacy to automatically count medication for dispensing.

* * * * *

Central fill pharmacy—A pharmacy engaging in centralized prescription processing by filling and refilling prescriptions, which includes the preparation and packaging of the medication. A central fill pharmacy may also be the originating or delivering pharmacy.

Centralized prescription processing—The processing, under the direction of a pharmacist, of a request to fill or refill a prescription, to perform functions such as refill authorizations, interventions or other matters related to the practice of pharmacy for subsequent delivery to the delivering pharmacy.

Central processing center—A pharmacy operated under the direction of a pharmacist that processes information related to the practice of pharmacy and that engages solely in centralized prescription processing but from which drugs are not dispensed.

* * * * *

Delivering pharmacy—The pharmacy that receives the processed prescription or the filled or refilled prescription for delivering to the patient or the patient's authorized representative. A delivering pharmacy may also be an originating or central fill pharmacy.

* * * * *

Originating pharmacy—

(i) The pharmacy that receives the patient's or prescribing practitioner's request to fill or refill a prescription and performs functions such as the prospective drug review.

(ii) The term includes a central processing center or a central fill pharmacy if the prescription was transmitted by the prescriber directly to the central processing center or central fill pharmacy or if the patient requested the refill from that pharmacy.

* * * * *

Prescription—A written, electronic or oral order issued by a licensed medical practitioner in the course of profes-

sional practice for a controlled substance, other drug or device or medication which is dispensed for use by a consumer.

* * * * *

STANDARDS

§ 27.14. Supplies.

(a) A pharmacy shall maintain a supply of drugs and devices adequate to meet the needs of the health professions and the patients it is intended to serve. The applicant for a pharmacy permit shall show proof by affidavit that the applicant has ordered or possesses and shall continue to maintain an inventory of nonproprietary drugs, devices and equipment appropriate to the practice of that pharmacy. The inventory must include at least \$5,000 worth of nonproprietary drugs and devices, at cost, from a licensed wholesaler or manufacturer. The inventory may not go below this figure at any time. A central processing center is not required to maintain \$5,000 worth of nonproprietary drugs and devices under § 27.203(b) (relating to centralized prescription processing).

* * * * *

(c) Except for a pharmacy operating as a central processing center, a pharmacy shall maintain at least the following equipment and supplies:

* * * * *

(11) Prescription files for keeping prescriptions of nonproprietary drugs in accordance with the act and, for controlled substance prescriptions, State and Federal laws and regulations. The original prescription or image of the original prescription shall be retained for 2 years from the date of the most recent filling. A pharmacy may make use of a computerized recordkeeping system for keeping track of telephone prescriptions, refills, counseling, and the like in accordance with § 27.202 (relating to computerized recordkeeping systems).

* * * * *

(d) A pharmacy operating as a central processing center shall maintain equipment, supplies and access to a reference library recognized by the pharmacy community in this Commonwealth as meeting minimum standards of practice as a central processing center.

§ 27.16. Construction and equipment requirements.

* * * * *

(b) Building standards. The following apply to building standards:

(1) Minimum size.

(i) The minimum size of the prescription area must be at least 250 square feet, and shall be large enough, considering the level of activity, to carry on the practice of pharmacy in a manner that protects the health and safety of professionals, employees and the public. Within the prescription area, there must be a prescription working counter of at least 10 linear feet in length and 2 linear feet in width. If more than two pharmacists are on duty simultaneously, the minimum counter length shall be increased by 5 linear feet for an additional pharmacist. Institutions with special considerations may apply to the Board for a waiver.

(ii) A pharmacy operating as a central processing center need not conform to the minimum space requirements in subparagraph (i).

* * * * *

(5) *Sanitary facilities.* Except for pharmacies operating as central processing centers, pharmacies must be equipped with a sink within the prescription area to be used solely for pharmaceutical purposes. The sink must measure at least 200 square inches exclusive of drainboard area. The sink must be connected properly to supply hot and cold water. Restroom facilities for employees of the pharmacy shall be provided reasonably close to, but outside of the prescription area.

* * * * *

TECHNOLOGY AND AUTOMATION

§ 27.201. Electronically transmitted prescriptions.

(a) For the purposes of this section, an electronically transmitted prescription means the communication of an original prescription or refill authorization by electronic means, to include computer-to-computer, computer-to-facsimile machine or e-mail transmission which contains the same information it contained when the authorized prescriber transmitted it. The term does not include a prescription or refill authorization transmitted by telephone or facsimile machine.

(b) Except for Schedule II controlled substances which must conform to the requirements of § 27.18(b)(2) (relating to standards of practice), a pharmacist may accept an electronically transmitted prescription from an authorized licensed prescriber or an authorized designated agent which has been sent directly to a pharmacy of the patient's choice if all the following requirements are met:

(1) The prescription must contain the signature or the electronic equivalent of a signature of the prescriber made in accordance with the requirements of the Electronic Transactions Act (73 P. S. §§ 2260.101—2260.5101).

(2) The prescription must include the following information:

(i) The information that is required to be contained on a prescription under State and Federal law.

(ii) The prescriber's telephone number.

(iii) The date of the transmission.

(iv) The name of the pharmacy intended to receive the transmission.

(3) The prescription must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by any unauthorized person.

(4) A hard copy or a readily retrievable image of the prescription information that is transmitted shall be stored for at least 2 years from the date of the most recent filling.

(c) An electronically transmitted prescription shall be processed in accordance with the act and this chapter.

(d) The pharmacist and pharmacy may not provide electronic equipment to a prescriber for the purpose of transmitting prescriptions.

§ 27.202. Computerized recordkeeping systems.

(a) A computerized system used by a pharmacy for recording and maintaining information concerning prescriptions under State and Federal laws must be designed so that it is capable of providing immediate retrieval, by means of monitor, hard-copy printout or other transfer medium, of patient information for all prescriptions filled within the previous 12 months and retrieval within 3 working days of all prescriptions dispensed within the

previous 24 months from the last activity date. This information must include the following data:

(1) The information required to be on prescriptions under § 27.18(b)(1) (relating to standards of practice).

(2) Identification of the pharmacist responsible for prescription information entered into the computer system.

(b) The system must be able to transfer all patient information to hard copy within 3 working days.

(c) Prescriptions entered into a computer system but not immediately dispensed must meet the following conditions:

(1) The complete prescription information must be entered in the computer system.

(2) The information must appear in the patient's profile.

(3) There must be positive identification, in the computer system or on the hard-copy prescription, of the pharmacist who is responsible for entry of the prescription information into the system.

(4) The original prescription shall be filed according to § 27.18(b).

(d) If the computerized recordkeeping system experiences down time, the prescription information shall be entered into the computerized recordkeeping system as soon as it is available for use.

(e) The system must have adequate safeguards to:

(1) Prevent access by any person who is not authorized to obtain information from the system.

(2) Identify any modification or manipulation of information concerning a prescription.

(3) Prevent accidental erasure of information.

§ 27.203. Centralized prescription processing.

(a) *Centralized prescription processing.* A central fill pharmacy or central processing center may fulfill a request for the processing, filling or refilling of a prescription from either the originating pharmacy or from the patient or the prescriber and may deliver the processed, filled or refilled prescription to a delivering pharmacy if the following requirements are met:

(1) The central fill pharmacy or the central processing center that is to process, fill or refill the prescription has a contract with or has the same owner as the originating pharmacy and the delivering pharmacy. Contractual provisions must include confidentiality of patient information.

(2) The prescription container:

(i) Is clearly labeled with the information required by Federal and State laws and regulations.

(ii) Clearly shows the name, address, telephone number and DEA number of the delivering pharmacy.

(3) Pharmacies that either utilize or act as central fill pharmacies or central processing centers shall create operating policies and procedures. The policies and procedures must include an audit trail that records and documents the central prescription process and the individuals accountable at each step in the process for complying with Federal and State laws and regulations including recordkeeping.

(4) Pharmacies that engage in centralized prescription processing share a common electronic file.

(5) Each pharmacy engaging in centralized prescription processing shall be jointly responsible for properly filling the prescription.

(6) The delivering pharmacy is responsible for making the offer to counsel to the patient under § 27.19(e) (relating to prospective drug review and patient counseling).

(b) *Exemptions.* The central processing center is exempt from:

(1) The requirement of maintaining an inventory of at least \$5,000 worth of nonproprietary drugs and devices under § 27.14(a) (relating to supplies).

(2) The minimum size requirements of § 27.16(b)(1) (relating to construction and equipment requirements).

(3) The requirement to have a sink used solely for pharmaceutical purposes under § 27.16(b)(5).

§ 27.204. Automated medication systems.

(a) This section establishes standards applicable to licensed pharmacies that utilize automated medication systems which may be used to store, package, dispense or distribute prescriptions.

(b) A pharmacy may use an automated medication system to fill prescriptions or medication orders provided that:

(1) The pharmacist manager, or the pharmacist under contract with a long-term care facility responsible for the dispensing of medications if an automated medication system is utilized at a location which does not have a pharmacy onsite, is responsible for the supervision of the operation of the system.

(2) The automated medication system has been tested and validated by the pharmacy and found to dispense accurately prior to the implementation of the system. The pharmacy shall make the results of the testing available to the Board upon request.

(3) The pharmacy shall make the automated medication system available to the Board for the purpose of inspection, whereby the Board may validate the accuracy of the system.

(4) The automated medication system must electronically record the activity of each pharmacist, technician or other authorized personnel with the time, date and initials or other identifier so that a clear, readily retrievable audit trail is established. A pharmacist will be held responsible for transactions performed by that pharmacist or under the supervision of that pharmacist.

(c) The pharmacist manager or the pharmacist under contract with a long-term care facility responsible for the delivery of medications shall be responsible for the following:

(1) Reviewing and approving all policies and procedures for system operation, safety, security, accuracy, access and patient confidentiality.

(2) Ensuring that medications in the automated medication system are inspected, at least monthly, for expiration date, misbranding and physical integrity, and ensuring that the automated medication system is inspected, at least monthly, for security and accountability.

(3) Assigning, discontinuing or changing personnel access to the automated medication system.

(4) Ensuring that the automated medication system is stocked accurately and an accountability record is maintained in accordance with the written policies and procedures of operation.

(5) Ensuring compliance with the applicable provisions of State and Federal law.

(d) When an automated medication system is used to fill prescriptions or medication orders, it shall be operated according to written policies and procedures of operation created or adopted by the pharmacy. The policies and procedures of operation must:

(1) Include a table of contents.

(2) Include a description of all procedures of operation.

(3) Set forth methods that ensure retention of each amendment, addition, deletion or other change to the policies and procedures of operation for at least 2 years after the change is made. Each change shall be signed or initialed by the registered pharmacist manager and include the date on which the registered pharmacist manager approved the change.

(4) Set forth methods that ensure that a pharmacist currently licensed in the transmitting jurisdiction reviews and approves the transmission of each original or new prescription or medication order to the automated medication system before the transmission is made.

(5) Set forth methods that ensure that access to the records of medications and other medical information of the patients maintained by the pharmacy is limited to licensed practitioners or personnel approved to have access to the records.

(6) Set forth methods that ensure that access to the automated medication system for stocking and removal of medications is limited to licensed pharmacists or the pharmacist's designee acting under the supervision of a licensed pharmacist. An accountability record which documents all transactions relative to stocking and removing medications from the automated medication system must be maintained.

(7) Identify the circumstances under which medications may be removed from the automated medication system by a licensed medical practitioner for distribution to a patient without prior order review by a licensed pharmacist.

(e) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall, at least annually, review its written policies and procedures of operation and revise them, if necessary.

(f) A copy of the written policies and procedures of operation adopted under this section shall be retained at the pharmacy and at the long-term care facility where the automated medication system is utilized. Upon request, the pharmacy shall provide to the Board a copy of the written policies and procedures of operation for inspection and review.

(g) The pharmacist manager shall be responsible for ensuring that, prior to performing any services in connection with an automated medication system, all licensed practitioners and supportive personnel are trained in the pharmacy's standard operating procedures with regard to automated medication systems set forth in the written policies and procedures. The training shall be documented and available for inspection.

(h) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall create and operate according to a written program for quality assurance of the automated medication system which:

(1) Requires monitoring of the automated medication system.

(2) Establishes mechanisms and procedures to test the accuracy of the automated medication system at least every 6 months and whenever any upgrade or change is made to the system.

(3) Requires the pharmacy to maintain all documentation relating to the written program for quality assurance for at least 2 years. Upon reasonable notice from the Board, the pharmacy shall provide information to the Board regarding the quality assurance program for automated medication systems.

(i) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall maintain a written plan for recovery from a disaster that interrupts the ability of the pharmacy to provide services. The written plan for recovery must include:

- (1) Planning and preparation for a disaster.
- (2) Procedures for response to a disaster.
- (3) Procedures for the maintenance and testing of the written plan for recovery.

(j) A pharmacy that uses an automated medication system to fill prescriptions or medication orders shall maintain a written program for preventative maintenance of the system. Documentation of completion of all maintenance shall be kept on file in the pharmacy for at least 2 years.

[Pa.B. Doc. No. 06-929. Filed for public inspection May 26, 2006, 9:00 a.m.]

subsection (f) explains that the regulation does not apply to the repair and maintenance of prebuilt housing and the rules of § 31.12 apply.

In addition, the Department has made editorial changes to several sentences for proper grammar usage. Upon adoption of § 31.33, provisions inconsistent with this section (§§ 31.30, 46.8 and 60.18) will be deleted.

Affected Parties

Manufacturers, builders and purchasers of prebuilt housing may be affected by this final-form rulemaking.

Comment and Response Summary

Notice of proposed rulemaking was published at 34 Pa.B. 6245 (November 20, 2004). This proposed rulemaking is being adopted with amendments to read as set forth in Annex A.

The Department received no comments from the public during the public comment period. No comments were received from either the House Finance Committee or the Senate Finance Committee. The only comments received on the proposed rulemaking were from the Independent Regulatory Review Commission (IRRC).

Explanations and amendments to the proposed rulemaking in response to IRRC's comments are as follows:

(1) § 31.33(a) (regarding definitions). IRRC requested the following six definitions be amended to mirror the statutory definitions, replace the regulatory definitions with citations to the statute or explain the need to vary from the statute:

Prebuilt housing—The Department enhanced the statutory definition in section 201 of the TRC to provide taxpayers with additional information. Therefore, § 31.33(a)(iii) was added to the statutory definition for clarification and remains in the final-form rulemaking.

Prebuilt housing builder—The Department clarified the statutory definition in section 201 of the TRC by adding “including a prebuilt housing manufacturer” to the definition. The Department believes that the taxpayers will benefit from this enhanced definition. Therefore, the same definition remains in the final-form rulemaking.

Prebuilt housing purchaser—The Department agrees with IRRC's concern and has amended the definition by deleting the entire second sentence. This sentence has now been correctly relocated to the definition of “prebuilt housing sale.”

Prebuilt housing sale—The Department agrees with IRRC's concern and has added the following sentence which was previously in the definition of “prebuilt housing purchaser:” “Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale will not be considered occupancy for residential purposes.” This definition mirrors the statutory definition in section 201 of the TRC and should appear in the final-form rulemaking for the convenience of taxpayers.

Purchase price—Section 201(g)(8) of the TRC defines the “purchase price” of prebuilt housing to be 60% of the manufacturer's selling prices. However, section 201(g)(8) of the TRC provides that a manufacturer has the option of precollecting the Sales Tax on 60% of the selling price, or 100% of the actual cost of the supplies and materials used in the manufacture of the housing. The TRC does not require a manufacturer to choose only one of those options, to the permanent exclusion of the other, as the regulation does. This restriction was added to the regulation at the request of the Department's Bureau of Audits (Bureau). The Bureau determined that if a manufacturer

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 31, 46 AND 60]

Sales and Use Tax; Prebuilt Housing

The Department of Revenue (Department), under section 270 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7270), deletes §§ 31.30, 46.8 and 61.18 and adds § 31.33 (relating to prebuilt housing) to read as set forth in Annex A.

Purpose of this Final-Form Rulemaking

This final-form rulemaking codifies legislative changes regarding prebuilt housing in sections 201(g)(8) and (vv)—(zz), 202(f) and 204(60) of the TRC (72 P. S. §§ 7201(g)(8) and (vv)—(zz), 7202(f) and 7204(60)).

Explanation of Regulatory Requirements

The Department is adding § 31.33 to set forth the new rules regarding prebuilt housing. Definitions for use in the section are in subsection (a). Imposition rules for sales by a builder and trade-ins are in subsection (b).

Consistent with section 202(f) of the TRC, which provides that a manufacturer may elect to precollect the tax from the builder at the time of sale to the builder, subsection (c) describes the provisions that govern precollection. Subsection (d) explains that no exemptions apply to the sale of prebuilt housing.

Subsection (e) explains that the provisions of this regulation do not apply to the sale and installation of prefabricated buildings, components and accessories which do not qualify as prebuilt housing and are governed by § 31.12 (relating to imposition of tax). Similarly,

was allowed to choose a different method of collecting tax for each customer, it would make auditing that manufacturer's books almost impossible. The Department firmly believes taxpayers will benefit from the definition.

Used prebuilt housing—The Department clarified the statutory definition in section 201 of the TRC by adding “prebuilt housing” to modify the word “sale,” as the defined term is “prebuilt housing sale.” The enhanced definition has not been changed in the final-form rulemaking because the Department believes it is necessary to provide clarity to the taxpayers.

(2) § 31.33(c) (regarding prebuilt housing manufacturer's election to collect tax).

Paragraph (2)—IRRC requested an explanation of the rationale for and need to restrict the method to collect tax under this circumstance. Section 201(g)(8) of the TRC provides the option only when the manufacturer precollects tax from a builder. The TRC does not provide the same option when a manufacturer that is acting as a builder pays tax to the Department at the time of sales to purchasers.

Paragraph (3)—IRRC requested an explanation of how a manufacturer would request “prior authorization” to alternate between two methods of calculation and what criteria the manufacturer would have to satisfy. The Department agrees this needs clarification and has consulted with the director of the Bureau. At the request of the Bureau to provide efficient auditing procedures, the proposed language “prior authorization” has been replaced in the final-form rulemaking with “written notification to the director of the Department's Bureau of Audits.”

(3) Miscellaneous clarity issues

(a) In § 31.33(a), IRRC stated the definition of “prebuilt housing manufacturer” lacks clarity because the definition uses the same words as the term being defined. The Department agrees and amended the definition in the final-form rulemaking.

(b) In § 31.33(b)(1), the Department added clarification language to the final-form rulemaking for auditing purposes.

(c) IRRC commented that the opening sentence of § 31.33(c)(1) uses the phrase “the law” twice. The Department acknowledges the concern and replaced “the law” with the appropriate citation to § 31.12 at the beginning of the sentence.

(d) IRRC commented that the opening sentence of § 31.33(e) discusses the changes in the law and is not needed. The Department agrees with IRRC's comment and has deleted the referenced sentence that discusses the changes in the law.

(e) A broader cross reference was requested by IRRC in § 31.33(e) and (f) instead of the language “governed by § 31.11” which is a reference to a definition section. The Department agrees with the concern and changed the cross reference to § 31.12.

Fiscal Impact

The Department has determined that the final-form rulemaking will have minimal fiscal impact on the Commonwealth.

Paperwork

The final-form rulemaking will not create additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The regulation is scheduled for review within 5 years of publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 4, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6245, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 3, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 4, 2006, and approved the final-form rulemaking.

Findings

The Department finds that:

(1) Public notice of intention to amend the regulations has been duly given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapters 31, 46 and 60, are amended by adding § 31.33 and deleting §§ 31.30, 46.8 and 60.18 to read as set forth in Annex A.

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

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

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

GREGORY C. FAJT,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2479 (May 20, 2006).)

Fiscal Note: Fiscal Note 15-426 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE II. SALES AND USE TAX

CHAPTER 31. IMPOSITION

SPECIALIZED TYPES OF BUSINESS OR PROPERTY

§ 31.30. (Reserved).

§ 31.33. Prebuilt housing.

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

Prebuilt housing—Housing which qualifies either as:

(i) Manufactured housing, including mobile homes, which bears the label required by and referred to in the Manufactured Housing Construction and Safety Standards Authorization Act (35 P. S. §§ 1656.1—1656.9).

(ii) Industrialized housing as defined in the Industrialized Housing Act (35 P. S. §§ 1651.1—1651.12).

(iii) The term includes all components or accessories transferred at the time of the sale of the prebuilt housing.

Prebuilt housing builder—A person, including a prebuilt housing manufacturer, that makes a prebuilt housing sale to a prebuilt housing purchaser.

Prebuilt housing manufacturer—A person who manufactures prebuilt housing for sale to a prebuilt housing builder or prebuilt housing purchaser.

Prebuilt housing manufacturer's selling price—

(i) The total value of anything paid or delivered or promised to be paid or delivered, whether it be money or otherwise, by a prebuilt housing builder to a prebuilt housing manufacturer, for prebuilt housing, add-ons, insurance, seals, deposits, dues, optional equipment and similar charges whether or not the charges are separately stated on one or more purchase agreements.

(ii) The prebuilt housing manufacturer's selling price does not include amounts representing delivery charges, erection charges or set-up fees.

Prebuilt housing purchaser—A person who purchases prebuilt housing in a transaction and who intends to occupy the unit for residential purposes in this Commonwealth.

Prebuilt housing sale—A sale of prebuilt housing to a prebuilt housing purchaser, including a sale to a landlord, without regard to whether the person making the sale is responsible for installing the prebuilt housing or whether the prebuilt housing becomes real estate on installation. Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale will not be considered occupancy for residential purposes.

Purchase price—The purchase price of prebuilt housing shall be 60% of the prebuilt housing manufacturer's selling price. A prebuilt housing manufacturer of prebuilt housing that elects to precollect tax from the prebuilt housing builder shall have the option to collect tax on 60% of the prebuilt housing manufacturer's selling price or on 100% of the actual cost of the supplies and materials used in the manufacture of prebuilt housing.

Used prebuilt housing—Prebuilt housing that was previously subject to a prebuilt housing sale to a prebuilt housing purchaser.

(b) *Imposition of tax.*

(1) *Prebuilt housing builder sales.* A prebuilt housing builder is required to pay tax on his purchase price of prebuilt housing sold to a prebuilt housing purchaser within this Commonwealth, if the prebuilt housing builder has not paid the applicable tax to the prebuilt housing manufacturer. The prebuilt housing builder is required to pay tax without regard to whether the prebuilt housing is sold as tangible personal property or as real estate. The prebuilt housing builder's written contract with the prebuilt housing purchaser shall clearly indicate that the prebuilt housing builder paid applicable tax.

(2) *Trade-in.* The value of a trade-in by a prebuilt housing purchaser to a prebuilt housing builder in connection with the purchase of housing may not be used to reduce the purchase price on which the prebuilt housing builder is required to pay tax.

(3) *Used prebuilt housing.* Sales Tax is not imposed on the purchase price of used prebuilt housing.

(c) *Prebuilt housing manufacturer's election to collect tax.*

(1) Although section 202(f) of the TRC (72 P. S. § 7202(f)) requires the prebuilt housing builder to pay tax directly to the Department, this statute also provides that the prebuilt housing manufacturer has the option to collect tax from the prebuilt housing builder at the time of the purchase of the prebuilt housing by the prebuilt housing builder from the prebuilt housing manufacturer. If the prebuilt housing manufacturer elects to collect tax, the prebuilt housing manufacturer is required to use either of the following to establish the purchase price:

(i) Sixty percent of the prebuilt housing manufacturer's selling price.

(ii) One hundred percent of the actual cost of the supplies and materials used in the manufacture of prebuilt housing.

(2) If a prebuilt housing manufacturer is also acting as a prebuilt housing builder, the purchase price of the prebuilt housing shall be 60% of the prebuilt housing manufacturer's selling price.

(3) A prebuilt housing manufacturer is not permitted to alternate between these two methods of calculation without prior written notification to the Director of the Department's Bureau of Audits.

(d) *Exemptions.* No exemptions apply to the sale of prebuilt housing. Prebuilt housing manufacturers are therefore not required to obtain exemption certificates from prebuilt housing builders. Unless the prebuilt housing manufacturer elects to precollect the tax, the prebuilt housing builder is obligated to remit tax to the Commonwealth on its sale of prebuilt housing to a prebuilt housing purchaser.

(e) *Prefabricated buildings and components which do not qualify as prebuilt housing.* The sale and installation of prefabricated buildings, components and accessories which do not qualify as prebuilt housing are governed by § 31.12 (relating to imposition of tax). Sales of prefabricated buildings, components and accessories, which do not include installation, qualify as sales of tangible personal property. Examples include construction site trailers, travel trailers and modular space units.

(f) *Repair and maintenance of prebuilt housing.* This section relates only to prebuilt housing sales and does not apply to the repair and maintenance of prebuilt housing. The application of tax on charges made for the repair and maintenance of prebuilt housing is governed by the provisions of § 31.12.

CHAPTER 46. CONSTRUCTION CONTRACTORS

§ 46.8. (Reserved).

**CHAPTER 60. SALES AND USE TAX
PRONOUNCEMENTS—STATEMENTS OF POLICY**

§ 60.18. (Reserved).

[Pa.B. Doc. No. 06-930. Filed for public inspection May 26, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Table of Hunting Hours

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2006, meeting, proposed to amend Chapter 141, Appendix G (relating to hunting hours) to reflect the annual change in days and subsequent hunting times for the 2006-2007 hunting license year.

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 April 18, 2006, meeting of the Commission. Comments can be sent, until June 2, 2006, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Each year there is a shift in calendar days for each month. As a result of this occurrence, the table of hunting hours in Appendix G must be amended and updated on an annual basis to accurately reflect the upcoming year's dates and hours for legal hunting. Towards this end, the Commission is proposing to amend Appendix G by updating the table of hunting hours to accurately reflect the dates and hours of legal hunting for the 2006-2007 hunting year. It is important to note that beginning in 2007, the Daylight Saving Time changeovers will begin on the second Sunday of March and end the first Sunday of November rather than the traditional second Sunday of April and last Sunday of October. These new Daylight Saving Time changeovers are the result of the Energy Policy Act of 2005, the act of August 8, 2005 (Pub. L. No. 109-58, 119 Stat. 594) signed into law by President George W. Bush on August 8, 2005.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." 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 . . ." The amendment to Appendix G was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend Appendix G to update the table of hunting hours to accurately reflect the dates and hours of legal hunting for the 2006-2007 hunting year.

3. Persons Affected

Persons wishing to hunt or trap within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in 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: 48-231. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Appendix G

(Editor's Note: As part of this proposal, the Commission is proposing to delete the text of the table which appears at 58 Pa. Code pages 141-25 and 141-26, serial pages (313265) and (313266), and replace it with the following text, which appears in regular type to enhance readability.)

* * * * *

**TABLE OF HUNTING HOURS
FOR JUNE 25, 2006 THROUGH JUNE 30, 2007**

<i>Dates</i>	<i>Begin a.m.</i>	<i>End p.m.</i>
June 25—July 1	5:05	8:33
July 2—July 8	5:10	8:32
July 9—July 15	5:15	8:28
July 16—July 22	5:20	8:24
July 23—July 29	5:26	8:17
July 30—Aug. 5	5:33	8:10
Aug. 6—Aug. 12	5:40	8:00
Aug. 13—Aug. 19	5:46	7:52
Aug. 20—Aug. 26	5:53	7:40
Aug. 27—Sept. 2	6:00	7:30
Sept. 3—Sept. 9	6:06	7:19
Sept. 10—Sept. 16	6:13	7:08
Sept. 17—Sept. 23	6:20	6:55
Sept. 24—Sept. 30	6:26	6:45
Oct. 1—Oct. 7	6:34	6:33
Oct. 8—Oct. 14	6:41	6:23
Oct. 15—Oct. 21	6:50	6:12
Oct. 22—Oct. 28	6:56	6:03
Oct. 29—Nov. 4	6:03	4:55
Nov. 5—Nov. 11	6:12	4:48
Nov. 12—Nov. 18	6:20	4:42
Nov. 19—Nov. 25	6:28	4:38
Nov. 26—Dec. 2	6:35	4:36

<i>Dates</i>	<i>Begin a.m.</i>	<i>End p.m.</i>
Dec. 3—Dec. 9	6:42	4:35
Dec. 10—Dec. 16	6:47	4:36
Dec. 17—Dec. 23	6:50	4:38
Dec. 24—Dec. 30	6:52	4:42
Dec. 31—Jan. 6	6:53	4:47
Jan. 7—Jan. 13	6:51	4:54
Jan. 14—Jan. 20	6:50	5:00
Jan. 21—Jan. 27	6:46	5:10
Jan. 28—Feb. 3	6:40	5:18
Feb. 4—Feb. 10	6:35	5:25
Feb. 11—Feb.17	6:27	5:35
Feb. 18—Feb. 24	6:20	5:43
Feb. 25—Mar. 3	6:10	5:50
Mar. 4—Mar. 10	5:59	5:58
Mar. 11—Mar. 17	6:48	7:04
Mar. 18—Mar. 24	6:37	7:14
Mar. 25—Mar. 31	6:26	7:20
Apr. 1—Apr. 7	6:13	7:28
Apr. 8—Apr. 14	6:00	7:35
Apr. 15—Apr. 21	5:53	7:40
Apr. 22—Apr. 28	5:43	7:49
Apr. 29—May 5	5:33	7:55
May 6—May 12	5:25	8:00
May 13—May 19	5:17	8:08
May 20—May 26	5:11	8:15
May 27—June 2	5:06	8:20
June 3—June 9	5:03	8:25
June 10—June 16	5:01	8:30
June 17—June 23	5:01	8:32
June 24—June 30	5:03	8:34

[Pa.B. Doc. No. 06-931. Filed for public inspection May 26, 2006, 9:00 a.m.]

STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36]

Federally Mandated Education Criteria

The State Board of Certified Real Estate Appraisers (Board) proposes to amend Chapter 36 to read as set forth in Annex A.

Purpose

The proposed rulemaking is intended to be a general updating and revision of the Board's regulations. Specifically, the proposed rulemaking would implement new Federally-mandated education criteria for the initial certification of residential real estate appraisers and general

real estate appraisers that will take effect in January 2008; revise current Board requirements to conform to existing Federal criteria regarding distance education and appraisal teaching experience; clarify the manner in which applicants for certification as residential and general appraisers may obtain qualifying experience in the preparation of appraisal reports; clarify the duties of residential and general appraisers when supervising the activities of appraisal assistants; upgrade the continuing education requirement for certified Pennsylvania evaluators (CPE); and make editorial and organizational amendments to the regulations to improve clarity and comprehension.

Background and Statutory Authority

The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101-173, 103 Stat. 183) directed states to establish appraiser regulatory bodies for the purpose of credentialing appraisers to perform real estate appraisals in Federally-related transactions. The Appraisal Foundation's Appraiser Qualifications Board (AQB) is the independent body charged under the FIRREA with establishing the minimum initial education, continuing education, experience and examination requirements for state-credentialed appraisers. The Appraisal Foundation's Appraisal Standards Board (ASB) is the independent body charged under the FIRREA with establishing the practice standards, known as the Uniform Standards of Professional Appraisal Practice (USPAP), for use by state-credentialed appraisers. The Appraisal Subcommittee (ASC), a Federal agency, is charged under the FIRREA with overseeing the activities of states and the Appraisal Foundation in carrying out the requirements of the FIRREA.

The Real Estate Appraisers Certification Act (REACA) (63 P. S. §§ 457.1—457.19) was enacted in July 1990 to implement the FIRREA in this Commonwealth. The REACA established the certification classes of residential appraiser and general appraiser to perform real estate appraisals in Federally related transactions under the FIRREA. The REACA requires applicants for certification as residential appraisers and general appraisers, as a prerequisite to taking the certification examination, to meet the education and experience qualifications required under the FIRREA. The REACA also requires residential appraisers and general appraisers, as a condition of biennial renewal of certification, to complete continuing education as required under the FIRREA. Sections 6(f) and 10(b) of the REACA (63 P. S. §§ 457.6(f) and 457.10(b)) direct the Board to prescribe initial education, continuing education and experience requirements that are consistent with the FIRREA. Section 5(2) of the REACA (63 P. S. § 457.5(2)) authorizes the Board to promulgate regulations necessary to carry out the purposes of the REACA, including regulations that require appraisals to be performed in accordance with generally accepted appraisal standards as required under the FIRREA.

The enactment of the REACA in 1990 did not affect the right of persons licensed as real estate brokers under the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.101—455.902) to continue to perform real estate appraisals in non-Federally-related transactions. The act of July 2, 1996 (P. L. 460, No. 71) (Act 71) amended the REACA to give residential appraisers and general appraisers the authority to perform real estate appraisals in non-Federally-related transactions, equivalent to their certification classes, effective September 3, 1996, and amended the RELRA to remove the authority

of licensed real estate brokers to perform real estate appraisals in non-Federally-related transactions effective September 3, 1998. Act 71 further amended the REACA to create a "grandfather" certification class of broker/appraiser, which was open to any real estate broker licensed in good standing as of September 3, 1996, who made an application to the Board by September 3, 1998. Broker/appraisers are authorized to perform real estate appraisals in non-Federally-related transactions. A 2000 amendment to the REACA requires broker/appraisers, as a condition of biennial renewal of certification, to complete the same continuing education as that required of residential appraisers and general appraisers.

In addition to regulating real estate appraisers in this Commonwealth, the Board regulates persons who value real property in this Commonwealth for ad valorem tax purposes. The Assessors Certification Act (ACA) (63 P. S. §§ 458.1—458.16), enacted in April 1992, establishes the credential of a CPE for county assessors and employees of revaluation, or mass appraisal companies. The ACA requires applicants for CPE certification, as a prerequisite to taking the certification examination, to meet education requirements specified by the Board. The ACA also requires CPEs, as a condition of biennial renewal of certification, to complete continuing education as prescribed by the Board. Sections 4(d) and 12 of the ACA (63 P. S. §§ 458.4(d) and 458.12) authorize the Board to promulgate regulations regarding requirements for initial certification and biennial renewal of certification. Section 3 of the ACA (63 P. S. § 458.3) authorizes the Board to promulgate regulations necessary to carry out the purposes of the ACA.

Description of the Proposed Rulemaking

Chapter 36 contains Subchapters A and C (relating to general provisions; and certified Pennsylvania evaluators). Subchapter B is reserved. The proposed rulemaking would retitle Subchapter A as "Certified Real Estate Appraisers" because this subchapter contains regulations affecting certified residential appraisers, general appraisers and broker/appraisers.

§ 36.1 (relating to definitions)

The proposed rulemaking would add definitions for "AQB," "certified broker/appraiser," "certified real estate appraiser," "distance education" and "USPAP." The definitions of "State certified general real estate appraiser" and "State certified residential real estate appraiser" are proposed to be deleted and redefined as "certified general real estate appraiser" and "certified residential real estate appraiser," respectively.

The term "distance education," which is being added to several sections regarding educational offerings, would be defined, consistent with the AQB's definition, as "[a]n educational process based on the geographical separation of the learner and instructor, which provides interaction between the learner and instructor and includes testing. Examples include CD or DVD ROM, on-line learning, correspondence courses, video conferencing, and video and remote television courses."

The term "certified real estate appraiser" would refer to an individual who holds a certification in one of the three appraiser classes authorized under the REACA. The definition of each class of certified real estate appraiser, in turn, would set forth the statutory and regulatory basis of the certification and the permitted scope of practice under the certification. The current definitions for residential and general appraisers do not reference

their authority to perform appraisals in non-Federally related transactions equivalent to their certification classes.

§ 36.2 (relating to application process)

Section 36.2 establishes the procedure for applying for certification as a residential or general appraiser. Section 36.2(a) requires an applicant to submit an application on a Board-approved form and provides information about how an application form can be obtained from the Board. Section 36.2(b) requires an applicant to pay a nonrefundable application fee. Section 36.2(c) provides that approval of an application is valid for 1 year and that if the applicant does not pass the examination within the 1-year period, the applicant must submit a new application that will be reviewed under the requirements in effect at the time the new application is received. Section 36.2(d) provides that an applicant whose application has been disapproved has 1 year to correct the deficiencies and that if the applicant fails to correct the deficiencies within 1 year, the applicant must submit a new application that will be reviewed under the requirements in effect at the time the new application is received. Section 36.2(e) provides that if the AQB's education or experience criteria are changed during the 1-year compliance period following the approval or disapproval of an application, the applicant must satisfy the new AQB criteria during the 1-year compliance period.

The proposed rulemaking would modify the language in § 36.2(c)—(e) regarding an applicant's obligation to comply with new requirements that take effect during the application process. The revised prescription in § 36.2(e) would provide that, except as otherwise provided in the regulations regarding qualifications for certification, an applicant must comply with new requirements that take effect between the applicant's initial filing of an application and the applicant's passing the certification examination. The general rule in proposed § 36.2(e) would more accurately reflect the ASC's instructions to the Board, during the last rulemaking amending § 36.2 (24 Pa.B. 6298 (December 17, 1994)), that an applicant must meet the AQB's education and experience requirements that are in effect as of the date of certification. An ASC-approved exception to this rule for the AQB's new education requirements that take effect January 1, 2008, is more fully discussed in the section regarding §§ 36.11 and 36.12 (relating to residential real estate appraiser; and general real estate appraiser), which set forth the education and experience requirements for certification as a general appraiser and residential appraiser, respectively.

The proposed rulemaking also would make editorial changes to § 36.2(a) and (b) and would add a website and e-mail address to the postal address and telephone number currently set forth in § 36.2(a).

§ 36.3 (relating to examinations)

Section 36.3(a) provides that the examinations for residential appraiser and general appraiser certification must be issued or endorsed by the AQB; that the examinations are administered by a professional testing organization under contract with the Board; and that the Board establishes examination dates and locations. Section 36.3(b) provides that the professional testing organization will furnish information about the examinations to persons who have been approved by the Board to sit for the examinations.

The proposed rulemaking would amend § 36.3(a) to provide updated names for the certification examinations

and to clarify that the professional testing organization that administers the examinations prescribes examination dates and location, not the Board. The proposed rulemaking would amend § 36.3(b) to provide that information about the examinations may be obtained from the professional testing organization and directs interested parties to the Board's website for contact information regarding the professional testing organization.

§§ 36.11 and 36.12 (relating to residential real estate appraiser; and general real estate appraiser)

Sections 36.11 and 36.12 are identically structured and incorporate the AQB's qualifications criteria and interpretations for residential appraisers and general appraisers, respectively. The proposed rulemaking would reorganize §§ 36.11 and 36.12 and retitle them as "Qualifications for certification as residential real estate appraiser" and "Qualifications for certification as general real estate appraiser," respectively. The proposed rulemaking would also add in substantive criteria authorized by the AQB.

The existing unnumbered introductory paragraphs of §§ 36.11 and 36.12 provide that an applicant for certification as a residential appraiser or general appraiser, respectively, must be a person of good moral character, satisfy the appropriate appraisal education and experience qualifications and pass the appropriate appraiser certification examination. Licensure as a real estate broker or salesperson under the RELRA is not a prerequisite for certification as a residential or general appraiser. The proposed rulemaking would clarify, consistent with section 6(d) and (e) of the REACA, that an applicant must satisfy the education and experience requirements before being admitted to the certification examination. The proposed rulemaking also would redesignate the introductory paragraphs as subsection (a).

Sections 36.11(1) and 36.12(1) set forth the initial education criteria for certification as prescribed by the AQB. An applicant for certification as a residential appraiser currently must complete 120 classroom hours in subjects relating to real estate appraisal, including the 15-hour National USPAP Course, while an applicant for certification as a general appraiser currently must complete 180 classroom hours in subjects relating to real estate appraisal, including the 15-hour National USPAP Course. The classroom hours must include coverage of the topics listed in §§ 36.11(2) and 36.12(2).

On February 20, 2004, the AQB voted to adopt changes to the initial education criteria that will take effect January 1, 2008. Under the new criteria, the classroom hour requirement for residential appraiser certification and general appraiser certification is increased to 200 hours and 300 hours, respectively, and a core curriculum is provided for each certification class. States have the option of implementing the new education requirements through either a firm date approach or a segmented approach. Under the firm date approach, no certificate would be issued to an applicant on or after January 1, 2008, unless the applicant has satisfied the new education requirements. Under the segmented approach, an applicant who has satisfied the current education requirements before January 1, 2008, would not be required to meet the additional requirements as a condition of being issued a certificate on or after January 1, 2008. To minimize potential disruptions to the career plans of those persons who are currently taking steps to satisfy the educational and experience qualifications for certification, the Board is proposing to adopt the segmented approach to implementation of the new education requirements.

The proposed rulemaking would amend §§ 36.11(1) and 36.12(1) to set forth new classroom hour requirements and their segmented effective dates and to make appropriate cross-references to the redesignated provisions that list the current appraisal topics as well as the new core curricula. The proposed rulemaking also would redesignate §§ 36.11(1) and 36.12(1) as §§ 36.11(b) and 36.12(b), respectively.

Sections 36.11(1)(ii) and 36.12(1)(ii) provide that credit toward the classroom hour requirement may be awarded to a teacher of an appraisal course for actual classroom time, but that credit will not be given to a teacher for course repetition. They further provide that a teacher may request credit for either the classroom hour requirement or the appraisal experience requirement but not both.

The ASC has advised the Board that while the AQB's criteria permit teachers of appraisal courses to apply their teaching experience toward the classroom hour requirement, the teaching experience may not be applied toward the appraisal experience requirement. The proposed rulemaking would amend §§ 36.11(1)(ii) and 36.12(1)(ii) to remove the reference to a applicant's applying teaching experience toward the appraisal experience requirement and to redesignate them as §§ 36.11(b)(2) and 36.12(b)(2), respectively.

Sections 36.11(1)(iv) and (v) and 36.12(1)(iv) and (v) provide that a correspondence course or a video/remote television course, respectively, is acceptable to meet the classroom hour requirement if the course: (1) is approved by the Board; (2) is presented by an accredited college or university that offers correspondence or video/remote television courses in other disciplines; (3) requires the completion of a written examination at a location approved by the college or university; and (4) meets the course content and course length requirements prescribed by the Board.

The ASC has advised the Board to replace the requirements regarding correspondence and video/remote television courses with the AQB's criteria relating to distance education, which allow for a greater range of off-site educational opportunities, including Internet courses, than those permitted by the Board's current regulations. Under the AQB criteria, a distance education course is acceptable to meet the classroom hour requirement for initial education if the course: (1) is approved by the Board; (2) is presented either by an accredited college or university that offers distance education courses in other disciplines or by a course provider that has received approval of course content from the Board or the AQB through its Course Approval Program and approval of course design and delivery mechanism from the International Distance Education Certification Center; (3) requires completion of a written examination proctored by an official approved by the college, university or other course provider; and (4) meets the course content and course length requirements prescribed by the Board.

The proposed rulemaking would amend §§ 36.11(1)(iv) and 36.12(1)(iv) to reflect the AQB's distance education criteria and would delete §§ 36.11(1)(v) and 36.12(1)(v) as unnecessary. The proposed rulemaking also would redesignate §§ 36.11(1)(iv) and 36.12(1)(iv) as §§ 36.11(b)(4) and 36.12(b)(4), respectively.

For consistency of reorganization, the proposed rulemaking would redesignate §§ 36.11(1)(i) and 36.12(1)(i) as §§ 36.11(b)(1) and 36.12(b)(1), respectively; redesignate §§ 36.11(1)(iii) and 36.12(1)(iii) as §§ 36.11(b)(3) and

36.12(b)(3), respectively; and redesignate §§ 36.11(1)(vi) and 36.12(1)(vi) as §§ 36.11(b)(5) and 36.12(b)(5), respectively. The proposed rulemaking also would make editorial changes to §§ 36.11(1)(i) and (vi) and 36.12(1)(i) and (vi).

Sections 36.11(2) and 36.12(2) currently require that an applicant for certification demonstrate that the applicant's classroom hours include coverage in the listed courses topics. The course topics are identical to those set forth in the AQB's current criteria. The AQB's new education criteria, which will take effect January 1, 2008, replace the current listing of mandatory course topics with separate core curricula for residential appraiser certification and general appraiser certification that reflect the increased classroom hours. Each core curriculum has nine course modules, plus electives, and each module is assigned a minimum number of classroom hours. The core curricula are as follows:

<i>Residential Appraiser</i>	<i>General Appraiser</i>
Basic Appraisal Principles (30 hours)	Basic Appraisal Principles (30 hours)
Basic Appraisal Procedures (30 hours)	Basic Appraisal Procedures (30 hours)
National USPAP Course or Equivalent (15 hours)	National USPAP Course or Equivalent (15 hours)
Residential Market Analysis and Highest and Best Use (15 hours)	General Appraiser Market Analysis and Highest and Best Use (30 hours)
Residential Appraiser Site Valuation and Cost Approach (15 hours)	Statistics, Modeling and Finance (15 hours)
Residential Sales Comparison and Income Approaches (30 hours)	General Appraiser Sales Comparison Approach (30 hours)
Residential Report Writing and Case Studies (15 hours)	General Appraiser Site Valuation and Cost Approach (30 hours)
Statistics, Modeling and Finance (15 hours)	General Appraiser Income Approach (60 hours)
Advanced Residential Applications and Case Studies (15 hours)	General Appraiser Report Writing and Case Studies (30 hours)
Appraisal Subject Matter Electives (20 hours)	Appraisal Subject Matter Electives (30 hours)
Total: 200 hours	Total: 300 hours

The AQB has promulgated "guide notes" setting forth the suggested content subtopics for each module in the core curriculum. Although the subtopics listed in the guide notes are not binding upon states for purposes of implementing the new education criteria, the Board believes that the subtopics should be included in the proposed rulemaking because they help to ensure that all candidates for each certification class will receive the same body of knowledge and because the AQB will be using the subtopics in developing the content outlines of the certification examinations.

The proposed rulemaking would redesignate §§ 36.11(2) and 36.12(2) as §§ 36.11(c) and 36.12(c), respectively. The current required course topics would be set forth in paragraph (1) of each subsection, while the new core curriculum requirements, course modules and subtopics, would appear in paragraph (2) of each subsection. The content requirements would be cross-referenced to the classroom hour requirements in §§ 36.11(b) and 36.12(b).

The AQB's revised criteria for initial education also requires, effective January 1, 2008, that an applicant for certification as a residential or general appraiser have completed a minimum level of postsecondary education as follows:

<i>Residential Appraiser</i>	<i>General Appraiser</i>
Possession of associate's degree, or higher, from an accredited college or university	Possession of bachelor's degree, or higher, from an accredited college or university
OR	OR
Completion of 21 semester credits in the following courses from an accredited college or university:	Completion of 30 semester credits in the following courses from an accredited college or university:
English Composition Micro or Macro Economics Finance Algebra, Geometry or Higher Math Statistics Intro. to Computers—Word Processing/Spreadsheets Business or Real Estate Law	English Composition Micro Economics Macro Economics Finance Algebra, Geometry or Higher Math Statistics Intro. to Computers—Word Processing/Spreadsheets Business or Real Estate Law Any two of the following: Accounting, Geography, Ag-Economics, Real Estate or Business Management

The proposed rulemaking would add §§ 36.11(d) and 36.12(d) setting forth the new AQB criteria regarding postsecondary education. Consistent with the segmented implementation approach, subsection (d) would not apply to an applicant who completed the existing classroom hour requirement before January 1, 2008.

Sections 36.11(3) and 36.12(3) set forth the appraisal experience requirements for certification based on the AQB criteria. An applicant for certification as a residential appraiser must have acquired 2,500 hours of acceptable appraisal experience during a period of not less than 24 months, while an applicant for certification as a general appraiser must have acquired 3,000 of acceptable appraisal experience, including 1,500 hours in nonresidential work, during a period of not less than 30 months. At least 50% of an applicant's experience must have been in the actual preparation of appraisal reports that included physical inspections of the interiors and exteriors of the subject properties. Subparagraphs (i)—(ix) list categories of acceptable appraisal experience including, in subparagraph (viii), the teaching of appraisal courses (up to a maximum of 300 hours of experience).

The proposed rulemaking would redesignate §§ 36.11(3) and 36.12(3) as §§ 36.11(e) and 36.12(e), respectively, and add a cross-reference to § 36.13 (relating to experience options), which specifies the manner in which an applicant may obtain qualifying experience in the preparation of appraisal reports. The proposed rulemaking also would move to §§ 36.11(e) and 36.12(e) the requirement in § 36.13(b) that experience acquired after August 2, 1993, will not be accepted unless the applicant has first completed 45 classroom hours of initial appraiser education.

including 15 hours on USPAP. This provision is being relocated to §§ 36.11(e) and 36.12(e) because it applies to other categories of appraisal experience, not just appraisal experience regarding the preparation of appraisal reports. The proposed rulemaking also would add to §§ 36.11(e) and 36.12(e) a requirement that appraisal experience obtained after January 1, 1991, must comply with USPAP. This requirement is consistent with the AQB's interpretation of its experience criteria.

The proposed rulemaking would delete the teaching of appraisal courses as an acceptable category of experience. As previously noted, the AQB interprets its experience criteria as not permitting teaching experience to qualify as appraisal experience. The proposed rulemaking also would eliminate as redundant the references in certain experience categories that the specified experience must comply with USPAP. The proposed rulemaking would add two experience categories that are permitted under the AQB's interpretation of its experience criteria, cases studies or practicum courses that are approved by the AQB's Course Approval Program and evaluations of real estate that are performed under the FIRREA in accordance with the requirements of Federal financial institution regulatory agencies. As revised, the categories of acceptable experience would be redesignated as §§ 36.11(e)(1)—(10) and 36.12(e)(1)—(10).

Sections 36.11(4) and 36.12(4) state that an applicant who is subsequently certified by the Board after passing the certification examination is deemed to have satisfied the minimum criteria established by the AQB for that certification class and shall be entitled to perform appraisals in the specified Federally-related and non-Federally-related transactions. The proposed rulemaking would delete these provisions as unnecessary in view of the amended definitions of "certified residential real estate appraiser" and "certified general real estate appraiser" in § 36.1 (relating to definitions).

§ 36.13 (relating to experience options)

Section 36.13 was developed to establish standards by which the Board could evaluate experience in performing appraisals (that is, preparing appraisal reports) that has been acquired by an applicant for certification as a residential or general appraiser. Under the requirements in §§ 36.11 and 36.12, experience in the preparation of appraisal reports must account for at least 50% of the applicant's hours of qualifying experience.

Section 36.13(a) currently identifies three ways that an applicant may gain qualifying experience through the performance of appraisals: (1) as a licensed real estate broker under authority of the RELRA, with regard to non-Federally related transactions; (2) as an officer, director or employee of a Federally or state-regulated banking or savings institution, savings bank, credit union or trust company, in connection with a loan transaction, under an exemption from broker licensure requirements in section 304(11) of the RELRA (63 P. S. § 455.304(11)); and (3) as an assistant to a residential or general appraiser, subject to certain conditions. The conditions are that the appraiser must directly supervise and control the assistant's work while not permitting the assistant to reach an independent determination of value and assuming responsibility for the contents of the appraisal report; that the appraiser must conduct a complete interior and exterior inspection of the property unless a complete inspection is not possible or not required by the appraisal assignment; and that the appraiser and the assistant must both sign the appraisal report in a manner that specifically identifies their roles. Section 36.13(b), as previously noted,

provides that appraisal experience acquired after August 2, 1993, will not be credited unless the applicant has completed at least 45 classroom hours in appraisal subjects, including 15 hours on USPAP.

The proposed rulemaking would amend and reorganize § 36.13 and retitle it "Experience options for preparation of appraisal reports." Section 36.13(a) would be amended to include cross-references to §§ 36.11 and 36.12 and to add an explicit statement that the options relate to experience acquired in preparing appraisal reports.

Proposed § 36.13(a)(1)(i)—(iv) would set forth options for experience acquired before September 3, 1998, while the proposed § 36.13(a)(2)(i) and (ii) would set forth options for experience acquired on or after September 3, 1998. September 3, 1998, is the date when the authority of licensed real estate brokers to perform appraisals in non-Federally related transactions under the RELRA expired. At the same time, the authority of officers, directors and employees of lending institutions to perform appraisals in loan transactions under the RELRA without a real estate broker's licenses likewise expired. The REACA contains no similar exemption for personnel of lending institutions. Section 36.13(a)(1)(i)—(iv) would retain the three options in the current regulation (service as a real estate broker; as a bank officer, director or employee; or as an assistant to a residential or general appraiser) while adding experience as a broker/appraiser. The addition of the broker/appraiser option reflects that the broker/appraiser certification was available to a licensed real estate broker as of September 3, 1996, and that real estate brokers so credentialed had the option prior to September 3, 1998, of signing their appraisal reports as real estate brokers or broker/appraisers. Section 36.13(a)(2)(i) and (ii) would reduce the options for appraisal experience on or after September 3, 1998, to that acquired while serving as a broker/appraiser or as an assistant to a residential or general appraiser. The Board has elected not to allow an applicant to gain qualifying appraisal experience while serving as an assistant to a broker/appraiser. The Board does not consider a broker/appraiser to have a sufficiently adequate appraisal background to train other appraisers. Neither the RELRA nor the regulations of the State Real Estate Commission required an applicant for licensure as a real estate broker to have acquired any appraisal education or experience, and the REACA required a candidate for certification as a broker/appraiser to satisfy no requirement other than being a licensed real estate broker in good standing.

Current § 36.13(b), as previously noted, would be relocated to redesignated §§ 36.11(e) and 36.12(e). The proposed rulemaking would revise § 36.13(b) to set forth the following conditions that an assistant to a residential or general appraiser must satisfy when preparing an appraisal report: (1) perform a physical inspection of the interior and exterior of the property; (2) refrain from making an independent determination of value; (3) and either sign the report as an assistant or be referenced in the report as having provided significant professional assistance to the appraiser. The duties of the supervising appraiser would be relocated to new § 36.54 (relating to supervision of appraisal assistant). The revised language regarding physical inspection clarifies that to receive experience credit for preparing an appraisal report, the assistant must participate in the inspection in the property. The current language references the obligation of the supervising appraiser to inspect the property but not that of the assistant, although the Board's interpretation of the regulation has always been that the assistant must accompany the supervising appraiser during the inspec-

tion. The revised language also deletes the reference to a complete physical inspection not being performed for reasons of impossibility or limitations on the appraisal assignment. Under §§ 36.11 and 36.12, a complete physical inspection is required for an applicant to get credit for experience based on the preparation of an appraisal report. The proposed language that permits an assistant to be acknowledged in an appraisal report as opposed to signing it is consistent with USPAP, which requires an appraiser to identify by name any person who rendered significant professional assistance in the preparation of an appraisal report.

§ 36.41 (relating to continuing education requirement)

Section 36.41(a) requires residential and general appraisers and broker/appraisers to complete 28 hours of continuing education, including 4 hours on USPAP and 2 hours on the REACA and Board regulations and policies, during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. Section 36.41(a) further provides that the USPAP component changed to the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the AQB, effective with renewal of certification for the 2005-2007 biennial renewal period, which began July 1, 2005. Section 36.41(b) provides that a residential or general appraiser who obtained initial certification between January 1 and June 30 of a biennial renewal year is exempt from the continuing education requirement for that biennial renewal year. Section 36.41(c) provides that a broker/appraiser may count continuing education obtained between January 1, 2001, and June 30, 2001, toward the continuing education requirement for renewal of certification for the 2003-2005 biennial renewal period, which began July 1, 2003.

The proposed rulemaking would amend § 36.41 to delete the outdated references to the 4-hour USPAP requirement and to the acceptability of certain continuing education for renewal of broker/appraiser certifications in 2003. The proposed rulemaking also would make editorial changes to § 36.41.

§ 36.43 (relating to correspondence courses/video and remote television presentations)

Section 36.43 prescribes the requirements for Board approval of a correspondence course or video and remote television course as a continuing education offering for certified real estate appraisers. These requirements are identical to those for approval of courses for initial education purposes in current §§ 36.11(1)(iv) and 36.12(1)(iv).

The AQB's distance education criteria for continuing education courses are less strict than its distance education criteria for courses offered for initial education in that a written examination is not mandatory. Subject to Board approval and to compliance with course content and course length requirements, a distance education course would be acceptable for continuing education purposes if the course provider presented the course to an organized group in an instructional setting and with a qualified person available to answer questions, provide information and monitor attendance. The Board notes that written examinations have never been required for continuing education courses that are taught in a traditional classroom setting.

The proposed rulemaking would amend § 36.43 to replace the current requirements with the previously-described criteria, together with the previously discussed, examination-based distance education options involving

courses offered by providers that are accredited colleges or universities or credentialed by the International Distance Education Center.

§ 36.51 (relating to Uniform Standards of Professional Appraisal Practice)

Section 36.51, which was adopted before the Board was vested with authority to regulate the performance of appraisals in non-Federally transactions, requires a certified real estate appraiser, when performing an appraisal in a Federally related transaction, to perform a complete physical inspection of the interior and exterior of a property unless a complete inspection is not possible for the following reasons: the improvements have been destroyed, removed or not yet built; an inspection is not legally or contractually possible; the appraiser is denied access to the property; or the appraisal contract stipulates a "drive-by" appraisal. Section 36.51 also requires a certified real estate appraiser to perform an appraisal in accordance with USPAP and that one or more violations of USPAP could result in disciplinary action under the REACA. Section 36.51 further states that an appraiser may obtain the current annual edition of USPAP by contacting the Appraisal Foundation and provides contact information (postal address and telephone number).

The proposed rulemaking would amend § 36.51 by deleting as unnecessary the reference to a physical inspection of the property. USPAP's Advisory Opinion 2, regarding inspection of subject property real estate, makes it clear that the nature of the inspection process, or the need to conduct a personal inspection at all, varies depending on such matters as the type of property appraised, the conditions of the appraisal, and whether there is adequate information about the property to develop a credible appraisal. Requiring an appraisal to be performed in accordance with USPAP is sufficient to ensure that proper consideration is given to the matter of property inspection. The proposed rulemaking also would delete the reference to the publication of an "annual" edition of USPAP, because the ASB is contemplating a less frequent publication schedule, and would add an e-mail address to the contact information for the Appraisal Foundation.

§ 36.52 (relating to use of certificate number and title)

Section 36.52 requires that a certified real estate appraiser place his name, signature and certificate number immediately adjacent to or immediately below the appraiser's title on each appraisal report and appraisal agreement. The section references the titles "Pennsylvania certified general real estate appraiser" and "Pennsylvania certified residential real estate appraiser" and provides an example of how this information should appear on an appraisal report or appraisal agreement. The proposed rulemaking would add a reference to the title "Pennsylvania certified broker/appraiser" and would make editorial changes to the example provided.

§ 36.54. (relating to supervision of appraisal assistant)

Section 36.54 is a new section derived in part from the current § 36.13(a) that prescribes the supervisory duties of a residential or general appraiser when utilizing an appraisal assistant.

Proposed § 36.54(1) would require an appraiser to notify the Board whenever the appraiser retains an appraisal assistant. The purpose of the notification requirement is to enable the Board to maintain a current roster of appraisal assistants so that information about certification requirements and procedures can be mailed to them. While the AQB has adopted criteria relating to

an appraiser trainee classification, the REACA does not recognize this classification. As a consequence, the Board is without authority to require persons who are apprenticing or training to become certified as residential or general appraisers to formally register with the Board or to otherwise participate in any structured training program.

Proposed § 36.54(2) would require an appraiser to directly supervise and control the work of an assistant, assuming total responsibility for the contents of the appraisal report. This requirement is consistent with the existing requirement in § 36.13(a).

Proposed § 36.54(3) would require an appraiser to accompany an assistant during the physical inspection of each property until the assistant has logged 300 hours of experience or until the appraiser considers the assistant competent under USPAP to perform an inspection alone, whichever period of time is greater. In the case of an assistant who is a residential appraiser seeking to upgrade to certification as a general appraiser, the supervising appraiser would have to accompany the assistant during the physical inspection of each property until the supervising appraiser considers the assistant competent under USPAP to perform an inspection alone. The current inspection standard in § 36.13(a), which requires an appraiser to personally inspect 100% of properties for which an assistant helped to prepare appraisal reports, is economically burdensome for appraisers and makes it difficult for appraisers to extend apprenticeship opportunities to others seeking to enter the appraising profession. The proposed inspection standard is similar to that prescribed by the AQB for an appraiser trainee; the supervising appraiser must accompany the trainee on each property inspection until the appraiser deems the trainee competent under USPAP to perform an inspection unaccompanied.

Proposed § 36.54(4) would require, consistent with proposed § 36.13(a), that an appraiser sign an appraisal report prepared by an assistant and either have the assistant sign the report as well or acknowledge the assistant's significant professional assistance in the report.

Proposed § 36.54(5) would require an appraiser to sign a Board-approved appraisal assistant checklist that has been completed by the assistant and that relates to the assistant's work on the appraisal report, while proposed § 36.54(6) would require an appraiser to provide a current or former assistant with copies of appraisal reports and appraisal assistant checklists requested by the Board for the purpose of verifying the assistant's experience. The Board requires an applicant for certification as a residential or general appraiser to submit an experience log setting forth the number of hours that the assistant worked on each appraisal assignment. The Board staff selects approximately a dozen appraisals from the experience log and requests that the applicant submit copies of the appraisal reports for review together with any appraisal assistant checklists that may have been completed at the time the appraisal reports were prepared. The appraisal assistant checklist was developed by the Board in the late 1990s and made available to residential and general appraisers for their voluntary use. The checklist identifies the various components of the appraisal process in which the assistant participated. The Board has found the checklist helpful in assessing the quality of the assistance rendered in the preparation of the appraisal report, and believes that its use should be mandatory, rather than voluntary, so that the Board has available the

same type of verifying information for each applicant. While the overwhelming majority of residential and general appraisers cooperate in providing copies of requested appraisal reports and appraisal assistant checklists to their current or former assistants, making cooperation compulsory helps to ensure that all assistants who apply for certification will have an equal opportunity to satisfactorily document their experience.

§ 36.91 (relating to reactivation of certification)

Section 36.91(a) establishes the procedure for a certified real estate appraiser to reactivate a certification that has lapsed for lack of biennial renewal. The appraiser shall pay a renewal fee, complete required biennial continuing education and provide verification that the appraiser did not perform appraisals or hold out as an appraiser during the period of lapsed certification. Section 36.91(b) provides that the appraiser will not be assessed late fees if the appraiser refrained from practicing or holding out as an appraiser during the period of lapsed certification. Section 36.91(c) provides that if the appraiser engaged in unauthorized activities during the period of lapsed certification, the appraiser would be subject to possible disciplinary action under the REACA and would be assessed late renewal fees of \$5 for each month, or part of a month, that the appraiser engaged in unauthorized activities.

The proposed rulemaking would retitle § 36.91 as "Reactivation of lapsed certification" and reorganize it by eliminating the subsections and streamlining the description of the requirements for reactivation. The proposed rulemaking also would clarify that the applicable continuing education would have to be completed within the 2-year period preceding the filing date of the reactivation application.

§§ 36.224 and 36.225 (relating to correspondence courses; and video and remote television courses)

Sections 36.224 and 36.225 prescribe the requirements for Board approval of a correspondence course or a video and remote television course, respectively, as an initial education offering for CPEs. The requirements are identical to those in current §§ 36.11 and 36.12 for residential and general appraisers.

Although CPEs are not subject to the AQB's qualifications criteria, the Board has always sought to harmonize, whenever appropriate, regulatory requirements affecting both CPEs and certified appraisers. Because there is no meaningful basis for having one set of distance education standards for CPEs and another set of distance education standards for certified appraisers, the proposed rulemaking would delete § 36.225 and replace the contents of § 36.224 with the AQB's distance education criteria for initial education in proposed §§ 36.11 and 36.12.

§ 36.261 (relating to continuing education requirement)

Section 36.261 requires a CPE, as a condition of biennial renewal of certification, to complete 28 hours of continuing education, including 4 hours on USPAP and 2 hours on the ACA and the Board's regulations and policies, during the immediately preceding renewal period. A CPE whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year is exempt from the continuing education requirement for that biennial renewal year.

The proposed rulemaking would amend § 36.261 for clarity and provide that the USPAP requirement would increase to 7 hours effective with renewal of certification for the 2007-2009 biennial renewal period. Each CPE

would have to complete the 7-hour National USPAP Update Course or an equivalent 7-hour course approved by the AQB. The identical requirement was implemented for residential and general appraisers and broker/appraisers effective with renewal of their certifications for the 2005-2007 biennial renewal period (July 1, 2005—June 30, 2007). Because of the similarity between the real estate assessing and real estate appraising professions, as well as the importance of having practitioners in both professions maintain strict adherence to professional standards, the Board believes it is desirable that CPEs be required to complete the same amount of biennial training on USPAP as that required of certified appraisers. The Board's Fall 2005 newsletter, which was sent to active CPEs, gave notice of the Board's intention to propose the new USPAP requirement for CPEs effective with the 2007-2009 biennial renewal period.

§ 36.263 (relating to correspondence courses/video and remote television presentations)

Section 36.263 prescribes the requirements for Board approval of a correspondence course or video and remote television course as a continuing education offering for CPEs. These requirements are identical to those for approval of such courses for initial education purposes in current §§ 36.224 and 36.225 (relating to correspondence courses; and video and remote television courses). For reasons previously discussed, the proposed rulemaking would replace the contents of § 36.263 with the same distance education criteria for a continuing education course that are being proposed in § 36.43 (relating to correspondence courses/video and remote television presentations).

§ 36.271 (relating to reactivation of certification)

Section 36.271 sets forth the same procedures for reactivation of a lapsed CPE certification as appear in current § 36.91 with regard to the reactivation of a lapsed appraiser certification. The proposed rulemaking would make the same amendments to § 36.271 that are being proposed in § 36.91 (relating to reactivation of certification).

§ 36.281 (relating to standards of professional conduct)

Section 36.281 establishes standards of professional conduct for CPEs. Standard 1 requires that CPEs perform all assessments and appraisal-related assignments in accordance with USPAP and provides information about how a CPE can obtain a current annual edition of USPAP from the Appraisal Foundation. The proposed rulemaking would make editorial changes to Standard 1, delete the reference to an "annual" edition of USPAP and add an e-mail address to the contact information for the Appraisal Foundation.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking would cause candidates for certification as residential and general appraisers to incur additional costs in meeting the increased educational requirements for initial certification that are mandated by the AQB. These costs cannot be quantified. The proposed rulemaking, through its elimination of the requirement that residential and general appraisers must accompany appraisal assistants on all property inspections, should allow appraisers who employ appraisal assistants to use their time more efficiently. The savings to appraisers, and indirectly to users of appraisal services, cannot be quantified. The proposed rulemaking would have no direct fiscal impact on the general public or on the Commonwealth and its political subdivisions.

The proposed rulemaking would require residential and general appraisers to provide written notification to the Board when they employ appraisal assistants and to maintain appraisal assistant checklists for the appraisal reports that the assistants helped to prepare. The proposed rulemaking would not create additional paperwork for the general public or the Commonwealth and its political subdivisions.

Effective Date

The proposed rulemaking would become effective upon final-form publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 17, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. A copy of this material is available to the public upon request.

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

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Steven Wennberg, Counsel, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ROBERT F. MCRAE,
Chairperson

Fiscal Note: 16A-7014. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

**Subchapter A. [GENERAL PROVISIONS]
CERTIFIED REAL ESTATE APPRAISERS**

GENERAL PROVISIONS

§ 36.1. Definitions.

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

AQB—The Appraiser Qualifications Board of the Appraisal Foundation.

* * * * *

Certified broker/appraiser—A person who holds a certificate issued under authority of section 6(a)(3) of the act (63 P. S. § 457.6(a)(3)) and who is authorized to perform appraisals of all types of real property in non-Federally-related transactions.

Certified general real estate appraiser—A person who holds a certificate issued under authority of section 6(a)(2) and (e) of the act and § 36.12 (relating to qualifications for certification as general real estate appraiser) and who is authorized to perform appraisals of all types of real property in all transactions, whether Federally-related or non-Federally-related.

Certified real estate appraiser—A certified broker/appraiser, certified residential real estate appraiser or certified general real estate appraiser.

Certified residential real estate appraiser—A person who holds a certificate issued under authority of section 6(a)(1) and (d) of the act and § 36.11 (relating to qualifications for certification as residential real estate appraiser) and who is authorized to perform appraisals of residential properties of one-to-four dwelling units in all transactions, whether Federally-related or non-Federally-related.

Distance education—An educational process based on the geographical separation of the learner and instructor, which provides interaction between the learner and instructor and includes testing. Examples include CD or DVD ROM, on-line learning, correspondence courses, video conferencing, and video and remote television courses.

* * * * *

[**State certified general real estate appraiser**—A person who satisfies the requirements of the act and this chapter, pertaining to the appraisal of residential and nonresidential real property utilized in connection with Federally related transactions, and who holds a current, valid certificate issued under the act and this chapter.

State certified residential real estate appraiser—A person who satisfies the certification requirements of the act and this chapter, pertaining solely to the appraisal of residential real property utilized in connection with Federally-related transactions, and who holds a current, valid certificate under the act and this chapter.]

USPAP—The Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

§ 36.2 Application process.

(a) **Application form.** A person interested in becoming [**State certified as**] a certified residential real estate appraiser or a certified general real estate appraiser shall complete and file with the Board a notarized application form and an application fee. Application forms may be obtained [**from the Administrative Office of**] by visiting the Board's website at www.dos.state.pa.us/real or by writing, telephoning or e-mailing the Board[,] at Post Office Box 2649, Harrisburg, [**Pennsylvania**] PA 17105-2649, (717) 783-4866, or ST-APPRAISE@state.pa.us, respectively.

(b) **Application fee.** The application fee for certification as a residential or general real estate appraiser is set forth in § 36.6 (relating to fees). Application fees are

nonrefundable. Payments [**shall**] must be in the form of a personal check or money order made payable to the "Commonwealth of Pennsylvania."

(c) **Approved applications.** Subject to the provisions of subsection (e), an approved application will be valid for 1 year from the date of approval. If an applicant does not pass the certification examination within this 1-year period, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take the examination after 1 year from the date of approval, a new application, along with the required fee, shall be submitted to the Board. [**The application will be reviewed on the basis of statutes and regulations in effect at the time the new application is received by the Board.**]

(d) **Disapproved applications.** Subject to the provisions of subsection (e), an applicant whose application has been disapproved by the Board will be notified in writing of the reasons for the disapproval, and will have 1 year from the date of disapproval to correct the deficiencies or to file a request for reconsideration. A request for reconsideration [**shall**] must give the reason for the applicant's request, [**shall**] be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider and may include a request for an informal interview with the Board. If a request for reconsideration is denied or, subject to the provisions of subsection (e), an applicant is unable to correct the deficiencies which resulted in the disapproval of the application within 1 year from the date of disapproval, a new application, along with the required fee, shall be submitted to the Board. [**An applicant's new application will be reviewed on the basis of statutes and regulations in effect at the time the new application is received by the Board.**]

(e) **Compliance with new requirements.** [**If the education or experience criteria established by the Appraiser Qualifications Board of the Appraisal Foundation (AQB) are amended during the 1-year period following application approval under subsection (c), the applicant will be required to satisfy the new education or experience requirements established by the AQB as a condition of receiving certification from the Board. If the AQB's education or experience criteria is amended during the 1-year period following application disapproval under subsection (d), the applicant will have 1 year from the date of application disapproval to correct the deficiencies which resulted in application disapproval and to satisfy the AQB's new education or experience requirements.**] Except as otherwise provided in §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser), an applicant shall comply with any increased education or experience requirements that take effect between the applicant's filing of an initial application and the applicant's passing the certification examination.

§ 36.3. Examinations.

(a) The examination required for certification as a residential [**or general**] real estate appraiser is the [**National**] AQB-endorsed Uniform State Certified Residential Real Property Appraiser Examination [**issued or endorsed by the Appraiser Qualifications**

Board of the Appraisal Foundation] or its equivalent. The examination required for certification as a general real estate appraiser is the AQB-endorsed Uniform State Certified General Real Property Appraiser Examination or its equivalent. The certification [examination will be] examinations are administered by a professional testing organization under contract with the Board at times and places established by the [Board] professional testing organization.

(b) [General information regarding the real estate appraiser examinations and instructions regarding examination scheduling will be prepared by the professional testing organization under contract with the Board and compiled in a candidate booklet to be made available to each candidate whose State-certified real estate appraiser application has been approved by the Board.] Interested persons may obtain information about the certification examinations from the professional testing organization. Contact information for the professional testing organization appears on the Board's website at www.dos.state.pa.us/real.

QUALIFICATIONS FOR CERTIFICATION

§ 36.11. [Residential] Qualifications for certification as residential real estate appraiser.

(a) *Overview.* An applicant for certification as a residential real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a residential real estate appraiser. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite to certification as a residential real estate appraiser.

[(1) Education] (b) *Appraisal classroom hours.* An applicant shall submit evidence to the Board of having completed 120 classroom hours of courses in subjects related to real estate appraisal, including the 15-hour National [Uniform Standards of Professional Appraisal Practice] USPAP Course, together with coverage of the topics listed in [paragraph (2)] subsection (c)(1). Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 200 classroom hours in the appraisal curriculum set forth in subsection (c)(2), except that the new requirement does not apply to an applicant who has satisfied the existing education requirement before January 1, 2008.

[(i)] (1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the [educational offering] course is at least 15 hours, and the applicant successfully completes an examination pertinent to [that educational offering] the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

[(ii)] (2) *Teaching credit.* Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses for actual classroom time, but credit will not be given for course repetition. A teacher requesting credit for the classroom hour requirement may not request credit for experience. [A teacher may request credit for either the classroom hour or experience requirement, but not both. No more than 300 hours

will be granted to teachers requesting credit toward the experience requirement for teaching of appraisal courses.]

[(iii)] (3) * * *

[(iv) Correspondence courses] (4) *Distance education.* [Correspondence courses may be] A distance education course is acceptable to meet the classroom hour requirement if [each] the course is approved by the Board and meets the following conditions:

[(A)] (i) The course [has been] is presented by [an accredited (Commission on Colleges or a regional accreditation association) college or university which offers correspondence programs in other disciplines] one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the International Distance Education Certification Center and approval for course content from the Board or from the AQB through its Course Approval Program.

[(B)] (ii) The applicant successfully completes a written examination [administered at a location] procured by an official approved by the college [or], university or other course provider.

[(C)] (iii) The content and length of the course [meets] meet the requirements of [subparagraph (i) and paragraph (2)] paragraph (1) and subsection (c), respectively.

[(v) Video and remote television courses. Video and remote television courses may be acceptable to meet the classroom hour requirement if each offering is approved by the Board and meets the following conditions:

(A) The course has been presented by an accredited (Commission on Colleges or a regional accreditation association) college or university which offers similar programs in other disciplines.

(B) The applicant successfully completes a written examination administered at a location by an official approved by the college or university.

(C) The content and length of the course meets the requirements of subparagraph (i) and paragraph (2).

[(vi)] (5) *Credit for challenge examination.* The Board may [grant credit for courses if] accept toward the classroom hour requirement a course for which the applicant obtained credit from the course provider by challenge examination without attending the [courses] course, if [that credit was granted by] the course provider granted credit prior to July 1, 1990, and the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

[(2) Mandatory course topics] (c) *Content of appraisal education.* [Applicants] The content of an applicant's appraisal education shall be as follows:

(1) An applicant who is subject to the 120-classroom hour requirement in subsection (b) shall demonstrate that [their education] the classroom hours included coverage of the following topics [listed in this paragraph], with particular emphasis on the appraisal of one-to-four unit residential properties:

* * * * *

(2) An applicant who is subject to the 200-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:

- (i) Basic appraisal principles (30 hours).
 - (A) Real property concepts and characteristics.
 - (I) Basic real property concepts.
 - (II) Real property characteristics.
 - (III) Legal description.
 - (B) Legal considerations.
 - (I) Forms of ownership.
 - (II) Public and private controls.
 - (III) Real estate contracts.
 - (IV) Leases.
 - (C) Influences on real estate.
 - (I) Governmental.
 - (II) Economic.
 - (III) Social.
 - (IV) Environmental, geographic and physical.
 - (D) Types of value.
 - (I) Market value.
 - (II) Other value types.
 - (E) Economic principles.
 - (I) Classical economic principles.
 - (II) Application and illustrations of the economic principles.
 - (F) Overview of real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (G) Ethics and how they apply in appraisal theory and practice.
 - (ii) Basic appraisal procedures (30 hours).
 - (A) Overview of approaches to value.
 - (B) Valuation procedure.
 - (I) Defining the problem.
 - (II) Collecting and selecting the data.
 - (III) Analyzing.
 - (IV) Reconciling and final value opinion.
 - (V) Communicating the appraisal.
 - (C) Property description.
 - (I) Geographic characteristics of the land/site.
 - (II) Geologic characteristics of the land/site.

- (III) Location and neighborhood characteristics.
- (IV) Land/site considerations for highest and best use.
- (V) Improvements—architectural styles and types of construction.
 - (D) Residential applications.
 - (iii) National USPAP Course or Equivalent (15 hours).
 - (A) Preamble and ethics rules.
 - (B) Standard 1.
 - (C) Standard 2.
 - (D) Standards 3 to 10.
 - (E) Statements and advisory opinions.
 - (iv) Residential market analysis and highest and best use (15 hours).
 - (A) Residential markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (B) Highest and best use.
 - (I) Test constraints.
 - (II) Application of highest and best use.
 - (III) Special considerations.
 - (IV) Market analysis.
 - (V) Case studies.
 - (v) Residential appraiser site valuation and cost approach (15 hours).
 - (A) Site valuation.
 - (I) Methods.
 - (II) Case studies.
 - (B) Cost approach.
 - (I) Concepts and definitions.
 - (II) Replacement/reproduction cost new.
 - (III) Accrued depreciation.
 - (IV) Methods of estimating accrued depreciation.
 - (V) Case studies.
 - (vi) Residential sales comparison and income approaches (30 hours).
 - (A) Valuation principles and procedures—sales comparison approach.
 - (B) Valuation principles and procedures—income approach.
 - (C) Finance and cash equivalency.
 - (D) Financial calculator introduction.
 - (E) Identification, derivation and measurement of adjustments.
 - (F) Gross rent multipliers.
 - (G) Partial interests.
 - (H) Reconciliation.
 - (I) Case studies and applications.

(vii) Residential report writing and case studies (15 hours).

- (A) Writing and reasoning skills.
- (B) Common writing problems.
- (C) Form reports.
- (D) Report options and USPAP compliance.
- (E) Case studies.

(viii) Statistics, modeling and finance (15 hours).

- (A) Statistics.
- (B) Valuation models (AVMs and mass appraisal).
- (C) Real estate finance.

(ix) Advanced residential applications and case studies (15 hours).

(A) Complex property, ownership and market conditions.

- (B) Deriving and supporting adjustments.
- (C) Residential market analysis.
- (D) Advanced case studies.
- (x) Appraisal subject matter electives (20 hours).
- (d) *Postsecondary education.*

(1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:

(i) Possession of an associate's degree, or higher, from an accredited college or university.

(ii) Completion of 21 semester credit hours in the following college-level subjects at an accredited college or university:

- (A) English composition.
- (B) Principles of economics (micro or macro).
- (C) Finance.
- (D) Algebra, geometry or higher mathematics.
- (E) Statistics.
- (F) Introduction to computers—word processing/spreadsheets.
- (G) Business or real estate law.

(2) This subsection does not apply to an applicant who completed 120 classroom hours of qualifying appraisal education under subsection (b) before January 1, 2008.

[(3)] (e) *Experience.*

(1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having [completed] acquired 2,500 hours of acceptable appraisal experience [obtained] during [no fewer than] a period of at least 24 months. [Fifty percent] At least 50% of the experience [obtained] acquired by an applicant [shall] must be in the actual preparation of real estate appraisal reports, which [include a] includes physical [inspection] inspections of the interior and exterior of the subject [property] properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports). Hours may be treated as cumulative to achieve the necessary 2,500 hours of appraisal experience. Cumulative is defined to mean that experience may be

acquired over any time period in excess of 24 months. There is no minimum number of hours which must be acquired in any 12 months. The following will serve as an example:

Year 1	400 Hours
Year 2	800 Hours
Year 3	200 Hours
Year 4	500 Hours
Year 5	600 Hours
Total	2,500 Hours

(2) Experience acquired after January 1, 1991, must comply with USPAP. Experience acquired after August 2, 1993, will not be accepted unless the applicant has first completed 45 classroom hours of appraisal education, including 15 hours on USPAP. Acceptable categories of appraisal experience [includes] include:

* * * * *

(iii) Review appraisals [, if the reviews are in compliance with Standard 3 of the Uniform Standards of Professional Appraisal Practice].

* * * * *

(viii) [Teaching of appraisal courses; however, no more than 300 hours will be granted to teachers requesting credit toward the experience requirement for teaching of appraisal courses and no credit will be given for course repetition.

(ix)] Real estate related experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals [in compliance with the Uniform Standards of Professional Appraisal Practice].

(ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.

(x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

[(4) State certified residential real estate appraiser: An applicant who has passed an examination and who is certified under this section will be deemed to have met the minimum criteria for the certified residential real property appraiser classification adopted by the Appraiser Qualifications Board of the Appraisal Foundation, and shall be qualified to perform residential real property appraisals in Federally-related and non-Federally related transactions without regard to value.]

§ 36.12. [General] Qualifications for certification as general real estate appraiser.

(a) *Overview.* An applicant for certification as a general real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a general real estate appraiser. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P. S. § 455.101—455.902) is a prerequisite to certification as a general real estate appraiser.

[(1) Education] (b) *Appraisal classroom hours.* An applicant shall submit evidence to the Board of having

completed 180 classroom hours of courses in subjects related to real estate appraisal, including the 15-hour National [**Uniform Standards of Professional Appraisal Practice**] USPAP Course, together with coverage of the topics listed in [**paragraph (2)**] subsection (c)(1). Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 300 classroom hours in the appraisal curriculum set forth in subsection (c)(2), except that the new requirement does not apply to an applicant who has satisfied the existing education requirement before January 1, 2008.

[(i)] (1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the [**educational offering**] course is at least 15 hours, and the applicant successfully completes an examination pertinent to [**that educational offering**] the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

[(ii)] (2) *Teaching credit.* Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses for actual classroom time, but credit will not be given for course repetition. A teacher requesting credit for the classroom hour requirement may not request credit for experience. [**A teacher may request credit for either the classroom hour or experience requirement, but not both. No more than 300 hours will be granted to teachers requesting credit toward the experience requirement for teaching of appraisal courses.**]

[(iii)] (3) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

[(iv) *Correspondence courses*] (4) *Distance education.* [**Correspondence courses may be**] A distance education course is acceptable to meet the classroom hour requirement if [**each**] the course is approved by the Board and meets the following conditions:

[(A)] (i) The course [**has been**] is presented by [**an accredited (Commission on Colleges or a regional accreditation association) college or university which offers correspondence programs in other disciplines**] one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the International Distance Education Certification Center and approval for course content from the Board or from the AQB through its Course Approval Program.

[(B)] (ii) The applicant successfully completes a written examination [**administered at a location**] proc-

ured by an official approved by the college [**or**], university or other course provider.

[(C)] (iii) The content and length of the course [**meets**] meet the requirements of [**subparagraph (i) and paragraph (2)**] paragraph (1) and subsection (c), respectively.

[(v) *Video and remote television courses.* Video and remote television courses may be acceptable to meet the classroom hour requirement if each offering is approved by the Board and meets the following conditions:

(A) The course has been presented by an accredited (Commission on Colleges or a regional accreditation association) college or university which offers similar programs in other disciplines.

(B) The applicant successfully completes a written examination administered at a location by an official approved by the college or university.

(C) The content and length of the course meets the requirements of subparagraph (i) and paragraph (2).

[(vi)] (5) *Credit for challenge examination.* The Board may [**grant credit for courses if**] accept toward the classroom hour requirement a course for which the applicant obtained credit from the course provider by challenge examination without attending the [**courses**] course, if [**credit was granted by**] the course provider granted credit prior to July 1, 1990, and the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

[(2) *Mandatory course topics*] (c) *Content of appraisal education.* [**Applicants**] The content of an applicant's appraisal education must be as follows:

(1) An applicant who is subject to the 180-classroom hour requirement in subsection (b) shall demonstrate that [**their education**] the classroom hours included coverage of the following topics [**listed in this paragraph**], with particular emphasis on the appraisal of nonresidential properties. Residential is defined as one to four residential units.

* * * * *

(2) An applicant who is subject to the 300-hour classroom requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:

(i) Basic appraisal principles (30 hours).

(A) Real property concepts and characteristics.

(I) Basic real property concepts.

(II) Real property characteristics.

(III) Legal description.

(B) Legal considerations.

(I) Forms of ownership.

(II) Public and private controls.

(III) Real estate contracts.

(IV) Leases.

(C) Influences on real estate.

(I) Governmental.

- (II) Economic.
- (III) Social.
- (IV) Environmental, geographic and physical.
- (D) Types of value.
 - (I) Market value.
 - (II) Other value types.
 - (E) Economic principles.
 - (I) Classical economic principles.
 - (II) Application and illustrations of the economic principles.
 - (F) Overview of real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (G) Ethics and how they apply in appraisal theory and practice.
 - (ii) Basic appraisal procedures (30 hours).
 - (A) Overview of approaches to value.
 - (B) Valuation procedure.
 - (I) Defining the problem.
 - (II) Collecting and selecting the data.
 - (III) Analyzing.
 - (IV) Reconciling and final value opinion.
 - (V) Communicating the appraisal.
 - (C) Property description.
 - (I) Geographic characteristics of the land/site.
 - (II) Geologic characteristics of the land/site.
 - (III) Location and neighborhood characteristics.
 - (IV) Land/site considerations for highest and best use.
 - (V) Improvements—architectural styles and types of construction.
 - (D) Residential applications.
 - (iii) National USPAP Course or equivalent (15 hours).
 - (A) Preamble and ethics rules.
 - (B) Standard 1.
 - (C) Standard 2.
 - (D) Standards 3 to 10.
 - (E) Statements and advisory opinions.
 - (iv) General appraiser market analysis and highest and best use (30 hours).
 - (A) Real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (B) Highest and best use.
 - (I) Test constraints.
 - (II) Application of highest and best use.
 - (III) Special considerations.
 - (IV) Market analysis.
 - (V) Case studies.
 - (v) General appraiser site valuation and cost approach (30 hours).
 - (A) Site valuation.
 - (I) Methods.
 - (II) Case studies.
 - (B) Cost approach.
 - (I) Concepts and definitions.
 - (II) Replacement/reproduction cost new.
 - (III) Accrued depreciation.
 - (IV) Methods of estimating accrued depreciation.
 - (V) Case studies.
 - (vi) General appraiser sales comparison approach (30 hours).
 - (A) Value principles.
 - (B) Procedures.
 - (C) Identification and measurement of adjustments.
 - (D) Reconciliation.
 - (E) Case studies.
 - (vii) General appraiser income approach (60 hours).
 - (A) Overview.
 - (B) Compound interest.
 - (C) Lease analysis.
 - (D) Income analysis.
 - (E) Vacancy and collection loss.
 - (F) Estimating operating expenses and reserves.
 - (G) Reconstructed income and expense statement.
 - (H) Stabilized net operating income estimate.
 - (I) Direct capitalization.
 - (J) Discounted cash flow.
 - (K) Yield capitalization.
 - (L) Partial interests.
 - (M) Case studies.
 - (viii) General appraiser report writing and case studies (30 hours).
 - (A) Writing and reasoning skills.
 - (B) Common writing problems.
 - (C) Report options and USPAP compliance.
 - (D) Case studies.
 - (ix) Statistics, modeling and finance (15 hours).
 - (A) Statistics.
 - (B) Valuation Models (AVMs and mass appraisal).
 - (C) Real estate finance.
 - (x) Appraisal subject matter electives (30 hours)
 - (d) Postsecondary education.

(1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:

(i) Possession of a bachelor's degree, or higher, from an accredited college or university.

(ii) Completion of 30 semester credit hours in the following college-level subjects at an accredited college or university:

- (A) English composition.
- (B) Macro economics.
- (C) Micro economics.
- (D) Finance.
- (E) Algebra, geometry or higher mathematics.
- (F) Statistics.
- (G) Introduction to computers—word processing/spreadsheets.
- (H) Business or real estate law.

(I) Two elective courses in accounting, geography, ag-economics, business management or real estate.

(2) This subsection does not apply to an applicant who completed 180 classroom hours of qualifying appraisal education under subsection (b) before January 1, 2008.

[(3)] (e) *Experience.*

(1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having [**completed**] **acquired** 3,000 hours of acceptable appraisal experience, including 1,500 hours in nonresidential work, [**obtained**] during [**no fewer**] a period of **no less** than 30 months. [**Fifty percent**] **At least 50%** of the experience [**obtained**] **acquired** by an applicant shall be in the actual preparation of real estate appraisal reports, which [**include a**] **includes** physical [**inspection**] **inspections** of the interior and exterior of the subject [**property**] **properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports).** Hours may be treated as cumulative to achieve the necessary 3,000 hours of appraisal experience. Cumulative is defined to mean that experience may be acquired over any time period in excess of 30 months. There is no minimum number of hours which must be acquired in any 1 year. The following will serve as an example:

| | |
|---------------|------------------|
| Year 1 | 1,000 Hours |
| Year 2 | 800 Hours |
| Year 3 | 100 Hours |
| Year 4 | 1,000 Hours |
| Year 5 | 100 Hours |
| I Total | 3,000 Hours |

(2) Experience acquired after January 1, 1991, must comply with USPAP. Experience acquired after August 2, 1993, will not be accepted unless the applicant has first completed 45 classroom hours of appraisal education, including 15 hours on USPAP. Acceptable categories of appraisal experience [**includes**] **include:**

* * * * *

(iii) Review appraisals [, if the reviews are in compliance with Standard 3 of the Uniform Standards of Professional Appraisal Practice] .

* * * * *

(viii) [Teaching of appraisal courses; however, no more than 300 hours will be granted to teachers requesting credit toward the experience requirement for teaching of appraisal courses and no credit will be given for course repetition.

(ix)] Real estate experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals [**in compliance with the Uniform Standards of Professional Appraisal Practice**] .

(ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.

(x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

[(4) *State certified general real estate appraiser.* An applicant who has passed examination and who is certified under this section will be deemed to have met the minimum criteria for the Certified General Real Property Appraiser Classification adopted by the Appraiser Qualifications Board of the Appraisal Foundation, and shall be qualified to perform residential and nonresidential real property appraisals in Federally related and non-Federally-related transactions without regard to value.]

§ 36.13. Experience options for preparation of appraisal reports.

(a) An applicant [**seeking to meet the experience requirements**] for certification as a residential real estate appraiser or a general real estate appraiser [**may do so by**] under §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) shall have acquired experience in the preparation of appraisal reports in one or more of the following:

(1) Prior to September 3, 1998:

[(1)] (i) [**Performing real estate appraisals which are not required by FIRREA to be performed by State-certified or State-licensed real estate appraisers,**] As a licensed real estate broker under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455-901) and Chapter 35 (relating to State Real Estate Commission).

[(2)] (ii) [**Performing appraisals or other evaluations of real estate in connection with a loan transaction in the capacity of**] As an elected officer, director or [**employe**] **employee** of a banking institution, savings institution, savings bank, credit union or trust company operating under applicable Federal or State laws, when acting on behalf of the institution [**in performing the appraisal**] in connection with a loan transaction.

(iii) As a certified broker/appraiser.

[(3)] (iv) [**Assisting in the preparation of a real estate appraisal required by FIRREA to be performed by a State-certified or State-licensed real estate appraiser, under the supervision of a certified residential real estate appraiser or a certified**

general real estate appraiser, if the certified real estate appraiser:] As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the assistant satisfies the requirements of subsection (b).

[(i) Directly supervises and controls the applicant's work, assuming total responsibility for the content of the appraisal documents and value conclusions. The applicant may not arrive at an independent determination of value.

(ii) Personally makes a physical inspection of the interior and exterior of the subject property, unless an interior and complete exterior inspection of the property is not possible as of the effective date of the appraisal—that is, where improvements have been destroyed, removed or not yet built; inspections are not legally or contractually possible; the appraiser is denied access by the property owner; or, a contract stipulates a “drive-by” appraisal.

(iii) Signs the appraisal document as “certified real estate appraiser” and has the applicant sign as “assistant to the certified real estate appraiser.”]

(2) On or after September 3, 1998:

(i) As a certified broker/appraiser.

(ii) As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the assistant satisfies the requirements of subsection (b).

(b) [Experience obtained after August 2, 1993, will only be acceptable to the Board if an applicant shows evidence of first having completed 45 classroom hours in subjects related to real estate appraisal in §§ 36.11(2) and 36.12(2) (relating to residential real estate appraiser; and general real estate appraiser), which includes at least 15 hours of the Uniform Standards of Professional Appraisal Practice. Appraisal experience obtained prior to August 2, 1993, will not be subject to the educational requirement imposed by this section.] An assistant to a certified general appraiser or certified residential appraiser shall observe the following requirements when preparing an appraisal report:

(1) The assistant shall perform an inspection of the interior and exterior of the property.

(2) The assistant may not arrive at an independent determination of value.

(3) The assistant shall sign the appraisal report as “assistant to the certified real estate appraiser” or be referenced in the certification section of the appraisal report, or in an addendum to the appraisal report, as having provided significant professional assistance.

CONTINUING EDUCATION

§ 36.41. Continuing education requirement.

(a) Continuing education for certified [general appraisers, residential appraisers and broker/appraisers] real estate appraisers is necessary to ensure that they maintain and increase their skill, knowledge and competency in real estate appraising. Except as provided in subsection (b), [every general] a certified real estate appraiser [, residential appraiser and

broker/appraiser] shall complete 28 classroom hours of continuing education—including [at least 4 hours on the Uniform Standards of Professional Appraisal Practice] the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the AQB, and at least 2 hours on the act, this chapter and the policies of the Board—during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. [Effective with renewal of certification for the 2005-2007 biennial renewal period, the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the Appraiser Qualifications Board, will replace the minimum 4-hour requirement on the USPAP.]

(b) A certified general real estate appraiser or residential real estate appraiser whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of renewal of certification in that biennial renewal year.

[(c) The Board will accept continuing education hours completed by a certified broker/appraiser between January 1, 2001, and June 30, 2001, toward the continuing education requirement for renewal of certification for the 2003-2005 biennial renewal period.]

§ 36.43. [Correspondence courses/video and remote television presentations] Distance education.

[(a) Correspondence courses. Correspondence courses may be] A distance education course is acceptable for continuing education credit [provided] if it is approved by the Board and meets the following conditions:

(1) The course [has been] is presented by [an accredited (Commission on Colleges or a regional accrediting association) college or university which offers correspondence programs in other disciplines.] one of the following:

(i) A course provider that presents the course to an organized group in an instructional setting with a person qualified and available to answer questions, provide information and monitor attendance.

(ii) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(iii) A course provider that has received approval for course design and delivery mechanism from the International Distance Education Certification Center and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) [An individual] With regard to a course presented under paragraph (1)(ii) or (iii), the certified real estate appraiser successfully completes a written examination [administered at a location] proctored by an official approved by the college [or], university or other course provider.

(3) The [offering is equivalent to a minimum of 10 classroom hours in length and is consistent with the accepted topics listed in] content and length of

the course meet the requirements of § 36.42[(a)] (relating to continuing education subject matter).

[(b) *Video and remote television presentations.* Video and remote television presentations are acceptable for continuing education credit if the presentation is for an organized group in an instructional setting, with a qualified resource person available to answer questions and provide information or if the following exist:

(1) The offering has been presented by an accredited (Commission on Colleges or a regional accreditation association) college or university which offers similar programs in other disciplines.

(2) An individual successfully completes a written examination administered at a location by an official approved by the college or university.

(3) The offering is equivalent to a minimum of 10 classroom hours in length and is consistent with the accepted topics listed in § 36.42(a).]

§ 36.51. [Uniform Standards of Professional Appraisal Practice] Compliance with USPAP.

[Certified real estate appraisers are under a duty to perform a physical inspection of the interior and complete exterior of the subject property on appraisals required by FIRREA to be performed by a State-certified or State-licensed real estate appraiser, unless an interior and complete exterior inspection is not possible as of the effective date of the appraisal—that is, when improvements have been destroyed, removed or not yet built; inspections are not legally or contractually possible; the appraiser is denied access by the property owner; or, a contract stipulates a “drive-by” appraisal. Certified appraisers shall perform real estate appraisals in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated and adopted by the Appraisal Standards Board (ASB) of the Appraisal Foundation. The USPAP will be amended by the ASB and published annually in separate yearly bound editions. A copy of the USPAP may be obtained from the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005, (202) 347-7722. A violation of one or more provision of the USPAP may result in disciplinary action by the Board under the authority of section 11(a)(6) of the act (63 P.S. § 457.11(a)(6)).] A certified real estate appraiser shall perform an appraisal in accordance with USPAP. A certified real estate appraiser who violates one or more provisions of USPAP may be subject to disciplinary action under the act. A certified real estate appraiser can obtain a current edition of USPAP by writing, telephoning or e-mailing the Appraisal Foundation at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517, (202) 347-7722, or info@appraisalfoundation.org, respectively.

§ 36.52. Use of certificate number and title.

[Each] A certified real estate appraiser shall place his name, signature and certificate number adjacent to or immediately below the title “Pennsylvania certified general real estate appraiser,” [or] “Pennsylvania certified residential real estate appraiser” or “Pennsylvania certified broker/appraiser,” as appropriate, on each written appraisal report and each written appraisal

agreement [used by the certified appraiser certificate holder in conducting appraisal activities]. Professional designations may be included adjacent to the signature, if applicable. The following will serve as an example:

/s/ _____
John Doe, (Professional designation, if applicable)
[Pa.] Pennsylvania Certified Residential Real Estate
Appraiser
Certification number [1234] RL-999999-L

§ 36.54. Supervision of appraisal assistant.

A certified residential real estate appraiser or certified general real estate appraiser who utilizes an appraisal assistant shall:

(1) Provide written notification to the Board of the name and address of the assistant when the assistant begins work for the appraiser.

(2) Directly supervise and control the assistant’s work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

(3) Accompany the assistant during the physical inspection of the property as follows:

(i) In the case of an assistant who is not a certified residential real estate appraiser, accompany the assistant during the physical inspection of the property until the assistant has logged 300 hours of experience or until the supervising appraiser determines the assistant is competent under USPAP to perform the physical inspection unaccompanied, whichever is the longer period.

(ii) In the case of an assistant who is a certified residential real estate appraiser seeking to obtain qualifying experience for certification as a general real estate appraiser, accompany the assistant during the physical inspection of the property until the supervising appraiser determines the assistant is competent under USPAP to perform the physical inspection unaccompanied.

(4) Sign the appraisal report as a certified real estate appraiser under § 36.52 (relating to use of certificate number and title) and either have the assistant sign the appraisal report as assistant to the certified real estate appraiser or identify the assistant in the certification section of the appraisal report, or in addendum to the appraisal report, as having provided significant professional assistance.

(5) Sign a Board-approved appraisal assistant checklist that has been completed by the assistant and that relates to the assistant’s work on the appraisal report.

(6) Provide a current or former assistant who is applying for appraiser certification with copies of designated appraisal reports and appraisal assistant checklists requested by the Board to verify the assistant’s experience.

MISCELLANEOUS PROVISIONS

§ 36.91. Reactivation of lapsed certification.

[(a)] A [certificate holder] certified real estate appraiser whose certification has lapsed [by failing] for failure to biennially renew certification may apply to the Board for reactivation of certification by paying [the

current biennial renewal fee as set forth in § 36.6 (relating to fees), meeting the continuing education requirement of § 36.41 (relating to purpose) for the current renewal period and submitting documentation to verify the period of time in which the certificate holder abstained from performing appraisals in connection with Federally-related transactions in this Commonwealth and from holding himself out as a State-certified real estate appraiser] the renewal fee required under § 36.6 (relating to fees) and providing documentation of having completed 28 hours of continuing education as required under § 36.41 (relating to continuing education requirement) within the 2-year period immediately preceding the date of filing of the reactivation application. A certified real estate appraiser who performed an appraisal, or held himself out as an appraiser, during a period when his certification was lapsed may be subject to disciplinary action by the Board under section 3 of the act (63 P. S. § 457.3) in addition to being required to pay late renewal fees under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225).

[(b) A certificate holder will not be assessed a late renewal fee for the preceding biennial periods in which the certificate holder abstained from the performance of appraisals in connection with Federally-related transactions in this Commonwealth and from holding himself out as a State-certified real estate appraiser.

(c) A certificate holder whose certificate has lapsed by failing to biennially renew certification is prohibited from performing an appraisal in connection with a Federally-related transaction in this Commonwealth unless the certification is reactivated. If a certificate holder performs an appraisal in connection with a Federally-related transaction in this Commonwealth or holds himself out as a State-certified real estate appraiser during a period in which the certificate holder's certification is not renewed, the certificate holder shall pay a late renewal fee of \$5 for each month or part of the month beyond the date specified for renewal, as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225), in addition to the prescribed biennial renewal fee. The certificate holder may also be subject to disciplinary action by the Board for performing an appraisal in connection with a Federally-related transaction in this Commonwealth or for holding himself out as a State-certified real estate appraiser without a current certificate, or both.]

Subchapter C. CERTIFIED PENNSYLVANIA EVALUATORS

QUALIFICATIONS FOR CERTIFICATION

§ 36.224. [Correspondence] Distance education courses.

[Correspondence courses will be] A distance education course is acceptable to meet the classroom hour requirement if [each] the course is approved by the Board and meets the following conditions:

(1) The course is presented by [an accredited college or university which offers correspondence programs in other disciplines.] one of the following:

(i) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(ii) A course provider that has received approval for course design and delivery mechanism from the International Distance Education Certification Center and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) The applicant successfully completes a written examination [administered] proctored by an official approved by the college [or], university or other course provider.

(3) The content and length of the courses [meets] meet the requirements of § 36.222 [(a) and (b)] (relating to required courses of study).

§ 36.225. [Video and remote television courses] (Reserved).

[Video and remote television courses will be acceptable to meet the classroom hour requirement if each offering is approved by the Board and meets the following conditions:

(1) The course has been presented by an accredited college or university which offers similar programs in other disciplines.

(2) An applicant successfully completes a written examination administered by an official approved by the college or university.

(3) The content and length of the course meets the requirement of § 36.222(a) and (b) (relating to required courses of study).]

CONTINUING EDUCATION

§ 36.261. Continuing education requirement.

(a) [Continuing education of 28 classroom hours per biennium, including at least 4 hours on the Uniform Standards of Professional Appraisal Practice and at least 2 hours on the Assessors Certification Act (63 P. S. §§ 458.1—458.16), this chapter and the policies of the Board, shall be required of a certified Pennsylvania evaluator as a condition of biennial renewal of certification.] Except as provided in subsection (b), a certified Pennsylvania evaluator shall complete 28 classroom hours of continuing education—including at least 4 hours on USPAP and at least 2 hours on the act, this chapter and the policies of the Board—during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. Effective with renewal of certification for the 2007-2009 biennial renewal period, the USPAP requirement shall be the 7-hour National USPAP Update Course or an equivalent 7-hour course approved by the AQB.

(b) A certified Pennsylvania evaluator whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of biennial renewal of certification in that biennial renewal year.

§ 36.263. [Correspondence courses/video and remote television presentations] Distance education.

[(a) *Correspondence courses.* Correspondence courses will be] A distance education course is acceptable for continuing education credit if it is approved by the Board and meets the following conditions:

(1) The course [has been] is presented by [an accredited college or university which offers correspondence programs in other disciplines] one of the following:

(i) A course provider that presents the course to an organized group in an instructional setting with a person qualified and available to answer questions, provide information and monitor attendance.

(ii) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(iii) A course provider that has received approval for course design and delivery mechanism from the International Distance Education Certification Center and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) [An individual] With regard to a course presented under paragraph (1)(ii) or (iii), the certified Pennsylvania evaluator successfully completes a written examination [administered] proctored by an official approved by the college [or], university or other course provider.

(3) The [offering is at least 10 classroom hours in length and covers the accepted topics in] content and length of the course meets the requirements of § 36.262 (relating to continuing education subject matter).

[(b) *Video and remote television presentations.* Video and remote television presentations are acceptable for continuing education credit if the presentation is for an organized group in an instructional setting, with a qualified resource person available to answer questions and provide information or if the following conditions are met:

(1) The offering has been presented by an accredited college or university which offers similar programs in other disciplines.

(2) An individual successfully completes a written examination administered by an official approved by the college or university.

(3) The offering is at least 10 classroom hours in length and covers the accepted topics listed in § 36.262.]

REACTIVATION OF CERTIFICATION

§ 36.271. Reactivation of lapsed certification.

(a) A certified Pennsylvania evaluator whose certification has lapsed [by failing] for failure to biennially renew certification may apply to the Board for reactivation of certification by paying [the current biennial renewal fee as set forth in § 36.6 (relating to fees), meeting the continuing education requirement es-

tablished by law and regulation for the current biennial renewal period and submitting documentation to verify the period of time in which the certified Pennsylvania evaluator abstained from performing valuations of real property for ad valorem tax purposes in this Commonwealth and from holding himself out as a certified Pennsylvania evaluator] the renewal fee required under § 36.6 (relating to fees) and providing documentation of having completed 28 hours of continuing education as required under § 36.261 (relating to continuing education requirement) within the 2-year period immediately preceding the date of filing of the reactivation application. A certified Pennsylvania evaluator who performed a valuation of real property for ad valorem tax purposes, or held himself out as a certified Pennsylvania evaluator, during a period when his certification was lapsed may be subject to disciplinary action by the Board under the act in addition to being required to pay late renewal fees under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225).

[(b) A certified Pennsylvania evaluator will not be assessed a late renewal fee for the preceding biennial periods in which the certified Pennsylvania evaluator abstained from the performance of valuations of real property for ad valorem tax purposes in this Commonwealth and from holding himself out as a certified Pennsylvania evaluator.

(c) A certified Pennsylvania evaluator whose certification has lapsed by failing to biennially renew certification is prohibited from performing valuations of real property for ad valorem tax purposes in this Commonwealth unless the certification status is reactivated. If a certified Pennsylvania evaluator performs valuations of real property for ad valorem tax purposes in this Commonwealth or holds himself out as a certified Pennsylvania evaluator during a period in which the certified Pennsylvania evaluator's certification is not renewed, the certified Pennsylvania evaluator shall pay a late renewal fee of \$5 for each month or part of the month beyond the date specified for renewal, as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225), in addition to the prescribed biennial renewal fee. The certified Pennsylvania evaluator may also be subject to disciplinary action by the Board for performing valuations of real property for ad valorem tax purposes in this Commonwealth or for holding himself out as a certified Pennsylvania evaluator without a current certificate, or both.]

STANDARDS OF PROFESSIONAL CONDUCT

§ 36.281. Standards of Professional Conduct.

* * * * *

Standard 1. General duties.

Certified Pennsylvania evaluators shall perform their duties in accordance with the general and specific county assessment laws and generally accepted assessment standards. Certified Pennsylvania evaluators shall perform all assessments in accordance with [the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated and adopted by the Appraisal Standards Board of the Appraisal Foundation] USPAP.

[The USPAP will be amended by the ASB and published annually in separate yearly bound editions. A] Certified Pennsylvania evaluators may obtain a copy of the current edition of the USPAP [may be obtained from] by writing, telephoning or e-mailing the Appraisal Foundation[,] at 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, (202) 347-7722 or info@appraisal foundation.org, respectively.

* * * * *

[Pa.B. Doc. No. 06-932. Filed for public inspection May 26, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Fertilizer Nutrient Values

The Secretary of Agriculture, under 3 Pa.C.S. §§ 6701—6725 (relating to Fertilizer Act), establishes the commercial values per pound of nitrogen, available phosphate and soluble potash.

The values are established as follows:

| | |
|---------------------|---------------|
| Nitrogen | 40¢ per pound |
| Available phosphate | 32¢ per pound |
| Soluble potash | 23¢ per pound |

Further Information

Further information is available by contacting John W. Breitsman, Chief, Division of Agronomic and Regional Services, Bureau of Plant Industry, Department of Agriculture, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4843.

Effective Date

These commercial values are effective commencing July 1, 2006, and shall remain effective until further notice.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 06-933. Filed for public inspection May 26, 2006, 9:00 a.m.]

Referendum on Continuation of the Pennsylvania Potato Research Program

Under the applicable provisions of 3 Pa.C.S. §§ 4501—4513 (relating to Agricultural Commodities Marketing Act), a review referendum was held from March 17 to March 31, 2006, to determine if the producers affected by the Pennsylvania Potato Research Program (program) wished to continue the program for an additional 5 years. To pass, a majority of eligible producers voting had to vote in favor of the program's continuation. An impartial Teller Committee met on April 12, 2006, to count the ballots. The following results were submitted by the Teller Committee: a total of 41 eligible votes were cast with 35 producers voting in favor of and six voting against the continuation of the program. An additional six ballots were invalid, because they were either incomplete or ineligible due to the acreage requirement. Votes favoring continuation of the program by number of producers represented 85.4% of eligible votes and votes against continuation of the program represented 14.6% of eligible votes. Because a majority of the votes were cast in favor of the program, the program shall continue for 5 years, effective immediately.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 06-934. Filed for public inspection May 26, 2006, 9:00 a.m.]

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 May 16, 2006.

BANKING INSTITUTIONS

Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 5-15-06 | Juniata Valley Financial Corp., Mifflintown, to acquire up to 39.2% of the common stock of the First National Bank of Liverpool, Liverpool, under section 112 of the Banking Code of 1965. | Mifflintown | Filed |

Section 112 Applications

| <i>Date</i> | <i>Name of Individual</i> | <i>Action</i> |
|-------------|--|---------------|
| 5-16-06 | Paul C. Woelkers to acquire up to 12% of the outstanding shares of common stock of Landmark Community Bank, Pittston | Filed |

New Charter Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-------------------|-------------------|
| 5-10-06 | Colonial American Bank
West Conshohocken
Montgomery

<i>Correspondent:</i>
David R. Payne
Stevens & Lee
620 Freedom Business Center
King of Prussia, PA 19406 | West Conshohocken | Revised
Filing |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 5-2-06 | North Penn Bank
Scranton
Lackawanna County | Arlington Martin Subdivision
Route 115
Effort
Chestnuthill Township
Monroe County | Opened |
| 5-16-06 | Abington Savings Bank
Jenkintown
Montgomery County | Maris Grove
Retirement Community
100 Maris Grove Way
Glen Mills
Delaware County
(Limited Service Facility) | Approved |
| 5-16-06 | PeoplesBank, a Codorus
Valley Company
York
York County | Shrewsbury Lutheran
Retirement Village
800 Bollinger Drive
Shrewsbury
Shrewsbury Township
York County
(Limited Service Facility) | Approved |
| 5-16-06 | Beneficial Mutual
Savings Bank
Philadelphia
Philadelphia County | 515 Berlin Cross
Keys Road
Sicklerville
Camden County, NJ | Approved |
| 5-16-06 | CommunityBanks
Millersburg
Dauphin County | Route 39
Hershey Road
Hummelstown
South Hanover Township
Dauphin County | Approved |
| 5-16-06 | First Commonwealth Bank
Indiana
Indiana County | 2501 East Carson Street
Pittsburgh
Allegheny County | Approved |

Branch Relocations

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 5-12-06 | ESB Bank
Ellwood City
Lawrence County | <i>To:</i> State Route 65
(Ellwood Road)
New Castle
Shenango Township
Lawrence County

<i>From:</i> The Lawrence Village Plaza
New Castle
Shenango Township
Lawrence County | Filed |
| 5-16-06 | Parkvale Savings Bank
Monroeville
Allegheny County | <i>To:</i> 401 Ninth Street
New Kensington
Westmoreland County

<i>From:</i> 931 Fifth Avenue
New Kensington
Westmoreland County | Approved |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

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. 06-935. Filed for public inspection May 26, 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

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

| <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> |
|-----------------------------|---|---|-------------------------------------|-----------------------------|
| PA0055671 | Worcester Township
1721 Valley Forge Road
P. O. Box 767
Worcester, PA 19490-0767 | Montgomery County
Worcester Township | Tributary to Skippack
Creek | Y |

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

| <i>NPDES No.
(Type)</i> | <i>Facility Name &
Address</i> | <i>County &
Municipality</i> | <i>Stream Name
(Watershed#)</i> | <i>EPA Waived
Y/N ?</i> |
|-----------------------------|---|--|-------------------------------------|-----------------------------|
| PA0082490
(Sew) | Pike Restaurant and Lounge
985 Baltimore Pike
Gettysburg, PA 17325 | Adams County
Cumberland Township | UNT to Rock Creek
13-D | Y |
| PA0088951
(IW) | Speedway Oil Company
P. O. Box 67
392 Ben Franklin Highway East
Douglasville, PA 19518 | Berks County
Amith Township | Schuylkill River
3-D | Y |
| PA0082759
(Sew) | Hopewell Township
R. D. 1, Box 95
James Creek, PA 16657 | Huntingdon County
Hopewell Township | UNT to Shy Beaver
Creek
11-D | Y |
| PA0084565
(Sew) | East Prospect Borough
Authority
P. O. Box 334
East Prospect, PA 17317 | York County
Lower Windsor
Township | UNT to Cabin Creek
7-I | Y |
| PA0038288
(IW) | RecOil, Inc.
280 East Street
York, PA 17403 | York County
York City | UNT Mill Creek
7-H | Y |

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

| <i>NPDES No.
(Type)</i> | <i>Facility Name &
Address</i> | <i>County &
Municipality</i> | <i>Stream Name
(Watershed#)</i> | <i>EPA Waived
Y/N ?</i> |
|-----------------------------|--|--|---|-----------------------------|
| PA0114472 | Cherry Township Board of
Supervisors
R. R. 4, Box 4245
Dushore, PA 18614-9804 | Sullivan County
Cherry Township | Birch Creek
(10B) | Y |
| PA0114995
IW | Farm and Home Oil Company
P. O. Box 389
Telford, PA 18969 | Lycoming County
Armstrong Township | Storm Drain To West
Branch Susquehanna
River
(10C) | Y |
| PA0228371
IW | SemMaterials, LP
4th and Duke Street
P. O. Box 191
Northumberland, PA 17857 | Northumberland
County
Point Township | UNT to West Branch
Susquehanna River
(10D) | 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> |
|-----------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0102288 | Rustick, LLC
McKean County Landfill
19 Ness Lane
Kane, PA 16735 | Sergeant Township
McKean County | Sevenmile Run
17-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 1940.

PA0035769, Industrial Waste, SIC 2011, 2048, 2077 and 2875. **Moyer Packing Company**, P. O. Box 395, Souderton, PA 18964-0395.

Description of Proposed Activity: Discharge of treated process wastewater from an industrial wastewater treatment plant serving beef and rendering facility and discharge of stormwater associated with industrial activities in Franconia Township, **Montgomery County**.

The receiving stream Skippack Creek is in the State Water Plan watershed 3E, and is classified for TSF.

The proposed effluent limits for Outfall 001, based on an average flow of 0.75 mgd, are as follows:

| <i>Parameter</i> | <i>Average
Monthly (mg/l)</i> | <i>Maximum
Daily (mg/l)</i> | <i>Instantaneous
Maximum (mg/l)</i> |
|-------------------------|---|---------------------------------|---|
| CBOD ₅ | | | |
| (5-1 to 10-31) | 10 | 20 | 25 |
| (11-1 to 4-10) | 20 | 40 | 50 |
| Total Suspended Solids | 30 | 60 | 75 |
| Oil and Grease | 15 | 25 | 30 |
| Fecal Coliform | 200 colonies/100 ml as a geometric mean | | |
| pH | within limits of 6.0 to 9.0 Standard Units at all times | | |
| Phosphorus as P | | | |
| (4-1 to 10-31) | | | |
| 1st and 2nd years | 0.80 | 1.60 | 2.00 |
| (11-1 to 3-31) | | | |
| 1st and 2nd years | 1.60 | 3.2 | 4.00 |
| (4-1 to 10-31) | | | |
| 3rd to 5th years | 0.29 | 0.58 | 0.72 |
| (11-1 to 3-31) | | | |
| 3rd to 5th years | 0.58 | 1.16 | 1.45 |
| Ammonia as N | | | |
| (5-1 to 10-31) | 1.2 | 2.4 | 3.0 |
| (11-1 to 4-30) | 3.6 | 7.2 | 9.0 |
| Dissolved Oxygen | minimum of 5.0 mg/l at all times | | |
| Total Residual Chlorine | 0.024 | | 0.094 |
| Osmotic Pressure | 95 milliosmoles/Kg as maximum daily | | |
| Total Dissolved Solids | 1,000 | 2,000 | 2,500 |
| Total Nitrogen | Monitor | | Monitor |

The proposed effluent limits for stormwater Outfalls MP 101 and 002—004 are as follows:

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

The EPA waiver is not in effect.

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

1. Remedial Measures.
2. BAT/ELG Reopener.
3. TMDL/WLA Analysis.
4. Requirements for Stormwater Outfalls.
5. Laboratory Certification.

Southwest Region: Oil and Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA 0253049, Industrial Waste, SIC 4925, **CNX Gas Company, LLC**, 1800 Washington Road, Pittsburgh, PA 15241. This proposed facility is located in Huntingdon Township, **Westmoreland County**.

Description of Proposed Activity: Discharge of treated groundwater produced by the dewatering of coal seams during methane gas extraction.

The receiving stream, Youghiogheny River, in watershed 19D, is a WWF classified for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS and chloride, the point of analysis considered during the evaluation is located on the Youghiogheny River, approximately 7.9 miles downstream of the discharge point.

The proposed effluent limits for Outfall 001 are:

| <i>Parameter</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
|------------------|------------------------|-----------------------|------------------------------|
| Flow | | 0.08mgd | |
| Iron (total) | 3.5 mg/l | | 7 mg/l |
| Oil and Grease | 15 mg/l | | 30 mg/l |
| TSS | 30 mg/l | | 60 mg/l |
| Acidity | Monitor Only | Monitor Only | Monitor Only |
| Alkalinity | Greater than Acidity | Greater than Acidity | Greater than Acidity |
| pH | 6 to 9 Standard Units | 6 to 9 Standard Units | 6 to 9 Standard Units |
| Chloride | Monitor Only | Monitor Only | Monitor Only |
| TDS | Monitor Only | Monitor Only | Monitor Only |
| Osmotic Pressure | Monitor Only | Monitor Only | Monitor Only |
| Cadmium | Monitor Only | Monitor Only | Monitor Only |
| Copper | Monitor Only | Monitor Only | Monitor Only |
| Lead | Monitor Only | Monitor Only | Monitor Only |

The EPA waiver is in effect.

PA 0252867, Industrial Waste, SIC 4925, **CNX Gas Company, LLC**, 1800 Washington Road, Pittsburgh, PA 15241. This proposed facility is located in Sewickley Township, **Westmoreland County**.

Description of Proposed Activity: Discharge of treated groundwater produced by the dewatering of coal seams during methane gas extraction.

The receiving stream, Youghiogheny River, in watershed 19D, is a WWF classified for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS and chloride, the point of analysis considered during the evaluation is located on the Youghiogheny River, approximately 12.2 miles downstream of the discharge point.

The proposed effluent limits for Outfall 001 are:

| <i>Parameter</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
|------------------|------------------------|-----------------------|------------------------------|
| Flow | | 0.08mgd | |
| Iron (total) | 3.5 mg/l | | 7 mg/l |
| Oil and Grease | 15 mg/l | | 30 mg/l |
| TSS | 30 mg/l | | 60 mg/l |
| Acidity | Monitor Only | Monitor Only | Monitor Only |
| Alkalinity | Greater than Acidity | Greater than Acidity | Greater than Acidity |
| pH | 6 to 9 Stanard Units | 6 to 9 Standard Units | 6 to 9 Standard Units |
| Chloride | Monitor Only | Monitor Only | Monitor Only |
| TDS | Monitor Only | Monitor Only | Monitor Only |
| Osmotic Pressure | Monitor Only | Monitor Only | Monitor Only |
| Cadmium | Monitor Only | Monitor Only | Monitor Only |
| Copper | Monitor Only | Monitor Only | Monitor Only |
| Lead | Monitor Only | Monitor Only | Monitor Only |

The EPA waiver is in effect.

PA0205672, Industrial Waste, SIC, 3743, **Johnstown America Corporation**, 17 Johns Street, Johnstown, PA 15901. This application is for renewal of an NPDES permit to discharge untreated cooling water and stormwater from its facility in the City of Johnstown, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, of Little Conemaugh River and Laurel Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Saltsburg Municipal W.W., located at 308 Point Street, Saltsburg, PA, 49 miles below the discharge point.

Outfall 107: existing discharge, design flow of 0.09 mgd.

| <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> |
| Flow (mgd) | Monitor and Report | | | | |
| Temperature (°F) | | | 110 | | |
| Total Residual Chlorine | | | 0.5 | 1.25 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

The EPA waiver is in effect.

Outfall 702: existing discharge, design flow of 0.09 mgd

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|-------------------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| Temperature (°F) | | | | 110 | |
| Total Residual Chlorine | | | | 0.5 | 1.25 |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 114: existing discharge, design flow of 0.29 mgd

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| Temperature (°F) | | | | 110 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfalls 103—113 and 115—117: existing discharges to Little Conemaugh River, design flow of ariable mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|---|-----------------|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| The discharge from these outfalls shall consist of uncontaminated stormwater and groundwater. | | | | | |

PA0253243, Sewage, **Richard Chatak**, 943 Peninsula Drive, Central City, PA 15926. This application is for issuance of an NPDES permit to discharge treated sewage from Chatak SR STP in Indian Lake Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Indian Lake, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Hooversville Municipal Authority.

Outfall 001: new discharge, design flow of 0.0004 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | |
|---------------------------------|--|---------------|----------------------|---------------|
| | Average Monthly | Maximum Daily | Average Weekly | Maximum Daily |
| CBOD ₅ | 10 | | | 20 |
| Suspended Solids | 20 | | | 40 |
| 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 | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

NPDES Permit No. PA0239852, Sewage, **Andrew P. Terwilliger**, 99 Little Gilbert Lane, Bradford, PA 16701. This proposed facility is located in Bradford Township, **McKean County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to a UNT to Willow Creek.

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

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

WQM Permit No. WQG01360601, Sewerage, **John M. and Alta Z. Sensenig**, 987 Valley Road, New Holland, PA 17540. This proposed facility is located in East Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for construction/operation of a small flow sewage treatment system to serve two single family residences and one family run business.

WQM Permit No. WQG02360604, Sewerage, **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603. This proposed facility is located in East Hempfield Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation for the upgrade of the Arbors at Spring Valley Collection System Connection, existing LASA Millers Run Conveyance (8" sanitary sewer line to be upgraded to 12").

WQM Permit No. 3606404, Sewerage, **David Fite Realty**, 103 Fite Way, Suite D, Quarryville, PA 17566. This proposed facility is located in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval of the construction/operation of wastewater treatment facility with stream discharge to serve existing and proposed portions of the Commerce Commons development.

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

WQM Permit No. WQG01080601, Sewerage, **Ronald and Linda Smith**, R. R.1 Box 573, Union Valley Road, Ulster, PA 18850. This proposed facility is located in Rome Township, **Bradford County**.

Description of Proposed Action/Activity: The proposed system consists of a 1,000 gallon septic tank, an effluent filter, two free access sand filters, an erosion chlorinator and a chlorine contact tank.

WQM Permit No. WQG01590605, Sewerage, **Rodney J. Cowburn**, 340 Church Street, Westfield, PA 16950. This proposed facility is located in Westfield Township, **Tioga County**.

Description of Proposed Action/Activity: The proposed system consists of a 1,000-gallon septic tank, an effluent filter, two free access sand filters, an erosion chlorinator and a chlorine contact tank.

WQM Permit No. 1706401, Sewerage, **City of DuBois**, 16 West Scribner Avenue, P. O. Box 408, DuBois, PA 15801. This proposed facility is located in City of DuBois, **Clearfield County**.

Description of Proposed Action/Activity: Addition of a centrifuge for solids processing and sludge storage building.

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

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

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|-----------------------------|---|
| PAI011506035 | Margaret Hart Williamson
Margaret Hart Williamson
Subdivision
322 Little Elk Creek
Lincoln University, PA 19352 | Chester | East Nottingham
Township | East Branch Big Elk
Creek
(HQ-TSF-MF) |

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

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> |
|-------------------------|--|---------------|---------------------|--|
| PAI024806015 | Department of Veteran and
Military Affairs
Attn: Donald Munford
Bureau of Facilities and
Engineering
Room 0-47
Fort Indiantown Gap, PA
17003-5002 | Northampton | Forks Township | Tributary to Bushkill
Creek
HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|---|
| PAI023506001 | Lowe's Home Centers, Inc.
P. O. Box 1111
North Wilksboro, NC 28656 | Lackawanna | Covington Township | Roaring Brook
HQ-CWF
Meadow Brook
HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|-------------------------|----------------------------|
| PAI023906009 | Mark Evans
Nestle Waters North America
777 West Putnam Ave.
Greenwich, CT 06830 | Lehigh | Upper Macungie Township | Iron Creek
HQ-CWF |
| PAS10Q237-2 | Christopher Williams
Liberty Property Trust
1510 Valley Ctr. Pkwy.
Suite 240
Bethlehem, PA 18017 | Lehigh | Upper Macungie Township | Iron Run
HQ-CWF |
| PAI023906008 | Michael Sibalic
Sorensen Construction
4542 Senny Court
New Tripoli, PA 18066 | Lehigh | Lower Milford Township | Perkiomen Creek
HQ-CWF |

Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, (570) 253-0930.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|--|
| PAI026405005-1 | CBR Enterprises
139-23 Queens Blvd.
Jamaica, NY 11435 | Wayne | Lehigh Township | Tributary to Lehigh
River
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> |
|-------------------------|---|---------------|---|--|
| PAI036706004 | York County Solid Waste and
Refuse Authority
2700 Blackbridge Road
York, PA 17402-7901 | York | Hopewell Township | Rambo Run
EV
Ebaugh Creek
CWF |
| PAI032106002 | William Kollas and William
Costopolous
1104 Fernwood Avenue
Camp Hill, PA 17011 | Cumberland | South Middleton
Township
Mount Holly Springs
Borough | Yellow Breeches Creek
HQ-CWF |
| PAI032106004 | Department of Veteran and
Military Affairs
Bureau of Facilities and
Engineering
Building 0-47
Fort Indiantown Gap
Annville, PA 17003-5002 | Cumberland | North Middletown | Susquehanna River
HQ-CWF |
| PAI0328-06-004 | Benderson Development
Company, LLC
570 Delaware Avenue
Buffalo, NY 14202 | Franklin | Guilford Township | Falling Spring Creek
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> |
|-------------------------|--|---------------|--|---|
| PAI041406009 | PSU West Campus
Office of Physical Plant
101P Physical Plant
University Park PA 16802 | Centre County | Ferguson Township and
State College Borough | Big Hollow Run
CWF
Thompson Run
HQ-CWF |

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

Allegheny County Conservation District, Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|------------------------------|
| PAS10A090 | Caste Real Estate Company
P. O. Box 10369
Pittsburgh, PA 15234 | Allegheny | South Park Township | UNT to Saw Mill 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

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

| | |
|--|--|
| Permit No.4606504 , Public Water Supply | |
| Applicant | Horsham Water and Sewer Authority |
| Township | Horsham |
| County | Montgomery |
| Responsible Official | Tina M. Merl |
| Type of Facility | PWS |
| Consulting Engineer | Carroll Engineering Corporation |
| Application Received Date | May 10, 2006 |

| | |
|-----------------------|---|
| Description of Action | Installation of sequestering agent equipment for treatment of elevated iron and manganese in Well No. 40. |
|-----------------------|---|

| | |
|--|---|
| Permit No.0906505 , Public Water Supply | |
| Applicant | Buckingham Township Bucks County |
| Township | Buckingham |
| County | Bucks |
| Responsible Official | Raymond Stepnoski |
| Type of Facility | PWS |
| Consulting Engineer | Gilmore and Associates, Inc. |
| Application Received Date | May 11, 2006 |

| | |
|-----------------------|--|
| Description of Action | Construction of a new public water supply system to serve the proposed Estates of Forest Grove residential development. The system will consist of two wells, a storage tank, booster pumps, disinfection equipment and a distribution system. |
|-----------------------|--|

| | |
|--|---|
| Permit No.0906506 , Public Water Supply | |
| Applicant | Bucks County Water and Sewer Authority |
| Township | Solebury |
| County | Bucks |
| Responsible Official | John Butler |
| Type of Facility | PWS |
| Consulting Engineer | Carroll Engineering Corporation |
| Application Received Date | May 15, 2006 |

| | |
|-----------------------|--|
| Description of Action | Installation of an arsenic removal system at Well S-1 and S-2. |
|-----------------------|--|

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

| | |
|---|---------------------------------------|
| Permit No. 9996228 , Public Water Supply | |
| Applicant | Tyler Mountain Water Co., Inc. |
| Township or Borough | Poca, WV |
| Responsible Official | Jeffrey S. Jackson
General Manager |
| Type of Facility | Out-of-State Bottled Water System |
| Application Received Date | May 15, 2006 |

Description of Action Applicant requesting Department approval to sell bottled water in this Commonwealth under the brand name Tyler Mountain Drinking Water.

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. 0206503MA, Minor Amendment.

Applicant **Fox Chapel Authority**
255 Alpha Drive
Pittsburgh, PA 15238

Township or Borough Fox Chapel Borough

Responsible Official Mark E. Nicely, Manager
Fox Chapel Authority
255 Alpha Drive
Pittsburgh, PA 15238

Type of Facility Water storage tank

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
P. O. Box 200
Indianola, P A 15051

Application Received Date May 9, 2006

Description of Action Replacement of an existing welded steel water storage tank with a bolted, glass-fused-to-steel water storage tank known as the South Tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial

area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

Northeast Regional Field Office: Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

F. L. Smidth Property, Catasauqua Borough, **Lehigh County**. Mark Fortna, DelVall Soil and Environmental Consultants, Inc., Sky Run II, Suite A1, 4050 Skyron Drive, Doylestown, PA 18901 has submitted a Notice of Intent to Remediate (on behalf of his client, David Kane, Kane Core, Inc., 4365 Skippack Pike, P. O. Box 1301, Skippack, PA 19474) concerning the remediation of soil found or suspected to be contaminated by lead, arsenic and benzo(a)pyrene as the result of historic industrial operations. Future use of the property will be nonresidential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area in the near future. The applicant proposes to remediate the site to meet the Site-Specific Standard.

Vullo Inc. Property, Pittston Township, **Luzerne County**. Mark Orzechowski, P. G., Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 has submitted a Notice of Intent to Remediate (on behalf of his client, Keith Vasas, Pittston Associates, LP, 300 Market Street, Johnstown, PA 15901) concerning a release of gasoline to soils and groundwater from former leaking underground storage tanks. The applicant proposes to remediate the site to meet the Site-Specific Soil and Groundwater Standard. Future use of the property will be nonresidential. A summary of the Notice of Intent to Remediate is expected to be published in *The Times Leader* sometime in the near future.

Tamaqua Area School District Middle School Campus, Borough of Tamaqua, **Schuylkill County**.

Kenneth Yoder, BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101 has submitted a Notice of Intent to Remediate (on behalf of his client, Tamaqua Area School District, c/o Frederick Bausch, 138 West Broad Street, Tamaqua, PA 18252) concerning the remediation of No. 2 heating oil constituents found or suspected to be present in site soils and groundwater as the result of an accidental release from a malfunctioning transfer pump. 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 in the near future. The intended future use for the site will be continuation as a public school facility.

Cranberry Creek Gateway Park Project—Southern Parcel, Hazle Township, Luzerne County. Lori Girvan, Senior Environmental Scientist, Barry Isett & Associates, Inc. (100 West Broad Street, Suite 200, Hazleton, PA 18201-2562) has submitted a Notice of Intent to Remediate (on behalf of her client, CAN DO Inc., 1 South Church Street, Hazleton, PA 18201) concerning the remediation of soils found to have been impacted by lead as the result of historic transformer releases at the former railroad substation. The applicant proposes to remediate the site to meet the residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in the *Hazleton Standard-Speaker* on March 22, 2006. The future use of the site was not specified. A Final Report was simultaneously submitted.

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

Kelly Residence Linden Street, Reading City, Berks County. Patriot Environmental Management LLC, P. O. Box 629, Douglassville, PA 19518, on behalf of Joseph Kelly, 1520 Linden Street, Reading, 19601 and Tropical Oil Company, 418-436 Moss Street, Reading, PA 19604, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 heating oil. The applicant intends to remediate the site to the Statewide Health Standard.

Hyndman Elementary School, Hyndman Borough, Bedford County. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Bedford Area School District, 330 East John Street, Bedford, PA 15522, submitted a Notice of Intent to Remediate groundwater contaminated with No. 2 heating oil. The property is nonresidential and will continue to be nonresidential in the future. The applicant seeks to remediate to the Statewide Health Standard

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL 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 17105-8472.

General Permit Application No. WMGM019D005. Main Line Paving Company, Inc., 70 Old Lancaster Road, Devon, PA 19333-1397.

General Permit No. WMGM019D005 is for the processing of concrete and asphalt waste, leaf and yard waste, wood waste and soil for beneficial use as: (1) construction material; and (2) topsoil and mulch for commercial purposes generated at Pottstown Recycling Material Co., facility, located in **Montgomery County**. The Department of Environmental Protection (Department) determined the DOA application to be administratively complete on May 16, 2006.

Persons interested in obtaining more information about the general permit application should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application received, under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act 53 P. S. §§ 4000.101—4000.1904 and regulations to operate Solid Waste Processing or Disposal Area or Site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 300491. EME Homer City Generation LP, 1750 Power Plant Road, Homer City, PA, 15748. Application for a closure plan for coal desilting and coal ash impoundments in Center Township, **Indiana County** was received in the Regional Office on May 12, 2006.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first.

Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

PLAN APPROVALS

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

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

40-305-027: Mountaintop Anthracite, Inc. (1550 Crestwood Drive, Mountaintop, PA 18707) for construction of an anthracite coal processing operation and associated air cleaning devices in Wright Township, **Luzerne County**.

40-320-026: Quebecor World Hazleton, Inc. (Route 924 Humboldt Industrial Park, Hazleton, PA 18201) for the cold set web printing press in Hazle Township, **Luzerne County**.

48-313-099: Praxair Distribution, Inc. (145 Shimersville Road, Bethlehem, PA 18015) for reactivation of a base gas scrubbing system and associated air cleaning device in Bethlehem, **Northampton County**.

39-309-065: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for modification Kiln No. 3 to utilize a plastic derived fuel in Whitehall Township, **Lehigh County**.

40-399-058: The Ohio Mattress Co.—Licensing and Components Group (MAGIC Industrial Park, Delano, PA 18220) for construction of three latex foam production lines and associated air cleaning devices in Wright Township, **Luzerne County**.

40-302-155: Wilkes-Barre General Hospital (575 North River Street, Wilkes-Barre, PA 18701) for construction of three natural gas No. 4 fuel oil boilers in Wilkes-Barre, **Luzerne County**.

48-309-126: ESSROC Cement Corp. (3251 Bath Pike, Nazareth, PA 18064) for modification of the cement kilns and associated air cleaning devices in Lower Nazareth Township, **Northampton County**.

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

41-00005E: Lycoming Engines (652 Oliver Street, Williamsport PA 17701) for construction and operation of a new perchloroethylene degreaser at their facility in the City of Williamsport, **Lycoming County**.

47-00003A: Department of Public Welfare (1401 North 7th Street, Harrisburg, PA 17105) for construction and operation of two anthracite coal fired boilers, each controlled by an independent flue gas recirculation system at their Danville State Hospital facility in Mahoning Township, **Montour 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.

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

05-05022A: Bedford Reinforced Plastics, Inc. (264 Reynoldsdale Road, Bedford, PA 15522-7401) to install a new fiberglass reinforced plastic pultrusion production line in East Saint Clair Township, **Bedford County**. Operation of this pultrusion line will increase potential HAPs by 2.71 tons per year. The plan approval and subsequent Title V operating permit amendment will include emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements to ensure facility complies with the applicable air quality regulations. This project is subject to 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.

06-05085C: New Morgan Landfill Company, Inc. (P. O. Box 128, Morgantown, PA 19543) for installation of an enclosed ground flare to control emissions of VOC and nonmethane organic compounds from a municipal solid waste landfill in the Borough of New Morgan, **Berks County**. The installation will provide the landfill with addition capacity to control the waste gases generated by the landfill. The landfill is subject to 40 CFR Part 60, Subpart WWWW, Standards of Performance for New Stationary Sources and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills. The plan approval will include monitoring, testing, work practices, recordkeeping, reporting and other requirements designed to keep the source and control device operating within all applicable air quality requirements. The facility is presently covered by the Title V Operating Permit No. 06-05085. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

36-03163A: Superior Finishing, LLC (78 West Main Street, Reinholds, PA 17569) for operation of two wood furniture surface coating booths at the facility in West Cocalico Township, **Lancaster County**. Dry panel filters will control the coating booths. The plan approval will include monitoring, work practice standards, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

36-05062B: Manheim Auto Auction (1190 Lancaster Road, Manheim, PA 17545) for installation of a new mobile equipment repair and refinishing operation in place of the existing operations at their automobile reconditioning facility in Penn Township, **Lancaster**

County. More specifically, the permittee plans on constructing four new commercial spray booths and associated ancillary equipment. The process of refinishing vehicles will consist of five steps: body repairs, paint mixing, paint preparation, painting and final detail. Facility emissions of VOCs are limited by the mobile equipment repair and refinishing regulations found in 25 Pa. Code § 129.75. The facility will continue to cap their VOC emissions to less than 50 tons per year. Facility emissions of HAPs are limited to less than 10 tons per year for each HAP and less than 25 tons per year for cumulative HAPs during any consecutive 12-month period. The plan approval and subsequent State-only operating permit will include emission limitations, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

38-05003D: Carmeuse Lime, Inc. (3 Clear Spring Road, Annville, PA 17003) for use of a petroleum coke coal fuel blend in the plant's five lime kilns in North Londonderry Township, **Lebanon County.** The fuel blend will not significantly impact emissions from the facility which will be limited to 685 tons of SO_x per consecutive 12-month period. The plan approval will include emission limits and work practice standards along with stack testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

38-05004A: Kountry Kraft, Inc. (P. O. Box 570, Newmanstown, PA 17073) for the installation of a new spray booth to apply stains at the existing custom cabinet manufacturing facility in Millcreek Township, **Lebanon County.** This source will be controlled by the use of panel filters. This will result in an increase in actual emissions of about 1.7 tpy of VOC and 0.60 tpy of HAPs. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

67-05024G: Lehigh Cement Co. (200 Hokes Mill Road, York, PA 17404) for limited use of tire fluff as fuel in the rotary kiln at the cement plant in West Manchester Township, **York County.** The tire fluff fuel will not significantly impact emissions from the facility. Emissions of NO_x, SO_x and CO will be verified by continuous emissions monitoring systems. The plant is subject to 40 CFR Part 63, Subpart LLL of the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. The plan approval will include emission limits and work practice standards along with stack testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

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

14-303-008: EBY Paving and Construction, Inc. (1001 East College Avenue, Bellefonte, PA 16823) for a plan approval for operation of a replacement oil-fired rotary stone dryer burner in a batch asphalt concrete plant (Source ID P101) in Spring Township, **Centre County.**

The Department of Environmental Protection's (Department) review of the information submitted by EBY Paving and Construction, Inc. indicates that the replacement oil-fired rotary stone dryer burner of Source ID P101 will meet all applicable air quality requirements

pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The proposed burner will also meet all applicable requirements of Subpart I of the New Source Performance Standards, 40 CFR 60.90—60.93. Based on these findings, the Department intends to issue plan approval for the operation of the replacement oil-fired rotary stone dryer burner of Source ID P101. Additionally, if the Department determines that the oil-fired rotary stone dryer burner is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a State-only operating permit via an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Under the requirements of 25 Pa. Code § 127.12b, the permittee shall not use more than 275,000 gallons of virgin No. 2 fuel oil in the rotary stone dryer burner of Source ID P101 in any 12-consecutive month period.

2. Under the requirements of 25 Pa. Code § 127.12b, the permittee shall only use virgin No. 2 fuel oil, to which no reclaimed/reprocessed oil, waste-oil or other waste materials have been added, as fuel for the rotary stone dryer burner of Source ID P101. Additionally, the sulfur content of the virgin No. 2 fuel oil shall not exceed 0.4%, by weight.

3. The permittee shall comply with all applicable requirements of 25 Pa. Code §§ 123.1 and 123.41.

4. Under the requirements of 40 CFR Part 60, Subpart I, the permittee shall not emit into the outdoor atmosphere of visible air contaminants in a manner that the opacity of the emission from ID C101B associated with Source ID P101 is greater than 20% at any time.

5. The permittee shall keep records of the following information for Source ID P101:

a. The amount of virgin No. 2 fuel oil fired in the rotary stone dryer burner of Source ID P101 on a monthly basis and supporting calculations used to verify compliance with the throughput limitation of Source ID P101 in any 12-consecutive month period.

b. The permittee shall test or keep records of sulfur content of each shipment of virgin No. 2 fuel oil delivered to the facility.

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

6. Source ID P101 is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.90—60.93. The permittee shall comply with all applicable requirements of this subpart, including any recordkeeping and reporting requirements.

7. Under the requirements of 25 Pa. Code § 123.13, the permittee shall not emit into the outdoor atmosphere of PM, from the exhaust of ID C101B associated with Source ID P101, in a manner that the concentration of particulate matter in the effluent gas exceeds 0.04 grain per dry standard cubic foot.

8. Under the requirements of 25 Pa. Code § 123.21, No person may permit the emission into the outdoor atmosphere of SO_x, expressed as SO₂, from the exhaust of ID C101B associated with Source ID P101 in a manner that

the concentration of the SOx in the effluent gas exceeds 500 parts per million, by volume, dry basis.

A copy of the plan approval application and the Department's review are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

03-00125: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) for renewal of their Title V Operating Permit. The Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to Dominion Transmission Incorporated (Dominion) for its Valley Compressor Station in Cowanshannock Township, **Armstrong County**. The facility's representative for the Title V application and proposed permit is Sam Mathew, Environmental Manager, Dominion Transmission Inc., 625 Liberty Ave., Pittsburgh, PA 15222-3199, (216) 736-5743. The Valley Compressor Station is a major facility subject to the operating permit requirements of Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V Operating Permit requirements). Dominion operates numerous compressor stations within the State for the purposes of storage, production and transmission of natural gas. Emission sources at this facility include internal combustion engines, miscellaneous combustion equipment, a dehydration unit, miscellaneous process equipment, a gasoline storage tank and a methanol storage tank. Copies of the Title V application, proposed operating permit and other relevant information are available for public inspection at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. For additional information concerning the proposed Title V Operating Permit, contact Barbara Hatch, Facilities Permitting Chief, Air Quality Program at the same address or at (412) 442-5226. Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to Mark A. Wayner, Regional Manager, at the same address, within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day comment period shall include name, address and telephone number of the person submitting the comments, along with the reference number of the proposed permit (specifically Title V Permit No. 03-00125). Commentors should also include concise statements regarding the relevancy of the information to the proposed permit or objections to the issuance of the permit. The Department reserves the right to hold a public hearing on the proposed action based on information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The

hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

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

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

48-00041: PPL Interstate Energy Co. (214 Shoemaker Road, Pottstown, PA 194646) for an oil terminal facility in Lower Mount Bethel Township, **Northampton County**. The facility's main sources include two mainline heaters, two maintenance heaters, one fire water tank heater and two residual heaters. The facility is taking limitations on type of fuel and fuel usage to maintain Synthetic Minor Status. Compliance shall be verified through emission calculations and recordkeeping. The proposed operating permit contains all applicable Federal and State regulations including emissions, monitoring, recordkeeping, reporting and work practice requirements.

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

01-03013: Zeigler Brothers, Inc. (P. O. Box 95, Gardners, PA 17324) for operation of an animal feed manufacturing facility in Tyrone Township, **Adams County**. This is a non-Title V (State-only) facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

67-05082: David Edward, Ltd. (252 North Franklin Street, Red Lion, PA 17356) for operation of their wood furniture manufacturing facility in Red Lion Borough, **York County**. The facility has the potential to emit 25 tons VOC per year. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

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

17-00026: Curwensville Area School District (650 Beech Street, Curwensville, PA 16833) for operation of their Curwensville Area Jr./Sr. High School facility in Curwensville, **Clearfield County** and the Penn-Grampian Elementary School in Grampian, Clearfield County. The Department of Environmental Protection intends to issue one State-only (Synthetic Minor) Operating Permit for these facilities. The Jr./Sr. High School's main sources include two bituminous coal/No. 2 fuel oil/natural gas fired boilers and one natural gas fired boiler. The Penn-Grampian Elementary School's main sources include one bituminous coal/No. 2 fuel oil fired boiler and one propane fired emergency generator. Both facilities combined have the potential to emit SOx, CO, NOx, VOCs, HAPs and PM10 below the major emission thresholds. The proposed (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions

17-00053: Prism Enterprises, LLC d/b/a Perma-grain (1191 Venture Drive, Forest, VA 24551) for operation of a specialty wood flooring products manufacturing facility in Karthus Township, **Clearfield County**.

The facility incorporates woodworking equipment, a UV finishing line, an oil finish line, a veneer staining line, a veneer gluing operation and two small No. 2 fuel oil-fired boilers. The PM emissions including PM10 from the woodworking equipment are controlled by a fabric collector. The air contaminant emissions from the facility are not expected to exceed 15.19 tons of SO_x, 4.22 tons of NO_x, 5.97 tons of VOCs, .95 ton of PM/PM10, 1.06 tons of CO and .18 ton of volatile HAPs per year.

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

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 17-399-023, issued on December 14, 2004, and requirements established as conditions of plan approval exemptions previously granted by the Department for a number of air contamination sources at the facility.

These previously-established conditions/requirements include:

1. A condition limiting the amount of VOC-containing solvent which may be used for cleanup activities associated with the oil finish line to 55 gallons in any 12-consecutive month period.

2. A condition prohibiting the use of volatile HAP containing solvent for cleanup activities associated with the oil finish line.

3. A condition limiting the number of square feet of surface area to which UV coatings can be applied to 3 million square feet in any 12-consecutive month period.

4. A condition prohibiting the use of any coatings other than UV coatings in the UV finish line.

5. A condition limiting the amount of VOC containing solvent which may be used for cleanup activities associated with the UV finish line to 165 gallons in any 12-consecutive month period.

6. A condition limiting the volatile HAP content of the solvents used for cleanup activities associated with the UV finish line to 5%, by weight.

7. A condition prohibiting the use of glue in the veneer gluing operation which contains more than 4 grams of VOCs per liter of glue.

8. A condition prohibiting the use of volatile HAP-containing glues in the veneer gluing operation.

9. A condition limiting the solvent which may be used on the veneer staining line to ethanol.

10. A condition limiting the amount of surface area to which stain may be applied on the veneer staining line to 500,000 square feet in any 12-consecutive month period.

11. A condition limiting the VOC and volatile HAP emissions from the veneer staining line to 2.5 and .15 tons, respectively, in any 12-consecutive month period.

12. A condition limiting the concentration of PM in the exhaust of the fabric collector controlling the woodworking equipment to .003 grain per dry standard cubic foot of effluent gas volume.

13. A condition requiring the woodworking equipment fabric collector to be equipped with instrumentation to monitor the pressure differential across the collector on a continuous basis.

14. A condition requiring spare fabric collector bags to be kept on hand.

15. A condition prohibiting the removal of dust from the woodworking equipment fabric collector's dust hopper other than by means of an enclosed screw conveyor system which empties into an enclosed tote box.

16. Conditions requiring the maintenance of records of the identity and amount of each coating, glue, solvent, and the like, used in each air contamination source each month and the amount of surface area in each air contamination source to which coating, glue, and the like, has been applied each month.

The Department additionally proposes to incorporate into the operating permit to be issued several previously-established conditions/requirements which are being modified:

1. A condition which limited the amount of surface area to which oil finish could be applied to 1.664 million square feet in any 12-consecutive month period is being modified to allow oil finish to be applied to up to 2 million square feet in any 12-consecutive month period.

2. A condition which limited the amount of surface area to which glue could be applied in the veneer gluing operation to 2 million square feet in any 12-consecutive month period is being modified to allow glue to be applied to up to 2.5 million square feet in any 12-consecutive month period.

The Department additionally proposes to incorporate into the operating permit to be issued several new conditions including:

1. A condition requiring the semiannual submission of the records being maintained under operating permit conditions.

2. A condition limiting the No. 2 fuel oil used in the No. 2 fuel oil-fired boilers to virgin No. 2 fuel oil to which no reprocessed or waste oil or other waste materials have been added.

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

43-00316: Ennstone, Inc. d/b/a Three Rivers Aggregate—Mercer Plant (840 Perry Highway, Mercer, PA 16137-0269) for a Natural Minor Permit to operate a sand and gravel plant in East Lackawannock Township, **Mercer County**. The sources include sand and aggregate processing equipment and a diesel generator.

37-00319: Ennstone, Inc. d/b/a Three Rivers Aggregate—Wampum Plant (3118 Wampum Road, Wampum, PA 16157) for a Natural Minor Permit to operate a sand and gravel plant in North Beaver Township, **Lawrence County**. The sources include sand and aggregate processing equipment and a diesel generator.

25-00456: United Brass Works Inc.—Keystone Foundry Division (944 W. 12th Street, Erie, PA 16501-1515) for issuance of a Natural Minor Operating Permit to operate a nonferrous foundry operation, in the City of Erie, **Erie County**. The facility's primary emission sources include three electric induction furnaces, molding operations and grinding operations. The emissions of criteria pollutants from this facility are below major source levels.

Department of Public Health, Air Management Services:
321 University Avenue, Philadelphia, PA 19104, Edward
Braun, Chief, (215) 685-9476.

S05-012: Temple University Hospital Episcopal Campus (100 East Lehigh Avenue, Philadelphia, PA 19125) for operation of a hospital facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes a two 475 HP boilers, two 450 kW emergency generator, one 175 kW emergency generator, and one 15 kW emergency generator.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on this operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office

indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

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

| <i>Parameter</i> | <i>30-Day
Average</i> | <i>Daily
Maximum</i> | <i>Instantaneous
Maximum</i> |
|----------------------------------|---------------------------|---------------------------------|----------------------------------|
| Iron (total) | 3.0 mg/l | 6.0 mg/l | 7.0 mg/l |
| Manganese (total) | 2.0 mg/l | 4.0 mg/l | 5.0 mg/l |
| Suspended solids | 35 mg/l | 70 mg/l | 90 mg/l |
| pH* | | greater than 6.0; less than 9.0 | |
| Alkalinity greater than acidity* | | | |

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas

disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

03871303 and NPDES Permit No. PA0213667, TJS Mining, Inc. (2340 Smith Road, Shelocta, PA 15774), to revise the permit for the Darmac No. 2 Deep Mine in Armstrong Township, **Indiana County** and Washington Township, **Armstrong County** to add underground and subsidence control plan permit acres for room and pillar mining. Underground acres proposed 69.2, SCP acres proposed 69.2. No additional discharges. Application received April 6, 2006.

32961302 and NPDES Permit No. PA0214949, AMFIRE Mining Company (One Energy Place, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley and Center Townships, **Indiana County** to install two treatment ponds and equipment storage area. No additional discharges. Application received March 23, 2006.

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

56060107. Greathouse & Greathouse Enterprises, 2966 Whistler Road, Stoystown, PA 15563, commencement, operation and restoration of a bituminous surface mine in Quemahoning Township, **Somerset County**, affecting 29.6 acres. Receiving streams: Higgins Run, a tributary to Quemahoning Creek classified for the following use: HQ-CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority and Johnstown Water Authority. Application received May 5, 2006.

56060106 and NPDES No. PA0249980. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface-auger mine in Stonycreek Township, **Somerset County**, affecting 501.2 acres. Receiving streams: Schrock Run, UNT to Glades Creek, UNT to Buck Run, UNT No. 1 to Schrock Run (all tributaries of Stonycreek River) classified for the following uses: CWF; WWF; CWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 27, 2006.

05753004 and NPDES No. PA0124869. Forcey Coal, Inc., P. O. Box 225, Madera, PA 16661, transfer of an existing bituminous surface mine from Dash Coal Company, Inc., P. O. Box 517, Stoystown, PA 15563 located in Broadtop and Carbon Townships, **Bedford and Huntingdon Counties**, affecting 222.1 acres. Receiving streams: UNTs to Coal Bank Run and to Coal Bank Run classified for the following uses: WWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 8, 2006.

05753004 and NPDES No. PA0124869. Forcey Coal, Inc., P. O. Box 225, Madera, PA 16661, permit renewal for the continued operation and restoration of a bituminous surface mine in Broadtop and Carbon Townships,

Bedford and Huntingdon Counties, affecting 222.1 acres. Receiving streams: UNTs to Coal Bank Run and to Coal Bank Run classified for the following uses: WWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 8, 2006.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26910107 and NPDES Permit No. PA0592170. Theodore R. Genovese II Coal Co. (Box 360 Chalk Hill, PA 15421). Renewal application for reclamation only of an existing bituminous surface mine, located in German Township, **Fayette County**, affecting 89.3 acres. Receiving stream: UNT to Dunlap Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 12, 2006.

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

17030112 and NPDES Permit No. PA0243566. U. S. Operating Service Company (2151 Lisbon Road, Kennerdell, PA 16374), revision of an existing bituminous surface mine to add an additional 71.3 acres to include all the coal refuse and additional area for placement of beneficial use alkaline ash on the CIP, Inc. property in Chest Township, **Clearfield County**, affecting 65.0 acres. Receiving stream: UNTs to North camp Run to Chest Creek to West Branch Susquehanna River, classified for the following use: CWF. Application received: May 1, 2005.

12060101 and NPDES Permit No. PA0256366. Allegheny Enterprises, Inc. (3563 Roller Coaster Road, Corsica, PA 15829), commencement, operation and restoration of a bituminous surface mine in Lumber and Shippen Townships, **Cameron County**, affecting 305.5 acres. Receiving streams: Finley Run, Reed Hollow, Portable Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: February 1, 2006.

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

35910101R3 and NPDES Permit No. PA0595187. Pioneer Aggregates, Inc. (202 Main Street, Laflin, PA 18702), renewal of an existing anthracite surface mine operation in Fell Township, **Lackawanna County** affecting 425.0 acres, receiving stream: Wilson Creek. Application received May 9, 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
pH ¹ | | greater than 6.0; less than 9.0 | |

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.

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

4875SM2A2C5 and NPDES Permit No. PA0119563. Glen-Gery Corporation (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation Dover Township, **York County**. Receiving stream: Fox Run, classified for the following use: TSF. Application received May 8, 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

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

E12-161. Delvin Carfley, 28653 Frenchville, Karthus Highway, Frenchville, PA 16836, Floodway Encroachment, in Lumber Township, **Cameron County**, ACOE Baltimore District (Cameron, PA Quadrangle N: 9.58 inches; W: 8.12 inches).

To construct and maintain: 1) a wooden or aluminum pavilion approximately 600 square feet in area; 2) a 12-foot by 12-foot prebuilt shed; and 3) fill a depression about 30 feet by 20 feet with topsoil in the floodway of the Driftwood Branch of Sinnemahoning Creek off the west side of SR 120 (Cameron, PA Quadrangle N: 9.58 inches; W: 8.12 inches) in Lumber Township, Cameron County.

The project will not impact wetlands or waterways while causing about 0.02 acre of earth disturbance. Driftwood Branch to Sinnemahoning Creek is a TSF Stream.

E17-417. Osceola Mills, Rush and Decatur (ORD) Sewer Authority, P. O. Box 215, Osceola Mills, PA 16666-0215. ORD Sewer Authority Wastewater Treatment Facility and Collection System, Osceola Mills Borough and Decatur Township, **Clearfield County**, ACOE Baltimore District (Houtzdale, PA Quadrangle N: 19.0 inches; W: 2.7 inches).

To construct, operate and maintain a wastewater treatment facility, a treated wastewater effluent outfall and 160,000 linear feet of wastewater collection and conveyance lines within a 30-foot right-of-way for the treatment of municipal wastewater. Construction of the new treatment facility, outfall, and wastewater collection/conveyance system will result in 12 and 5 wetland crossings that are as follows:

| <i>Stream/Wetland</i> | <i>Stream Classification</i> | <i>Latitude</i> | <i>Longitude</i> |
|-----------------------|------------------------------|-----------------|------------------|
| Moshannon Creek | STF | 40° 51' 17.80" | 78° 15' 35.6" |
| Moshannon Creek | CWF | 40° 51' 19.39" | 78° 15' 30.50" |
| UNT—Moshannon | CWF | 40° 01' 32.32" | 78° 15' 39.71" |
| UNT—Moshannon | CWF | 40° 01' 43.97" | 78° 15' 44.79" |
| UNT—Moshannon | CWF | 40° 01' 45.67" | 78° 15' 43.29" |
| UNT—Moshannon | CWF | 40° 01' 30.32" | 78° 15' 35.25" |
| UNT—Moshannon | CWF | 40° 01' 46.33" | 78° 15' 29.01" |
| UNT—Moshannon | CWF | 40° 01' 48.91" | 78° 15' 26.08" |
| UNT—Moshannon | CWF | 40° 01' 45.67" | 78° 15' 43.29" |
| Big Run | CWF | 40° 01' 10.36" | 78° 15' 43.29" |

| <i>Stream/Wetland</i> | <i>Stream Classification</i> | <i>Latitude</i> | <i>Longitude</i> |
|-----------------------|------------------------------|-----------------|------------------|
| UNT—Moshannon | CWF | 40° 01' 07.91" | 78° 15' 47.70" |
| Wetland A | CWF | 40° 01' 17.43" | 78° 15' 15.50" |
| Wetland B | CWF | 40° 01' 19.93" | 78° 15' 16.50" |
| Wetland C | CWF | 40° 01' 19.50" | 78° 15' 16.00" |
| Wetland D | CWF | 40° 01' 19.36" | 78° 15' 09.94" |
| Wetland F | CWF | 40° 01' 17.36" | 78° 24' 16.32" |

Wastewater collection and conveyance lines shall be installed beneath streambeds so there will be a minimum of 3 feet of cover between the top of the pipe and the lowest point in the streambed or concrete encased. Trench plugs or clay dikes shall be used at every waterway and wetland crossing to ensure the existing hydrology is not altered. As proposed, the project will permanently impact 0.04 acre of wetland and 171 feet of waterway that is located along the eastern and western right-of-way of SR 0053 upstream and downstream of SR 0970 and SR 0053 intersection in Osceola Mills Borough.

E41-565. Ronald E. Tenerovich, 812 Bush Hill Road, Williamsport, PA 17701. Water Obstruction and Encroachment Joint Permit Application, in Plunketts Creek Township, **Lycoming County**, ACOE Susquehanna River Basin District (Barbours, PA Quadrangle N: 9.90 inches; W: 5.15 inches).

To construct and maintain a 36-foot long by 12-foot wide steel I-beam bridge on a skew of 90° over Plunketts Creek, 1.1 mile north of the intersection of SR 1006 and SR 1005 along SR 1005. This project proposes to permanently impact 20 linear feet of Plunketts Creek, which is designated a HQ-CWF stream and does not propose to impact any jurisdictional wetlands.

E57-109. Schrader Creek Watershed Association, c/o Hugh McMahon, R. R. 2, Box 292, Towanda, PA 18848. Passive Treatment System, in Fox Township, **Sullivan County**, ACOE Baltimore District (Grover, PA Quadrangle N: 15.6 inches; W: 7.3 inches).

To construct and maintain: 1) an aerobic limestone basin, an aerobic vertical flow wetland combination passive treatment system for the abatement of suppressed water chemistry in the Schrader Creek Upper Watershed; and 2) 24-inch diameter site access road crossing of Schrader Creek. The treatment impoundment will disturb between 6,000 square feet to 10,000 square feet for a total project earth disturbance of about 0.5 acre. The treatment system will be fed from a low head pump bypass on stream dam system.

The project is located about 2,500 feet west of SR 154 and 6,000 feet northwest of Wheelerville adjacent to and in Schrader Creek.

The project will not impact wetlands while impacting about 65 feet of waterway. Schrader Creek is an exceptional value fisheries stream.

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

E02-1533. South Shore Marina, 23rd and Railroad Street, Pittsburgh, PA 15222. To relocate an existing marina in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 16.4 inches; W: 13.6 inches and Latitude: 40° 27' 55"—Longitude: 79° 58' 22"). The applicant proposes to relocate and maintain the existing South Shore Marina from 23rd Street to 33rd Street for the purpose of renovating the Armstrong Cork Building. The project will be located approximately 1,500.0 feet upstream from the 31st Street Bridge, along the left bank of the Allegheny River (WWF).

E30-216. Fish and Boat Commission, Bureau of Engineering and Development, 450 Robinson Lane, Bellefonte, PA 16823-9616. To construct a boat dock launch in Monongahela Township, **Greene County**, Pittsburgh ACOE District. (Masontown, PA Quadrangle N: 8.8 inches; W: 5.1 inches and Latitude: 39° 47' 56"—Longitude: 79° 48' 17"). The applicant proposes to operate and maintain a stormwater outfall, a 20-foot by 104-foot precast concrete boat launching ramp, a 30-foot by 15-foot concrete fishing pier, a 40-foot by 6-foot boarding dock attached to a 15-foot bulkhead and bank stabilization using R-6 rip rap. The facility will be located on the west bank of the Monongahela River (WWF), near River Mile 84.

ENVIRONMENTAL ASSESSMENTS

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 6335-3481.

EA27-06-001, USDA Forest Service National Forest, 222 Liberty Street, Warren, PA 16365. Hill Run Crossing Restoration, in Jenks Township, **Forest County**, ACOE Pittsburgh District (Halton, PA Quadrangle N: 15.4 inches; W: 12.9 inches).

Restoration plan provided under § 105.12(a)(16) for the remediation of a road crossing of Hill Run in State Game Lands 28 approximately 0.4 mile southeast of the intersection of FR130 and FR130B. Restoration of the crossing includes: 1) removal of two 4-foot diameter CMPs and a 2-foot diameter CMP having a length of approximately 25 feet; and 2) the sloping and vegetating of streambanks in the location of the crossing after CMP removal.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of

Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

| <i>NPDES No.
(Type)</i> | <i>Facility Name &
Address</i> | <i>County &
Municipality</i> | <i>Stream Name
(Watershed #)</i> | <i>EPA Waived
Y/N?</i> |
|-----------------------------|---|--|--------------------------------------|----------------------------|
| PA0088722
(Sew) | John F. Martin and Sons, Inc.
55 Lower Hillside Road
Stevens, PA 17578 | Lancaster County
West Cocalico Township | Indian Run
7-J | Y |
| PA0029866
(Sew) | Cumberland Valley School
District
Greenridge Elementary School
6746 Carlisle Pike
Mechanicsburg, PA 17050 | Cumberland County
UNT Conodoguinet
Creek | UNT Conodoguinet
Creek
7-B | Y |
| PA0010375
(IW) | Lehigh Cement Company
200 Hokes Mill Road
York, PA 17404 | York County
West Manchester
Township | UNT
7-H | Y |
| PAR10M235R | Ursula Riseborough
501 St. Thomas/Edenville Road
St. Thomas, PA 17252 | Franklin County
St Thomas Township | Campbell Run
CWF | Y |
| PAR10M237R | Excavating, Inc.
4961 Cumberland Highway
Chambersburg, PA 17201 | Franklin County
Green Township | UNT Philemon Run
CWF | Y |

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

| <i>NPDES No.
(Type)</i> | <i>Facility Name &
Address</i> | <i>County &
Municipality</i> | <i>Stream Name
(Watershed #)</i> | <i>EPA Waived
Y/N</i> |
|-----------------------------|---|--------------------------------------|--------------------------------------|---------------------------|
| PA0032611
Sewage | Portage Area Sewer Authority
606 Cambria Street
Portage, PA 15946 | Cambria County
Portage Township | Little Conemaugh River | 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> |
|-----------------------------|---|---------------------------------------|---|-----------------------------|
| PA0103411 | Ellwood Quality Steels Co.
700 Moravia Street
New Castle, PA 16101-2220 | City of New Castle
Lawrence County | Shenango River (001)
Neshannock Creek
(002)
20-A | Y |

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0012416, Sewage, **PA American Water Rock Run Water Treatment Plant**, 4 Wellington Boulevard, Reading, PA 19610. This proposed facility is located in West Caln Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal discharge industrial wastewater into the Rock Run Reservoir in Watershed 3H-Brandywine.

NPDES Permit No. PA0057991, Sewage, **Rothstein Tract Homeowners Association**, 19 South Pine Street, P. O. Box 950, Doylestown, PA 18901. This proposed facility is located in Doylestown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from a five lot subdivision into Neshaminy Creek in Watershed 2F.

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

NPDES Permit No. PA-0044423, Industrial Waste, **Lehigh University**, 461 Webster Street, Bethlehem, PA. 18015-1755. This proposed facility is located in City of Bethlehem, **Northampton County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. 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 Action: Issuance of NPDES Industrial Stormwater Permit.

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

NPDES Permit No. PA0087181, Sewage, **Ephrata Borough Authority (WTP No. 2)**, 124 South State Street, Ephrata, PA 17522. This proposed facility is located in Ephrata Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Cocalico Creek in Watershed 7-J.

NPDES Permit No. PA0086533, Industrial Waste, **General Cable Industries, Inc.**, 3101 Pleasant Valley Blvd., Altoona, PA 16602. This proposed facility is located in Altoona City, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to Mill Run in Watershed 11-A.

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

PA 0252867, Industrial Waste, SIC 4925, **CNX Gas Company, LLC**, 1800 Washington Road, Pittsburgh, PA 15241. This proposed facility is located in Sewickley Township, **Westmoreland County**.

Description of Proposed Activity: Discharge of treated groundwater produced by the dewatering of coal seams during methane gas extraction.

The receiving stream, Youghiogheny River, in watershed 19D, is a WWF classified for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS and chloride, the point of analysis considered during the evaluation is located on the Youghiogheny River, approximately 12.2 miles downstream of the discharge point.

The proposed effluent limits for Outfall 001 are:

| <i>Parameter</i> | <i>Average
Monthly</i> | <i>Maximum
Daily</i> | <i>Instantaneous
Maximum</i> |
|------------------|----------------------------|--------------------------|----------------------------------|
| Flow | | 0.08 mgd | |
| Iron (total) | 3.5 mg/l | | 7 mg/l |
| Oil and Grease | 15 mg/l | | 30 mg/l |
| TSS | 30 mg/l | | 60 mg/l |
| Acidity | Monitor Only | Monitor Only | Monitor Only |
| Alkalinity | Greater than Acidity | Greater than Acidity | Greater than Acidity |
| pH | 6 to 9 s.u. | 6 to 9 s.u. | 6 to 9 s.u. |
| Chloride | Monitor Only | Monitor Only | Monitor Only |

| <i>Parameter</i> | <i>Average
Monthly</i> | <i>Maximum
Daily</i> | <i>Instantaneous
Maximum</i> |
|------------------|----------------------------|--------------------------|----------------------------------|
| TDS | Monitor Only | Monitor Only | Monitor Only |
| Osmotic Pressure | Monitor Only | Monitor Only | Monitor Only |
| Cadmium | Monitor Only | Monitor Only | Monitor Only |
| Copper | Monitor Only | Monitor Only | Monitor Only |
| Lead | Monitor Only | Monitor Only | Monitor Only |

The EPA waiver is in effect.

PA 0253049, Industrial Waste, **SIC 4925, CNX Gas Company, LLC**, 1800 Washington Road, Pittsburgh, PA 15241. This proposed facility is located in Huntingdon Township, **Westmoreland County**.

Description of Proposed Activity: Discharge of treated groundwater produced by the dewatering of coal seams during methane gas extraction.

The receiving stream, Youghiogheny River, in watershed 19D, is a WWF classified for: aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS and chloride, the point of analysis considered during the evaluation is located on the Youghiogheny River, approximately 7.9 miles downstream of the discharge point.

The proposed effluent limits for Outfall 001 are:

| <i>Parameter</i> | <i>Average
Monthly</i> | <i>Maximum
Daily</i> | <i>Instantaneous
Maximum</i> |
|------------------|----------------------------|--------------------------|----------------------------------|
| Flow | | 0.08 mgd | |
| Iron (total) | 3.5 mg/l | | 7 mg/l |
| Oil and Grease | 15 mg/l | | 30 mg/l |
| TSS | 30 mg/l | | 60 mg/l |
| Acidity | Monitor Only | Monitor Only | Monitor Only |
| Alkalinity | Greater than Acidity | Greater than Acidity | Greater than Acidity |
| pH | 6 to 9 s.u. | 6 to 9 s.u. | 6 to 9 s.u. |
| Chloride | Monitor Only | Monitor Only | Monitor Only |
| TDS | Monitor Only | Monitor Only | Monitor Only |
| Osmotic Pressure | Monitor Only | Monitor Only | Monitor Only |
| Cadmium | Monitor Only | Monitor Only | Monitor Only |
| Copper | Monitor Only | Monitor Only | Monitor Only |
| Lead | Monitor Only | Monitor Only | Monitor Only |

The EPA waiver is in effect.

PA0253103, Industrial Waste, **Great Lakes Energy Partners, LLC**, P. O. Box 235, Route 85 and Northern Avenue, Yatesboro, PA 16263. This proposed facility is located in Allegheny Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for authorization to discharge from Ashville Treatment Facility.

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

NPDES Permit No. PA0023124, Sewage, **Albion Borough**, 15 Smock Avenue, Albion, PA 16401. This proposed facility is located in Conneaut Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to Conneaut Creek in watershed 15-CC.

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

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

WQM Permit No. 0904201, Sewerage, **United States Steel Corporation**, Fairless Works, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a wastewater treatment plant.

WQM Permit No. 1505421, Sewerage, **Wallace Township Municipal Authority**, P. O. Box 96, Glenmoore, PA 19343. This proposed facility is located in Wallace Township, **Chester County**.

Description of Action/Activity: Construction and operation of a domestic wastewater pump station.

WQM Permit No. 1500414, Sewerage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 190010-3489. This proposed facility is located in East Bradford Township, **Chester County**.

Description of Action/Activity: A two cell aerated treatment/storage lagoon system, a chlorine contact tank, a basket strainer/ meter vault, two operating spray zones and one spray zone not installed.

WQM Permit No. 1505427, Sewerage, **Hopewell Ridge Homeowners Association**, 481 Limestone Road, Oxford, PA 19363. This proposed facility is located in East Nottingham Township, **Chester County**.

Description of Action/Activity: Construction and operation of a single family residential wastewater treatment facility for 20 lots.

WQM Permit No. 1506403, Sewerage, **Pennsylvania-American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is located in Coatesville City, **Chester County**.

Description of Action/Activity: Construction and operation of a 12-inch PVC pipe and two new manholes.

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

WQM Permit No. 1306402, Sewerage, **Big Boulder Corporation**, Route 940 and Moseywood Road, Blakeslee, PA 18610-0707. This proposed facility is located in Kidder Township, **Carbon County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

WQM Permit No. 4006403, Sewerage, **Mountaintop Area Joint Sanitary Authority**, 290 Morio Drive, Mountaintop, PA 18707. This proposed facility is located in Dorrance Township, **Luzerne 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. 6706404, Sewerage, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Etters, PA 17319. This proposed facility is located in Newberry Township, **York County**.

Description of Proposed Action/Activity: Permit approval of the construction/operation of sewerage facilities consisting of 10-inch diameter interceptor from Reeser Estates to the Authority treatment plant.

WQM Permit No. WQG02340601, Sewerage, **Milford Township**, R. R. 3, Box 675, Mifflintown, PA 17059. This proposed facility is located in Milford Township, **Juniata County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of a new pump station, force main, and gravity sewer to serve the Stump Development and the Dolin Heights/Rockville Area of Milford Township, Juniata County. Wastewater will be treated at the Twin Boroughs Sewage Treatment Plant.

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: Permit issued authorizing the construction and operation of a small flow treatment facility, which will serve Buster's Bar & Restaurant.

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

WQM Permit No. 0405405, Sewerage, **Borough of Eastvale**, 510 Second Avenue, Beaver Falls, PA 15010. This proposed facility is located in Eastvale Borough, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a pump station and force main.

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

WQM Permit No. 2599409, Sewerage, **Amendment No. 1, McKean Township Sewer Authority**, 9231 Edinboro Road, P. O. Box 88, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: This project involves modifications to the Colonial Village sewer treatment plant.

WQM Permit No. WQG018456, Sewerage, **James Britton**, 4108 Winchester Road, Erie, PA 16506. This proposed facility is located in Franklin Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. WQG018459, Sewerage, **Ken Lyons**, P. O. Box 472, 31 Hemlock Avenue, Kane, PA 16735. This proposed facility is located in Bloomfield Township, **Crawford County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. WQG018451, Sewerage, **Ellen Engel**, 6011 Bridlewood Drive, Fairview, PA 16415. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. WQG018457, Sewerage, **PPL Gas Utilities SFTF**, 24547 Route 6, Port Allegany, PA 16743. This proposed facility is located in Liberty Township, **McKean County**.

Description of Proposed Action/Activity: This project is for a small flow treatment facility to serve an office.

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> |
|-------------------------|---|---------------|------------------------|-----------------------------------|
| PAI010906004 | Suzi Baskin
Baskin Subdivision
307 Tower Road
Sellersville, PA 18960 | Bucks | West Rockhill Township | Tributary Unami Creek
(HQ-TSF) |
| PAI011506003 | Britton and Janice Murcoch
Kirkwood Farm
1349 Wooded Way
Bryn Mawr, PA 19010 | Chester | Willistown Township | Crum Creek
(HQ-TSF) |
| PAI011506011 | Telesis Homes, Inc.
415 Dutton Mill Road
Development
1030 Continental Drive
King of Prussia, PA 19406 | Chester | Willistown Township | Ridley Creek
(HQ-TSF) |
| PAI011506025 | Wesley Hamilton
Downing Property
5 Hillside Avenue
Landenberg, PA 19350 | Chester | New London Township | Hodgson Run
(HQ-TSF-MF) |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|-------------------------|---------------------------------|
| PAI033605006 | Richard H. Albright
151 Eshelman Road
Lancaster, PA 17601 | Lancaster | Eden Township | Bowery Run
HQ-CWF, MF |
| PAI032806003 | Aldine Martin
15799 Young Road
Greencastle, PA 17225 | Franklin | Greencastle Borough | Muddy Run
HQ-CWF |
| PAI033604010 | Fairfield Municipal Authority
P. O. Box 705
Fairfield, PA 17320 | Lancaster | Little Britain Township | Little Conewago Creek
HQ-CWF |
| PAI033605001 | Harvey Zimmerman
211 East Black Creek Road
East Earl, PA 17519 | Lancaster | Brecknock Township | Black Creek
HQ-WWF |
| PAI035005008 | Linda and Lawrence Hardy
24 South Front Street
Newport, PA 17074 | Perry | Juniata Township | Little Buffalo Creek
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> |
|-------------------------|--|---------------|--|----------------------------|
| PAI0414030172 | PSU Central Campus
HUB Lawn Improvement
Office of Physical Plant
101P Physical Plant
University Park, PA 16802 | Centre | Ferguson Township and
State College Borough | Thompson Run
HQ-CWF |

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

| | |
|-------|---|
| PAG-1 | General Permit for Discharges from Stripper Oil Well Facilities |
| PAG-2 | General Permit for Discharges of Stormwater Associated with Construction Activities (PAR) |
| PAG-3 | General Permit for Discharges of Stormwater from Industrial Activities |
| PAG-4 | General Permit for Discharges from Single Residence Sewage Treatment Plants |
| PAG-5 | General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems |

| | |
|-------------|--|
| PAG-6 | General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems |
| PAG-7 | General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application |
| PAG-8 | General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site |
| PAG-8 (SSN) | Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage |
| PAG-9 | General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site |
| PAG-9 (SSN) | Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage |
| PAG-10 | General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines |
| PAG-11 | (To Be Announced) |
| PAG-12 | CAFOs |
| PAG-13 | Stormwater Discharges from MS4 |

General Permit Type—PAG-2

| <i>Facility Location & Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|---|---|
| Penn Township
Chester County | PAG2001506005 | Chester County School Authority
CCIU, 455 Boot Road
Downingtown, PA 19335 | West Branch White Clay Creek
(TSF, MF) | Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5900 |
| Concord Township
Delaware County | PAR10J1601 | Brinton Land Development
23 Rockhill Road
Suite 200
Bala Cynwyd, PA 19004 | West Branch Chester Creek
(TSF) | Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5900 |
| Springfield Township
Delaware County | PAG2002306011 | DB Enterprises, Inc.
P. O. Box 81
Prospect Park, PA 19076 | Muckinipates Creek
(WWF, MF) | Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5900 |
| City of Philadelphia
Philadelphia County | PAG2015106007 | Korman Commercial Properties
Proposed Wawa Food Market
2 Neshaminy Interplex
Suite 305
Trevose, PA 19053 | Poquessing Creek
(WWF) | Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5900 |
| City of Philadelphia
Philadelphia County | PAG2015106001 | Max Levy Autograph, Inc.
Byberry East Industrial Park
Parcel 6
220 Robert Avenue
Philadelphia, PA 19144 | Municipal Separate Storm Sewer | Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5900 |
| Upper Saucon Township
Lehigh County | PAG2003906002 | David Newman Newman Development Group, LLC
1000 Germantown Pike
Plymouth Meeting, PA 19462 | Saucon Creek
CWF | Lehigh Co. Cons. Dist.
(610) 391-9583 |
| Hazle Township
Luzerne County | PAR10R214R | CAN DO, Inc.
1 South Church St.
Hazleton, PA 18201 | Stony Creek
CWF
and
Cranberry Creek
CWF | Luzerne Co. Cons. Dist.
(570) 674-7991 |
| North Manheim Township
Schuylkill County | PAG2005406005 | Sheetz, Inc.
Attn: Brian Soyka
5700 Sixth Ave.
Altoona, PA 16602 | Tributary to Schuylkill River
CWF | Schuylkill Co. Cons. Dist.
(570) 622-3742 |

| <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> |
|---|-------------------|--|---|--|
| Roaring Brook Township
Lackawanna County | PAG2003506013 | James Comes
Landview Properties, LLC
205 Windsor Way
Moscow, PA 18444 | Roaring Brook
CWF | Lackawanna Co. Cons.
Dist.
(570) 281-9495 |
| Duryea Borough
Luzerne County | PAR10R250(1) | Blueberry Hill, LLC
645 Laurel Run Rd.
Wilkes-Barre, PA 18702 | Lackawanna River
CWF | Luzerne Co. Cons. Dist.
(570) 674-7991 |
| Montgomery Township
Franklin County | PAG2002805066 | Mildred Yonker
Subdivision
Eugene Albert
Creative Investments, Inc.
10715 Downsville Pike
Suite 102
Hagerstown, MD 21740 | Conococheague
CWF | Franklin County
Conservation District
100 Sunset Boulevard
West
Chambersburg, PA 17201
(717) 264-8074, Ext. 5 |
| Lower Paxton Township
Dauphin County | PAG2002206006 | Robert Mumma
Dauphin Development Co.
840 Market St.
Lemoyne, PA 17043 | Paxton Creek
WWF | Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018
(717) 921-8100 |
| Conewago Township
Dauphin County | PAG2002205071 | Jaques Lussier
73 Industrial Rd.
Elizabethtown, PA 17022 | Brill Creek
TSF
Conewago Creek
TSF | Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018
(717) 921-8100 |
| Lower Paxton Township
Dauphin County | PAG2002206010 | Central Dauphin East
School District
600 Rutherford Rd.
Harrisburg, PA
17109-5227 | Beaver Creek
WWF | Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018
(717) 921-8100 |
| Oley Township
Berks County | PAG2000606029 | Robert Heckman
Oley Valley School
District
17 Jefferson Street
Oley, PA 19547 | Furnace Creek
CWF | Berks County
Conservation District
1238 County Welfare
Road
P. O. Box 520
Leesport, PA 19533-0520
(610) 372-4657, Ext. 201 |
| Perry Township
Berks County | PAG2000606005 | Brian Kobularcik
Perry Partners, LLC
1030 Reed Ave.
Suite 100
Wyomissing, PA 19610 | UNT to Schuylkill River
WWF/MF | Berks County
Conservation District
1238 County Welfare
Road
P. O. Box 520
Leesport, PA 19533-0520
(610) 372-4657, Ext. 201 |
| Windsor Township
Berks County | PAG2000606039 | William Grabill
Balfour Beatty
Construction
601 Monument Road
Hamburg, PA 19526 | 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 |
| City of Reading
Berks County | PAG2000606038 | Charles Jones
City of Reading
815 Washington Street
Reading, PA 19601 | Angelica Creek
Schuylkill River
CWF | Berks County
Conservation District
1238 County Welfare
Road
P. O. Box 520
Leesport, PA 19533-0520
(610) 372-4657, Ext. 201 |

NOTICES

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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> |
|--|-------------------|--|---|--|
| Bloomsburg Borough
Columbia County | PAG2001906007 | Bloomsburg University
Eric C. Milner
Buckingham
Maintenance Center
400 East 2nd Street
Bloomsburg, PA 17815 | Fishing Creek
WWF | Columbia County
Conservation Dist.
702 Sawmill Road
Suite 204
Bloomsburg, PA 17815
(570) 784-1310 |
| Williamsport
Lycoming County | PAG2004106001 | Robert Yoder
5960 Susquehanna Trail
Turbotville, PA 17772 | Daughety Run
CWF | Lycoming County
Conservation District
542 County Farm Road
Suite 202
Montoursville, PA 17754
(570) 433-3003 |
| Covington Township
Tioga County | PAG2005906004 | Josh Lisowski
4010 Cherry Flats Road
Covington, PA 16917 | Marvin Creek
CWF | Tioga County
Conservation District
50 Plaza Lane
Wellsboro, PA 16901
(570) 724-1801, Ext. 101 |
| Allegheny County
West Deer
Township | PAG2000204125 | Keith Janssen
4358 Gibsonia Road
Suite D
Gibsonia, PA 15044 | Deer Creek
(WWF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
City of Pittsburgh | PAG2000205077 | Department of
Transportation
45 Thoms Run Road
Bridgeville, PA 15017 | Allegheny River
(WWF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
Franklin Park
Borough | PAG2000205099 | Tom Barr Development,
LLC
1005 Milton Street
Pittsburgh, PA 15218 | Fish Run, Pine Creek
(WWF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
Franklin Park
Glenfield
Sewickley Hills
Borough
Aleppo and Ohio
Townships | PAG2000205121-1 | Department of
Transportation
45 Thoms Run Road
Bridgeville, PA 15017 | Ohio River
(CWF) (WWF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
Upper St. Clair
Township | PAG2000206012 | William McClosky, Inc.
571 West McMurray
Road
McMurray, PA 1317 | Brush Run
(WWF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
Indiana Township | PAG2000206025 | Palm Properties
3390 Saxonburg
Boulevard
Glenshaw, PA 15116 | Little Pine Creek
(TSF) | Allegheny County CD
(412) 241-7645 |
| Allegheny County
Bethel Park | PAG2000206029 | Robert Smoker &
Associates
5074 Sherwood Road
Bethel Park, PA 15102 | Peters Creek
(TSF) | Allegheny County CD
(412) 241-7645 |
| Cambria County
Cresson Township | PAG2001106006 | Sister Virginia Pertschi
Mt. Aloysius College
7373 Admiral Peary
Highway
Cresson, PA 16630 | Little Conemaugh River
(CWF) | Cambria County CD
(814) 472-2120 |
| Somerset County
Somerset Township | PAG2005606002 | Stoy Excavating, Inc.
Jim Stoy
166 Stoney Hollow Road
Somerset, PA 15501 | UNT to East Branch of
Coxes Creek
(WWF) | Somerset County CD
(814) 445-4652 |
| Butler County
Jefferson Township | PAG2001005034 | James Miller
Lezzer Miller, LP
778 North Pike Road
Cabot, PA 16023 | Thorn Creek
CWF | 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> |
|---|-------------------|---|--|--|
| Butler County
Adams Township | PAG2001006002 | Indian Meadow
Jeff Meyerl
Myoma Develop
Group, LP
100 Heaven Lane
Mars, PA 16046 | UNT Breakneck Creek
WWF | Butler Conservation
District
(724) 284-5270 |
| Crawford County
Vernon Township | PAG2002005006 | Dads Products
Company, Inc.
18746 Mill Street
Meadville, PA 16335 | French Creek
WWF | Crawford Conservation
District
(814) 763-5269 |
| Elk County
Ridgway Borough | PAG2002406001 | Theodore Marconi
St. Leo's Catholic Church
111 Depot Street
Ridgway, PA 15853 | Clarion River
CWF | Elk Conservation District
(814) 776-5373 |
| Erie County
Summit Township | PAG2002506013 | Scott Saliterman
4301 Highway Seven
Diamond Hill Center
Left
Louis Park, NM 55416 | UNT Mill Creek
WWF, MF | Erie Conservation District
(814) 825-6403 |
| Erie County
Millcreek Township | PAG2002506007 | Karen Burton-Horstman
and Mark Horstman
602 West 10th Street
Erie, PA 16502 | UNT Lake Erie
CWF; MF | Erie Conservation District
(814) 825-6403 |
| Erie County
Millcreek Township | PAG2002506014 | David Zimmer
County National Bank
915 State Street
Erie, PA 16501 | UNT Lake Erie
CWF; MF | Erie Conservation District
(814) 825-6403 |
| Jefferson County
Big Run Borough | PAR103341R | Big Run Municipal
Authority
R. R. 2, Box 126A
Punxsutawney, PA 15767 | Mahoning Creek
WWF
Big Run
CWF | Jefferson Conservation
District
(814) 849-7463 |
| Mercer County
West Middlesex
Borough | PAG2004306006 | West Middlesex Area
School District
3591 Sharon Road
West Middlesex, PA
16159 | UNT Shenango River
WWF | Mercer Conservation
District
(724) 662-2242 |
| Venango County
Cranberry
Township | PAG2006106003 | Spiro L. Pappan
Byzantine Inc.
1198 Mulberry Street
Bridgewater, PA 15009 | Lower Two Mile Run
CWF
East Sandy Creek
CWF | Venango Conservation
District
(814) 676-2832 |

General Permit Type—PAG-3

| <i>Facility Location:
Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|----------------------------|--|
| Upper Macungie
Township
Lehigh County | PAR122212 | Coca-Cola Company
7551 Schantz Road
Allentown, PA 18106 | Iron Run | DEP—NERO
Water Mgmt. Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511 |
| Lancaster County
Upper Leacock
Township | PAR233547 | Dart Container Corp. of
Pennsylvania
60 East Main Street
Leola, PA 17540 | UNT to Mill Creek
WWF | DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707 |
| Franklin County
Guilford Township | PAR703518 | Allegheny Energy Supply
Company, LLC
800 Cabin Hill Drive
Greensburg, PA
15601-1689 | Conococheague Creek
WWF | DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707 |

NOTICES

2579

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Loyalsock Township
Lycoming County

PAR2148229
(Stormwater)

Wolyniec Construction,
Inc.
294 Freedom Road
P. O. Box 666
Williamsport, PA
17701-8803

Grafius Run
WWF

Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664

Williamsport
Lycoming County

PAR234808

West Pharmaceutical
Services
P. O. Box C-7777
Williamsport, PA 17701

UNT West Branch
Susquehanna River
WWF

Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664

Quemahoning
Township
Somerset County

PAR606167

Ray's Auto Sales &
Collision Center, Inc.
3179 Lincoln Highway
Stoystown, PA 15563

Two Mile Run Basin to
Stoneycreek River

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000

Donegal Township
Washington County

PAR606164

Cossell's U-Pull-It
620 Old Brick Road
West Alexander, PA
15376

Unnamed Feeder to the
Middle Wheeling Creek

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000

West Deer
Township
Allegheny County

PAR206152

Melampy Manufacturing
22 Frontier Drive
Gibsonia, PA 15044

Deer Creek

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000

Fox Township
Elk County

PAR608334

Rick's Used Auto &
Truck Parts
Richard Krishart
724 Brandy Camp Road
Kersey, PA 15846

UNT to Benninger Creek

DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Lower Merion
Township
Montgomery County

PAG040045

Mosen Alavi
531 Conshohocken State
Road
Gladwyn, PA 19035

UNT to Schuylkill River

Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Montour Township
Columbia County

PAG045210

Ronald L. Whispell
132 Welliver Road
Bloomsburg, PA 17815

Montour Run
(CWF)

Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664

*Facility Location:
Municipality &
County*

| <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> |
|---|-------------------|---|----------------------------------|---|
| Perry Township
Lawrence County | PAG049250 | Bruce W. Baker
141 Shingle Hollow Road
Harmony, PA 16037 | UNT to Camp Run
20-C | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |
| Liberty Township
McKean County | PAG049247 | PPL Gas Utilities
24547 Route 6
Port Allegany, PA 16743 | UNT to Allegheny River
16-E | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |
| Franklin Township
Erie County | PAG049245 | James Britton
4108 Winchester Road
Erie, PA 16506 | UNT to Little Elk Creek
15-EC | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |
| Bloomfield
Township
Crawford County | PAG049249 | Ken Lyons
P. O. Box 472
31 Hemlock Avenue
Kane, PA 16735 | UNT to Mosey Run
16E | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |
| Fairview Township
Erie County | PAG049240 | Ellen Engel
6011 Bridlewood Drive
Fairview, PA 16415 | UNT to Bear Creek
15-BE | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |

*General Permit Type—PAG-5**Facility Location &
Municipality*

| <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> |
|---|-------------------|---|--------------------------------|--|
| Cumberland County
Mechanicsburg
Borough | PAG053588 | Warex Terminals
Corporation
1 South Water Street
P. O. Box 488
Newburgh, NY 12550 | Cedar Run
CWF | DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707 |
| Richland Township
Allegheny County | PAG056213 | Handee Marts, Inc.
518 Myoma Road
Mars, PA 16046 | West Branch of Deer
Creek | Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh PA 15222-4745
(412) 442-4000 |

*General Permit Type—PAG-8 (SSN)**Facility Location:
Municipality &
County*

| <i>Facility Location:
Municipality &
County</i> | <i>Permit No.</i> | <i>Applicant Name &
Address</i> | <i>Site Name &
Location</i> | <i>Contact Office &
Phone No.</i> |
|---|-------------------|--|-------------------------------------|---|
| Cumberland County
South Middleton
Township | PAG083592 | Upper Allen Township
100 Gettysburg Pike
Mechanicsburg, PA 17055 | Golen Byers Farm | DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707 |

*General Permit Type—PAG-9**Facility Location:
Municipality &
County*

| <i>Facility Location:
Municipality &
County</i> | <i>Permit No.</i> | <i>Applicant Name &
Address</i> | <i>Site Name &
Location</i> | <i>Contact Office &
Phone No.</i> |
|---|-------------------|--|--|---|
| City of St. Marys
Elk County | PAG098309 | Buerk's Septic Service
1039 Bruxelles Street
St. Marys, PA 15857 | Buerk's Septic Service
1039 Bruxelles Street
St. Marys, PA 15857 | DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942 |

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0906503, Public Water Supply.

| | |
|----------------------------|--|
| Applicant | Warrington Township Water and Sewer Authority
1585 Turk Road
Warrington, PA 18976 |
| Township | Warrington |
| County | Bucks |
| Type of Facility | PWS |
| Consulting Engineer | CKS Engineers, Inc.
88 South Main Street
Doylestown, PA 18901 |
| Permit to Construct Issued | May 12, 2006 |

Operations Permit issued to **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969, (PWS ID 1460050) West Rockhill Township, **Montgomery County** on May 12, 2006, for the operation of facilities approved under Construction Permit No. 4604503 for construction of a public water supply system.

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

| | |
|--|--|
| Permit No. 0605519 , Public Water Supply. | |
| Applicant | Reading Area Water Authority |
| Municipality | Ontelaunee Township |
| County | Berks |
| Type of Facility | Phase II of Ontelaunee Transmission Main project. |
| Consulting Engineer | Thomas L Weld, Jr., P. E.
BCM Engineers
920 Germantown Pike
Reading City Hall
Plymouth, PA 19462 |
| Permit to Construct Issued: | 5/10/2006 |

Permit No. 0106507 MA, Minor Amendment, Public Water Supply.

| | |
|-----------------------------|---|
| Applicant | Greater Gettysburg Land Development Co. |
| Municipality | Straban Township |
| County | Adams |
| Type of Facility | Gettysburg Commons—Increasing the size of the underground storage tank from 20,000 gallons to 60,000 gallons. |
| Consulting Engineer | George W Akens, P. E.
Akens Engineering Associates Inc
219 E. Main Street
Shiremanstown, PA 17011 |
| Permit to Construct Issued: | 5/3/2006 |

Permit No. 2206502, Public Water Supply.

| | |
|-----------------------------|--|
| Applicant | United Water Pennsylvania |
| Municipality | Hummelstown Borough |
| County | Dauphin |
| Type of Facility | Modifications to the existing Hummelstown raw water intake pump station on the Swatara Creek. |
| Consulting Engineer | Christopher A Evans, P. E.
Black & Veatch Corp.
601 Walnut St.
Philadelphia, PA 19106 |
| Permit to Construct Issued: | 5/10/2006 |

Operations Permit issued to **Western Berks Water Authority**, 3060066, Lower Heidelberg Township, **Berks County** on 5/10/2006 for the operation of facilities approved under Construction Permit No. 0604510 MA.

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

Permit No. 1701503—Operation Public Water Supply.

| | |
|---------------------|---|
| Applicant | Sandy Township Water and Sewer Authority |
| Township or Borough | Sandy Township |

| | |
|--|---|
| County | Clearfield |
| Responsible Official | Dick Castonguay, Manager
Sandy Township Water and
Sewer Authority
1094 Chestnut Avenue
P. O. Box 267
Dubois, PA 15801 |
| Type of Facility | Public Water Supply—Operation |
| Consulting Engineer | N/A |
| Permit Issued Date | 5/11/06 |
| Description of Action | Operation of Sandy Township's
water system. |
| Permit No. 5505501—Construction Public Water
Supply. | |
| Applicant | Aqua Pennsylvania, Inc. |
| Township or Borough | Penn Township |
| County | Snyder |
| Responsible Official | Thomas J. Roberts
Aqua Pennsylvania, Inc.
700 West Sproul Road
Springfield, PA 19064 |
| Type of Facility | Public Water
Supply—Construction |
| Consulting Engineer | William LaDieu, P. E.
CET Engineering Services
1240 North Mountain Road
Harrisburg, PA 17112 |
| Permit Issued Date | 5/15/06 |
| Description of Action | Development of Well No. 3,
construction of a new treatment
building, including sodium
hypochlorite and AquaMag
facilities and repainting of the
existing 74,000 gallon finished
water storage tank. |
| Permit No. 1406501—Construction Public Water
Supply. | |
| Applicant | Port Matilda Waterworks |
| Township or Borough | Port Matilda Borough |
| County | Centre |
| Responsible Official | Richard Turner, President
Borough of Port Matilda
400 South High Street
Port Matilda, PA 16870 |
| Type of Facility | Public Water
Supply—Construction |
| Consulting Engineer | Brian Book, P. E.
Herbert, Rowland & Grubic, Inc.
474 Windmere Drive, Suite 100
State College, PA 16801 |
| Permit Issued Date | 5/15/06 |
| Description of Action | Redevelopment of Well No. 3,
existing sodium hypochlorite
facilities, regarding upslope of
the wellheads and installation of
a check valve to prevent
backflow between Well Nos. 2, 3
and 5. |

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

Operations Permit issued to **Municipal Authority
of the Borough of Oakmont**, P. O. Box 73, 721 Alle-
gheny Avenue, Oakmont, PA 15139, (PWS ID 5020036)
Penn Hills, **Allegheny County** on May 8, 2006, for the
operation of facilities approved under Construction Per-
mit No. 0205501.

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

Permit No. 2505504, Public Water Supply
Applicant **Georgetown Heights
Subdivision**
Borough or Township McKean Township
County **Erie**
Type of Facility Public Water Supply
Permit to Construct 05/15/2006
Issued

Operations Permit issued to: **Zelienople Borough**,
111 West New Castle Street, Zelienople, PA 16063, PWS
ID 5100093, Jackson Township, **Butler County**, on May
16, 2006, for the operation of the diffused aeration
systems in the existing raw water reservoirs (Nos. 1—3)
to eliminate the need of copper sulfate for algae control.
This approval is issued simultaneously with construction
Permit No. 3007226-MA7, issued May 16, 2006.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

Plan Location:

| <i>Borough or
Township</i> | <i>Borough or Township
Address</i> | <i>County</i> |
|--------------------------------|---|---------------|
| Jefferson
Township | 487 Cortez Road
Lake Ariel, PA 18436 | Lackawanna |

Plan Description: The approved plan provides for exten-
sion of the existing sanitary sewer lines (new gravity and
low-pressure sewers, pump stations) to serve 196 existing
EDUs in two areas of the Township. Area 1 includes SR
348 (Hitchcock Road East to the Township border), Old
Mill Rd., Pump House Rd., Log Cabin Rd. and Evergreen
Mobile Home Park. Area 2 includes SR 2003—Cortez Rd.
(from existing sewer system approximately 8,500 LF to
the North), Harkin's Lane, Hitchcock Rd., Keating Rd.
and Harmony Drive. The Department's review of the
sewage facilities update revision has not identified any
significant environmental impacts resulting from this
proposal. Any required NPDES Permits or WQM Permits
must be obtained in the name of the municipality or
authority as appropriate.

*Southcentral Region: Water Management Program Man-
ager, 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> |
|--------------------------------|---|---------------|
| Washington
Township | 13013 Welty Rd.
Waynesboro, PA 17268 | Franklin |

Plan Description: The approved plan provides for a
sewer extension, pump station and force main to serve
491 residential EDUs on Old Forge Road. Flows will be

113,126 gallons per day. Washington Township Municipal Authority will provide collection, conveyance and treatment at the WTMA Wastewater Treatment Plant. The Department's Environmental Cleanup Program is monitoring a voluntary remediation of Arsenic and Lead in the soil at the site.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| West St. Clair Township | P. O. Box 92 Alum Bank, PA 15521 | Bedford |

Plan Description: The approved plan provides for a revision to the official 537 plan for West Saint Clair Township, Bedford County. The revision consists of the subdivision of one single family residential lot from the lands of Daniel MacIntyre. This lot proposes the use of a small flow sewage treatment facility with discharge to Fleegles Run. The development is located on SR 96 approximately on mile south of Pleasantville. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Jackson Township | 60 North Ramona Road Myerstown, PA 17067 | Lebanon |

Plan Description: The approved plan provides for the construction of an interceptor and sewage treatment plant facilities with a discharge of 1.0 mgd to a UNT of Tulpehocken Creek. Additionally, Jackson Township will implement an onlot disposal system (OLDS) management ordinance to address all OLDS in the municipality. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Southampton Township | 200 Airport Rd. Shippensburg, PA 17257 | Cumberland |
| Shippensburg Township | P. O. Box 219 Shippensburg, PA 17257 | |

Plan Description: Approval of a revision to the Official Sewage Plan of Southampton and Shippensburg Townships, Cumberland County. The proposed Meadowsgreen subdivision consists of a 334 residential townhome subdivision, with a projected sewage flow of 75,150 gpd to be served by the Cumberland Franklin Joint Municipal Authority collection and conveyance system, with treatment at the Shippensburg Wastewater Treatment Plant. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted Under the Pennsylvania Sewage Facilities Act

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Southampton Township | 200 Airport Rd. Shippensburg, PA 17257 | Cumberland |

Plan Description: Disapproval of a revision to the Official Sewage Plan of Southampton Township, Cumberland County. The proposed Clarence Toigo subdivision consists of a two lot residential subdivision to be served by individual onlot sewage disposal systems. The plan was disapproved because general site suitability for onlot sewage disposal has not been established for Lots 6 and 7. The testing that was conducted encroaches on the 100-foot isolation distance to possible sinkholes/closed depressions. The applicant did not provide a definitive determination of these features.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Warrington Township | 3345 Rosstown Road Wellsville, PA 17365 | York |

Plan Description: Mark and Pamela Mummert, A3-67960-287-2. The proposed plan revision consists of a five lot single-family residential subdivision on 86.95 acres with total estimated sewage flows of 1,600 gpd to be treated by individual onlot disposal systems. The plan was disapproved because the hydrogeologic study included in the planning module submission that was received by the Department and required by § 71.62(c) contained information indicating the groundwater is presently polluted on the property and that the onsite sewage systems for the subdivision will further pollute the waters of this Commonwealth in violation of The Clean Streams Law. This condition is considered a nuisance and is prohibited. In addition, well water samples used for the hydro-study are greater than 1 year old.

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 re-

ports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Nicolet Industries, Inc., Ambler Borough, **Montgomery County**. Darryl Borrelli, 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 Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with PAH. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Five Points Shopping Center, West Goshen Township, **Chester County**. Philip Gray, Phoenix Geo Environmental, LLC, 73 Whethersfield Circle, Telford, PA 18969 on behalf of Gloria Terranov, 7 Summit Drive, Glen Mills, PA 19342 has submitted a Remedial Investigation Report and Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northeast Regional Field Office, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Cranberry Creek Gateway Park Project—Southern Parcel, Hazle Township, **Luzerne County**. Lori Girvan, Senior Environmental Scientist, Barry Isett & Associates, Inc. (100 West Broad Street, Suite 200, Hazleton, PA 18201-2562) has submitted a Final Report (on behalf of her client, CAN DO Inc., 1 South Church Street, Hazleton, PA 18201) concerning the remediation of soils found to have been impacted by lead as the result of historic transformer releases at the former railroad substation. The report was submitted in order to document attainment of the Residential Statewide Health Soil Standard. A Notice of Intent to Remediate was simultaneously submitted.

Proposed Dickson City CVS Property (80-86 Main Street), Dickson City Borough, **Lackawanna County**. Ransom Environmental Consultants, Inc., Browns Wharf, Newburyport, MA 01950 has submitted a combined Remedial Investigation Report and Final Report (on behalf of their 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 reports were submitted in support of the Site-Specific Standard.

Sunoco Service Station 0003-2672 (2028 Center Street), Tamaqua Borough, **Schuylkill County**. Marco Droese, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Manor Professional Building, Suite 3, Glenmoore, PA 19343 has submitted a Final Report (on behalf of Sunoco, Inc., 1109 Milton Avenue, Syracuse, NY 13204 and Jack Sakusky, J & J Sunoco, 2028 Center Street, Tamaqua, PA 18252) concerning the remediation of soils and groundwater found or suspected to be contaminated with MTBE and unleaded gasoline petroleum products associated with the property's historical use as an auto service station facility. The report was submitted in order to demonstrate attainment of the nonuse aquifer, Nonresidential Statewide Health Standard.

Former Penn Fuel Gas Manufactured Gas Plant—Lehighon Site, Borough of Lehighon, **Carbon County**. Jennifer Sedora, Environmental Professional, Environmental Management Department, PPL Services Corp, Two North Ninth Street, Allentown, PA 18101 has submitted a Remedial Investigation Report concerning the characterization and remediation of soils and groundwater found or suspected to have been contaminated with inorganics, polycyclic aromatic hydrocarbons and other organic compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of the Site-Specific Standard or a combination of standards.

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

Kelly Residence Linden Street, Reading City, **Berks County**. Patriot Environmental Management, P. O. Box 629, Douglassville, PA 19518, on behalf of Joseph Kelly, 1520 Linden Street, Reading, PA 19601 and Tropical Oil Company, 418-436 Moss Street, Reading, PA 19604, submitted a Final Report concerning remediation of site soils contaminated with No. 2 heating oil. The report is intended to document remediation of the site to the Statewide Health Standard. The report was submitted within 90 days of the release.

Kerr Group, Inc., City of Lancaster, **Lancaster County**. Gannett Fleming Inc., 805 Estelle Drive, Suite 102, Lancaster, 17603, on behalf of Kerr Group, Inc., 101 Oakley Street, Evansville, IN 47710, submitted a Final Report concerning remediation of site soils and groundwater contaminated with gasoline, paint thinner and waste/oil solvents. The report is intended to document remediation of the site to the Site-Specific Standard.

Pennsylvania Lines LLC (PRR)—Dillerville Rail Yard, City of Lancaster, **Lancaster County**. Marshall Miller & Associates, Inc, 3013 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Norfolk Southern Railway Company, 110 Franklin Street SE, Box 13, Roanoke, VA 14041-0013, submitted a Remedial Investigation Report and a Cleanup Plan concerning remediation of site soils contaminated with diesel fuel. The applicant seeks to remediate to a Site-Specific Standard.

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

Bellefonte Armory Storage Building, Bellefonte Borough, **Centre County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of

the Department of Military and Veterans Affairs, Environmental Section, Building 0-11, Fort Indiantown Gap, Annville, PA 17003 has submitted a Final Report concerning remediation of site soil contaminated with heating oil and kerosene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of 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.

Brettell Res., Bristol Township, **Bucks County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Darren Brettell, 112 Junewood Dr., Levittown, PA 19055 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 9, 2006.

Bradshaw Res., Bristol Township, **Bucks County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Bill Bradshaw, 116 Junewood Dr., Levittown, PA 19055 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved or by the Department on May 9, 2006.

Warminster General Hospital, Warminster Township, **Bucks County**. Kim Walters, Environmental Solutions Group, Inc., 1200 First State Rd., Suite 1220, Newport, DE 19804 on behalf of Chuck McClinton, Warminster General Hospital, 255 Newtown Rd., Warminster, PA 18974 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PAH and No. 4 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 8, 2006.

Shelly Plaza Shopping Center, City of Philadelphia, **Philadelphia County**. Samuel Kucia, Env. Consulting, Inc., 500 E. Washington St., Norristown, PA 19401 on behalf of Michael Willner, Willner Realty & Dev., Co., 140 S. 69th St., Upper Darby, PA 19082 has submitted a Final Report concerning the remediation of site groundwater contaminated with organics. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on May 3, 2006.

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 the remediation of site soil contaminated with unleaded gasoline and MTBE. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan was approved by the Department on May 6, 2006.

WAWA Food Market 118, Caln Township, **Chester County**. Tiffani Doerr, GES, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of Mayra Flores, Realty Income Corp., 220 W. Crest St., Escondido, CA 92025 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline, MTBE and VOC. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 4, 2006.

Slutzsky Prop., Northampton Township, **Bucks County**. Edward E. Prout, Jr., ARC, Inc., 1000 W. Broad St., Quakertown, PA 18951 on behalf of Harvey Slutzsky, 40 Tulip Rd., Holland, PA 18966 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated

attainment Statewide Health Standard and was approved by the Department on April 28, 2006.

Valley View Danboro Mobil Home Park, Plumstead Township, **Bucks County**. Trimpi Richard, Trimpi Associates, Inc., 1635 Old Plains Rd., Pennsburg, PA 18703 on behalf of Kimberly Charlton, Valley View Danboro Mobil Home Park, 1081 N. Easton Rd., P. O. Box 336, Danboro, PA 18916 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with petroleum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 9, 2006.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Former Tamaqua MGP Plant, Borough of Tamaqua, **Schuylkill County**. John J. Mahfood, Principal, Corporate Environmental Solutions LLC, 260 Millers Run Road, Bridgeville, PA 15017 submitted a Final Report (on behalf of PPL Electric Utilities, Two North Ninth Street, Allentown, PA 18101) concerning the remediation of petroleum hydrocarbons and polycyclic aromatic hydrocarbons in site soils and groundwater. The report demonstrated attainment of the Site-Specific Standard and was approved on May 10, 2006.

2067 8th Street (former Jose Torres Residence), Bethlehem Township, **Northampton County**. Thomas Martinelli, Environmental Scientist, JMT Environmental Technologies, Inc., 3353-C Gun Club Road, Bethlehem, PA 18020 submitted a Final Report (on behalf of his client, Jose Torres, Columbia, MD) concerning the remediation of soil found or suspected to have been impacted by the release of No. 2 fuel oil constituents from a former underground storage tank on the property. The report demonstrated attainment of the residential, used-aquifer Statewide Health Standard and was approved on May 9, 2006.

1235 Blue Barn Road, Upper Macungie Township, **Lehigh County**. Jeremy Bolyn, Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518 submitted a Final Report (on behalf of his client, Janet Medence, Blue Barn Road, Allentown, PA) concerning the remediation of soils contaminated by the release of diesel fuel following a vehicular accident on the affected property. The report demonstrated attainment of the residential Statewide Health Soil Standard and was approved on April 11, 2006. The property will continue to be used for residential purposes. The report was submitted within 90 days of the January 18, 2006, release.

Weisenberg Lutheran Church, Weisenberg Township, **Lehigh County**. Storb Environmental, Inc., 410 North Easton Road, Willow Grove, PA 19090 has a Final Report (on behalf of the Weisenberg Lutheran Church Council, 7645 Weisenberg Road, New Tripoli, PA 18066 and Pipeline Petroleum, P. O. Box 159, Shippers Road, Macungie, PA 18062) concerning the remediation of soil found or suspected to have been contaminated by No. 2 fuel oil as the result of an accidental release during delivery. The report documented attainment of the residential Statewide Health Soil Standard and was approved on April 12, 2006.

Sunoco Service Station 0003-2672 (2028 Center Street), Tamaqua Borough, **Schuylkill County**. Marco Droese, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Manor Professional Building, Suite 3, Glenmoore, PA 19343 submitted a Final Report (on behalf of Sunoco, Inc., 1109 Milton Avenue, Syracuse, NY

13204 and Jack Sakusky, J & J Sunoco, 2028 Center Street, Tamaqua, PA 18252) concerning the remediation of soils and groundwater found or suspected to be contaminated with MTBE and unleaded gasoline petroleum products associated with the property's historical use as an auto service station facility. The report demonstrated attainment of the nonuse aquifer, nonresidential Statewide Health Standard and was approved on April 18, 2006.

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

The Willows Development Site, City of Lebanon, **Lebanon County**. MACTEC Engineering & 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, submitted a Final Report concerning the remediation of site soils contaminated with arsenic. The Final Report demonstrated attainment of the Site-Specific Standard, and was approved by the Department on May 11, 2006.

Clearview Shopping Center, Hanover Borough, **York County**. BL Company, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Clearview Associates, c/o Springwood Real Estate Services, 146 Pine Grove Circle, Suite 200, York, PA 17403, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with Benzene, Toluene, Ethylbenzene, Naphthalene, Flourene Phenanthrene, Cumene, Xylenes, Methyl Tert Butyl Ether, Dibromomethane and Lead. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on May 11, 2006.

FCI USA, Inc., Manchester Township, **York County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109, on behalf of FCI USA, Inc., 825 Old Trail Road, Etters, PA 17319-9392 submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with VOCs and nickel. The applicant intends to remediate the site to a combination of the Site-Specific, Statewide Health and Background Standards. The Remedial Investigation Report was approved by the Department on May 12, 2006.

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

Nextel Partners, Inc., Patton Forest Facility, Patton Township, **Centre County**. Blazosky Associates, Inc., 2525 Green Tech Drive, Suite D, State College, PA 16803 on behalf of Nextel Partners, Inc., 2603 East College Ave., State College, PA 16801 has submitted a Final Report concerning the remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 4, 2006.

Sunbury Textile Mills Sites 4 and 5, City of Sunbury, **Northumberland County**. GeoSyntech Consultants, 130 Research Lane, Suite 2, Guelph, Ontario N1G5G3 on behalf of Sunbury Textile Mills, 1200 Miller St., Sunbury, PA 17801 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents and PHCs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 12, 2006.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Stackpole Center—South West Area, City of St. Marys, **Elk County**. On May 8, 2006, the Department

received a Remedial Investigation Report, submitted by Hydrosystems Management, Inc. on behalf of Emsource, 111 Commercial Street, Suite 400, Portland, ME 04112. The report characterizes soil, groundwater and surface waters that are potentially impacted with heavy metals, BTEX, PAHs, PHCs and organic solvents.

RESIDUAL 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 residual waste regulations for a General Permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR031. Kalumetals Inc., P. O. Box 455, Latrobe, PA 15650-0455. General Permit No. WMGR031 authorizes processing and beneficial use of metallic grinding swarfs, spent catalysts, metallic filter cakes, metallic turnings, metal grindings, metal cuttings, metal stampings, metal plate, metal wire, metal powders, metal sludges, metal carbide, Raney Nickel catalysts and precious metal catalysts. The processing is limited to retorting, static bed open drying, magnetic separation, washing, centrifugation, passive oil/water separation, belt furnace thermal processing, rotary furnace oxidation, filtering, mechanical separation, CO₂ separation and blending. The permit was renewed by Central Office on May 12, 2006.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of 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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-310-068GP: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) on May 15, 2006, to operate a nonmetallic mineral processor in Plumstead Township, **Bucks County**.

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

GP3-22-03066: Pennsy Supply, Inc. (1 Clear Spring Road, Annville, PA 17003) on May 9, 2006, for Portable Nonmetallic Mineral Processing Plant under GP3 in Lower Swatara Township, **Dauphin County**.

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

GP5-30-00163: CNX Gas Co., LLC (4000 Brownsville Road, South Park, PA 15129) on May 8, 2006, to install and operate two Caterpillar G-3508TALE 633-bhp Compressors, one Caterpillar G-3408CLE 425-bhp Compressor and two Dehydrators at Green Hill Processing Plant at Center Township, **Greene 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.

09-0001A: Avery Dennison Corporation—Fasson Roll Division (35 Penn-Am Drive, Quakertown, PA 18951) on May 10, 2006, to operate two coating lines in Richland Township, **Bucks County**.

46-0041D: Smurfit-Stone Container Enterprises Inc. (1035 Longford Road, Phoenixville, PA 19460) on May 15, 2006, to operate lithographic printing press No. 4 in Upper Providence Township, **Montgomery County**.

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

39-303-016: Reading Materials, Inc. (P. O. Box 1947, 2052 Lucon Road, Skippack, PA 19474) on May 8, 2006, to construct a batch asphalt plant and associated air cleaning device at the Lehigh Materials facility in Hanover Township, **Northampton County**.

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

04-00034B: Engineered Polymer Solutions d/b/a Valspar Coatings (372 Cleveland Avenue, Rochester, PA 15074) on February 12, 2006, to manufacture 11 categories of epoxy and acrylic based coating for cans at the Rochester Plant in Rochester Township in **Beaver County**.

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

25-053C: Urick Foundry Co. (1501 Cherry Street, Erie, PA 16502) on May 5, 2006, to construct a new core making system in the City of Erie, **Erie County**. This is a State-only facility.

24-083I: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on May 6, 2006, to modify emission limits (SOx) from plan approval 24-083E in St. Marys City, **Elk County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0105B: Naceville Materials (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on May 12, 2006, to operate a 20,000-gallon storage tank in Springfiled Township, **Bucks County**.

46-0161B: Reading Materials, Inc. (2052 Lucon Road/P. O. Box 1467, Skippack, PA 19474) on May 12, 2006, to operate a hot asphalt plant in Lower Pottsgrove Township, **Montgomery County**.

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

18-00009C: Clinton County Solid Waste Authority (P. O. Box 209, McElhattan, PA 17748) on May 12, 2006, to install a new landfill gas flare at a municipal waste landfill, and to operate the respective municipal waste landfill, which has been modified, on a temporary basis, until September 9, 2006, in Wayne Township, **Clinton County**. The plan approval has been extended.

41-00005C: Lycoming Engines (652 Oliver Street, Williamsport PA 17701), located in the city of Williamsport, **Lycoming County**, on May 3, 2006, to authorize the operation of a perchloroethylene degreaser to September 2, 2006. The plan approval has been extended.

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

32-00040B: Reliant Energy (121 Champion Way, Suite 200, Canonsburg, PA 15317) on May 9, 2006, to allow additional time for shakedown and to conduct further evaluations of fuel sizing options (phase IV) at the Seward Station in East Wheatfield Township, **Indiana County**. This plan approval was extended.

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.

01-03026: Growmark FS, LLC (3150 Stoney Point Road, East Berlin, PA 17316-9654) on May 11, 2006, to operate their fertilizer plant in Latimore Township, **Adams County**. This is a renewal of the State-only operating permit.

06-03075: VF Factory Outlet, Inc. (801 Hill Avenue, Wyomissing, PA 19612) on May 8, 2006, for a boiler house in Wyomissing Borough, **Berks County**.

22-03018: Millersburg Area School District (799 Center Street, Millersburg, PA 17061-1411) on May 11, 2006, to operate an anthracite coal-fired boiler at the Lenkerville Elementary School in Upper Paxton Township, **Dauphin County**. This is a renewal of the State-only operating permit.

22-05036: Millersburg Area School District (799 Center Street, Millersburg, PA 17061-1411) on May 11, 2006, to operate two anthracite coal-fired boilers at the High School and Middle School in Millersburg Borough, **Dauphin County**. This is a renewal of the State-only operating permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00864: Beaver Valley Slag, Inc. (6010 Woodlawn Road, Aliquippa, PA 15001) on May 5, 2006, for their Black's Run/Crow's Island facility in Hopewell and Center Townships, **Beaver County**. This is Synthetic Minor.

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

10-00330: Butler Veterinary Associates, Inc. (1761 North Main Street, Butler, PA 16001) on May 8, 2006, to re-issue a Natural Minor Permit for operation of an animal crematory in Center Township, **Butler County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.

46-00033: Waste Management Disposal Services of Pennsylvania—Pottstown Landfill without Eastern Expansion (1425 Sell Road, Stowe, PA 19464) on May 9, 2006, for an administrative amendment to Title V Operating Permit 46-00033 partly in West Pottsgrove Township, **Montgomery County** and the remainder in Douglass Township, **Berks County**. The permit is being amended to incorporate Plan Approvals 46-322-007 (Eastern Expansion) and 46-0033E (Pipeline Connection) and to address the concerns expressed in the appeal submitted to the Department on February 27, 2004. The amended Title V operating permit will contain monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

15-00035: General Electric Co. (251 South Bailey Road, Downingtown, PA 19335-2003) on May 9, 2006, to operate a manufacturing plant in Caln Township, **Chester County**. The permit is for a Title V facility. The facility manufactures specialty plastic pellets as raw material for the injection molding plastics industry. The facility's emission points include thermo-compounding manufacturing lines, parts cleaning ovens, space heaters, degreasing operations, and assorted laboratory and quality control equipment. The facility has the potential to emit major levels of VOCs. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amendment corrects the applicable PM emission limit of 25 Pa. Code § 123.12 for Incinerators. The emission restriction is found in Section D—Source Level Requirements—for Source IDs 121 (Pyrolysis Cleaning Furnace SCRT-16XL) and 123 (Pyrolysis Cleaning Furnace IGG 52), Condition No. 001 for each source. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

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

17-00007: Sensus Metering Systems—NA, Inc. (805 Liberty Boulevard, Dubois, PA 15801) on May 12, 2006, to re-insert an air contamination source (a burnoff oven) into the respective operating permit which had been addressed in the permit at the time of original issuance but which had been inadvertently deleted by the Department during a prior administrative amendment of the permit in the City of Dubois, **Clearfield County**. This was a Department-initiated operating permit modification.

49-00019: Sunoco Partners Marketing and Terminals, LP (515 Fritztown Road, Sinking Springs, PA

19608) on May 5, 2006, to issue a revised operating permit for their Northumberland Terminal in Point Township, **Northumberland County**. This revision includes the three new gasoline-loading arms at loading rack position No. 2 under the gasoline and distillate loading operation, designated as Source ID P101. This State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, record-keeping and reporting conditions.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00095: Thiele Manufacturing, LLC (309 Spruce Street Winber, PA 15963) on May 12, 2006, for their truck and bus body fabrication and painting facility in Paint Township, **Somerset County**. The Department has changed the ownership from Thiele Industries Inc. to Thiele Manufacturing LLC.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

320021301 and NPDES Permit No. PA0235458, TJS Mining, Inc. (2340 Smith Road, Shelocta, PA 15774), to revise the permit for the Rossmoyne No. 1 Deep Mine in South Mahoning Township, **Indiana County** to expand the underground mining permit and subsidence control plan area acreage. Underground acres proposed 1,143.6, SCP acres proposed 1,143.6. No additional discharges. Application received July 5, 2005. Permit issued May 10, 2006.

56743704 and NPDES Permit No. PA0214931, Robindale Energy Services, Inc. (224 Grange Hill road, P. O. Box 228, Armagh, PA 15920), to renew the permit the Penn Pocahontas Coal Refuse Site in Brothersvalley Township, **Somerset County** and related NPDES permit. No additional discharges. Application received January 1, 2006. Permit issued May 10, 2006.

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

56050108 and NPDES No. PA0249874. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Paint Township,

Somerset County, affecting 239.9 acres. Receiving streams: UNT to Spruce Run, Spruce Run and Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Border Dam of Cambria/Somerset Authority. Application received September 27, 2005. Permit issued May 11, 2006.

Permit No. 56960104 and NPDES No. PA0234150. Shade Mining Company, 118 Runway Road, P. O. Box 130, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Shade Township, **Somerset County**, affecting 34.4 acres. Receiving streams: UNTs to Oven Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 21, 2006. Permit issued May 5, 2006.

32040106 and NPDES Permit No. PA0249653. KMP Associates, Inc., 1094 Lantz Road, Avonmore, PA 15618, commencement, operation and restoration of a bituminous surface, auger and limestone removal mine in Young Township, **Indiana County**, affecting 351.4 acres. Receiving streams: UNTs to Whiskey Run and Whiskey Run to Blacklegs Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 14, 2004. Permit issued May 5, 2006.

32040103 and NPDES No. PA0249572. Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001, revision of an existing bituminous surface mine to add 13.5 acres to the permit area, 5.0 acres of coal removal and 3.2 acres of refuse removal in Young Township, **Indiana County**, affecting 158.5 acres. Receiving streams: UNTs to Neal Run classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. The application includes a stream encroachment to conduct mining activities within the barrier area of UNT No. 3 to Neal Run. Application received February 7, 2006. Permit issued: May 5, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33990109 and NPDES Permit No. PA 0241539. Strishock Coal Company (220 Hillcrest Drive, DuBois, PA 15801). Renewal of an existing bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 66.0 acres. Receiving streams: two UNTs to Perryville Run and Perryville Run. Application received: March 17, 2006. Permit Issued: May 9, 2006.

Noncoal Permits Actions

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

Permit No. 14000301 and NPDES Permit No. PA0242681. Glenn O. Hawbaker, Inc. (1952 Waddle Road, State College, PA 16804), renewal of NPDES Permit in Worth and Halfmoon Townships, **Centre County**. Receiving streams: Bald Eagle Creek to the West Branch of the Susquehanna River. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received May 4, 2006.

Permit No. 14900301 and NPDES Permit No. PA0206229. Glenn O. Hawbaker, Inc. (1952 Waddle Road, State College, PA 16804), renewal of NPDES Permit in Spring Township, **Centre County**. Receiving streams: Gap Run Sink Hole to Logan Branch; Logan Branch to Spring Creek; Spring Creek to Bald Eagle Creek; Bald Eagle Creek to West Branch Susquehanna

River. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received May 4, 2006.

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

66060802. Norm Clark (R. R. 1, Box 250, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Lemon Township, **Wyoming County** affecting 5 acres. Receiving stream: none. Application received December 22, 2005. Permit issued May 10, 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.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16064001. Glen Gery Corporation (P. O. Box 68, Summerville, PA 15864). Blasting activity permit to determine the quality of clay for commercial use in Monroe Township, **Clarion County**. This blasting activity permit will expire on June 8, 2006. Application received: May 8, 2006. Application Issued: May 8, 2006.

43064002. John Koehler (5400 Crestwood Drive, Knoxville, TN 37914). Blasting activity permit to demolish three smoke stacks at the Farrell Steel Works in the City of Farrell, **County of Mercer**. This blasting activity permit will expire on July 25, 2006. Application received: May 11, 2006. Application issued: May 12, 2006.

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

14064011. Glenn O. Hawbaker, Inc. (P. O. Box 135, State College, PA 16804), construction blasting for Fieldstone sub-division—for sewer, utility lines and detention pond located in College Township, **Centre County**. Permit issued: May 9, 2006. Permit expires on May 5, 2007.

14064012. Glenn O. Hawbaker, Inc. (P. O. Box 135, State College, PA 16804), construction blasting for KOHL'S at the Penn Eagle Industrial Park located in Spring Township, **Centre County**. Permit issued May 9, 2006. Permit expires on May 5, 2007.

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

36064143. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Sheetz in East Hempfield and Manor Townships, **Lancaster County** with an expiration date of December 31, 2006. Permit issued May 8, 2006.

36064144. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Warwick Township Park in Warwick Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued May 8, 2006.

46064119. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Macoby Run Development in Upper Hanover Township, **Montgomery County** with an expiration date of March 17, 2007. Permit issued May 8, 2006.

46064120. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Clemens

Business Center in Hatfield Borough, **Montgomery County** with an expiration date of May 3, 2007. Permit issued May 8, 2006.

67064117. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for C & S Wholesalers in Conewago Township, **York County** with an expiration date of May 15, 2007. Permit issued May 9, 2006.

67064118. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for utilities on North Sherman Street Exit in Springettsbury Township, **York County** with an expiration date of May 15, 2007. Permit issued May 9, 2006.

01064108. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Gettysburg County Club in Cumberland Township, **Adams County** with an expiration date of April 30, 2007. Permit issued May 10, 2006.

40064113. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Centerpoint in Jenkins Township, **Luzerne County** with an expiration date of May 2, 2006. Permit issued May 10, 2006.

15064114. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Tall Trees Development in East Caln Township, **Chester County** with an expiration date of December 31, 2007. Permit issued May 11, 2006.

22064122. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Winslett Development in West Hanover Township, **Dauphin County** with an expiration date of May 30, 2007. Permit issued May 11, 2006.

22064123. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for The Preserves at Bow Creek with an expiration date of May 30, 2007. Permit issued May 11, 2006.

46414121. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Hanover Green in New Hanover Township, **Montgomery County** with an expiration date of May 30, 2007. Permit issued May 11, 2006.

35064106. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for a backyard area in South Abington Township, **Lackawanna County** with an expiration date of June 30, 2007. Permit issued May 12, 2006.

36064147. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Butterfield Development in Manheim Township, **Lancaster County** with an expiration date of May 9, 2007. Permit issued May 12, 2006.

36064148. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for a home on Woodfield Crossing in West Lampeter Township, **Lancaster County** with an expiration date of May 10, 2007. Permit issued May 12, 2006.

45064136. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for a cell tower foundation in Tunkhannock Township, **Monroe County** with an expiration date of September 30, 2006. Permit issued May 12, 2006.

45064137. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Great Bear

Estates in Middle Smithfield Township, **Monroe County** with an expiration date of June 30, 2007. Permit issued May 12, 2006.

45064138. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for The Country Club of the Poconos in Middle Smithfield Township, **Monroe County** with an expiration date of June 30, 2007. Permit issued May 12, 2006.

52064118. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Falling Creek Estates in Lehman and Middle Smithfield Townships, **Pike and Monroe Counties** with an expiration date of June 30, 2007. Permit issued May 12, 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.

E46-983. Jeffrey M. Gray, 5518 McLeon Station Road, Green Lane, PA 18054, Marlborough Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a 12-foot wide, 24-foot span by 3.5 feet high open Bottom Box Bridge and appurtenances, as a driveway access from McLean Station Road across a UNT of Macoby Run (TSF) to and existing single family dwelling.

The project includes temporary cofferdams and conduits to facilitate bridge construction, will impact approximately 50 linear feet of stream and is located approximately 345 feet southwest of the intersections of McLean Station Road and Geryville Pike in Marlborough Township, Montgomery County (Perkiomenville, PA, Quadrangle N: 20.98 inches; W: 11.72 inches).

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)).

E46-987. Lower Salford Township, 379 Main Street, Harleysville, PA 19438, Lower Salford Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain an 80-foot long by 8-foot wide by 4.31-foot high pedestrian bridge across the bank of the West Branch of Skippack Creek (TSF) as a part of a community bike and walking trail. The bridge is located on the Seneko/Marczuk property near the intersection of Upper Mainland and Quarry Roads (Collegetown, PA, USGS Quadrangle, N: 20.5 inches; W: 1.0 inches).

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)).

E09-892. Department of Transportation, District 6-0, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Durham Township, **Bucks County**, ACOE Philadelphia District.

To remove two bridges along Lehnenberg Road (SR 406 Section 01B) situated in close proximity to each other at Station 18+05 and 19+67, respectively. Each existing bridge measures 21 feet long and 16 feet wide and each will be replaced with 75-foot long and 24-foot wide structures with similar vertical and horizontal alignment across Rodges Run (TSF). The bridges are located in the vicinity of the intersection of Lehnenberg Road and Mine Hill Road (Reiglesville, PA-NJ USGS Quadrangle N: 13.0 inches; W: 9.80 inches).

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

E67-791. Department of Transportation Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in Washington Township, **York County**, ACOE Baltimore District.

To: 1) remove an existing, single span steel truss bridge having a total span of 153 feet, a width of 14 feet and minimum underclearance of 17 feet; and 2) construct and maintain a two-span prestressed concrete I-beam bridge having a total clear span of 164.5 feet, a width of 31.38 feet and a minimum underclearance of 14.3 feet carrying SR 4017, Section 001, Segment 0030 over Bermudian Creek (WWF) at a point approximately 1.3 miles south-east of Kralltown Village (Wellsville, PA Quadrangle

N: 1.6 inches; W: 12.3 inches, Latitude 40° 00' 31"; Longitude: 76° 57' 47") in Washington Township, York County.

E22-502: Colonial Country Club, 4901 Linglestown Road, Harrisburg, PA 17112-0098 in Lower Paxton Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a 40-inch wide, 30-foot long wooden arch bridge with an underclearance of 3 feet and a normal clear span of 30 feet over a UNT to Paxton Creek (WWF) at a site (Harrisburg East, PA Quadrangle, N: 15.5 inches; W: 7.7 inches; Latitude 40° 20' 05.5"; Longitude: 76° 48' 1.9") on the Colonial Country Club Golf Course to access number 5 green in Lower Paxton Township, Dauphin County.

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

E08-441. Department of Transportation, Engineering District 3-0, P. O. Box 218 Montoursville, PA 17754-0218. Application for SR 1022 Segment 0200 Bullard Creek bridge replacement, in Rome Township, **Bradford County**, ACOE Susquehanna River Basin District (Rome, PA Quadrangle N: 5.82 inches; W: 16.44 inches).

To remove an existing two-span steel I-beam bridge and construct and maintain a two span spread box beam with a span of 130.0 feet, with a minimum underclearance of 8.00 feet on a skew of 45° over Bullard Creek located along SR 1022 Segment 0200 Offset 0223, Rome Township, Bradford County. This project proposes to have a minimal impact on Bullard Creek, which is, designated a CWF. This project does propose to impact jurisdictional wetlands.

E12-159. Mid-Cameron Authority, 421 Broad Street, Emporium, PA 15834. Emporium Borough-Shippen Township Wastewater Treatment Plant Upgrade, in Shippen Township, **Cameron County**, ACOE Baltimore District (Emporium, PA Quadrangle N: 1.1 inches; W: 14 inches).

To modify, operate and maintain a municipal wastewater treatment facility and its appurtenances in the 100-year floodplain of Driftwood Branch-Sinnemahoning Creek; construct, operate and maintain a sanitary sewer line crossing Driftwood Branch; and to construct, operate and maintain treated effluent outfall structures along Driftwood Branch for the collection and treatment of municipal wastewater. The sanitary sewer line crossing shall be constructed with an 18-inch diameter ductile iron pipe encased in concrete. Construction of the sanitary sewer line shall be installed beneath the stream channel in dry work conditions by dams and pumping or fuming stream flow around the work area. Since Driftwood Branch is a TSF, no construction or future repair work shall be done in or along the stream channel between March 1 and June 15 without the prior written approval of the Fish and Boat Commission. The project is located along the southern right-of-way SR 0120 approximately 0.70-mile south of Broad Street and SR 0120 intersection. This permit also authorizes construction, operation, maintenance and removal of temporary stream diversions, cofferdams and construction road crossings. Temporary structures shall be constructed of blocky, angular rock that is clean, free of fines.

E57-109. Schrader Creek Watershed Association, c/o Hugh McMahon, R. R. 2, Box 292, Towanda, PA 18848. Water Obstruction and Encroachment Joint Permit for a passive Treatment System, in Fox Township, **Sullivan County**, ACOE Baltimore District (Grover, PA Quadrangle N: 15.6 inches; W: 7.3 inches).

To construct, operate and maintain one 3-foot high low head dam (containing two weir structures), 35 linear feet

of 24-inch diameter HDPE pipe and associated rip-rap protection, a 5,000 square foot ALB treatment facility, a 3,500 square foot AVFW treatment facility for the abatement of suppressed water chemistry in the Upper Schrader Creek Watershed. The project is located 0.5 mile west of SR 154 northwest of Wheelerville adjacent to and in a UNT to Schrader Creek. The UNT to Schrader Creek is an Exceptional Value Fishery. This permit also authorizes the construction, operation, maintenance and removal of temporary access roads, channel diversions, cofferdams and stockpiles in and along the UNT to Schrader Creek. Temporary facilities used for project construction shall be removed from floodplain areas; upon project completion, all areas of disturbance shall be restored and stabilized within 20 days.

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

E32-474. Dannic Energy Corporation, 164 Millrun Drive, Indiana, PA 15701. To maintain a rock lined ford crossing in Canoe Township, **Indiana County**, Pittsburgh ACOE District. (Punxsutawney, PA Quadrangle N: 1.4 inches; W: 13.5 inches and Latitude: 40° 52' 58"—Longitude: 78° 58' 21"). To operate and maintain a rock lined ford crossing in a UNT to Canoe Creek (CWF) located approximately 550 feet southeast of T-800.

E65-888. Derry Township, 650 Derry Road, Derry, PA 15627. To construct a bridge in Derry Township, **Westmoreland County**, Pittsburgh ACOE District. (Blairsville, PA Quadrangle N: 4.6 inches; W: 5.8 inches and Latitude: 40° 24' 02.08" and Longitude: 79° 17' 30.76"). To remove the existing structure, construct and maintain a concrete spread box beam bridge having a span of approximately 46 feet wide and underclearance of approximately 8 feet carrying TR-937 (Willow Run Road) over Stony Run. New bridge will be two lanes with improved sight distance and will improve the intersection with Coal Hill Road. The bridge is located on Willow Run Road near its intersection with Stony Run. Total temporary impact to Stony Run (CWF) will be approximately 100 feet.

E65-889. Derry Township, 650 Derry Road, Derry, PA 15627. To construct a bridge in Derry Township, **Westmoreland County**, Pittsburgh ACOE District. (Blairsville, PA Quadrangle N: 7.1 inches; W: 5.3 inches and Latitude: 40° 24' 49.81" and Longitude: 79° 17' 13.96"). To remove the existing structure, construct and maintain a concrete spread box beam bridge having a span of approximately 54 feet and underclearance of approximately 7 feet carrying TR-941 (Pipers Road) over Stony Run. New bridge will be two lanes with improved sight distance and will allow emergency vehicles to use this road. The bridge is located on Pipers Road near its intersection with Stony Run. Total temporary impact to Stony Run (CWF) will be approximately 100 feet.

E65-890. Norwin School District, Administration Building, 281 McMahon Drive, North Huntingdon, PA 15642-2403. To construct a stream enclosure in North Huntingdon Township, **Westmoreland County**, Pittsburgh ACOE District. (Irwin, PA Quadrangle N: 13.0 inches; W: 13.3 inches; Latitude: 40° 19' 19.4" and Longitude: 79° 43' 17.3"). To construct and maintain approximately 541 linear feet of 48-inch diameter stream enclosure in a UNT to Tinkers Run (TSF) for the purpose of construction of the Hahntown Elementary School for the Norwin School District.

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

E25-698, Summit Township Water Authority, 8290 Old French Road, Erie, PA 16509. Mitchell Well Field & Bridge over LeBoeuf Creek, in Waterford Township, **Erie County**, ACOE Pittsburgh District (Waterford, PA Quadrangle N: 21.0 inches; W: 15.8 inches).

The applicant proposes to install a well field consisting of 3,300 linear feet of 12-inch diameter ductile iron waterline, two municipal drinking water supply wells and a chlorine/meter building (Waterford, PA Quadrangle N: 21.0 inches; W: 15.8 inches) in Waterford Township, Erie County approximately 1.2 mile N of the intersection SR 97 and Himrod Road involving: 1) to remove the existing bridge and to construct and maintain a prefabricated steel bridge having a clear span of 53 feet and an underclearance of approximately 9.0 feet; 2) to construct and maintain two municipal drinking water supply wells within PEM wetlands; 3) to temporarily impact approximately 0.17 acre of wetlands for installation of two wells within the wetland and the wetland crossing of the associated waterline; 4) to install and maintain a ductile iron 12-inch diameter waterline across LeBoeuf Creek; 5) to construct and maintain an access road to the wells impacting 0.076 acre of PEM wetlands; and 6) to construct 0.076 acre of PEM wetlands onsite.

LeBoeuf Creek is a perennial stream classified as a TSF. The project proposes to impact approximately 30 linear feet of stream and to temporarily impact approximately 0.17 acre of PEM wetlands and to permanently impact 0.076 acre of PEM wetlands

E25-702, Iroquois School District, 4231 Morse Street, Erie, PA 16511. Iroquois Elementary School, in Lawrence Park Township, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 5.3 inches; W: 1.6 inches).

The applicant proposes to fill the existing UNT Lake Erie (with a drainage area of 59 acres) (Erie North, PA Quadrangle N: 5.3 inches; W: 1.6 inches) adjacent to the southwest corner of the intersection of Tyndall Street and Morse Street in Lawrence Park Township, Erie County for a length of approximately 382 feet and to reroute the UNT Lake Erie through a HDPE plastic stream enclosure having 3-foot diameter for a length of approximately 373 feet and having 3.5-foot diameter for a length of approximately 518 feet. Project includes associated stormwater outfalls and two waterline crossings under the stream enclosure. The UNT Lake Erie is stream classified as a MF and a CWF.

SPECIAL NOTICES

Planning Grant Awards under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

| <i>Region</i> | <i>County</i> | <i>Applicant</i> | <i>Project Description</i> | <i>Grant Award</i> |
|---------------|---------------|-------------------|----------------------------|--------------------|
| Southeast | Montgomery | Montgomery County | Plan Revision | \$200,000 |

Categorical Exclusion

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

Project Information:

| <i>Project Applicant</i> | <i>Project Applicant's Address</i> | <i>Project Location (Municipality)</i> | <i>Project Location (County)</i> |
|--|---|--|----------------------------------|
| Lower Lackawanna Valley Sanitary Authority | P. O. Box 2067
Duryea, PA 18642-2067 | Duryea Borough | Luzerne |

Description: The Pennsylvania Infrastructure Investment Authority (Authority), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Lower Lackawanna Valley Sanitary Authority proposes to upgrade its 6.0 mgd WWTF to comply with the biological nutrient reduction requirements imposed on the Authority as a result of the implementation of the Chesapeake Bay Tributary Strategy. The facility's existing treatment process will be converted to a tertiary treatment process to meet the more stringent total nitrogen and total phosphorus effluent discharge limits. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

[Pa.B. Doc. No. 06-936. Filed for public inspection May 26, 2006, 9:00 a.m.]

Submission Date for Recycling Program Development and Implementation Grants under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988

The Department of Environmental Protection (Department) announces the availability of applications to municipalities for recycling program grant assistance under section 902 of the Municipal Waste Planning, Recycling and Waste Reduction Act (act) (53 P.S. § 4000.902). Municipalities eligible for recycling grants include counties, cities, boroughs, incorporated towns, townships, home rule municipalities, councils of governments, consortiums or similar entities established by two or more municipalities under 53 Pa.C.S. Chapter 23, Subchapter A (relating to intergovernmental cooperation).

Since the program's inception, over \$345 million has been issued by the Department to establish, support and expand municipal recycling programs. In just the past 5 years, \$98 million has been provided to municipal programs resulting in an increase of 1.7 million tons of recovered materials from municipal solid waste. These additional materials have helped to grow this Commonwealth's \$20 billion annual recycling economy.

Applicants must be in compliance with the act and the implementing regulations, the Department's Guidelines for Proper Management of Recyclable Materials and any previous grant contract provisions to be eligible to receive grant funding. County applicants should be in compliance with planning and other county-related provisions of the act. Applicants who are not in compliance with the act's annual reporting requirements will not be considered in this grant application round. Programs operating in municipalities covered by land use plans and ordinances (as outlined under Acts 67 and 68 of 2000) or projects that are in compliance with their municipality's land use plan will receive priority over similar programs and projects absent such conditions.

Municipalities are eligible for 90% funding of approved recycling program costs. Municipalities considered financially distressed by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P.S. §§ 11071.101—11701.501) are eligible for 100% of approved costs. An application requesting more than \$500,000 in grant funding will not be accepted. Because funding for educational efforts will be limited, applicants should, when practicable, allocate these costs toward their required match.

Applicants must submit a plan along with their funding request that includes definitive actions and strategies for optimizing program self-sufficiency. The plan shall include, at a minimum, strategies for reducing costs and generating revenues, provisions for establishing incentives associated with waste reduction and recycling, mechanisms for public outreach and stakeholder input and tracking mechanisms to document progress toward sustainability milestones until optimum sustainability is realized. The Department's technical report on *Building Financially Sustainable Recycling Programs* can provide assistance in developing such methods and strategies. The technical report can be found on the Department's website at www.depweb.state.pa.us/dep/deputate/airwaste/wm/recycle/document/fin_sust_rec.pdf.

In this grant round, the Department is designating up to one half of the funding available to support the establishment of programs that provide residents with an incentive to recycle more or dispose of less waste, such as "Pay-As-You-Throw" and other new and innovative recycling programs designed to increase household and busi-

ness participation and/or increase the amount of recyclables collected. Communities applying for funds to support such programs will be asked to demonstrate increased revenues from the marketing of recyclable materials as well as an overall increase in materials collected and residential participation once the program has been implemented. Eligible costs under this grant include: reusable containers for recyclable materials; vehicles to collect recyclable materials, including those equipped for automated collection; agreements for collection and/or marketing of recyclables; educational materials specific to the incentive program; and development of the program leading to implementation. Costs for containers, education and development of the program attributable to the waste collection portion of the program may be claimed as the applicant's 10% matching funds.

Other applicants requesting support for the following will receive priority for the remainder of the funding:

1. Economic evaluation of the municipality's recycling collection, education and marketing efforts resulting in recommendations leading towards enhanced sustainability. Funding for this task will be limited to \$10,000 per municipal applicant or \$25,000 per multi-municipal program.

2. Multi-municipal collection, processing and materials marketing programs where costs are reduced and/or recycling marketability is enhanced due to intergovernmental cooperation.

3. Equipment and education necessary to collect and/or process an Act 101 material not currently included in the applicant's recycling program.

Projects eligible for grant funding are those which divert the following recyclable materials from municipal solid waste: clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, other marketable grades of paper, plastics, source separated food scraps, and leaf and yard wastes.

Eligible recycling program development costs include: recycling program design costs, recycling market investigations, development of recycling market commitments, development of recycling program ordinances, development of recycling public education programs and development of contracts for procuring equipment or services necessary for the operation of the recycling program.

Eligible recycling program implementation costs include: purchase or lease of vehicles used to collect recyclables (including automated and single-stream collection vehicles), transport of recyclables to processing facilities or markets, including vehicles used in the operation of a materials recovery facility; purchase of reusable containers for the collection or storage of recyclable materials; acquisition or renovation, or both, of buildings for the processing or storage of recovered materials; equipment used to process or manufacture recyclable materials into usable products; improvements to land needed to operate a recycling facility or yard waste composting facility authorized under 25 Pa. Code § 271.103(h) (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements); and the costs associated with educating the public on recycling program requirements. Under this grant solicitation, promotional items, glass crushing equipment (unless specific marketing arrangements have been identified) and vehicles equipped with compaction units (except for the sole collection of yard waste, paper fiber and/or single-stream collection where a facility equipped to process such material has been identified)

will not be considered eligible for funding. Other eligible and noneligible costs are listed in the grant application packet. Composting projects and programs will be considered to be recycling projects or programs accordingly.

A municipality must retain sole ownership of equipment or facilities funded by the grant. Funding for equipment or facilities purchased for the recycling program that is used for recycling and other purposes will be prorated according to its recycling use. Funding for certain leaf and yard waste collection equipment may be limited according to its seasonal use. Funding for wood chipping equipment will be approved only when the equipment is part of an approved yard waste composting facility operating under the Department's guidelines and where the material is collected curbside from residents. Funding of street sweepers for the purpose of leaf collection will not be considered.

Funding may be restricted in situations where equipment or services requested through a grant application may be available from the public or private sector within the county of the applicant. Public notices may be required before the grant application may be submitted depending upon the nature of the funding request. When the municipality submits the recycling grant application to the Department, it must include proof of compliance with the notification requirements, a description of any responses received to the notice and an explanation of why the municipality has concluded the mechanical processing equipment is not available to the program from the private sector.

Potential applicants must contact the appropriate Department regional planning and recycling coordinator to schedule a preapplication conference to discuss application requirements and program particulars. Applications will be returned to municipalities that fail to schedule a preapplication conference. Grant application forms are available from the Department's regional offices and the Department's website, www.depweb.state.pa.us (DEP Keyword: Recycling Grants).

Grant applications must be received or postmarked by October 20, 2006. Applications received by the Department after that date will not be considered during the current round of solicitation. Applications must be on forms provided by the Department, with two copies submitted to the Department's Central Office (Rachel Carson State Office Building, Harrisburg) and one copy submitted to the appropriate county recycling coordinator. Grant awards will be predicated on the receipt of recycling fees required by sections 701 and 702 of the act (53 P. S. §§ 4000.701 and 4000.702) and the availability of moneys in the Recycling Fund.

Inquiries concerning this notice should be directed to Todd Pejack, Recycling Grants Coordinator, Department of Environmental Protection, Rachel Carson State Office Building, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472, tpejack@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

Regional Planning and Recycling Coordinators

Southeast Region

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties

(Waste Management Program)
2 East Main Street

Norristown, PA 19401
(484) 250-5900
(610) 832-6143 fax
Calvin Ligons, cligons@state.pa.us
Ann Ryan, aryan@state.pa.us
MaryAlice Reisse, mreisse@state.pa.us

Northeast Region

Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties

(Waste Management Program)
2 Public Square
Wilkes-Barre, PA 18711-0790
(570) 826-2516
(570) 826-5448 fax
Chris Fritz, cfritz@state.pa.us

Southcentral Region

Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York Counties

(Waste Management Program)
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4706
(717) 705-4930 fax
Mark Vottero, mvottero@state.pa.us
Mike Union, munion@state.pa.us

Northcentral Region

Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties

(Waste Management Program)
208 W. 3rd Street, Suite 101
Williamsport, PA 17701
(570) 321-6533
(570) 327-3420 fax
Michelle Ferguson, miferguson@state.pa.us

Southwest Region

Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland Counties

(Waste Management Program)
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-4000
(412) 442-4194 fax
Sharon Svitek, ssvitek@state.pa.us
Stephen Sales, ssales@state.pa.us
Bradley Cunningham, bcunningham@state.pa.us

Northwest Region

Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren Counties

Pollution Prevention and Compliance Assistance
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6848
(814) 332-6117 fax
Guy McUmbert, gmcumber@state.pa.us

[Pa.B. Doc. No. 06-937. Filed for public inspection May 26, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Garden Spot Village
433 S. Kinzer Avenue
New Holland, PA 17557-9360
Facility ID #14350200

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Lock Haven Extended Care Unit
24 Cree Drive
Lock Haven, PA 17745
Facility ID 122202

Manor Care Jersey Shore
1008 Thompson Street
Jersey Shore, PA 17740

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction):

Moravian Village
526 Wood Street
Bethlehem, PA 18018
FAC ID 1597

Grandview Health Homes, Inc.
49 Woodbine Lane
Danville, PA 17821

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape, Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-938. Filed for public inspection May 26, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

| <i>Contractor</i> | <i>Address</i> | <i>Date of Debarment</i> |
|---|--|--------------------------|
| Allied Mechanical and Electrical, Inc.
—and—
State College Electrical and Mechanicals, Inc. | 2141 Sandy Drive
State College,
PA 16803 | 1/20/2006 |

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-939. Filed for public inspection May 26, 2006, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On May 17, 2006, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by the Gallows Run Watershed Association, requests the Board redesignate Gallows Run (Nockamixon, Springfield and Durham Townships in northern Bucks County) from Cold Water Fishes (CWF) to High Quality (HQ).

Under 25 Pa. Code § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters before performing survey work. The Department's assessment notice for Gallows Run will appear in a future issue of the *Pennsylvania Bulletin*.

The referenced petition is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 and is also accessible on the Department's website at www.depweb.state.pa.us/pubpartcenter/cwp/view.asp?a=3&q=504724 (May 17, 2006, meeting).

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 06-940. Filed for public inspection May 26, 2006, 9:00 a.m.]

Environmental Quality Board Meeting Cancellation

The June 20, 2006, Environmental Quality Board (Board) meeting has been cancelled. The next meeting of the Board is scheduled for Tuesday, July 18, 2006, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. An agenda and meeting materials for the meeting will be available on the Department of Environmental Protection's website at www.depweb.state.pa.us (DEP Keyword: EQB).

Questions concerning the Board's next scheduled meeting should be directed to Natalie Shepherd, (717) 783-8727, nshepherd@state.pa.us.

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 06-941. Filed for public inspection May 26, 2006, 9:00 a.m.]

FISH AND BOAT COMMISSION

Closure; Quaker Lake Access Area, Susquehanna County

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 53.4(a) (relating to limiting access to Commission property and other restrictions), has closed the Commission's access area at Quaker Lake, Susquehanna County, to all public use. This restriction is effective when posted at the site and will remain in effect until further notice. It is unlawful for any person to enter or remain upon Commission property during the times it is closed to public use, without the express written consent of the Executive Director or his designee.

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

[Pa.B. Doc. No. 06-942. Filed for public inspection May 26, 2006, 9:00 a.m.]

HUMAN RELATIONS COMMISSION

Public Hearing Opinions

The Human Relations Commission (Commission), under section 7(o) of the Pennsylvania Human Relations Act (act) (43 P. S. § 957(o)), announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)) in the following cases:

Elvis Rojas v. Scotland Yard Security, PHRC Case No. 200403930 (Pennsylvania Human Relations Commission, March 28, 2006)

Respondent failed to respond to the complaint; \$11,572.88 in back pay and \$36.40 as certifiable travel expenses were awarded as appropriate damages to the complainant.

Ruling for complainant, 10-0 decision
17 pages

Wilmer J. Baker v. The Frog Switch & Manufacturing Co., PHRC Case No. 199800386, Doc. No. E-88319DAH (Pennsylvania Human Relations Commission, April 25, 2006)

Complaint of retaliation, suspension and discharge. Recommendation that the order of December 4, 2005, be reversed in favor of the respondent.

Ruling for respondent, 9-0 decision
36 pages

Brenda M. Burney v. Department of Revenue, PHRC Case No. 199902863 (Pennsylvania Human Relations Commission, April 25, 2006)

Complaint of an alleged race-based discharge. A public hearing had been held and the complainant failed to prove discrimination. Recommendation that the case be closed in favor of the respondent.

Ruling for respondent, 9-0 decision
32 pages

The final orders in the previously listed cases are subject to appeal to Commonwealth Court and if appealed are subject to being affirmed, reversed or modified, in whole or part.

Copies of the opinions listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page (the number of pages in the opinion is set forth at the end of the case listing), to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Pennsylvania Place, Harrisburg, PA 17101.

The check or money order should be made payable to the "Commonwealth of Pennsylvania." Copies are also available under the Legal section of the Commission's website at www.phrc.state.pa.us.

HOMER C. FLOYD,
Executive Director

[Pa.B. Doc. No. 06-943. Filed for public inspection May 26, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

| <i>Reg No.</i> | <i>Agency/Title</i> | <i>Close of the Public
Comment Period</i> | <i>IRRC
Comments
Issued</i> |
|----------------|---|---|-------------------------------------|
| 7-398 | Environmental Quality Board
Pennsylvania Clean Vehicles Program
36 Pa.B. 715 (February 11, 2006) | 4/12/06 | 5/12/06 |
| 16A-4915 | State Board of Medicine and
State Board of Osteopathic Medicine
Athletic Trainers
36 Pa.B. 1233 (March 18, 2006) | 4/17/06 | 5/17/06 |
| 16A-4511 | State Board of Cosmetology
Accreditation of Licensed Schools
36 Pa.B. 1229 (March 18, 2006) | 4/17/06 | 5/17/06 |
| 16A-5716 | State Board of Veterinary Medicine
Certified Veterinary Technician Specialist
36 Pa.B. 1240 (March 18, 2006) | 4/17/06 | 5/17/06 |

**Environmental Quality Board Regulation #7-398
(IRRC #2523)**

Pennsylvania Clean Vehicles Program

May 12, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the February 11, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

**1. National v. California Emissions Standards—
Economic impact; Protection of public health and
effect on this Commonwealth's natural resources;
Legislative review of a policy decision.**

Senators Roger A. Madigan and Mary Jo White submitted a letter on March 27, 2006, expressing several concerns with the proposed regulation. Their letter expressed support for the national vehicle emissions control program known as Tier 2 (*Federal Register*, February 10, 2000 (65 FR 6698)), as an alternative to the California Air Resources Board (CARB) regulations referenced by the existing and proposed regulations. In addition, the Senate passed Senate Bill 1025, by a vote of 27 to 20 on February 15, 2006. This bill would revive the regulatory framework initiated in 1998 and give the automobile industry the option of complying with either the CARB regulations or Tier 2.

Commentators for the automobile industry also recommended that the EQB adopt the Tier 2 program. They claim that it is a comparable, or an even better, program for reducing air pollution. Additionally, the economic impacts on the automobile industry and consumers will not be as great as those imposed by CARB regulations.

In its response to these concerns, the EQB needs to explain why and how the CARB regulations address the issues of environmental protection and cost-effectiveness. It should demonstrate how its regulation will generate greater benefits for public health and the Commonwealth's natural resources at a cost that is affordable, reasonable and competitive with alternative regulatory approaches.

2. Section 126.412. Emission requirements.—Clarity.

The EQB indicates that Subsection (d) is intended to allow manufacturers to carry forward nonmethane organic gases (NMOG) credits fully for a three-year period without any loss of those credits each year. However, this is not clearly stated in this section. This provision should be amended to clarify the EQB's intentions.

3. Requests for information.—Reasonableness; Clarity.

Subsection (b) in Sections 126.421—126.425 requires a manufacturer to provide certain types of information to the Department of Environmental Protection (Department) "upon request." Under what circumstances would the Department make the request? The EQB should clearly identify the type of request it will make to the manufacturers and that the request should be in writing.

4. Rental vehicles.—Implementation procedure; Reasonableness; Clarity.

The Hertz Corporation is concerned about how the CARB standards will affect the rental car industry. Does the EQB intend to require rental car companies to ensure that any car that could possibly be used in Pennsylvania comply with CARB standards or would rental car companies merely be required to have all vehicles registered in the Commonwealth comply with those standards? Department staff indicated that it is investigating potential solutions to this issue and it does not intend to impede business in the Commonwealth for the rental car industry. The EQB should clearly delineate the requirements for rental vehicles in the final-form regulation.

5. Fuel alternatives.—Fiscal impact; Reasonableness; Clarity.

Commentators expressed concern with the impact of this proposed regulation on vehicles that operate on different types of fuels. Light-duty vehicles that operate on diesel are very popular. Will consumers still be able to purchase and operate these vehicles in Pennsylvania under CARB regulations? In addition, industry, federal and state leaders have recently expressed support for "flexible fueled vehicles" that operate on fuels with a greater percentage of ethanol which is a renewable fuel. What will be the impact of this proposed regulation on the use of ethanol?

**State Board of Medicine and State Board of
Osteopathic Medicine**

Joint Regulation #16A-4915 (IRRC #2527)

Athletic Trainers

May 17, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the March 18, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Medicine and the State Board of Osteopathic Medicine (Boards) to respond to all comments received from us or any other source.

1. Consistency between regulations.—Reasonableness; Clarity.

The House Professional Licensure Committee (Committee) noted in its comments that there are a number of language inconsistencies between the regulations of the State Board of Medicine and the State Board of Osteopathic Medicine. The Boards should correct these inconsistencies in the final-form regulation.

2. Section 18.503. Certification requirement.—Reasonableness; Clarity.

The Committee recommended that the Board rewrite this section to clarify its intentions. We agree.

More specifically, the Board should amend Subsection (b) to state "Subsection (a) does not preclude." The Board should then also insert the word "from" between "student" and "practicing" in Subsection (b)(3). This suggestion also applies to Section 25.703.

3. Section 18.504. Application for certification.—Reasonableness; Clarity.

Subsection (b) and Section 25.704(b) state that "To qualify for certification, an applicant . . . may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination." How will the Board determine that an applicant meets this requirement?

4. Section 18.505. Educational requirements.—Clarity.

Subsection (1)

Subsections 18.505(1) and 25.705(1) contain the phrase "an accredited educational program for athletic trainers" (Emphasis added). Section 25.707 uses the phrase "an accredited education program." The defined term is "Approved athletic training education programs."

We have two concerns.

First, the final-form regulation should use the defined term throughout the regulation.

Second, it is unclear who is responsible for accrediting these programs. Which agencies are approved by the Board to accredit these programs?

Subsection (2)

This subsection contains the phrase "Hold or maintain current credentialing . . . from the BOC or another credentialing body approved by the Board." The Board indicates that the only current credentialing body approved by the Board is the Board of Certification (BOC). How will applicants be informed if other credentialing bodies become approved by the Board in the future? A similar question applies to Section 25.705.

5. Section 18.507. Temporary certification.—Reasonableness; Clarity.

The Pennsylvania Athletic Trainers Society (PATS) indicated that the reference to CAAHEP is outdated and should be deleted. PATS also indicated that it would be the new accrediting body. The Board should delete the phrase "accredited by the Commission for Accreditation of Allied Health Education Programs (CAAHEP)." The Board should use the defined term "Approved athletic training education programs."

6. Section 18.508. Renewal of certification.—Reasonableness; Clarity.

Subsection (d)

This subsection establishes a \$5 charge for every month beyond the renewal date to be added to the renewal fee. The Board has indicated that this is a standard fee that is routinely charged under the Fee Act (63 P. S. § 1401-225). A cross-reference to the appropriate section of the Fee Act should be added to the final-form regulation.

We also note that this fee is not included in corresponding Section 25.708 in the State Board of Osteopathic Medicine's regulations. To be consistent, it should be added along with the appropriate cross-reference to the Fee Act.

Subsection (e)

This subsection and all of the subparagraphs under it deal with continuing education requirements and not "Renewal of certification." These provisions would be clearer if included in a separate section entitled "Continuing education requirements." The comparable requirements in Section 25.708 (b) should also be included in a separate section.

7. Section 18.509. Practice standards for athletic trainers.—Reasonableness; Clarity.

Subsection (a)(3)

This subsection requires a review of the medical exam by a licensed physician. The Committee questions whether this provision should also reference dentists and podiatrists since they may also refer patients. We agree, and note that the corresponding section in Chapter 25 incorporates dentists and podiatrists.

Subsection (c)

The Pennsylvania Physical Therapists Association recommends that the review of the "written protocol" should occur more frequently than annually. How did the Board determine that an annual review is appropriate? A similar concern applies to Section 25.709(c).

**State Board of Cosmetology Regulation #16A-4511
(IRRC #2528)**

Accreditation of Licensed Schools

May 17, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the March 18, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Cosmetology (Board) to respond to all comments received from us or any other source.

1. Implementation procedures and timetables for compliance.

In a letter dated May 5, 2006, the House Professional Licensure Committee questions what the Board's policy

will be if a school changed ownership and the prior owner was delinquent in obtaining accreditation. We note that the Board's response to Question 14 in the Regulatory Analysis Form states there are 158 licensed cosmetology schools in Pennsylvania and 139 of those are accredited. This implies that 19 schools are licensed, but are not yet accredited. These unaccredited schools could experience legitimate difficulty meeting the five year deadline as a result of a change of ownership, change of location or even within the accreditation process itself. The regulation should include or cross reference a provision to allow the licensee the opportunity to demonstrate good cause to the Board and request additional time to get initial accreditation.

2. Clarity.

The cross reference in Paragraph 7.111(a)(7) to Article XVIII of the Public School Code should be corrected to read 24 P. S. §§ 18-1801—18-1855.

**State Board of Veterinary Medicine Regulation
#16A-5716 (IRRC #2530)**

Certified Veterinary Technician Specialist

May 17, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the March 18, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Veterinary Medicine (Board) to respond to all comments received from us or any other source.

Section 31.38. Code of ethics for certified veterinary technicians.—Consistency with existing regulations; Clarity.

In Subsection (g), the first sentence states that a certified veterinary technician (CVT) "may not make a false, deceptive or misleading statement or claim." The second sentence provides one example of such a claim or statement involving a representation that a CVT is a specialist unless he or she has the proper certification. In its comments on this proposed regulation, the House Professional Licensure Committee requested specific information on other acts that would qualify as making a "false, deceptive or misleading statement or claim."

In the existing provisions of Section 31.21 relating to rules of professional conduct for veterinarians, there is a list of examples of false, deceptive or misleading statements. These descriptions are found under "Principle 5" which is entitled "Advertising." In the final-form regulation, the Board should clarify what other types of activities by CVTs would be considered as making false, misleading or deceptive statements.

The second sentence of Subsection (g) contains the words: "... a Veterinary Technician Specialist or a VTS . . ." Neither this term nor its abbreviation appears elsewhere in the Board's existing regulations. For this reason, inclusion of the abbreviation is unnecessary and the words "or VTS" should be deleted. If the abbreviation is retained, the term and its abbreviation should be added to the definitions in Section 31.1 in the final-form regulation.

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-944. Filed for public inspection May 26, 2006, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. To obtain a copy of a 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.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check its website at www.irrc.state.pa.us for updates.

| <i>Final-Form
Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> | <i>Public Meeting</i> |
|--------------------------------|--|-----------------|-----------------------|
| 11-227 | Insurance Department
Credit Life Insurance and Credit Accident and Health Insurance | 5/15/06 | 6/15/06 |
| 11-228 | Insurance Department
Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts | 5/15/06 | 6/15/06 |
| 57-233 | Pennsylvania Public Utility Commission
Passenger Service and Property and Household Goods Carriers | 5/17/06 | 7/06/06 |

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-945. Filed for public inspection May 26, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Ferdinand Aczon, M. D.; Prehearing

Appeal of Ferdinand Aczon, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-011

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 29, 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 June 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 16, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-946. Filed for public inspection May 26, 2006, 9:00 a.m.]

Michael J. Larkin, M. D.; Prehearing

Appeal of Michael J. Larkin, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-007

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 13, 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 June 22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-948. Filed for public inspection May 26, 2006, 9:00 a.m.]

Anesthesia Care Consultants, P. C.; Prehearing

Appeal of Anesthesia Care Consultants, P. C. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-006

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 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 June 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-947. Filed for public inspection May 26, 2006, 9:00 a.m.]

David Meir-Levi, D. O.; Prehearing

Appeal of David Meir-Levi, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-010

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 10, 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 June 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-949. Filed for public inspection May 26, 2006, 9:00 a.m.]

New Castle Orthopedic Associates; Prehearing

Appeal of New Castle Orthopedic Associates under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-008

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for its disagreement with MCARE's April 13, 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 June 22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-950. Filed for public inspection May 26, 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 and Philadelphia. 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 Jonathan P. Grimes; file no. 06-119-16787; Erie Insurance Exchange; doc. no. P06-05-003; June 14, 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 Shannon Busby; file no. 06-267-16847; Progressive Speciality Insurance; doc. no. PH06-05-002; August 17, 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. 06-951. Filed for public inspection May 26, 2006, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insured's policy. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, 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 Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Darcelle M. Connor; file no. 06-266-16558; State Farm Insurance Company; doc. no. P06-04-041; May 31, 2006, 10 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 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. 06-952. Filed for public inspection May 26, 2006, 9:00 a.m.]

Chris Vasilakis, M. D.; Prehearing

Appeal of Chris Vasilakis, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-005

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 13, 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 June 22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-953. Filed for public inspection May 26, 2006, 9:00 a.m.]

Marie Ann Wetzel, M. D.; Prehearing

Appeal of Marie Ann Wetzel, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-009

On or before May 31, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 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 June

22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 15, 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 June 7, 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 June 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-954. Filed for public inspection May 26, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Change in Control

A-212285F0136. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of a change in control to be effected through a public offering of the common stock of American Water Works Company, 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 June 12, 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: Thomas P. Gadsden, Esquire, Anthony C. DeCusatis, Esquire, Morgan, Lewis and Bockius, LLP, 1701 Market Street, Philadelphia, PA 19103-2921

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-955. Filed for public inspection May 26, 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 June 19, 2006. Docu-

ments 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-00122640. Charlie's Yellow Cab, Inc. (1397 East Evergreen Drive, #3, Palatine, IL 60074)—persons, upon call or demand, in the Counties of Carbon, Schuylkill and Northumberland.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.*

A-00118809, F.6. Carol Jeane Ahmed (2526 Shingletown Road, State College, Centre County, PA 16801)—additional right, persons upon call or demand, in the County of Centre.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Reach for the Stars Limo Service, 551 Burlington Ave., Delanco, NJ 08075; Doc. No. A-00117258C0601

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to REACH FOR THE STARTS LIMO SERVICE (respondent) is under suspension, effective 03/27/2006 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at REACH FOR THE STARS LIMO SERVICE, 551 BURLINGTON AVE, DELANCO, NJ 08075.

3. That respondent holds a Certificate of Public Convenience issued by this Commission on 8/03/2001, at Application Docket No. A-00117258.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue a Secretarial Letter which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00117258, for failure to maintain evidence of current insurance on file with the Commission, (2) orders such

other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, Contract Carrier Permit, or Brokerage license, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty days of the date of service of this Complaint. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in Paragraph A. Upon receipt of the evidence of insurance from your insurer, the complaint proceeding shall be closed. **ACORD CERTIFICATES OF INSURANCE ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.**

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an order imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an answer which contests the complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional penalty set forth in Paragraph B.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Insurance/Filing Unit at (717) 783-5933.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-956. Filed for public inspection May 26, 2006, 9:00 a.m.]

Telecommunications Service

A-310554F0002AMA. RCN Telecom Services, Inc. Application of RCN Telecom Services, Inc. for approval of the right to begin to offer, render, furnish or supply competitive local exchange carrier services to the public in the service territory of the Commonwealth Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 12, 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: RCN Telecom Services, Inc.

Through and By Counsel: John F. Povilaitis, Esquire, Matthew A. Totino, Esquire, Ryan, Russell, Ogden & Seltzer, LLP, 800 North Third Street, Suite 101, Harrisburg, PA 17102-2025

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-957. Filed for public inspection May 26, 2006, 9:00 a.m.]

Telecommunications Service

A-310554F0002AMB. RCN Telecom Services, Inc. Application of RCN Telecom Services, Inc. for approval of the right to begin to offer, render, furnish or supply competitive local exchange carrier services to the public in the service territory of Palmerton Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 12, 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: RNC Telecom Services, Inc.

Through and By Counsel: John F. Povilaitis, Esquire, Matthew A. Totino, Esquire, Ryan, Russell, Ogden & Seltzer, LLP, 800 North Third Street, Suite 101, Harrisburg, PA 17102-2025

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-958. Filed for public inspection May 26, 2006, 9:00 a.m.]

Telecommunications Service

A-310554F0002AMC. RCN Telecom Services, Inc. Application of RCN Telecom Services, Inc. for approval of the right to begin to offer, render, furnish or supply competitive local exchange carrier services to the public in the service territory of Ironton Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 12, 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: RNC Telecom Services, Inc.

Through and By Counsel: John F. Povilaitis, Esquire, Matthew A. Totino, Esquire, Ryan, Russell, Ogden & Seltzer, LLP, 800 North Third Street, Suite 101, Harrisburg, PA 17102-2025

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-959. Filed for public inspection May 26, 2006, 9:00 a.m.]

Transfer of Control

A-310633F0007, A-310470F0014, A-310378F0007, A-310547F0007, A-311103F0010 and A-310923F0010. Level 3 Communications, Inc. and TelCove, Inc. Joint application of Level 3 Communications, Inc. and TelCove, Inc. for approval of a transfer of control of TelCove of Pennsylvania, Inc., TelCove of Eastern Pennsylvania, TelCove of York, TelCove Investment, LLC and TelCove Operations, 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 June 12, 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: Level 3 Communications, Inc., TelCove, Inc.

Through and By Counsel: Daniel P. Delaney, Esquire, Kirkpatrick & Lockhart, Nicholson Graham LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-960. Filed for public inspection May 26, 2006, 9:00 a.m.]

Water and Sewer Service

A-230037F2000 (sewer) and A-223950F2000 (water). Borough of Williamsburg. Application of the Borough of Williamsburg for approval of the abandonment or discontinuance of water and sewer service to the public in areas outside the borough limits, located in portions of Woodbury Township and a portion of Catherine Township, Blair County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 12, 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: The Borough of Williamsburg

Through and By Counsel: George M. Aman, III, Esquire, Kenneth R. Myers, Esquire, High, Swartz, Roberts and Seidel, LLP, 40 East Airy Street, Norristown, PA 19404

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-961. Filed for public inspection May 26, 2006, 9:00 a.m.]

Water Service

A-212285F0135. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in additional portions of Sadsbury 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, on or before June 12, 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. 06-962. Filed for public inspection May 26, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #06-071.P, Purchase of Roofing Materials until 2 p.m. on Thursday, June 8, 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 May 30, 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. 06-963. Filed for public inspection May 26, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

June 13, 2006 Thomas V. McLaughlin 1 p.m.
(Purchase of Service)

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 06-964. Filed for public inspection May 26, 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.

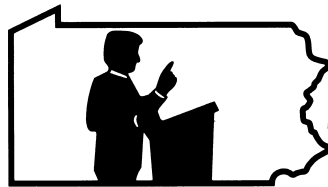
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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

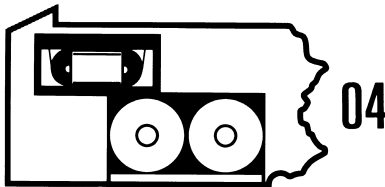
DO BUSINESS WITH STATE AGENCIES

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.patreasury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

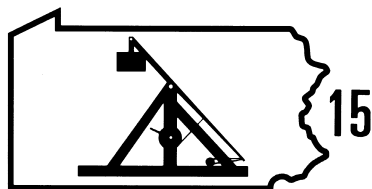
SERVICES



Audio/Video

SU-05-27 Campus Digital Media Services. Shippensburg University is seeking vendors interested in providing all digital media services including but not limited to "tethered" music downloads, "tethered" video downloads, streaming media, music available for purchase, and community interaction tools. Provide on-campus hardware for the services. Provide technical support to the users of the services. Provide technical support for the implementation of the services. Vendors interested in obtaining a proposal package should fax request to 717-477-4004, ATTN: Deborah K. Martin, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257 or e-mail request to DKMART@ship.edu.

Department: State System of Higher Education
Location: Shippensburg, University, Shippensburg, PA
Duration: One year contract with option to renew for 2 additional one year periods.
Contact: Deborah K. Martin, 717-477-1121



Environmental Maintenance Service

OSM 10(3917)101.1 Abandoned Mine Reclamation Project, Denny's Mills North. The principal items of work and approximate quantities include a total of 60,000 cubic yards of Grading, 9 acres of Seeding and planting 6,120 Trees. This project issues on May 26, 2006 and bids will be opened on June 22, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

Department: Environmental Protection
Location: Winfield Township, Butler County
Duration: 180 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-787-7820

OSM 10(0760)101.1 Abandoned Mine Reclamation Project, Findlay Run West. The principal items of work and approximate quantities include a total of 198,000 cubic yards of Grading and 20 acres of Seeding. This project issues on May 26, 2006 and bids will be opened on June 22, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

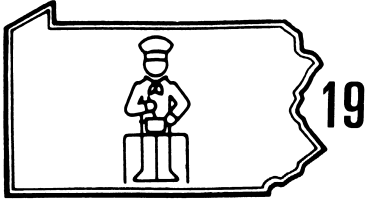
Department: Environmental Protection
Location: Cherry Township, Butler County
Duration: 240 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-787-7820

OSM 24(0525)101.1 Abandoned Mine Reclamation Project, Gray Hill. The principal items of work and approximate quantities include 26,810 tons of Alkaline Addition, 1,496,000 cubic yards of Grading and 94 acres of Seeding. This project issues on May 26, 2006 and bids will be opened on June 27, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

Department: Environmental Protection
Location: Jay Township, Elk County
Duration: 450 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-787-7820

BOGM 06-12 Cleaning Out and Plugging Fourteen (14) Abandoned Oil Wells, (Mr. and Mrs. Robert D. Roulo, Mr. and Mrs. Terry Commino, Mr. Mark Pessia, Mr. and Mrs. Rick M. Bennett and Mr. Calvin D. Smith Properties). The principal items of work include cleaning out and plugging fourteen (14) abandoned oil wells, estimated to be between 1,200-1,400 feet each in depth, to Department specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on May 26, 2006 and bids will be opened on June 22, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid.

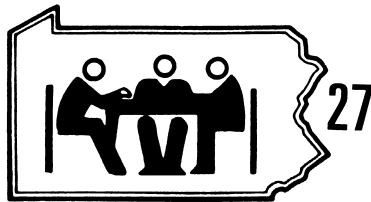
Department: Environmental Protection
Location: Eldred and Otto Townships, McKean County
Duration: 90 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-787-7820



Food

CN00020846 Vendor to supply Misc. Food Items to Warren State Hospital in accordance with bid specifications. Delivery Date: 07/01/2006. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: 07/01/2006
Contact: Ms. Bobbie Muntz, PA III, 814-726-4496



Lodging/Meeting Facilities

CN00020831 The Pennsylvania Emergency Management Agency, an agency representing the Commonwealth of Pennsylvania, intends to conduct an Exercise Design Course in Wilkes-Barre, PA July 10-14, 2006. The facilities needed for this Training Session are for up to 30 single lodging rooms for the nights of July 10-13, 2006. A breakout room, large overhead projector and screen, podium, instructor table, Internet connections (wireless), breakfast, AM and PM break, and lunch buffet, all available July 10-14, 2006. If you are interested please download the bid package and additional documents. Please contact Jamie Smolen at 717-651-2191 or jsmolen@state.pa.us if you have any questions. Facsimile requests may be submitted to 717-651-2025. Please include name, title, phone number, fax number, complete company address, Federal ID number and reference CN00020831. Bid submission deadline is 1 PM on Monday May 22, 2006. If not already registered with the Commonwealth, please register by logging onto www.vendorregistration.state.pa.us or by calling Central Vendor Management Unit (CMVU) toll free at 1-866-775-CVMU (2868).

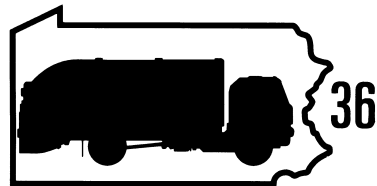
Department: PA Emergency Management Agency
Location: Wilkes-Barre, PA
Duration: July 10-14, 2006
Contact: Jamie Smolen, 717-651-2191



Property Maintenance

W-0588-0507 Contractor shall remove approximately 42 lineal feet of existing chain link fence, fabric and posts. Also, included are the excavation and preparation of site for paving and fence work. Install approximately 250 lineal feet of existing security chain link fence fabric, splice bars, posts, and gates complete with hardware and accessories. Excavation for post bases and fence system with concrete and gravel foundation, including post installation. Weld splice sleeves into new posts to receive existing posts. Weld and paint existing posts. Install existing concertina wire and support cable in a double coil configuration at fence top around entire project fence. Furnish and install three new man-door gates into fence system with manual lock hardware. Excavate and install a new basketball court, including sub-base, bituminous pavement, line painting, post standard bases, associated items of equipment, and gravel border.

Department: Public Welfare
Location: South Mountain Secure Treatment Unit, (located on the grounds of the South Mountain Restoration Center), 10056 South Mountain Road, South Mountain, PA 17261
Duration: Unknown
Contact: Nikki Koser, Purchasing Agent, (717) 789-5508



Sanitation

FM 9003 Trash and rubbish removal services for the PA State Police, Erie Headquarters and Crime Lab, for the period July 1, 2006 to June 30, 2009. Service to be rendered twice (2) a week. Recycling, if applicable. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop E, Erie Headquarters and Crime Lab, 4310/4320 Iroquois Avenue, Erie, PA 16511
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9002 Trash and rubbish removal services for the PA State Police, New Castle Station, for the period July 1, 2006 to June 30, 2009. Service to be rendered twice (2) a week. Recyclables removed twice (2) a month. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop D, New Castle Station, 3539 Wilmington Road, New Castle, PA 16105
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9005 Trash and rubbish removal services for the PA State Police, Frackville Station, for the period July 1, 2006 to June 30, 2009. Service to be rendered once (1) a week. Recycling, if applicable. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

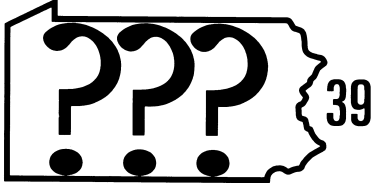
Department: State Police
Location: Troop L, Frackville Station, 31 Eleanor Avenue, Frackville, PA 17931
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9004 Trash and rubbish removal services for the PA State Police, Girard Station, for the period July 1, 2006 to June 30, 2009. Service to be rendered twice (2) a week. Recycling, if applicable. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop E, Girard Station, 5950 Meadville Road, Girard, PA 16417
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9006 Trash and rubbish removal services for the PA State Police, Harrisburg Headquarters, for the period July 1, 2006 to June 30, 2009. Service to be rendered once (1) a week. Recycling, if applicable. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop H, Harrisburg Headquarters, 8000 Bretz Drive, Harrisburg, PA 17112
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951



Miscellaneous

CN00020837 The Hiram G. Andrews Center is seeking a contractor to provide Professional Substitute Instructors on an as-needed basis for Trade Area, Business Education and Miscellaneous class instruction in accordance with the bid documents. The Contractor must have an SAP vendor number. To obtain an SAP vendor number, register at www.vendorregistration.state.pa.us or by phone at 1-866-775-2868.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher St., Johnstown, PA 15905
Duration: Five (5) years from award of Contract
Contact: Ken Zakraysek, 814-255-8210

RFQ CN00017765 Addendum to RFQ for EdPortal Project, CN00017765

Department: Education
Location: PA Department of Education, Bureau of Management Services - Procurement, 333 Market Street, 15th Floor, Harrisburg, PA 17126
Contact: Cynthia Anderson, Purchasing Supervisor, 717-787-8037

[Pa.B. Doc. No. 06-965. Filed for public inspection May 26, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <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

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CHS. 401, 421, 435 AND 499]

Temporary Regulations

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Therefore, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005).

Therefore, the Board has deposited with the Bureau amendments to 58 Pa. Code §§ 401.4, 405.2, 405.3, 421.4, 435.2, 435.3, 499.1 and 499.2. The amendments are effective as of May 4, 2006.

The temporary regulations of the Board, 58 Pa. Code Chapters 401, 405, 421, 435 and 499 are amended by amending §§ 401.4, 405.2, 405.3, 421.4, 435.2, 435.3, 499.1 and 499.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

Order

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

(a) The following temporary regulations of the Board, 58 Pa. Code Chapters 401, 405, 421, 435 and 499, are amended by amending §§ 401.4, 405.2, 405.3, 421.4, 435.2, 435.3, 499.1 and 499.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify the preceding order and deposit the regulations with the Bureau as required by law.

(c) These amendments shall take effect on May 4, 2006.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-21. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

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

* * * * *

Key employee qualifier—Officers; directors; persons who directly or indirectly hold any beneficial interest in or ownership of an amount equal to 5% or more of an equity interest of an applicant or licensee; a person who has the ability to control the applicant or licensee, has a controlling interest in the applicant or licensee, elects a majority of the board of directors of the applicant or licensee, or otherwise has the ability to control the applicant or

licensee; a lender, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; an underwriter; a financial backer whose holdings are valued at an amount equal to 5% or more of an equity interest in the applicant or licensee including holders of convertible bonds, the conversion of which would or does result in the owner holding 5% or more of an equity interest in the applicant or licensee; employees of a slot machine applicant or licensee, manufacturer applicant or licensee or supplier applicant or licensee required to be licensed by the Board as a key employee qualifier; and any other person required to be licensed by the Board as a key employee qualifier.

* * * * *

Statement of Investigation—An order of the Board in response to a petition for a declaratory order regarding inquiry and investigation of a purchase of an eligible applicant or licensee which specifies the particular criterion satisfied by the purchaser, provides for the continuing obligation of the purchaser to provide information to the Board, is applicable only as to the purchase of a specific eligible applicant or licensee, and provides an expiration date not to exceed 6 months from the date of issuance unless otherwise extended by the Board.

* * * * *

CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405.2. Information.

(a) An applicant, licensee, permittee or registrant shall provide all information, data and documents requested by the Bureau of Investigations and Enforcement (Bureau) under section 1517(a) of the act (relating to enforcement).

(b) The Director of the Bureau, the Chief Enforcement Counsel, and their designees, will have the power and authority to administer oaths and affirmations for the purpose of obtaining sworn statements with regard to any matter or thing which may properly fall within the jurisdiction of the Board. Any person so designated will have the power and authority to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Board is authorized to conduct. Designation under this section will be made in writing, filed with the Clerk of the Board and remain in effect until revoked.

(c) A State or local law enforcement agency, including the Pennsylvania State Police and the Office of Attorney General, the Department or other executive agency shall provide information, data and documents requested by the Bureau relating to an applicant, licensee, permittee or registrant.

(d) The Bureau may, upon request, provide pertinent information relating to an applicant, licensee, permittee or registrant to law enforcement agencies, including the Federal Bureau of Investigation or gaming authorities of the Commonwealth or other domestic or foreign agencies or jurisdictions.

(e) Information under this section may be provided or received by electronic distribution.

§ 405.3. Office of Enforcement Counsel.

(a) The Office of Enforcement Counsel has been established within the Bureau of Investigations and Enforcement (Bureau) which has the following powers and duties:

* * * * *

(3) Initiate, in its sole discretion, proceedings for violations of the act or this part by filing a complaint or other pleading with the Board seeking civil fines or penalties, the imposition of conditions on licenses, or the suspension or revocation of a license.

* * * * *

**Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING
CHAPTER 421. GENERAL PROVISIONS**

§ 421.4. Investigations; supplementary information.

(a) The Board and the Bureau may:

* * * * *

(2) Upon request from an eligible applicant or licensee and upon receipt of an application and appropriate fees, make an inquiry or investigation concerning a purchaser of an applicant or licensee prior to the conclusion of the purchase, as if the purchaser were an eligible applicant. The eligible applicant or licensee may petition the Board, on behalf of the purchaser, for a Statement of Investigation, under § 493.5 (relating to petition for declaratory order). This inquiry or investigation does not replace the application procedure or process required under the act and this part which is a requirement for licensure.

(b) It shall be the continuing duty of all applicants and licensees to provide full cooperation to the Board and the Bureau in the conduct of the inquiry or investigation and to provide supplementary information requested by the Board or the Bureau.

CHAPTER 435. EMPLOYEES

§ 435.2. Key employee qualifier license.

(a) All key employee qualifiers of manufacturers, suppliers, slot machine licensees, junket enterprises, management companies or applicants thereof, including natural persons and entities, shall obtain a key employee qualifier license from the Board.

(b) Notwithstanding the provisions of subsection (a), a key employee qualifier entity who meets the following criteria shall be required to complete the same application as the applicant or licensee with which it is filing, as if it were itself the applicant or licensee:

(1) A holding or intermediary company of an applicant or licensee.

(2) A general partner of a limited partnership applicant or licensee.

(3) A beneficial holder or owner of a controlling interest in an applicant or licensee.

(4) Any other entity notified by the Board that the Board deems necessary to protect the public or to enhance the integrity of gaming in this Commonwealth.

(c) Except as provided in subsection (b), an application for licensure as a key employee qualifier must be on a form prescribed by the Board and include the following:

* * * * *

(16) Verification of the applicant's status as a key employee qualifier from the applicant for or holder of a slot machine license, manufacturer license, supplier license, junket enterprise license or management company license.

(17) If the applicant is an employee, a description of the employment responsibilities of the individual and their relationship to the operation of the slot machine license, manufacturer license, supplier license, junket

enterprise license or management company license and of all education, training and experience that qualifies the individual for the position.

* * * * *

(d) In addition to the information under subsection (c), the Board may require letters of reference under section 1310(b) of the act.

(e) After review of the information submitted under subsections (c) and (d), including the background investigation, the Board may issue a key employee qualifier license if the individual applicant has proven by clear and convincing evidence that he is a person of good character, honesty and integrity and is qualified and suitable to be licensed as a key employee qualifier. An individual who receives a license under this chapter need not obtain an additional license as a key employee.

(f) A license issued under this section will be nontransferable, and will be valid only for the specific slot machine licensee, manufacturer licensee, supplier licensee, junket enterprise licensee or management company licensee for which it was granted.

(g) Notwithstanding the definition of key employee qualifier in § 401.4 (relating to definitions), any of the following persons may request in writing that the Board waive their obligation to be licensed as a key employee qualifier as part of a manufacturer, supplier or slot machine license issuance or renewal, management company license or renewal or junket enterprise license issuance or renewal by making the appropriate showing:

* * * * *

(2) If the person required to be licensed as a key employee qualifier as an outside director of an affiliate, intermediary, subsidiary or holding company of an applicant or licensee, and the person is not a member of the audit committee, the person shall be required to demonstrate that he is not significantly involved in the management or ownership of the applicant or licensee. The request must include, at a minimum, the following:

* * * * *

§ 435.3. Key employee license.

(a) All key employees of manufacturers, suppliers, slot machine licensees, junket enterprises, management companies or applicants thereof, shall obtain a key employee license from the Board.

(b) An application for licensure as a key employee must be on a form prescribed by the Board and include the following:

* * * * *

(16) Verification of the applicant's employment or an offer of employment from a slot machine licensee, manufacturer, supplier, junket enterprise, management company or applicant thereof.

(17) A description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee, manufacturer, supplier, junket enterprise or management company and of all education, training and experience that qualifies the individual for the position.

* * * * *

(f) Notwithstanding the definition of key employee in § 401.4 (relating to definitions), any of the following persons may request in writing that the Board waive their obligation to be licensed as a key employee as part

of a manufacturer, supplier or slot machine license issuance or renewal, management company license or renewal or junket enterprise license issuance or renewal by making the appropriate showing:

* * * * *

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 499. REPRESENTATION BEFORE THE BOARD

§ 499.1. Appearance in person.

(a) Individuals may represent themselves before the Board.

(b) Except as provided in subsection (a), a party in a proceeding before the Board shall be represented by an attorney authorized to appear before the Board in accordance with § 499.2 (relating to appearance by attorney).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

§ 499.2. Appearance by attorney.

(a) A party in a proceeding before the Board who elects to be represented by an attorney in the proceeding, or who is required by § 499.1 (relating to appearance in person) to be represented by an attorney in the proceeding, shall be represented by an attorney at law admitted to practice before the Pennsylvania Supreme Court, an attorney admitted to practice before the highest court of a jurisdiction other than the Commonwealth which permits

attorneys licensed in this Commonwealth to practice before its courts and agencies, or an attorney authorized in accordance with subsection (b) to appear in connection with the proceeding.

(b) An attorney admitted to practice before the highest court of a jurisdiction other than the Commonwealth which does not permit attorneys licensed in this Commonwealth to appear before its courts and agencies may, at the discretion of the Board, be authorized to appear in connection with a particular proceeding. The Board will determine whether to grant the authorization upon the filing of a motion with the Clerk to the Board by an attorney admitted to practice law before the Pennsylvania Supreme Court and in good standing therewith, which contains the information required to satisfy the written notice provision of Pa.B.A.R. No. 301 (relating to admission pro hac vice), and provided that the attorney filing the motion shall be and remain the attorney of record in the proceeding and further provided that both the attorney of record and the attorney admitted under this subsection shall both sign all documents submitted or filed in connection with the proceeding.

(c) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

[Pa.B. Doc. No. 06-966. Filed for public inspection May 26, 2006, 9:00 a.m.]

