

# PENNSYLVANIA BULLETIN

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Regulations and the Pennsylvania  
Gaming Control Board's Temporary  
Regulations and Statements of Policy

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**No. 380, July 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 COURTS

## Title 255—LOCAL COURT RULES

### WESTMORELAND COUNTY

Adoption of Rules of Criminal Procedure WC117,  
WC431, and WC520; No. 2 Civil of 2006

#### Order

And Now This 12th day of June 2006, it is hereby Ordered that new Westmoreland Rules of Criminal Procedure WC117, WC431, and WC520 are adopted effective August 1, 2006.

By the Court

DANIEL J. ACKERMAN,  
*President Judge*

#### Rule WC117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

(a) After hours coverage shall be provided by a magisterial district judge, assigned on a rotational schedule, who has county-wide jurisdiction and who operates between the hours of 4:00 p.m. to 10:00 p.m. Monday through Friday. Holidays and weekend coverage shall be provided by an assigned on-call magisterial district judge.

(1) The "duty" magisterial district judge will hold court by video conferencing available from any approved advanced communication technology site. The magisterial district court office will remain closed to the public during after hours coverage except at the discretion of the magisterial district judge.

(2) In the event a magisterial district judge is needed when the court is not scheduled for after hours coverage for the issuance of a search or arrest warrant, a protection from abuse petition, or other emergency matter; the "duty" magisterial district judge will be contacted through Westmoreland 911.

(3) Procedures for executed summary warrants shall be pursuant to Pa.R.Crim.P. 431, and Westmoreland Rule of Criminal Procedure WC431.

(b) Monetary bond may be posted outside of regularly scheduled daily work hours at the county police desk at the Westmoreland County Courthouse. Bail bond agents may continue to post bond at the Westmoreland County Prison.

#### Rule WC431 Procedure When Defendant Arrested With Warrant

(a) In lieu of bringing a summary offender before the magisterial district judge when a summary warrant is executed, in addition to the options provided in Pa.R.Crim.P. 431, the arresting officer shall serve a Subpoena to Appear if a Subpoena has been issued by the magisterial district judge.

(b) The hours of 6:00 a.m. to 10:00 p.m. provided for in Pa.R.Crim.P. 431(A)(2) are not extended. Any arrest made outside these specified hours shall be handled pursuant to subsection (a).

#### Rule WC520 Bail Before Verdict

Monetary bond may be posted outside of regularly scheduled daily work hours at the county police desk at the Westmoreland County Courthouse. Bail bond agents may continue to post bond at the Westmoreland County Prison.

[Pa.B. Doc. No. 06-1195. Filed for public inspection June 30, 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 issued June 14, 2006, Francis S. Cutruzzula is suspended from the practice of law for a period of one year and one day. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-1196. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that Maria Carlotta Mendoza having been suspended from the practice of law in the District of Columbia for a period of ninety days by Opinion and Order of the District of Columbia Court of Appeals decided October 27, 2005, the Supreme Court of Pennsylvania issued an Order dated June 14, 2006, suspending Maria Carlotta Mendoza 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. 06-1197. Filed for public inspection June 30, 2006, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [7 PA. CODE CH. 128b]

#### CHEMSWEEP Pesticide Disposal Program

The Department of Agriculture (Department) amends Chapter 128b (relating to CHEMSWEEP Pesticide Disposal Program) to read as set forth in Annex A.

#### *Statutory Authority*

This final-form rulemaking is adopted under the specific authority of the Secretary of Agriculture to promulgate appropriate regulations for the safe handling, transportation, storage, display, distribution and disposal of pesticides as set forth in section 7(b)(2) of the Pesticide Control Act of 1973 (act) (3 P. S. § 111.27(b)(2)).

#### *Summary of Purpose*

This final-form rulemaking amends and expands the existing CHEMSWEEP Pesticide Disposal Program (Program) to include the safe and effective disposal of all canceled, unused or suspended pesticides held by all citizens of this Commonwealth. The previous regulations regarding the Program were limited to agricultural production businesses and "agricultural pesticides."

Since its inception as a pilot program in 1992 and its subsequent promulgation as a regulatory Program in 1993 (see 23 Pa.B. 3933 (August 21, 1993)), the Program has had tremendous success in safely disposing of agricultural pesticides or other crop production chemicals in all counties throughout this Commonwealth. The express goal of the Program was, and continues to be, the prevention of toxic environmental releases and pollution of ground and surface water. As direct result of the Program's successes, the Department received numerous requests from pesticide dealers, distributors, commercial applicators and businesses to expand the Program and include nonagricultural pesticides.

In recent years, in conjunction with the Department of Environmental Protection (DEP), this Program has provided the citizens of this Commonwealth with an environmentally safe method for the disposal of household pesticide products. The Program continues to increase its collection and disposal percentages on a yearly basis. By participating in this Program, citizens of this Commonwealth can legally dispose of waste pesticides at no cost to them.

Funding for the Program continues to be derived from the Pesticide Restricted Account upon the recommendation of the Pesticide Advisory Board. Additional grant funds were received from the United States Environmental Protection Agency (EPA) to assist the Program for the year 2003 and beyond. The expansion of the Program to service additional pesticides and entities has not greatly increased the costs to the Program since the totals of agricultural pesticide inventories have been significantly decreased since 1993. The advent of the DEP alliance created the need to update the Program regulations to more accurately reflect the ongoing process and procedures.

#### *Need for the Final-Form Rulemaking*

The final-form rulemaking is needed to bring the existing Program regulations into compliance with the actual Program procedures.

#### *Comments*

Notice of proposed rulemaking was published at 35 Pa.B. 3940 (July 16, 2005) and provided for a 30-day public comment period. The only comments the Department received were from the Independent Regulatory Review Commission (IRRC). The Department's response to these comments follows:

*Comment 1:* For purposes of clarity, IRRC suggested that the reference in § 128b.1 (relating to authority and purpose) to "Chapter 128a (relating to Chemsweep Pesticide Disposal Program—statement of policy)" should be deleted since the statement of policy in Chapter 128a was superseded by Chapter 128b.

*Response:* The Department agrees with IRRC's suggestion and has deleted all references to Chapter 128a.

*Comment 2:* In § 128b.2 (relating to definitions), IRRC had several concerns with the proposed definition of "person" and two new proposed phrases in that definition—"citizen of this Commonwealth" and "doing business in this Commonwealth." IRRC believes that the two new phrases are unnecessary since § 128b.6(b) (relating to eligibility of persons to participate) establishes the conditions for eligibility. IRRC suggested that the Department either reference the statutory definition of "person" or incorporate that definition verbatim in the final-form rulemaking.

Additionally, in § 128b.6(b) IRRC suggested that the Department use the word "person" instead of "individuals, corporations, associations or other forms of business entities" since those entities are already included within the definition of "person." Lastly, IRRC suggested that the Department list the substantive requirements for eligibility.

*Response:* The Department agrees with IRRC's comments and has implemented the appropriate changes to the definition of "person" that will be repeated verbatim from the definition in section 4(29) of the act (3 P. S. § 111.24(29)). The Department has also implemented the change to § 128b.6(b) by deleting the phrase "individuals, corporations, association or other forms of business entities" and replacing it with "persons."

The Department, however, did not agree with IRRC's suggestion to list "the substantive requirements for eligibility" in § 128b.6. The Department believes that the existing criteria in paragraphs (1) and (2) are sufficient and will keep the Program as flexible and inclusive for the citizens of this Commonwealth, without the need for further paperwork by the citizens. Accordingly, the Department has elected not to implement that suggested change.

*Comment 3:* IRRC suggested that the word "may" in § 128b.3 (relating to selection of participating counties) be replaced with the word "will" in accordance with the *Pennsylvania Code & Bulletin Style Manual*.

*Response:* The recommendation has been implemented in the final-form rulemaking as suggested.

*Comment 4:* IRRC suggested that § 128b.4 (relating to limitation of the number of participating counties) should indicate that 21 is the "minimum" number of counties that the Department initially selects for participation in the Program.

*Response:* The Department typically selects up to three counties per region of this Commonwealth to participate

in the annual Program by soliciting pesticide inventory information and responses from pesticide applicators/dealers by mail. The Department has consistently used 21 as the maximum number of counties because of logistical and budgetary issues and constraints. However, when an emergency situation arises, the Department has in the past allowed more than 21 counties to participate in the Program. The Department wants to maintain that programmatic flexibility and discretion to allow more than 21, and in some instances, allow less than 21 counties to participate. By way of example, in 2006 less than 21 counties sought to participate in the Program. The Department does not believe having a minimum of 21 is appropriate and therefore, the Department declines to implement this suggestion.

*Comment 5:* Regarding, IRRC suggested that the Department, in its final-form rulemaking, amend § 128b.7(b)(12) (relating to preregistration application) to provide examples of what documents or information could be used by an applicant to provide "verification."

*Response:* After review and consideration of IRRC's comment, instead of providing "verification" examples, the Department has elected to delete subsection (b)(12), since the Department believes the information in paragraphs (1)—(11) evidences the person's eligibility and is, by itself, sufficient verification. The Department has implemented that change to the final-form rulemaking.

*Comment 6:* Section 128b.8(c) (relating to preregistration process) provides that the Department has discretion to accept a preregistration application form beyond the 90-day preregistration period. IRRC suggested that the final-form rulemaking should indicate whether an applicant may request an extension and when and how a request can be made.

*Response:* The Department, in keeping with the informal and relaxed procedures of this section, accepts all preregistration applications even those beyond the 90-day preregistration period. The initial 90-day period is to assist the Department in planning the logistics of a collection event with the contractor at applicable sites. As presently drafted, the applicant need not make any further written request for an extension. The applicant simply has to submit a completed inventory form, which the Department will consider, even after the 90-day cutoff date. Historically, the limited number of preregistration extensions has not impeded any collection event. Therefore, the Department believes that, in accordance with the general intent (safe collection and disposal) of the Program, no further procedural or paperwork requirements should be imposed upon preregistration applicants. Accordingly, the Department declines to implement this suggestion.

*Comment 7:* IRRC has two concerns with § 128b.12 (relating to program limitations). First, IRRC suggested the Department clarify that there is no charge to the Program participant for the first 2,000 pounds of pesticides collected. Second, IRRC is concerned with the last sentence of this section in which the "Department reserves the right to accept any excess pesticides . . . when deemed necessary by the Department." IRRC clearly recognized the Department's authority and discretion in this matter, but nevertheless suggested that the Department include criteria which it would use to determine whether the Department will accept additional pounds of pesticides beyond the maximum 2,000 pounds.

*Response:* As to IRRC's first comment, by way of various letters, notices and publications during the pre-

registration process program, participants are informed that there is no charge to participants for the first 2,000 pounds of pesticides collected. However, the Department would like to maintain the flexibility to charge a fee in the future depending upon the circumstances. Accordingly, the Department believes the regulation is sufficiently clear.

As to IRRC's second suggestion, the Department has included the criteria for the acceptance of excess poundage beyond the maximum amount.

*Comment 8:* IRRC believes that the word "would" in § 128b.14(b)(3) (relating to bid specifications) could allow the pesticide contractor to deviate from the written, detailed description required with the bid specifications. IRRC suggested that the term be changed to "shall."

*Response:* The Department shares IRRC's concern with the language in subsection (b)(3) and has implemented the change in the final-form rulemaking.

*Comment 9:* IRRC questions the need for general references to laws or regulations which apply to pesticide disposal contractors in § 128b.14(b)(4) and §§ 128b.10(a) and 128b.16 (relating to responsibilities of applicant or participant; and central-site). IRRC suggests that as long as approval by DEP and the EPA is required for pesticide disposal contractors, there does not seem to be any need for the general references to other "laws and regulations."

*Response:* The Department does not completely agree with IRRC's conclusion that because contractors must comply with DEP and EPA laws and regulations to maintain their licensure or permits, or both, there is no need for references to "other laws and regulations" in the final-form rulemaking. The Department has no way of determining the vast number of potential Federal, State or local laws which may be applicable to pesticide contractors and certainly no way of citing to each statutory or regulatory provision. Nevertheless, the Department will implement the suggested changes and delete the general references to "other laws and regulations," since the Department believes that in the Request for Bid process contractors sign a statement of assurance that they will comply with all applicable laws or regulations, or both.

#### *Fiscal Impact*

*Commonwealth.* The Department has determined that the final-form rulemaking will have little or no adverse financial impact on the Commonwealth since all funds budgeted for the Program are derived from the Pesticide Restricted Account. The funds in the Pesticide Restricted Account are obtained from licensing, permitting and registration fees and civil penalties placed upon pesticide manufacturers, dealers and applicators doing business within this Commonwealth. However, there could be a significant savings since the costs associated with the remediation of an environmental spill or exposure far outweigh the costs associated with administering the Program.

*Political Subdivisions.* The final-form rulemaking will impose no costs and have no adverse fiscal impact on political subdivisions.

*Private Sector.* The final-form rulemaking will have no adverse fiscal impact on the private sector. However, the final-form rulemaking will likely reduce costs to the private sector for the individual disposals costs of canceled, unused and suspended pesticides within this Commonwealth.

*General Public.* The final-form rulemaking will not impose any costs and will have no adverse fiscal impact on the general public. The Department believes there will be a positive impact upon the general public in that the Program will continue to help remove canceled, unused or suspended pesticides presently in this Commonwealth.

*Paperwork Requirements*

The final-form rulemaking will not appreciably increase the paperwork burden of the Department or other government units or citizens.

*Sunset Date*

There is no sunset date for the regulations. The Department will review the efficacy of the regulations on an ongoing basis.

*Contact Person*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 N. Cameron Street, Harrisburg, PA 17110-9408; Attention: Phillip Pitzer, (717) 772-5206.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 6, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 3940, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs 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 31, 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 June 1, 2006, and approved the final-form rulemaking.

*Findings*

The Department finds that:

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

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

(3) The amendments that were made to this final-form rulemaking in response to comments received do not enlarge the purpose of the proposed rulemaking published at 35 Pa.B. 3940.

(4) The adoption of the final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The regulations of the Department, 7 Pa. Code Chapter 128b, are amended by amending §§ 128b.4, 128b.8, 128b.9, 128b.11, 128b.13, 128b.15, 128b.17 and

128b.18 to read as set forth at 35 Pa.B. 3940; and by amending §§ 128b.1—128b.3, 128b.6, 128b.7, 128b.10, 128b.12, 128b.14 and 128b.16 to read as set forth in Annex A.

(b) The Secretary of Agriculture shall submit this order, 35 Pa.B. 3940 and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.

(c) The Secretary of Agriculture shall certify this order, 35 Pa.B. 3940 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*.

DENNIS C WOLFF,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3051 (June 17, 2006).)

**Fiscal Note:** Fiscal Note 2-143 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART V. BUREAU OF PLANT INDUSTRY**

**CHAPTER 128b. CHEMSWEEP PESTICIDE DISPOSAL PROGRAM**

**§ 128b.1. Authority and purpose.**

(a) Under the authority granted it under the act, the Department establishes a pesticide disposal program to be designated as "CHEMSWEEP." This Program will allow the Department to identify and quantify canceled, unused or suspended pesticides held, owned or possessed by citizens of this Commonwealth. The information derived from this inventory shall be used in the solicitation of bids from hazardous waste disposal contractors for the safe collection, transportation and disposal of the pesticides.

(b) This Program will be conducted within counties which are designated by the Department each year.

(c) By addressing the pesticide disposal needs of Commonwealth citizens, the Program addresses the needs of persons who have accumulated and stored chemicals in this Commonwealth with the potential to affect the environment and human safety. Citizens of this Commonwealth currently lack an available, economical, environmentally sound, and effective means of disposing of potentially hazardous pesticides.

**§ 128b.2. Definitions.**

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

*Act*—The Pennsylvania Pesticide Control Act of 1973 (3 P. S. §§ 111.21—111.61).

*Agricultural commodities*—Agricultural, horticultural, viticultural and dairy products, livestock and the products thereof, ranch raised fur bearing animals and the products thereof, the products of poultry and bee raising, forestry and forestry products, and products raised or produced on farms intended for human consumption and the processed or manufactured products thereof intended for human consumption, transported or intended to be transported in commerce.

*Applicant*—A person who owns, holds or possesses pesticides within a participating county and who has filed a Program preregistration application form with the Department.

*Central-site pesticide collection*—The collection by a contractor of a portion of the pesticide inventory of a participating county from a site to which two or more participants have transported their pesticides for collection.

*Certified applicator*—An individual who is certified by the Department under section 16.1, 17 or 17.1 of the act (3 P. S. §§ 111.36a, 111.37 and 111.37a) as being competent to use or supervise the use or application of a pesticide.

*Commercial applicator*—A certified applicator, whether or not the applicator is a private applicator with respect to some uses, who uses or supervises the use of a pesticide on the property or premises of another, or on easements granted under State law, or an applicator who uses or supervises the use of a restricted use pesticide on property owned or rented by him or his employer, when not for purposes of producing an agricultural commodity. The Secretary may deem certain types of applicators using a pesticide on their own property or that of their employers as commercial applicators.

*Contractor*—A person engaged in the business of collecting, packing, transporting and disposing of hazardous waste, who is contractually obligated, through the Program, to collect, pack, transport and dispose of the pesticide inventory of a participating county.

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

*Emergency situation*—An unforeseen or unexpected circumstance involving pesticides that requires immediate action to protect the public health, safety, environment, or general welfare in this Commonwealth.

*EPA*—The Environmental Protection Agency of the United States.

*Onsite pesticide collection*—The collection by a contractor of a portion of the pesticide inventory of a participating county from the site, usually a farm, at which it is stored by a participant.

*Participating county*—A county designated by the Department to participate in the CHEMSWEEP Program.

*Participant*—An applicant whose application has been accepted by the Department and whose pesticides are the subject of a disposal contract between the Department and a contractor.

*Person*—An individual, partnership, association, corporation or any organized group of persons whether incorporated or not.

*Pesticide*—A substance or mixture of substances intended for preventing, destroying, repelling or mitigating a pest, and a substance or mixture of substances intended for use as a plant regulatory, defoliant or desiccant.

*Pesticide dealer*—A person who distributes or offers for sale pesticides which are classified for restricted use under the act.

*Pesticide inventory*—The compilation of information with respect to the identification, quantification and safety of pesticides held by a participant within a particular participating county.

*Private applicator*—A certified applicator who uses or supervises the use of a pesticide which is classified for

restricted use for purposes of producing an agricultural commodity on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

*Program*—The CHEMSWEEP Pesticide Disposal Program.

*Secretary*—The Secretary of the Department.

*USDA*—The United States Department of Agriculture.

### § 128b.3. Selection of participating counties.

(a) *County participation.* The Department will conduct the Program yearly in selected counties of this Commonwealth.

(b) *Selection criteria.* In selecting the counties to participate in the Program during a particular fiscal year, the Department will consider:

(1) The amount of funds available for the use of the Program.

(2) The availability of support from agricultural agencies and local governments within the county.

(3) The proximity of the county to other counties selected to participate in the Program in that particular fiscal year.

(4) The environmental or health risks posed by the pesticide inventory of a particular county.

(5) Other factors relevant to the selection of the county on economic, environmental or safety grounds.

### § 128b.6. Eligibility of persons to participate.

(a) *Requirements.* To be eligible to be considered for participation in the Program, a person shall meet the following requirements:

(1) Hold, own or possess pesticides that are or have been registered for sale and use within this Commonwealth.

(2) Hold, own or possess the pesticides within a participating county.

(b) *Exclusions.* Empty pesticide containers may not be accepted for disposal. Persons not located within this Commonwealth are not eligible for participation in the Program.

### § 128b.7. Preregistration application.

(a) *Application required.* A person who seeks to participate in the Program shall complete and file with the Department a preregistration application form.

(b) *Mandatory information.* The Department will develop a Program preregistration application form, and will provide prospective applicants with the form upon request. The form will require that an applicant provide the following information, when known and applicable, with respect to each pesticide for which disposal is sought:

(1) The compound or trade name of the pesticide.

(2) The active ingredient or common name of the pesticide.

(3) The EPA registration number of the pesticide.

(4) The United States Department of Agriculture (USDA) registration number of the pesticide.

(5) The type of formulation of the pesticide.

- (6) The type of container of the pesticide.
- (7) The number of containers of the pesticide.
- (8) The condition of the container holding the pesticide.
- (9) The total quantity of the pesticide.
- (10) The exact location of the pesticide.
- (11) The name, address and telephone number of the applicant.

(c) *Incomplete information.* If an applicant cannot ascertain the identity of a particular pesticide in its possession, or provide other applicable information required by subsection (b), the applicant shall state on the preregistration application form as much information relating to the particular pesticide as is known to the applicant. The Department will then endeavor to obtain the information which the applicant was unable to provide. If the applicable information required by subsection (b) cannot be readily obtained with respect to a particular pesticide, the Department may obtain a sample for analysis, providing that the quantity of pesticide exceeds either 50 pounds or 5 gallons. If no pesticides are found in the sample through analysis, the Department may refuse to accept the product for disposal.

(d) *Additional information.* The Department may require that an applicant provide additional information, which the Department deems relevant to its evaluation of a preregistration application.

(e) *Exception to preregistration.* A person who participates in a household hazardous waste jointly sponsored by the Department and DEP will be exempt from the preregistration portion of this section.

**§ 128b.10. Responsibilities of applicant or participant.**

(a) *Generally.* An applicant or participant is responsible for the safe storage of pesticides held, owned or possessed by the applicant or participant. This exclusive responsibility does not lapse with the filing of a preregistration application, with an inspection of the pesticide or pesticide storage area or with the notice of acceptance of the pesticide for disposal through the Program as described in § 128b.15 (relating to notification of participants). Action by the Department does not relieve the applicant or participant of the responsibility to store pesticides in a safe and lawful manner. With respect to central-site pesticide collection, the participant shall retain sole responsibility for the safe transport of pesticides and for the cleanup, if necessary, of the site at which the pesticide was stored. With respect to onsite pesticide collection, the contractor is responsible for the cleanup, if necessary, of the site at which the pesticide was stored. The contractor is responsible for property damage, personal injuries and the cleanup of spills or other contamination which it causes. The contractor will not be responsible for the clean up of any areas outside of the site at which the pesticides are stored.

(b) *Right to withdraw.* An applicant or participant may withdraw from the Program at any time.

**§ 128b.12. Program limitations.**

(a) The Department will accept a maximum of 2,000 pounds of pesticide for disposal from any one participant annually. The participant may pay the contractor directly for collection, transport and disposal of pesticides in excess of 2,000 pounds at the Commonwealth's contract price. The Department reserves the right to accept any excess pesticides or renegotiate acceptable poundage when deemed necessary by the Department.

(b) Criteria for acceptance or renegotiation of excess acceptable poundage when deemed necessary by the Department will include the following:

- (1) Quantity of excess over 2,000 pounds.
- (2) Condition of pesticides or containers to be collected.
- (3) Location and condition of storage area.
- (4) Ability of participant to pay for excess poundage.

**§ 128b.14. Bid specifications.**

(a) *General.* After the Department completes its compilation of the pesticide inventory for a particular participating county, it shall develop bid specifications for use in contracting for the disposal of the pesticide inventory. The Department may make the pesticide inventories of two or more participating counties the subject of a single disposal contract.

(b) *Contractor qualifications.* The bid specifications for the collection, packing, transportation and disposal of a pesticide inventory shall require that the following requirements are met:

(1) A contractor shall be approved by the EPA to collect, handle, transport and dispose of hazardous materials.

(2) A contractor shall be approved by the Department of Environmental Protection to collect, handle, transport and dispose of hazardous materials.

(3) A contractor shall provide a written, detailed description of the procedures which it shall use in collection, packing, transportation, and disposal of the pesticide inventory, including packing procedures, transportation methods, selection of pesticide collection sites, disposal sites and methods of disposal, including a description of required State and Federal permits and documentation necessary to accomplish disposal.

(4) A contractor shall handle, collect, pack, transport and dispose of pesticides, in compliance with the written description provided the Department.

(5) A contractor shall provide a specific time within which it shall complete its work under the contract.

(c) The bid specification in subsection (b) shall contain other requirements the Department deems appropriate.

(d) *Pesticide collection options.* The Department may solicit bids for several different pesticide collection options: The Department may require that participants arrange for the safe transportation of their pesticides to a central site from which the contractor shall collect, pack, transport and dispose of the pesticides, or the Department may require that the contractor collect, pack, transport and dispose of pesticides from the individual storage locations throughout the participating county, or the Department may require that a contractor employ a combination of onsite pesticide collection and central-site pesticide collection. Regardless of the pesticide collection options with respect to which the Department solicits bids, the contractor shall perform onsite pesticide collection when required under § 128b.17 (relating to conditions requiring on-farm pesticide collection).

**§ 128b.16. Central-site.**

Although the Department will assist the contractor in obtaining a central site for pesticide collection prior to transportation and disposal, the decision whether to use a particular site for pesticide collection is exclusively the contractor's. The contractor is responsible for establishing, insuring and operating the site and is responsible in the event of a pesticide spill or other environmentally-impacting incident which gives rise to legal liability.

[Pa.B. Doc. No. 06-1198. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

#### Deletion of Exam Fees

The State Board of Osteopathic Medicine (Board) amends §§ 25.223 and 25.231 (relating to applications for examination; and schedule of fees) by deleting references to examination applications and examination fees.

#### A. *Effective Date*

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

#### B. *Statutory Authority*

The final-form rulemaking is authorized under section 13.1 of the Osteopathic Medical Practice Act (act) (63 P. S. § 271.13a).

#### C. *Background and Purpose*

The Board is eliminating references to Nationally established examination fees over which the Board has no control or involvement. The fees for examinations are established by the National examiners and are subject to being changed periodically by the National examiner. Thus, it is unnecessary and impractical for the Board to continue to publish the National examiners' examination fees in the Board's regulations. Also, the Board is eliminating the reference to the osteopathic diagnosis and manipulative therapy examination fee. This examination is administered by Professional Credential Services (PCS) and the applicant for this examination pays the examination fee directly to PCS.

The Board is also deleting references in § 25.223(b) to specific dates for the administration of examinations and related deadlines for submission of examination applications because the examinations are now computer-based, rather than written, and therefore are administered regularly as scheduled by the applicant.

#### D. *Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 35 Pa.B. 2639 (April 30, 2005). The Board did not receive any comments on the regulations from the public, the House Professional Licensure Committee (HPLC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the Independent Regulatory Review Commission (IRRC).

#### E. *Fiscal Impact and Paperwork Requirements*

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

#### F. *Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

#### G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2639, 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(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective April 18, 2006.

#### H. *Contact Person*

Interested persons may obtain information regarding this final-form rulemaking by writing to Beth Sender Michlovitz, Board Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, [bmichlovit@state.pa.us](mailto:bmichlovit@state.pa.us).

#### I. *Findings*

The Board finds that:

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

(2) A public comment period was provided as required by law and no comments were received.

(3) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this preamble.

#### J. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by amending §§ 25.223 and 25.231 to read as set forth at 35 Pa.B. 2639.

(b) The Board shall submit this order and 35 Pa.B. 2639 to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order and 35 Pa.B. 2639 and deposit them with the Legislative Reference Bureau as required by law.



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

OLIVER C. BULLOCK, D.O.,  
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-5315 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1199. Filed for public inspection June 30, 2006, 9:00 a.m.]

## STATE BOARD OF PHARMACY

### [49 PA. CODE CH. 27]

#### Drug Therapy and Injectable Medications, Biologicals and Immunizations

The State Board of Pharmacy (Board) amends §§ 27.1, 27.32 and 27.91 (relating to definitions; continuing education; and schedule of fees) and adds §§ 27.301, 27.311 and 27.401—27.407 to read as set forth in Annex A. The final-form rulemaking adds definitions, updates and adds additional requirements in § 27.32, adds two new fees to § 27.91 and provides regulations regarding drug therapy management and the administration of injectable medications, biologicals and immunizations.

Notice of proposed rulemaking was published at 34 Pa.B. 5598 (October 9, 2004). Publication was followed by a 30-day public comment period. The Board received comments from the Pennsylvania Pharmacists Association, Louis F. Pauzano, Jr. and the Pennsylvania Academy of Family Physicians (PAFP). The House Professional Licensure Committee (HPLC) submitted 14 comments to the proposed rulemaking on November 10, 2004. 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 on December 10, 2004.

#### *Summary of Comments and Responses to Proposed Rulemaking*

##### *§ 27.1. Definitions.*

The HPLC and IRRC commented that the Board should use the definition of "institution" in section 2 of the Pharmacy Act (act) (63 P.S. § 390-2) or reference the statutory definition. The Board declines to make this change. Section 2 of the act defines "institution" as a "health care facility" defined in section 103 of the Health Care Facilities Act (35 P.S. § 448.103) and adds the qualifier "which offers care and medical treatment to patients who require food, board and overnight sleeping facilities." The Board included the definition of "health care facility" in section 103 of the Health Care Facilities Act with the qualifying language of the act's definition for ease of reference for pharmacists. Having the definition completely set forth in the regulations negates the necessity for pharmacists to refer to another act to understand the definition of "institution." The Board did not alter the definition as found in the Health Care Facilities Act, but included the language as referenced in the act with the qualifier. The definition is not confusing and does nothing more than clarify the definition found in the act.

The HPLC and IRRC commented that the proposed rulemaking used the term "order" whereas "drug order" is

defined and used in existing regulations. The HPLC and IRRC commented that if the Board meant "drug order," that term should be used or the Board should add the a new definition of the term "order." The term "drug order" is specific to institutions. In the proposed rulemaking, the Board is referring to any order from a physician within the context of management of drug therapy. Accordingly, the Board has added a definition of the term "order."

IRRC commented that the regulatory definition of "practice of pharmacy" was practically, but not completely, identical to the statutory definition. The Board added the last sentence of the definition of "practice of pharmacy" to the regulatory definition and it is now completely identical to the statutory definition.

The HPLC and IRRC recommended that the statutory definition of "drug therapy management" be added to the proposed regulations. The Board agrees and has added the definition.

##### *§ 27.32. Continuing education.*

Mr. Pauzano commented that the 2-hour continuing education requirement for the administration of injectable medications, biologicals and immunizations was not a sufficient number of hours. The Board disagrees. In drafting the rulemaking, the Board consulted several other states' regulations and the standard continuing education requirement for the administration of injectables was 2 hours per biennial renewal period. Pharmacists are required to complete at least a 10-hour course to apply for the authority to administer injectables, which will give sufficient knowledge to administer injectables. The Board is satisfied that the minimum 2-hour continuing education requirement is satisfactory and declines to make a change.

The HPLC commented that the Board is required to establish education and training standards for the administration of injectables and noted that the proposed rulemaking was silent as to these standards. With respect to continuing education, the Board disagrees. The Board added the requirement that for renewal of the authority to administer injectables, pharmacists must complete at least 2 hours of continuing education concerning administration of injectable medications, biologicals and immunizations, including disease epidemiology, vaccine characteristics, injections technique, emergency response to adverse events and related topics. With regard to the education needed to apply for the initial authority to administer injectables, the Board added § 27.407 (relating to education requirements) to the final-form rulemaking. Section 27.407 lays out in detail the requirements for the course of education and training necessary to apply for the initial authority to administer injectables.

##### *§ 27.301. Written protocol.*

The HPLC commented that the Board should state that drug therapy management may only take place in an institutional setting. The Board declines to make the change. The act already states in both the definition of "drug therapy management" and section 9.1 of the act (63 P.S. § 390-9.1) that drug therapy management can only take place in an institutional setting. Stating this again in § 27.301 would be redundant and unnecessary. Moreover, § 27.301 concerns the parameters of the written protocol, not the requirements to enter into a written protocol as these are already stated in the act.

The HPLC, IRRC and the PAFP commented that the notification provisions for drug therapy management under a written protocol gave a pharmacist up to 72 hours to notify a physician of a change in drug therapy and 72

hours for the pharmacist to document a change in the medical records and questioned the appropriateness of that time frame. The Board notes that 72 hours set the outside limit for notification. The pharmacist and physician would be free to agree to a shorter time frame in drafting the written protocol. To address the concerns raised, the Board added language to the final-form rulemaking for notification and documentation to occur as soon as practicable, but no later than 72 hours after the change or intervention. The HPLC also asked for the Board's rationale for choosing the 72-hour time frame. The Board's rationale for choosing 72 hours is twofold. First, the General Assembly already set the maximum time for notification in section 9.1(e)(9) of the act, the Board simply adopted that. Second, the 72 hours allowed for a period of time when the physician may not have been available (for example, over a weekend).

The HPLC commented that the act requires that the written protocol be available to representatives of the State Board of Medicine, the State Board of Osteopathic Medicine and the State Board of Pharmacy and that § 27.301(b)(5) should include these entities. These entities are already covered by § 27.301(b)(5). The Board specifically chose to use the term "Bureau" instead of listing the individual boards because a specific board does not employ the inspectors and investigators. Because the Bureau of Professional and Occupational Affairs encompasses all the professional licensing boards, using the term "Bureau" covers all the boards named in the act. Use of the term "Bureau" is consistent with other collaborative practice agreement regulations. See the certified registered nurse practitioner regulations in § 21.285(a)(7) (relating to collaborative agreement).

*§ 27.311. Certification of professional liability insurance.*

The HPLC commented that the proposed rulemaking is silent as to the professional liability insurance requirement. The HPLC commented that the rulemaking should at least require proof of insurance be submitted to the Board. The Board has added a section to the final-form rulemaking that requires certification of professional liability insurance to the Board when filing the written protocol.

*§ 27.401. Qualifications for authority.*

The HPLC commented that the Board had not established education and training standards for the administration of injectables. IRRC commented that the Board needed to identify the specific minimum education and training requirements that must be included in an approved course. In the proposed rulemaking, the Board intended to establish education and training guidelines by accepting any course that was Accreditation Council for Pharmacy Education (ACPE) (formerly called American Council of Pharmaceutical Education) approved and included the current guidelines and recommendations regarding the administration of injectable medications, biologicals and immunizations of the Centers for Disease Control and Prevention and offered by providers accredited by the ACPE. However, in response to these comments, the Board added § 27.407 which lays out specific requirements for the education needed to apply for the authority to administer injectables. With respect to the treatment guidelines, these are addressed in a new subsection added to § 27.403 and in § 27.404 (relating to authority and requirements), which establish the guidelines for injectable administration.

IRRC further commented that the proposed rulemaking was silent as to how a course provider would apply for

approval by the Board. The Board has added to § 27.407(b) that preapproves courses offered by ACPE-accredited providers and education institutions that meet the course criteria in § 27.407(a). The Board will only accept ACPE-accredited courses, as the ACPE is the accreditation body for pharmacy education and continuing education. With the new section added to the final-form rulemaking, the Board has removed the option to approve other course providers.

*§ 27.402. Application and renewal procedures.*

IRRC commented that § 27.402 was silent as to the professional liability coverage required to manage drug therapy. However, § 27.402 does not pertain to managing drug therapy; it pertains to the authority to administer injectable medications, biologicals and immunizations. Professional liability insurance is not required to administer injectables. Therefore, the Board has not addressed it in this section. Professional liability insurance for managing drug therapy is addressed in section 9.1(d)(1) of the act and § 27.301 (relating to written protocol).

*§ 27.403. Conditions for administration.*

The HPLC remarked in a comment concerning § 27.401 (relating to qualifications for authority) that the education and training standards and practice guidelines that the Board must establish must include a "definitive set of treatment guidelines established by a physician and approved by the board." The Board has added language to this section with respect to immunizations. Treatment guidelines are also dealt with in § 27.404.

*§ 27.404. Authority and requirements.*

The HPLC asked for an explanation with regard to subsection (c) and asked if the Board intended to address drug therapy management under section 9.1(f) of the act. In this section, the Board is detailing what must be in a written protocol for the administration of injectable medications, biologicals and immunizations. This section is unrelated to § 27.301 or section 9.1(f) of the act, which concerns management of drug therapy in an institution under a medical order by a licensed physician approved by the medical staff of the institution. Therefore, § 27.404(c) does not need to track the language of section 9.1(f) of the act.

*§ 27.405. Recordkeeping.*

The HPLC recommended that the Board remove the words "or identifiable initials" from subsection (a)(5). The Board declines to make this change. Under § 27.18 (relating to standards of practice), prescription records kept on file in the pharmacy must be identified with the name or initials of the dispensing pharmacist. The Board is being consistent with existing regulations in allowing initials to be placed on the administration records. There have been no reported problems with identifying a pharmacist by his or initials and patient safety is not compromised with placing the pharmacist's initials on the pharmacy records. The HPLC also recommended that the Board remove the words "of provision" from subsection (a)(6). The Board has changed the final-form rulemaking accordingly.

The PAFP commented that the Board should adopt the 7-year recordkeeping requirement applied to medical records because the administration of injectables implicates the patient's medical condition. IRRC also commented that the Board should make this change in the final-form rulemaking or justify the 2-year requirement. The purpose of the 2-year requirement is to maintain the current recordkeeping standards in pharmacies. There-

fore, the Board declines to make the suggested change. Every administration done by a pharmacist must be reported to the patient's physician who records this information in the patient's medical file. Inasmuch as the physician is maintaining this information for 7 years, it is not necessary for the pharmacy to also maintain the record of administration for 7 years. The PAFP's rationale that the administration of drugs implicates the patient's medical condition fails to consider that when pharmacists dispense any drug for the patient's consumption it implicates the patient's medical condition as well. The only difference is the route of administration. Therefore, the Board does not see the need to retain records for more than the standard 2 years.

*§ 27.406. Notification requirements.*

The PAFP commented that the 72-hour notification requirement for injections done under an order and 14 days for injections done under a written protocol was not consistent with good medical care. IRRC echoed the PAFP's comment. The Board has amended the final-form rulemaking to require notification as soon as practicable, but no longer than 72 hours after administration of the injectable. This change requires the pharmacist to notify the physician as soon as practicable, but allows for up to 72 hours in case the physician is unavailable, such as over a weekend when many physicians' offices are closed. The HPLC and IRRC recommended that the Board change the wording to require a pharmacist to notify the physician of an adverse reaction as soon as practicable. The Board has changed the final-form rulemaking by adding paragraph (3) pertaining to adverse reactions and requiring notification as soon as is practicable, and in no event later than 24 hours after learning of the adverse event or reaction.

*§ 27.407. Education requirements.*

In response to comments from the HPLC and IRRC, the Board has added this section to address the education and training requirements required to apply for the authority to administer injectable medications, biologicals and immunizations. In drafting this section, the Board looked at several other states' regulations, including North Dakota, South Dakota, Iowa, Oregon, Texas, Nevada, Ohio and Delaware, and adopted standards similar to those of these states. Pharmacists will have to complete a course within the 2-year period prior to applying for the authority to administer injectables. The course must be an evidence-based course that includes study material, includes hands-on training and techniques for administration, requires testing with a passing score, provides a minimum of 10 hours of instruction and experiential training, and complies with the current guidelines and recommendations by the Centers for Disease Control and Prevention, the ACPE or a similar health authority or professional body. The course must provide instruction on: basic immunology and the human immune response; mechanics of immunity, adverse effects, dose and administration schedule of available vaccines; response to an emergency situation as a result of the administration of an injectable medication, biological or immunization; administration of subcutaneous, intradermal and intramuscular injections; disease epidemiology; standards for immunization practices; vaccine-preventable diseases; recommended immunization schedules; vaccine storage and management; biohazard waste disposal and sterile techniques; informed consent; and authority and recordkeeping requirements. The Board approves courses offered by ACPE-accredited providers and educational institutions that meet these criteria.

*General Comments*

Mr. Pauzano commented that the Board should address emergency situations, such as a smallpox outbreak, and promulgate regulations that would enable pharmacists to administer injectables without a physician order in an emergency situation. The Board notes that in an emergency situation, under the appropriate emergency declaration from the Governor, the Board may suspend enforcement of its regulations. In the case of a smallpox outbreak, the Board would look at suspending the requirement of a physician order to administer injectables. However, the Board declines to promulgate specific regulations concerning emergency situations at this time.

The HPLC requested an explanation from the Board regarding its discussions with the Insurance Commissioner regarding self-insurance. In late 2002/early 2003, the Board's legal counsel contacted the Insurance Department (Department) concerning what kind of regulations would be necessary for self-insurance by pharmacists. Counsel was referred to the Department's regulations for self-insurance evaluation by the Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans). At that time, the decision was made to reference the Department's regulations in the Board's proposed rulemaking. At a later time, the issue of pharmacists not being a health care provider as defined by the Department's regulations was raised. Board counsel again contacted the Department to inquire further about self-insurance regulations. At that time, the Department identified several issues with reviewing self-insurance plans that the Board and Department must work out before regulations can be promulgated. As the Board does not anticipate that many pharmacists who engage in drug therapy management will self-insure, the Board decided that this issue could be taken up at a future time and removed the self-insurance language from the proposed rulemaking.

*Statutory Authority*

The final-form rulemaking is authorized under section 9.1(d)(3) and (e) of the act and sections 4(j), 6(k)(1) and (9) and 9.2(a) of the act (63 P. S. §§ 390-(4)(j), 390-6(k)(1) and (9) and 390-9.2(a)).

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have a fiscal impact on the Board in that there will be revenue to the Board through the licensure and renewal fees for the authority to administer injectable medications, biologicals and immunizations. The final-form rulemaking requires the Board to develop an application for the authority to administer injectable medications, biologicals and immunizations. The Board will also have to revise the pharmacist license renewal form to allow for the renewal of the authority to administer injectable medications, biologicals and immunizations.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5598, 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 May 2, 2006, the final-form rulemaking was approved by the HPLC. On May 17, 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 May 18, 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 the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) This final-form rulemaking 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 regulation published at 34 Pa.B. 5598.

*Order*

The Board orders that:

- (a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.1, 27.32, 27.91 and by adding §§ 27.301, 27.311 and 27.401—27.407 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (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 deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL J. ROMANO, R.Ph.,  
*Chairperson*

*(Editor's Note: The proposal to add §§ 27.311 and 27.407 was not included in the proposed rulemaking at 34 Pa.B. 5598. For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2781 (June 3, 2006).)*

**Fiscal Note:** Fiscal Note 16A-5412 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:

\* \* \* \* \*

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

\* \* \* \* \*

*Drug therapy management*—Any of the following processes performed in an institutional setting pursuant to a written agreement, protocol or order as set forth in section 9.1 of the act (63 P. S. § 390-9.1):

- (i) Adjusting a drug regimen.
- (ii) Adjusting drug strength, frequency of administration or route.
- (iii) Administration of drugs.
- (iv) Ordering laboratory tests and ordering and performing other diagnostic tests necessary in the management of drug therapy, consistent with the testing standards of the institution.

\* \* \* \* \*

*Institutions*—

(i) A health care facility that offers care and medical treatment to patients who require food, board and overnight sleeping facilities and provides clinically related health services, including, a general or special hospital, including psychiatric hospitals, rehabilitation hospitals, ambulatory surgical facilities, long-term care nursing facilities, cancer treatment centers using radiation therapy on an ambulatory basis, and inpatient drug and alcohol treatment facilities, both profit and nonprofit and including those operated by an agency or State or local government.

(ii) The term also includes a hospice that offers care and medical treatment to patients who require food, board and overnight sleeping facilities.

(iii) The term does not include an office used primarily for the private or group practice by health care practitioners where no reviewable clinically related health service is offered, a facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination or a facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of the religious denominations conducting the facility.

\* \* \* \* \*

*Order*—Any directive from a medical practitioner.

\* \* \* \* \*

*Practice of pharmacy—*

(i) The provision of health care services by a pharmacist, which includes:

(A) The interpretation, evaluation and implementation of medical orders for the provision of pharmacy services or prescription drug orders.

(B) The delivery, dispensing or distribution of prescription drugs.

(C) Participation in drug and device selection.

(D) Drug administration.

(E) Drug regimen review.

(F) Drug or drug-related research.

(G) Compounding.

(H) Proper and safe storage of drugs and devices.

(I) Managing drug therapy in an institutional setting consistent with the institution's assignment of clinical duties.

(J) Maintaining proper records.

(K) Patient counseling.

(L) Acts, services, operations or transactions necessary or incident to the provision of these health care services.

(ii) The term does not include the operations of a manufacturer or distributor as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

\* \* \* \* \*

**RENEWAL OF PHARMACIST LICENSE AND PHARMACY PERMIT**

**§ 27.32. Continuing education.**

(a) The Board will renew the license of a pharmacist who has completed a minimum of 30 contact hours (3 CEU) of continuing education during the preceding biennial renewal period. For licensees with authority to administer injectable medications, biologicals and immunizations in accordance with section 9.2 of the act (63 P.S. § 390-9.2) and §§ 27.301 and 27.302 (relating to qualifications for authority; and application and renewal procedures), at least 2 of the required 30 hours shall concern the administration of injectable medications, biologicals and immunizations, including disease epidemiology, vaccine characteristics, injection technique, emergency response to adverse events and related topics. Programs offered by providers accredited by the ACPE are approved by the Board.

\* \* \* \* \*

**FEES**

**§ 27.91. Schedule of fees.**

An applicant for a license, certificate, permit or service shall pay the following fees at the time of application:

Application for pharmacy intern certificate .....	\$30
Application for pharmacist license .....	\$40
Certification of examination scores or internship hours .....	\$25
Verification of licensure .....	\$15
Assistant pharmacist biennial renewal .....	\$120
Registered pharmacist biennial renewal .....	\$150

Registered pharmacist late renewal penalty .....	\$25
New pharmacy permit application .....	\$100
Reinspection of new pharmacy after failure at first inspection .....	\$90
Pharmacy permit change without inspection .....	\$30
Pharmacy permit change when inspection required .....	\$95
Change in pharmacy ownership or Board of Directors .....	\$30
Verification of permit .....	\$15
Biennial renewal of pharmacy permit .....	\$100
Pharmacy permit late renewal penalty .....	\$25
Application for approval to administer injectables .	\$30
Biennial renewal of approval to administer injectables .....	\$30

**DRUG THERAPY MANAGEMENT**

**§ 27.301. Written protocol.**

(a) The written protocol for drug therapy management between licensed physicians and pharmacists must contain:

(1) A statement identifying the physician responsible for authorizing drug therapy management.

(2) A statement identifying the pharmacist authorized to perform the drug therapy management.

(3) A statement requiring that drug therapy regimens be initiated by a licensed physician for patients referred to a pharmacist for drug therapy.

(4) A statement identifying the types of drug therapy management decisions that the pharmacist is authorized to make, including a statement of the ailments or diseases involved within the physician's scope of practice, and types of drug therapy management authorized.

(5) A statement of the functions and tasks the pharmacist shall follow in the course of exercising drug therapy management authority, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made. Documentation of each intervention shall occur as soon as practicable, but no later than 72 hours after the intervention in the patient medical record and shall also be recorded in the pharmacist's records.

(6) A statement that requires notification to the authorizing physician of any changes in dose, duration or frequency of medication prescribed as soon as practicable but not longer than 72 hours after the change.

(7) A provision for execution of the agreement when any licensed physician or licensed pharmacist may be temporarily absent from a practice setting or temporarily unavailable to participate in its execution.

(8) A provision for notification of the role of the pharmacist by a licensed physician to each referred patient whose drug therapy management may be affected by the agreement and providing an opportunity for the patient to refuse drug therapy management by a pharmacist.

(9) The signatures of the licensed physicians and licensed pharmacists who are entering into the written protocol, and the dates signed.

(10) A statement allowing for the termination of the agreement at the request of any party to it at any time.

- (b) The written protocol must be available as follows:
- (1) At the practice site of any licensed physician who is a party to the agreement.
  - (2) At the practice site of any licensed pharmacist who is a party to the agreement.
  - (3) At the institution where a written agreement or protocol is in place.
  - (4) To any patient whose drug therapy management is affected by the agreement.
  - (5) Upon request, to representatives of the Bureau and the Department of Health.
- (c) The written protocol shall be filed with Bureau.
- (d) The written protocol must be effective for a period not to exceed 2 years from the date of execution. At the end of the 2-year period, or sooner, the parties shall review the agreement and make a determination as to its renewal, necessary modifications or termination.

#### PROFESSIONAL LIABILITY INSURANCE

##### § 27.311. Certification of professional liability insurance.

- (a) A licensee who engages in drug therapy management under a written protocol shall maintain professional liability insurance in the minimum amount of \$1,000,000 per occurrence or claims made.
- (b) A licensee who engages in drug therapy management under a written protocol shall certify compliance with subsection (a) on a form provided by the Board. The form shall be provided with the written protocol.
- (c) A licensee who engages in drug therapy management under a written protocol shall upon request make available to the Board or its agents all records, relating to the licensee's maintenance of professional liability insurance, including policies, cancelled checks, receipts or other proofs of premium payment.

#### ADMINISTRATION OF INJECTABLE MEDICATIONS, BIOLOGICALS AND IMMUNIZATIONS

##### § 27.401. Qualifications for authority.

A candidate for authority to administer injectable medications, biologicals and immunizations shall meet the following requirements:

- (1) The pharmacist holds an active license to practice pharmacy in this Commonwealth.
- (2) The pharmacist has completed a course of education and training which meets the requirements of § 27.407 (relating to education requirements).
- (3) The pharmacist holds a current basic cardiopulmonary resuscitation (CPR) certificate issued by the American Heart Association, American Red Cross or a similar health authority or professional body approved by the Board.

##### § 27.402. Application and renewal procedures.

(a) An applicant for authority to administer injectable medications, biologicals and immunizations shall submit the following to the Board:

- (1) An application obtained from the Board along with the fee required by § 27.91 (relating to schedule of fees).
- (2) Certification that the pharmacist has completed the required education and training in § 27.407 (relating to education requirements).

(3) Certification that the pharmacist holds an acceptable, current CPR certificate.

(b) A holder of the authority to administer injectable medications, biologicals and immunizations shall renew the authority every 2 years along with the license to practice pharmacy. Renewal requires completion of a form provided to the pharmacist by the Board in advance of the renewal period, payment of the fee specified by § 27.91, certification of completion of 2 hours of continuing education required by section 9.2 of the act (63 P. S. § 390-9.2) and § 27.32 (relating to continuing education), and proof of a current CPR certificate.

##### § 27.403. Conditions for administration.

(a) A pharmacist who is granted authority may administer injectable medications, biologicals and immunizations to persons who are more than 18 years of age. A person is more than 18 years of age on the day following the person's 18th birthday.

(b) A pharmacist may not delegate the administration of injectable medications, biologicals and immunizations to another person.

(c) A pharmacist shall administer injectable immunizations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention and which have been approved by the Board.

##### § 27.404. Authority and requirements.

(a) A pharmacist authorized by the Board to administer injectable medications, biologicals and immunizations may only do so under either an order or written protocol.

(b) The order from a licensed prescriber must be written, received electronically or if received orally be reduced to writing, and contain at a minimum the following:

- (1) The identity of the licensed prescriber issuing the order.
- (2) The identity of the patient to receive the injection.
- (3) The identity of the medication, immunization or vaccine, and dose, to be administered.
- (4) The date of the original order and the date or schedule, if any, of each subsequent administration.

(c) An authorized pharmacist may enter into a written protocol, either approved by a physician or authorized by the medical staff of an institution, governing the administration of injectable medications, biologicals and immunizations for a specific period of time or purpose. The written protocol may be valid for a time period not to exceed 2 years. The protocol must include the following:

- (1) The identity of the participating pharmacist and physician or institution.
- (2) The identification of the medication, biological or immunization, which may be administered.
- (3) The identity of the patient or groups of patients to receive the authorized injectable medication, biological or immunization.
- (4) The identity of the authorized routes and sites of administration allowed.

(5) A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions and accidental needle sticks.

(6) A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection.

(7) The identity of the location at which the pharmacist may administer the authorized medication, biological or immunization.

(8) Recordkeeping requirements and procedures for notification of administration.

(9) A provision that allows for termination of the protocol at the request of any party to it at any time.

**§ 27.405. Recordkeeping.**

(a) A pharmacist who administers an injectable medication, biological or immunization shall maintain the following records regarding each administration for a minimum of 2 years:

- (1) The name, address and date of birth of the patient.
- (2) The date of the administration and site of the injection.
- (3) The name, dose, manufacturer, lot number and expiration date of the medication, biological or immunization.
- (4) The name and address of the patient's primary health care provider, as identified by the patient.
- (5) The name or identifiable initials of the administering pharmacist.
- (6) Documentation of informed consent for administration of injectable medications, biologicals and immunizations.
- (7) The nature of an adverse reaction and who was notified.

(b) A pharmacist who administers an immunization shall also maintain the following records regarding each administration for a minimum of 2 years:

- (1) An identification of the Vaccine Information Statement (VIS) that was provided.
- (2) The date of publication of the VIS.
- (3) The date and to whom the VIS was provided.

(c) In an institution, the information required to be maintained in subsections (a) and (b) may be maintained in the patients' medical records.

**§ 27.406. Notification requirements.**

A pharmacist administering injectable medications, biologicals or immunizations shall meet the following notification requirements:

(1) When administration has occurred under an order, the pharmacist shall notify the ordering prescriber as soon as practicable, but no longer than 72 hours after administration of the following:

- (i) The identity of the patient.
- (ii) The identity of the medication, biological or immunization administered.
- (iii) The route of administration.
- (iv) The site of the administration.
- (v) The dose administered.
- (vi) The date of administration.

(2) When the administration has occurred under a written protocol, the pharmacist shall notify the participating physician as soon as practicable, but no longer than 72 hours after administration of the following:

- (i) The identity of the patient.
- (ii) The identity of the medication, biological or immunization administered.
- (iii) The site of the administration.
- (iv) The dose administered.
- (v) The date of administration.

(3) In the event of any adverse event or reaction experienced by the patient either under an order or a written protocol, the pharmacist shall notify the patient's physician as soon as is practicable, and in no event later than 24 hours after learning of the adverse event or reaction.

**§ 27.407. Education requirements.**

(a) To apply for the authority to administer injectable medications, biologicals and immunizations, a pharmacist shall meet the following education requirements:

(1) Complete within the 2-year period prior to application an evidence-based course that meets the following criteria:

- (i) Includes study material.
- (ii) Includes hands-on training and techniques for administration.
- (iii) Requires testing with a passing score.
- (iv) Provides a minimum of 10 hours of instruction and experiential training.
- (v) Complies with current guidelines and recommendations by the Centers for Disease Control and Prevention, ACPE or a similar health authority or professional body.

(2) The course must provide instruction on the following topics:

- (i) Basic immunology and the human immune response.
- (ii) Mechanics of immunity, adverse effects, dose and administration schedule of available vaccines.
- (iii) Response to an emergency situation as a result of the administration of an injectable medication, biological or immunization.
- (iv) Administration of subcutaneous, intradermal and intramuscular injections.
- (v) Disease epidemiology.
- (vi) Standards for immunization practices.
- (vii) Vaccine-preventable diseases.
- (viii) Recommended immunization schedules.
- (ix) Vaccine storage and management.
- (x) Biohazard waste disposal and sterile techniques.
- (xi) Informed consent.
- (xii) Authority and recordkeeping requirements as provided in this chapter.

(b) The Board approves courses offered by ACPE-accredited providers and educational institutions that meet the criteria and provide instruction on the topics listed in subsection (a).

[Pa.B. Doc. No. 06-1200. Filed for public inspection June 30, 2006, 9:00 a.m.]

# Title 58—RECREATION

## GAME COMMISSION [58 PA. CODE CH. 139] Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2006, meeting, adopted amendments to § 139.4 (relating to seasons and bag limits for the license year).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 36 Pa.B. 13 (January 7, 2006).

### 1. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although the 2006-2007 seasons and daily season and possession limits are similar to those set in 2005-2006, the 2006-2007 seasons and bag limits have been amended to conform to current scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable changes for hunters next season will be expanded beaver trapping opportunities in Wildlife Management Units (WMU) 2E, 5A, 5B, 5C and 5D, as well as expanded bear hunting opportunities in WMUs 2F, 2G, 3A, 4A, 4B and 4D. The expanded bear hunting opportunities are the result of the creation of a trial bear archery season that will take place during the week prior to the traditional Statewide bear season. The Commission created this trial bear archery season in response to substantial requests from a portion of the bear hunting community for the same. However, it is important to note that the Commission has created this season with some reservation due to its concerns with the creation of new administrative challenges in implementing the new season as well as the creation of additional demands on the bear resource through increased harvest rates. Nonetheless, as the next license year is approaching, the Commission has amended § 139.4 to provide updated seasons and bag limits for the 2006-2007 license year.

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(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking . . ." The amendment to § 139.4 was adopted under this authority.

### 2. Regulatory Requirements

The final-form rulemaking amends § 139.4 by establishing when and where it is lawful to hunt and trap various game species and also place limits on the numbers that can be legally taken during the 2006-2007 license year.

### 3. Persons Affected

Persons wishing to hunt and trap in this Commonwealth during the 2006-2007 license year will be affected by the final-form rulemaking.

### 4. Comment and Response Summary

The Commission received a total of 3,302 official comments concerning this final-form rulemaking. The comments received concerned the following subtopics:

#### *Deer Season (in general)*

Out of a total of 815 comments received concerning this subtopic, 69 support the Commission's current deer program, 18 oppose permitting hunters to harvest more than 1 antlerless deer per license year, 2 oppose permitting hunters to harvest more than 2 antlerless deer per license year, 5 oppose antlerless deer hunting outside of October, 550 oppose the concurrent antlered/antlerless deer seasons or the length of the antlerless deer season, or both, 120 support the concurrent antlered/antlerless deer seasons, 28 oppose the opening of any antlerless deer seasons, 1 opposes all antlered deer hunting prior to the rut, 1 supports combining the archery, rifle and muzzleloader seasons into one 2-week season, 6 support opening the deer rifle season on the Saturday after Thanksgiving, 1 supports antlerless deer hunting prior to the rut, 1 supports limiting the antlerless deer season to youth hunters only, 1 supports extending deer rifle season, 3 support extending youth antlerless firearms season to two Saturdays and 9 support limiting or closing all early antlerless deer seasons.

#### *Deer Archery Season*

Out of a total of 515 comments received concerning this subtopic, 220 oppose the duration of the deer archery season (too long), 288 support the duration of the deer archery season and 7 support increasing the duration of the deer archery season.

#### *Deer Muzzleloader Season*

Out of a total of 444 comments received concerning this subtopic, 123 support the early deer muzzleloader season, 318 oppose the early deer muzzleloader season, 2 support permitting hunters to harvest antlered deer in the October muzzleloader season and 1 supports extending the early deer muzzleloader season to 2 weeks.

#### *Bear Season*

Out of a total of 1,505 comments received concerning this subtopic, 1,485 support the bear archery season, 9 oppose the bear archery season, 1 supports extending the bear archery season, 5 support the concurrent deer/bear seasons, 3 oppose the concurrent deer/bear seasons and 2 support extending the traditional bear season.

#### *Turkey Seasons*

Out of a total of three comments received concerning this subtopic, one opposes the two-bird limit for the spring turkey season, one supports extending the duration of the fall turkey season and one opposes the youth spring turkey season on Earth Day.

#### *Small Game Season*

Out of a total of 16 comments received concerning this subtopic, 11 support expanding or opening small game season earlier, 1 opposes the duration/opening of pheasant season in WMU 2C, 1 supports permitting hunters to take male and female pheasants in WMU 2C, 2 oppose the opening of the spring and fall turkey seasons due to the spread of bird flu and 1 supports expanding crow season due to the spread of bird flu.



*Furbearer Hunting/Trapping Season*

The single comment received concerning this subtopic supported opening the raccoon, fox and coyote seasons later.

*Waterfowl Seasons*

Out of a total of three comments received concerning this subtopic, one supports reducing goose season at Middle Creek, one supports the establishment of a spring goose season and one supports the establishment of a swan season.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in some additional cost and paperwork associated with the creation of the bear archery season due to the need to ensure necessary administrative and enforcement support for the same. However, the Commission has determined that if there is any additional expense associated with the proposed bear archery season, it will not be substantial and would be absorbed by the current budget.

6. *Effective Date*

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

7. *Contact Person*

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

*Findings*

The Commission 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 Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-216 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 139. SEASONS AND BAG LIMITS**

**§ 139.4. Seasons and bag limits for the license year.**

**(SEASONS AND BAG LIMITS TABLE)  
2006-2007 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,  
FIELD POSSESSION LIMIT AND SEASON LIMIT  
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<b>Species</b>	<b>First Day</b>	<b>Last Day</b>	<b>Daily Limit</b>	<b>Field Possession Limit After First Day</b>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 7	Oct. 13	6	12
Squirrels—(Combined species)	Oct. 14	Nov. 25	6	12
	and			
	Dec. 11	Dec. 23		
	and			
	Dec. 26	Feb. 3, 2007		
Ruffed Grouse—(Statewide)	Oct. 14	Nov. 25	2	4
	and			
	Dec. 11	Dec. 23		
	and			
	Dec. 26	Jan. 27, 2007		

Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"

<b>Species</b>	<b>First Day</b>	<b>Last Day</b>	<b>Daily Limit</b>	<b>Field Possession Limit After First Day</b>
Rabbits, Cottontail	Oct. 21 and Dec. 11 and Dec. 26	Nov. 25 Dec. 23 Feb. 3, 2007	4	8
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C and 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 7	Oct. 13	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B and 4D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 7	Oct. 13	2	4
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C and 5D	Oct. 21	Nov. 25	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B and 4D	Oct. 21 and Dec. 11 and Dec. 26	Nov. 25 Dec. 23 Feb. 3, 2007	2	4
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C and 5D where the season is closed.	Oct. 21	Nov. 25	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26	Jan. 1, 2007	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.		Unlimited	
<b>Species</b>	<b>First Day</b>	<b>Last Day</b>	<b>Daily Limit</b>	<b>Season Limit</b>
Turkey—Male or Female			1	1
Wildlife Management Units 1A & 1B (Shotgun, Bow and Arrow only)	Oct. 28	Nov. 11		
Wildlife Management Units 2A & 2B (Shotgun, Bow and Arrow only)	Oct. 28	Nov. 18		
Wildlife Management Units 2C, 2E, 4A, 4B and 4D	Oct. 28	Nov. 11		
Wildlife Management Units 2D, 2F, 2G, 3A, 3B, 3C, 3D, 4C and 4E	Oct. 28	Nov. 18		
Wildlife Management Units 5A and 5B	Closed to fall turkey hunting			
Wildlife Management Units 5C and 5D (Shotgun, Bow and Arrow only)	Oct. 28	Nov. 3		
Turkey (Spring Gobbler) Statewide <sup>5</sup> Bearded Bird only	April 28, 2007	May 26, 2007	1	2

Species	First Day Limit	Last Day	Daily Limit	Season Limit
Turkey (Spring Gobbler) Statewide Youth Hunt <sup>5</sup> Bearded Bird only Eligible junior hunters only with the required license and when properly accompanied	April 21, 2007	April 21, 2007	1	1

**MIGRATORY GAME BIRDS**

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year.

Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 1 and Dec. 29	Nov. 25 April 1, 2007		Unlimited

Starlings and English Sparrows  
No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season. Unlimited

**FALCONRY**

Squirrels—(Combined species)	Sept. 1	Mar. 31, 2007	6	12
Quail	Sept. 1	Mar. 31, 2007	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2007	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2007	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2007	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2007	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

**DEER**

Species	First Day	Last Day	Season Limit
Deer, Antlered and Antlerless—(Statewide) <sup>1</sup> (Archery—Bows and Arrows Only) Crossbows may be used in Wildlife Management Units 2B, 5C and 5D	Sept. 30 and Dec. 26	Nov. 11 Jan. 13, 2007	One antlered and an antlerless deer with each required antlerless license.
Deer, Regular Antlered and Antlerless—(Statewide) <sup>1</sup>	Nov. 27	Dec. 9	One antlered, and an antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, <sup>2</sup> PGC Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U. S. Armed Forces, or in the U. S. Coast Guard, with required antlerless license	Oct. 19	Oct. 21	An antlerless deer with each required antlerless license.

**DEER**

<b>Species</b>	<b>First Day</b>	<b>Last Day</b>	<b>Season Limit</b>
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 14	Oct. 21	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) <sup>1</sup> (Flintlock Muzzleloading season)	Dec. 26	Jan. 13, 2007	One antlered, or one antlerless—plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Unit 2B	Dec. 26	Jan. 13, 2007	An antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Units 5C and 5D	Dec. 11 and Dec. 26	Dec. 23 and Jan. 27, 2007	An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

**BEAR**

<b>Species</b>	<b>First Day</b>	<b>Last Day</b>	<b>Daily Limit</b>	<b>Season Limit</b>
Bear, any age—(Bows and Arrows only) <sup>4</sup> Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 4A, 4B and 4D	Nov. 15	Nov. 16	1	1
Bear, any age—(Statewide) <sup>4</sup>	Nov. 20	Nov. 22	1	1
Bear, any age <sup>4</sup> Wildlife Management Units 3C, 3D and that portion of 3B, East of Rt. 14 from Troy to Canton, East of Rt. 154 from Canton to Rt. 220 at Laporte and East of Rt. 42 from Laporte to Rt. 118 and that portion of 4E, East of Rt. 42.	Nov. 27	Dec. 2	1	1
Portion of Wildlife Management Units 2G and 3B in Lycoming County that lie North of the West branch of the Susquehanna River from the Rt. 405 bridge, West to the Rt. 220 bridge, East of Rt. 220 to Rt. 44 and East of Rt. 44 to Rt. 973, South of Rt. 973 to Rt. 87, West of Rt. 87 to Rt. 864, South of Rt. 864 to Rt. 220 and West of Rt. 220 to Rt. 405 and West of Rt. 405 to the West branch of the Susquehanna River.				
Bear, any age <sup>4</sup> Rockview Prison	Nov. 27	Dec. 2	1	1

**ELK**

Elk, Antlered and Antlerless <sup>6</sup> (With each required license)	Nov. 6	Nov. 11	1	1
Elk, Antlered and Antlerless <sup>6</sup> (With each required license)	Sept. 17, 2007	Sept. 22, 2007	1	1

**FURTAKING—TRAPPING**

Minks and Muskrats—(Statewide)	Nov. 18	Jan. 6, 2007		Unlimited
Beaver—(Statewide)	Dec. 26	Mar. 31, 2007		
Wildlife Management Units 2E, 2F and 2G (Combined)			20	20

Species	First Day	Last Day	Daily Limit	Season Limit
Wildlife Management Units 1A, 1B, 3A, 3B, 3C and 3D (Combined)			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C and 5D (Combined)			10	10
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 22	Feb. 17, 2007		Unlimited
Coyotes and Foxes—(Statewide) (Cable restraint devices may be used)	Jan. 1	Feb. 17, 2007		Unlimited
Bobcat <sup>3</sup> Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C and 3D	Oct. 22	Feb. 17, 2007	1	1

**FURTAKING—HUNTING**

Coyotes—(Statewide)	Outside of any deer or bear season may be taken with a hunting license or a furtaker's license and without wearing orange.		Unlimited	
Coyotes—(During any archery deer season)	May be taken while lawfully hunting deer or with a furtaker's license.			
Coyotes—(During the regular firearms deer season and any bear season)	May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc.			
Coyotes—(During the spring gobbler turkey season)	May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.			
Opossums, Skunks, Weasels <sup>7</sup> (Statewide)	No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season.			
Raccoons and Foxes—(Statewide) <sup>7</sup>	Oct. 21	Feb. 17, 2007	Unlimited	
Bobcat <sup>3</sup> Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C and 3D	Oct. 21	Feb. 17, 2007	1	1

No open seasons on other wild birds or wild mammals.

<sup>1</sup> Only one antlered deer (buck) may be taken during the hunting license year.

<sup>2</sup> Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

<sup>3</sup> Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

<sup>4</sup> Only one bear may be taken during the hunting license year.

<sup>5</sup> Second spring gobbler may only be taken by persons who possess a valid special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees).

<sup>6</sup> Only one elk may be taken during the hunting license year.

<sup>7</sup> May not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

**GAME COMMISSION**  
**[58 PA. CODE CH. 141]**

**Hunting and Trapping; Electronic Devices for Dogs**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2006, meeting, adopted an amendment to § 141.18 (relating to permitted devices).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 36 Pa.B. 1400 (March 25, 2006).

*1. Purpose and Authority*

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

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

Section 322(c)(5) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to . . . the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 141.18 was adopted under this authority.

*2. Regulatory Requirements*

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

*3. Persons Affected*

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

*4. Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

*5. Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

*6. Effective Date*

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

*7. Contact Person*

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

*Findings*

The Commission 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 Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.18 to read as set forth at 36 Pa.B. 1400.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 1400 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-228 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1202. Filed for public inspection June 30, 2006, 9:00 a.m.]

**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 June 6, 2006, meeting, adopted an amendment to Chapter 141, Appendix G (relating to hunting hours).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 36 Pa.B. 2529 (May 27, 2006).

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 amended 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 the year 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 § 141.4 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends 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 final-form rulemaking.

4. *Comment and Response Summary*

The Commission received two official comments regarding this final-form rulemaking. Both comments were in support of expanding legal hunting hours to 1/2 hour after sunset in Wildlife Management Units 2B, 5C and 5D.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

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

*Findings*

The Commission 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 Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending Appendix G to read as set forth at 36 Pa.B. 2529.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 2529 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-231 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1203. Filed for public inspection June 30, 2006, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2006, meeting, adopted amendments to §§ 147.552—147.554 (relating to application; permit; and subpermit).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 36 Pa.B. 1401 (March 25, 2006).

1. *Purpose and Authority*

The Commission recognizes the unique challenges faced by farmers in this Commonwealth's most urban areas. White-tailed deer have certainly proven themselves able to create significant agricultural destruction, even in moderate numbers. Unfortunately, for farmers in highly developed or urban areas deer population issues are

complicated. As a measure to help combat high deer populations and their associated problems, the Commission provides farmers with a number of deer management programs, including agricultural deer control permits. The permits generally allow for a focused deer harvest in a designated area in addition to the harvest authorized by the various traditional hunting seasons. Unfortunately, it appears that despite the availability of these permits, farmers in Wildlife Management Units (WMU) 5C and 5D continue to suffer significant agricultural destruction.

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

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 147.552, 147.553 and 147.554 were adopted under this authority.

## 2. Regulatory Requirements

The final-form rulemaking amends §§ 147.552, 147.553 and 147.554 to modify the public access, signage posting and subpermit issuance requirements for Agricultural Deer Control Permit permittees in WMUs 5C and 5D.

## 3. Persons Affected

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

## 4. Comment and Response Summary

The Commission received two comments regarding this rulemaking, both in support of either limiting or ending the Red Tag Program.

## 5. Cost and Paperwork Requirements

The final-form rulemaking should not result in additional cost or paperwork.

## 6. Effective Date

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

## 7. Contact Person

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

## Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments 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 amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

## Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending §§ 147.552—147.554 to read as set forth at 36 Pa.B. 1401.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 1401 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
Executive Director

**Fiscal Note:** Fiscal Note 48-227 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1204. Filed for public inspection June 30, 2006, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 405]

### Keystone Educational Accountability Best Management Practices Standards

The Secretary of Education (Secretary) proposes to add Chapter 405 (relating to keystone educational accountability standards and indicators) to read as set forth in Annex A. The Secretary is acting under the authority of Article XXV-A of the Public School Code of 1949 (code) (24 P. S. §§ 25-2501-A—25-2511-A), specifically sections 2504-A(e) and 2505-A of the code (24 P. S. §§ 25-2504-A(e) and 25-2505).

#### *Purpose*

Chapter 405 sets forth best management practices standards and indicators to serve as measures of improvement in the operation of school districts. These standards and indicators are necessary components of Keystone Educational Accountability (KEA) and are required to be developed under section 2504-A(e) of the act. The purpose of KEA is to put into place an assessment system aimed at improving school district management practices and use of resources. KEA is also intended to identify potential cost savings, by providing for the establishment of a series of standards and related indicators covering a broad range of school district administrative and operational areas that will be reviewed for compliance on a 6-year cycle. Districts that operate consistently with these standards will be certified for 6 years. Districts that do not must develop a 3-year action plan to meet the standards in which they were found to be deficient.

#### *Requirements of the Regulations*

The regulations, in and of themselves, do not require anything. However, consistent with the statute, they apply to all 501 school districts in this Commonwealth. The statute requires each district to conduct a self-assessment of its compliance with the regulations and to subsequently be the subject of an external compliance review arranged by the Department of Education (Department) on a 6-year cycle. During both reviews, the district's policies and procedures in areas such as management structures, educational service delivery, personnel systems, facilities maintenance and food service operations are measured against the indicators in the regulation so that a determination can be made of whether each of the ten standards is being achieved. If a district is determined to be in noncompliance it will have to prepare an action plan detailing how it will come into compliance in 3 years and form a local financial management advisory team to implement the plan.

#### *Affected Parties*

The proposed rulemaking applies to and affects all 501 school districts in this Commonwealth.

#### *Cost and Paperwork Estimates*

The KEA legislation requires that all 501 school districts in this Commonwealth be reviewed for compliance with the standards and indicators on a 6-year cycle. Approximately 25 districts will be reviewed in 2006-07, the first year of the program, and approximately 95 districts will be reviewed each year for the next 5 fiscal years, starting in 2007-08.

The potential costs that may stem from these standards are those that a district incurs to achieve a standard with which it is not in compliance. Estimation of these costs is difficult because the facts in each district will be unique and these facts will not be known until after the district's self-assessment comparing its own management practices to the standards. Areas in which districts are in noncompliance will require varying degrees of time and resources to develop needed policies and procedures or to institute new practices. The costs incurred by individual school districts will vary depending on the current quality of district management and operations.

#### *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The regulations will be subject to sunset review by the Department on December 31, 2011, to determine their effectiveness in implementing the statute.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 20, 2006, the Secretary submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

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

#### *Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Shawn Farr, Special Assistant to the Secretary of Education, Department of Education, 333 Market Street, 10th Floor, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*. Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Shawn Farr at (717) 214-4391.

GERALD L. ZAHORCHAK, D.Ed.,  
*Secretary*

**Fiscal Note:** 6-300. No fiscal impact; (8) recommends adoption.

### Annex A

## TITLE 22. EDUCATION

### PART XVI. STANDARDS

#### CHAPTER 405. KEYSTONE EDUCATIONAL ACCOUNTABILITY STANDARDS AND INDICATORS

Sec.	Purpose.
405.1.	Purpose.
405.2.	Management structures standards
405.3.	Performance accountability standards.
405.4.	Cost control systems standards.
405.5.	Administrative and instructional technology standards.
405.6.	Personnel systems and benefits standards.
405.7.	Facilities construction standards.
405.8.	Facilities maintenance standards.
405.9.	Transportation standards.
405.10.	Food service operations standards.
405.11.	Safety and security standards.
405.12.	Educational service delivery standards.

#### § 405.1. Purpose.

(a) The chapter establishes best management practices standards for the purposes of assessing Keystone Educational Accountability (KEA), under Article XXV-A of the Public School Code of 1949 (24 P. S. §§ 25-2501-A—25-2511-A). The purpose of KEA is to establish an assessment system aimed at increasing public confidence in and support for school districts that demonstrate efficient use of taxpayer resources; identifying and encouraging cost savings; linking financial planning and budgeting to district priorities, including student performance; and improving school district management and use of resources. Districts conduct a self-assessment and then are subsequently evaluated by external reviewers every 6 years. Based upon that external review, a district that is deemed to be in compliance with the standards in this chapter will be certified as Keystone Districts by the Secretary. The reviews shall occur under Article XXV-A of the Public School Code of 1949.

(b) The indicators set forth in each best practices management standard in this chapter are to help assess whether a district is meeting each standard. The indicators represent the kinds of activities a district would be undertaking if the district were using a particular best practice. The indicators listed in this chapter are not exclusive, and literal compliance with each is not required to qualify for Keystone certification.

#### § 405.2. Management structures standards.

A school district will be deemed in compliance with the standards for management structures if:

(1) The roles and responsibilities of the board and superintendent have been clearly delineated, and policies and procedures are in place to ensure that the board and the superintendent can effectively and efficiently work together. Indicators of compliance include, but are not limited to, the following:

(i) The board has adopted written policies that clearly delineate the responsibilities of the board and the superintendent.

(ii) Board members receive orientation and ongoing training in board/district operations and school law.

(iii) The board and the superintendent follow established procedures that direct how board members are to access district staff or direct staff to respond to constituent inquiries.

(iv) The board has established a process for self-evaluation, and evaluates its performance under that process annually.

(v) The board regularly evaluates the superintendent's performance by using agreed upon criteria, including student achievement data.

(vi) The superintendent regularly reviews the dates of major events and actions needed to meet legal requirements and ensures that these matters are placed on the board agenda in a timely manner.

(vii) Board meetings are scheduled at a time and place that allows the public to attend.

(viii) The board receives an agenda with appropriate relevant supplementary materials in sufficient time prior to board meetings to allow for a thorough review.

(ix) The board routinely updates its policies and procedures for relevancy and completeness.

(x) Board policy includes statements on ethics and conflicts of interest.

(xi) The district staff has reasonable access to and is able to use policies and procedures in performing their duties.

(2) The district obtains appropriate legal services as necessary. Indicators of compliance include, but are not limited to, the following:

(i) The board has an attorney (either in-house or on contract) who is responsible for advising the board, reviewing policy and reducing the risk of lawsuits.

(ii) The district procures legal services using policies and procedures that conform to accepted practices for obtaining the services.

(iii) Procedures exist for the board, superintendent, staff and other stakeholders to obtain information on legal matters when appropriate.

(iv) The district retains outside counsel (counsel other than the board attorney) as necessary.

(3) The district's organizational structure has clearly defined lines of authority to deliver services effectively and efficiently. Indicators of compliance include, but are not limited to, the following:

(i) The district has clearly defined the responsibilities of each organizational unit within the district and communicated these responsibilities to staff and stakeholders.

(ii) The district annually reviews its organizational structure and operating procedures and implements changes when appropriate to improve effectiveness and efficiency.

(iii) The district periodically assesses staffing levels using appropriate measures, stakeholder input and considering compliance requirements.

(iv) The board, superintendent and staff adhere to established policies and procedures and are held accountable for achieving Federal, State, district and school educational goals.

(4) The district's financial condition and resources are effectively overseen. Indicators of compliance include, but are not limited to, the following:

(i) Board members receive training in school district budgeting and finance.

(ii) The board is provided a proposed budget in a clear, concise and understandable format.

(iii) The board is informed about the short and long-term fiscal implications and impact on fund balance of proposed budgets or budget amendments.

(iv) The board and district management receive, review and make available to the public, monthly and annual financial reports. These reports contain monthly and year-to-date budgeted amounts, as compared to the actual amounts expended. Also included in the reports is other financial information that effectively summarizes the district's financial operations and financial condition in a clear, concise and understandable format.

(v) The board is informed in a timely manner by district administrators of changes in or concerns about the district's financial condition.

(vi) The board has established policies for spending authority and purchasing practices.

(vii) The district pursues alternative revenue sources such as partnering options and obtaining private, State and Federal grants.

(viii) The district takes advantage of opportunities to improve management structures, increase effectiveness and efficiency and minimize costs.

(5) The district actively informs and seeks the involvement of stakeholders. Indicators of compliance include, but are not limited to, the following:

(i) The district uses a variety of effective and efficient means of communication to provide timely information to stakeholders.

(ii) The district effectively communicates with stakeholders in languages other than English as appropriate.

(iii) Information on school policies and programs is distributed annually to parents in a clear and understandable format.

(iv) Information on school policies and programs is distributed as needed to students in a clear and understandable format.

(v) Information on student performance and measurements of cost versus performance are made available to stakeholders.

(vi) Annual parent/teacher conferences and open houses are conducted.

(vii) The district has active parent teacher associations/parent faculty organizations and other effective methods of involving and encouraging parent leadership and participation.

(viii) The district actively seeks the involvement of business partners, community organizations and local institutions of higher education to improve educational programs.

(ix) The district has researched the feasibility of establishing a nonprofit supports foundation with a board of directors that reflects a wide variety of interests.

#### **§ 405.3. Performance accountability standards.**

A school district will be deemed in compliance with the standards for performance accountability if:

(1) The district has a multiyear strategic plan with annual goals and measurable objectives. Indicators of compliance include, but are not limited to, the following:

(i) The plan provides vision and direction for the district's efforts and clearly delineates the district's goals and objectives, including:

(A) Student performance.

(B) Strategies to be used to reach the goals and objectives.

(C) The performance measures and standards to be used to assess progress toward meeting the goals and objectives.

(D) The areas/staff responsible for implementing the strategies.

(E) The time frames for implementation.

(ii) In developing the plan, the board identifies and adopts a limited number of improvement-focused priorities to guide the district's strategies and major financial and program decisions.

(iii) In the budget and financial planning process, the district focuses its resources on achieving the identified goals and objectives.

(iv) The district reviews the plan annually and assesses the progress made toward achieving its goals and objectives.

(v) The plan is amended as necessary to reflect changes in student population, educational priorities, funding, community expectations or board direction.

(2) The district formally evaluates its programs and presents reports on performance and cost-effectiveness to the board and stakeholders. Indicators of compliance include, but are not limited to, the following:

(i) The district compares the performance of its programs to appropriate benchmarks as available, including past performance, the performance of comparable districts and business sector standards.

(ii) The district uses the evaluation results and data driven decision-making to improve the performance and cost-effectiveness of its programs.

(iii) The district annually makes available the evaluation results and actions to improve performance and cost-effectiveness to the board and stakeholders.

(iv) The district receives comments from stakeholders and responds appropriately.

#### **§ 405.4. Cost control systems standards.**

A school district will be deemed in compliance with the standards for cost control systems if:

(1) The district reviews the structure, staffing and procedures governing its financial operations to ensure effective and efficient delivery of financial management systems. Indicators of compliance include, but are not limited to, the following:

(i) Financial staff receives appropriate training and professional development.

(ii) The district adheres to the *Manual of Accounting and Financial Reporting for Pennsylvania Public Schools*.

(iii) The district has established and periodically reviews internal controls.

(2) The district has adequate financial information and subsidy-related data systems that provide useful, timely, and accurate information. Indicators of compliance include, but are not limited to, the following:

(i) The financial accounting system has integrated financial software components that minimize manual processes.

(ii) District staff analyze financial accounting and reporting procedures to minimize or eliminate duplication of effort.

(iii) The accounting system facilitates accountability for restricted sources of funds through fund/grant/project accounting.

(iv) The district provides timely and accurate data for use in subsidy related calculations.

(v) The district analyzes expenditures for control and reviews unusual fluctuations.

(3) The district develops and adopts an annual budget that supports the strategic plan and provides useful and understandable information to stakeholders. Indicators of compliance include, but are not limited to, the following:

(i) The district uses appropriate revenue-estimating practices when developing budget sources for appropriation.

(ii) The district has established a budget planning process and timeline that is clearly communicated to all of the involved stakeholders.

(iii) The district has established guidelines for maintaining appropriate levels of unreserved fund balance.

(iv) The district has a process for funding activities and projects that meet strategic plan objectives.

(v) The district has established appropriate procedures for adopting budget amendments.

(4) The district undergoes an annual external audit and uses the audit to improve its operations in a timely and appropriate manner. Indicators of compliance include, but are not limited to, the following:

(i) The district ensures that required information is available in a timely manner to complete the district's audit.

(ii) The district responds to audit comments in a timely and appropriate manner.

(5) The district has policies and procedures for cash management and investment activities. Indicators of compliance include, but are not limited to, the following:

(i) The district has appropriate policies and procedures for cash management, maintains its cash deposits in qualified public depositories, and has cash forecasting processes that ensure adequate liquidity throughout the year.

(ii) The district has appropriate policies and procedures for the investment of public funds that in part address risk level versus expected return, and periodically reports to the board the results of its investing activities.

(6) The district has policies and procedures for the effective management of capital assets. Indicators of compliance include, but are not limited to, the following:

(i) The district has implemented procedures to ensure purchases are capitalized in accordance with established capital asset thresholds.

(ii) The district maintains detailed subsidiary records of capital assets.

(iii) The district physically safeguards and periodically inventories capital assets.

(7) The district has policies and procedures for effective debt management. Indicators of compliance include, but are not limited to, the following:

(i) The district tracks debt service requirements and ensures timely payment.

(ii) The district complies with debt service financial reporting requirements in a timely manner.

(iii) The district evaluates debt capacity prior to issuing debt.

(iv) As part of issuing debt, the district adheres to the requirements of the Sarbanes-Oxley Act of 2002, the act of July 30, 2002 (Pub. L. No. 107-204, 116 Stat. 745), if applicable, and maintains compliance.

(v) The district evaluates the advantages and disadvantages of various financing alternatives when acquiring major capital assets.

(8) The district has policies and procedures to ensure compliance with applicable laws and regulations concerning effective risk management. Indicators of compliance include, but are not limited to, the following:

(i) The district has adequate insurance coverage and analyzes current insurance plans including deductible amounts, co-insurance levels and types of coverage provided.

(ii) The district has procedures to evaluate and identify relevant risk exposures and provides for a comprehensive approach to reducing the potential for loss.

(iii) The district periodically analyzes alternatives for providing insurance coverage.

(9) The district has established policies and procedures to take full advantage of competitive bidding, volume discounts, and special pricing agreements. Indicators of compliance include, but are not limited to, the following:

(i) The district conducts its purchasing program in accordance with established policies.

(ii) The district periodically evaluates purchasing practices to maximize the cost-effectiveness of the purchasing function.

(iii) The district utilizes procedures outlining the preparation and processing of purchases.

(iv) The district utilizes competitive bidding as required by statutes, regulations and standards.

(v) The district has established a policy to govern the acceptance of gifts and gratuities by staff and board members.

(10) The district has policies and procedures to provide for the effective management of inventories of supplies and equipment. Indicators of compliance include, but are not limited to, the following:

(i) The district has an effective method of monitoring usage of its inventories.

(ii) The district consistently monitors usage of its inventories.

(iii) Inventory storage areas are reasonably safeguarded to prevent unauthorized access and protect inventory items from physical deterioration.

(iv) The district periodically identifies and evaluates the costs to maintain inventories.

#### **§ 405.5. Administrative and instructional technology standards.**

A school district will be deemed in compliance with the standards for administrative and instructional technology if:

(1) The district has a board-approved technology plan that provides direction for making decisions regarding administrative and instructional technology. Indicators of compliance include, but are not limited to, the following:

(i) The district's technology plan is compatible with State reporting requirements and aligned with Federal initiatives.

(ii) The objectives in the technology plan are measurable and reflect the desired outcomes for educational and operational programs.

(iii) The district's annual budget provides funds for technology initiatives as reflected in the plan.

(iv) The district takes advantage of opportunities to improve technology operations, increase effectiveness and efficiency and reduce costs.

(v) The district has identified any individuals responsible for implementing and updating the technology plan.

(vi) The district collaborates with other educational, governmental, private sector and nonprofit organizations concerning technology and takes advantage of consortium opportunities.

(vii) The district periodically assesses the progress it has made toward achieving its technology plan objectives and reacts appropriately.

(2) The district acquires technology in accordance with its technology plan and in a cost-effective manner that will best meet its instructional and administrative needs. Indicators of compliance include, but are not limited to, the following:

(i) The district bases its technology acquisitions on identified needs in its technology plan.

(ii) The district uses the results of research and evaluations of previous decisions to identify technology that will best meet instructional and administrative needs.

(iii) The district has policies for acquiring hardware, software and related instructional materials for administrative and instructional use.

(iv) The district provides procedures for stakeholders to preview, evaluate and recommend acquisition of technology strategies, software and instructional materials.

(v) The district makes decisions regarding major technology acquisitions based on Total Cost of Ownership (TCO) analysis.

(vi) The district has an upgrade policy that establishes a strategy for quantifying the impact of various time frames for technologies to be upgraded.

(vii) The district has a repair and replacement policy that establishes a strategy for quantifying the impact of various time frames for technologies to be repaired and replaced.

(3) The district provides technical support and training that enables educators and district staff to implement technology in the workplace. Indicators of compliance include, but are not limited to, the following:

(i) The district budgets for costs associated with the installation and support of its technology.

(ii) The district appropriately assigns technical support responsibilities to specific personnel at both the district and the school level.

(iii) The district establishes service levels and provides timely technical support in accordance with its service priorities.

(iv) The district continuously evaluates the quality and timeliness of the technical support provided in relationship to its service levels.

(v) The district provides appropriate professional development to district staff that is based on feedback from stakeholders.

(vi) The district budgets for and adequately funds technology training and professional development.

(vii) The district makes efforts to secure funds from available sources for technology training and professional development.

(viii) The district provides a variety of opportunities in terms of time, location and delivery mode for educators and other district staff to obtain technology training and professional development.

(4) The district maintains a dependable technological infrastructure based on industry standards that meet its network and Internet access needs. Indicators of compliance include, but are not limited to, the following:

(i) The district employs practices that provide a consistently available and fully operational network that supports effective instruction, management and communication.

(ii) The district has network and computer protection software and update procedures in place.

(iii) The district protects systems from unauthorized users by using safeguards such as room locks, passwords, firewalls, and other needed means as conditions warrant.

(iv) The district has in place controls and processes that limit access to confidential and sensitive data, prevent the unauthorized release of data and determine the source of any unauthorized release.

(v) The district effectively maintains hardware and software systems.

(vi) The district timely and effectively repairs hardware and software systems necessary for operations and educational/curricular requirements.

(vii) The district timely addresses network and Internet service outages.

(5) The district uses technology to improve communication. Indicators of compliance include, but are not limited to, the use of available technologies in an effective and efficient manner to improve and enhance communication with and among staff, teachers, students, parents and other stakeholders.

(6) The district has written policies that apply safe, ethical, legal and appropriate use practices. Indicators of compliance include, but are not limited to, the following:

(i) The district provides guidelines to staff, teachers, students and parents describing appropriate and inappropriate uses of technology.

(ii) The district implements policies and procedures to prevent access to inappropriate material.

(iii) The district provides staff, teachers, students and parents with guidelines describing legal uses of digital materials, both instructional and noninstructional.

(iv) A district that engages a third party to process transactions on its behalf executes appropriate agreements with the service provider and establishes appropriate control procedures.

#### **§ 405.6. Personnel systems and benefits standards.**

A school district will be deemed in compliance with the standards for personnel systems and benefits if:

(1) The district effectively and efficiently recruits, hires and retains qualified personnel. Indicators of compliance include, but are not limited to, the following:

(i) The district completes pre-employment background and reference checks for new employees; verifies any required qualifications or certifications, or both; and conducts its employment procedures in a manner that assures equal opportunity in accordance with applicable statutes.

(ii) The district maintains up-to-date, clear, concise and readily accessible position descriptions that accurately identify the duties of each position and the education, experience, knowledge, skills and abilities required.

(iii) The district's recruiting practices are designed to generate qualified applicants to fill vacant positions in a timely manner, and are effective and efficient in doing so.

(iv) The district takes steps to identify and remedy factors that adversely affect the working environment.

(v) The district maintains clear and effective channels of communication with its employees.

(2) The district provides a comprehensive staff development program. Indicators of compliance include, but are not limited to, the following:

(i) The district conducts training, orientation or mentoring programs for new employees, and has a professional development program that meets the requirements of statutes, regulations and standards.

(ii) Professional development is planned and implemented in a cost-effective manner based on an ongoing analysis of student and district needs aligned to statutes, regulations and standards.

(iii) The district provides training and orientation for substitute teachers.

(iv) The district solicits employee feedback on professional development activities and uses this feedback to evaluate the quality and effectiveness of the training.

(3) The district has a system for evaluating employee performance. Indicators of compliance include, but are not limited to, the following:

(i) The district has established and implemented criteria and procedures to evaluate on a regular basis the performance of instructional personnel in accordance with relevant statutes, regulations and standards and non-instructional personnel in accordance with district policy.

(ii) Employees not meeting the district's performance criteria are informed in writing and the employee is provided with clear direction for improvement.

(iii) The district provides training for supervisors on how to appropriately evaluate and document unsatisfactory performance and the procedures and issues associated with working with employees needing improvement.

(iv) The district has established and implemented policies regarding drug and alcohol testing in accordance with statutes, regulations and standards.

(v) The district has procedures with which the administration and board members are familiar for discipline and due process as necessary.

(4) The district uses cost control practices for its employee benefits programs. Indicators of compliance include, but are not limited to, the following:

(i) The district reviews and evaluates its employee benefits to ensure it is attaining appropriate value.

(ii) The board is informed as to the short and long-term fiscal impact of changes to the district's benefit package prior to approval of employee contracts.

(iii) The district evaluates both the short and long-term fiscal impact of early retirement proposals.

(iv) The district reviews and evaluates workers' compensation claims and payments, and uses the results in an effort to reduce the number and cost of claims.

(5) The district's human resource functions are managed effectively and efficiently. Indicators of compliance include, but are not limited to, the following:

(i) The goals and objectives for the human resource function are aligned with the district's strategic plan.

(ii) The district's staffing levels are reasonable based on applicable comparisons or benchmarks, or both.

(iii) The district considers the use of automation, technology and outsourcing to enhance the effectiveness and efficiency of delivering human resource services.

(iv) The district maintains personnel and confidential records in accordance with applicable statutes, regulations and standards.

(v) The district provides for cross training and succession planning as appropriate.

(6) The district maintains an effective employment/labor relations program and conducts effective labor contract negotiations. Indicators of compliance include, but are not limited to, the following:

(i) The district assigns responsibility for employment/labor relations and labor contract negotiations to individuals and groups with appropriate experience and knowledge.

(ii) The district has established procedures to deal with employee complaints.

(iii) The district has established appropriate labor meet and discuss procedures.

(iv) The district establishes labor contract negotiating teams well in advance of negotiations and clearly defines the roles and responsibilities of the team and individual members.

(v) Labor contract negotiating teams have access to an attorney with appropriate knowledge and experience.

(vi) Labor contract proposals developed and presented by the district are aligned with the goals and objectives contained in the district's strategic plan.

(vii) The district estimates the short and long-term costs and considers the advantages and disadvantages of each labor contract proposal item that is developed by the district or presented to the district.

#### **§ 405.7. Facilities construction standards.**

A school district will be deemed in compliance with the standards for facilities construction if:

(1) The district has an effective long-range planning process for construction of new facilities. Indicators of compliance include, but are not limited to, the following:

(i) The district has established a long-range facilities work plan that addresses the needs of the district, including future expansion, and generally covers a period of 3 to 5 years, or longer.

(ii) When developing a long-range facilities work plan that includes new construction, the district evaluates alternatives including building reuse to minimize the need for new construction.

(iii) The long-range facilities work plan includes budgetary plans and priorities.

(iv) The district considers the most effective and practical sites for current and anticipated needs in the context of municipal and county land use policies.

(v) The district has established authority and assigned responsibilities for facilities planning.

(vi) The district evaluates facilities and site needs based upon relevant demographic data and projections that are regularly updated as part of a feasibility analysis.

(vii) The district routinely assesses facilities for physical condition, educational suitability and technology readiness.

(viii) The district effectively prioritizes construction needs.

(2) The district ensures responsiveness to the community through open communication about construction projects and the long-range planning process. Indicators of compliance include, but are not limited to, the following:

(i) The district holds public meetings at which information regarding the long-range plan is provided.

(ii) The district provides information about a construction project in a format that allows for public comment.

(iii) The district has effective channels for considering input from stakeholders in determining facilities construction needs.

(3) The district develops construction projects based upon building, site and educational specifications. Indicators of compliance include, but are not limited to, the following:

(i) The district maintains a process for selecting and retaining qualified and experienced planning, design and construction professionals.

(ii) The architectural design fulfills the building and educational specification needs as determined by the district.

(iii) The educational specifications address educational program components and include staff input regarding teaching strategies and instructional methods.

(iv) New construction, remodeling and renovations incorporate safety and security features.

(v) Facilities are designed to be adaptable to changes and innovations in education and incorporate the use of technology.

(4) The district minimizes construction, maintenance and operations costs through the use of cost-effective designs and construction practices. Indicators of compliance include, but are not limited to, the following:

(i) The district evaluates and compares the costs of construction, maintenance and operation for various designs, including green building designs.

(ii) The district evaluates the advantages and disadvantages of various financing alternatives for construction projects.

(iii) The district uses analysis of costs in making determinations regarding facilities construction.

(5) The district has effective management processes for construction projects. Indicators of compliance include, but are not limited to, the following:

(i) The district has given the authority and responsibility to keep major facilities construction projects within budget and on schedule to an individual or individuals with the appropriate credentials and construction-related experience.

(ii) A construction schedule that coordinates and minimizes disruptions of instruction is developed and the district analyzes progress against the schedule and takes appropriate action as necessary.

(iii) The board receives financial updates during the design and construction process.

(iv) The district controls project costs by minimizing changes to project designs after final working drawings are initiated and properly substantiates and authorizes change orders.

(v) Construction projects meet applicable building code requirements with a final inspection conducted and a certificate of occupancy issued following the completion of construction.

(6) The district follows generally accepted contracting procedures. Indicators of compliance include, but are not limited to, the following:

(i) The district uses legal counsel to review construction related contracts, including documentation required of the contractor, before execution.

(ii) An authorized official of the district executes construction related contracts.

(iii) The district has a system of internal controls to ensure that timely payments are made only after the design professional's approval of the completed work and with the concurrence of the district official in charge of the project.

(7) The district conducts an orientation for staff of completed projects and regular facility evaluations to determine the efficiency and effectiveness of the construction program. Indicators of compliance include, but are not limited to, the following:

(i) The district conducts a comprehensive orientation of completed projects for staff and maintenance personnel prior to use.

(ii) The district conducts regular comprehensive facility evaluations that assess facility use, operating costs and performance.

(iii) An evaluation of major facility systems and equipment is conducted before the end of the first year of occupancy or prior to end of warranty.

(iv) Evaluation results are used to make changes as necessary to the district's construction program for future projects.

#### **§ 405.8. Facilities maintenance standards.**

A school district will be deemed in compliance with the standards for facilities maintenance if:

(1) The facilities operations and maintenance department has defined goals and objectives and is operated in an effective and efficient manner. Indicators of compliance include, but are not limited to, the following:

(i) The operations and maintenance department uses performance benchmarks and cost-effectiveness measures.

(ii) District operated and contracted services are regularly evaluated to determine cost-effectiveness and to explore alternatives.

(iii) Feedback from stakeholders and maintenance staff is used to improve the effectiveness and efficiency of the operations and maintenance department.

(iv) Facilities are maintained to create an atmosphere conducive to student learning and work productivity.

(2) The facilities operations and maintenance department has operational procedures and staff performance standards, and provides for appropriate training and professional development. Indicators of compliance include, but are not limited to, the following:

(i) The operations and maintenance department has procedures that provide for effective procurement and use of personnel and resources.

(ii) Operational procedures are up to date and accessible to department staff.

(iii) Operations and maintenance performance standards are regularly updated to consider new technology and procedures.

(iv) Facilities maintenance staff is provided with the tools, equipment and training required to accomplish assigned tasks.

(v) Professional development is provided to remain current with maintenance issues, new technology, equipment, materials and procedures.

(3) The district develops an annual facilities maintenance and operations budget and capital expenditures budget. Indicators of compliance include, but are not limited to, the following:

(i) The budget for facilities maintenance and operations is developed using historical and benchmark data.

(ii) A preventative maintenance program is budgeted and implemented to reduce long-term facilities maintenance costs and service outages.

(iii) The facilities maintenance and operations budget includes funds to correct deficiencies identified in periodic safety or insurance inspections, or both.

(iv) Actual facilities maintenance and operations expenditures are routinely evaluated as compared to the costs budgeted for those expenditures.

(v) The district maintains a financial contingency plan for emergency capital repairs.

(4) The facilities maintenance and operations department identifies and implements energy management strategies to contain energy costs. Indicators of compliance include, but are not limited to, the following:

(i) The district uses energy efficiency benchmarks and implements actions to increase cost-efficiency.

(ii) The facilities maintenance and operations department regularly monitors energy consumption.

(iii) Plans have been developed to address corrective actions in facilities where the energy management is inefficient.

(5) An efficient work order system is used to register, acknowledge, prioritize and assign work orders. Indicators of compliance include, but are not limited to, the following:

(i) Work order reports are routinely produced and analyzed to meet the information and tracking needs of the district.

(ii) The facilities maintenance and operations department prioritizes maintenance needs based on prioritization guidelines developed by the Department of Education, and completes maintenance repairs accordingly.

#### **§ 405.9. Transportation standards.**

A school district will be deemed in compliance with the standards for transportation if:

(1) The district coordinates planning and budgeting for student transportation. Indicators of compliance include, but are not limited to, the following:

(i) An assessment of the district's transportation requirements and priorities is conducted annually.

(ii) Information on the district's transportation program and related costs is developed as part of the annual budget process and presented to the school board.

(iii) A process is in place to provide sufficient vehicles and drivers to meet the district's transportation needs.

(2) The district maintains accurate transportation data. Indicators of compliance include, but are not limited to, the following:

(i) The district provides timely submission of required data to multiple agencies of the Commonwealth.

(ii) The district has established an effective and efficient method of collecting and maintaining data related to the district's transportation program.

(3) The district reviews and updates routes, stops and staffing to provide effective, efficient and safe transportation services for eligible students. Indicators of compliance include, but are not limited to, the following:

(i) The district annually reviews and updates bus routes, bus stops and designated walking routes to be effective and efficient without compromising safety.

(ii) The district evaluates hazardous walking routes and submits documentation to the Department of Transportation.

(iii) Bus routes and activity trips are operated in accordance with established guidelines.

(iv) Transportation services are provided in an effective and efficient manner for eligible students, in compliance with statutes, regulations and standards.

(v) Proper vehicle maintenance is performed.

(vi) Drivers are properly licensed and certified, and receive training in compliance with State and Federal requirements.

(vii) The district is responsive to inquiries parents and other stakeholders pertaining to transportation.

(viii) The district considers input from parents and other stakeholders in evaluating routes, stops and staffing of transportation program.

(4) Appropriate student behavior is maintained on buses, with students being held accountable for misbehavior during transportation. Indicators of compliance include, but are not limited to, the following:

(i) The district has established standards and policies related to student behavior on buses with the goal of promoting safe, effective and efficient transportation to and from schools.

(ii) Parents and students are informed of district policy and procedures involving misbehavior during transportation and the related consequences.



(iii) Drivers follow established policies and procedures to report disciplinary infractions.

(iv) Drivers are held accountable for failure to comply with the established policies and procedures of the district.

(v) Students are held accountable for failure to comply with the established standards and policies of the district.

#### **§ 405.10. Food service operations standards.**

A school district will be deemed in compliance with the standards for food service operations if:

(1) The food services program has an approved operational plan and budget that is consistent with the district's strategic plan. Indicators of compliance include, but are not limited to, the following:

(i) A budget is prepared that is based on the food services program's plan, goals and objectives, and not limited to, historical, incremental increases.

(ii) The district's food services plan and budget are reviewed annually to reflect changes in Federal and State law, industry standards, and financial and demographic data within the district.

(iii) The district integrates technology, updated equipment and facilities renovation needs into its food services plans and budgets.

(iv) The district solicits and considers input from food service facilities when designing and planning for new and existing school facilities.

(2) The district has procedures and training programs designed to meet the needs of the food services program. Indicators of compliance include, but are not limited to, the following:

(i) The district has developed and keeps current a food services program procedures manual for staff that is consistent with overall district policy.

(ii) The district assesses the needs of new and existing staff and develops comprehensive training plans.

(iii) The district has effective and efficient training program for new food services program staff members.

(iv) The district has effective and efficient plan for training staff on new policies and procedures that are implemented according to the food services program plan.

(v) The district monitors training of food services staff on a regular basis.

(vi) Staff is held accountable for violations of the food services program's established policies and procedures.

(3) The district maintains an effective and efficient food services program and continually reviews and evaluates its performance. Indicators of compliance include, but are not limited to, the following:

(i) The district adheres to good cash and account management practices and files State and Federal reimbursement requests in a timely manner.

(ii) The district utilizes an array of food and supply procurement procedures, including USDA commodities, to provide quality products in a cost-effective manner.

(iii) The pricing of meals and a la carte items are periodically reviewed to determine if the rates are appropriate and meeting the budget.

(iv) The program has a reporting system that provides accurate and timely information to management.

(v) Program staffing levels are appropriate considering information such as the number of meals served, serving periods, student participation and other relevant factors.

(vi) The district uses menu costs, trends, production, and wasted food from school sites to evaluate food and labor costs.

(vii) Periodic reviews are conducted to determine that the program is in compliance with district policies and procedures as well as Federal, State and local rules and regulations.

(viii) The district has established a preventive maintenance and long-range equipment replacement program.

(ix) The district identifies barriers to student participation and develops strategies to address.

(x) The district has an effective system that readily accepts and ensures the consideration of suggestions.

(4) The food services program complies with Federal, State and district policies to meet nutrition requirements. Indicators of compliance include, but are not limited to, achieving passing results in the district's most recent Coordinated Review Effort (CRE) and School Meal Initiative for Healthy Children (SMI) review.

#### **§ 405.11. Safety and security standards.**

A school district will be deemed in compliance with the standards for safety and security if:

(1) District policies and procedures provide for the safety and security of students, employees and visitors while under the responsibility of the district. Indicators of compliance include, but are not limited to, the following:

(i) The district periodically reviews and updates its safety and security policies and procedures to determine if they are appropriate for the current conditions.

(ii) The district works with and integrates its safety and security program with the local/county/regional homeland security and emergency response programs.

(iii) The district completes drills required by the State, including fire drills and bus evacuations and tests emergency preparation for other conditions.

(iv) The district has a plan to address school violence.

(v) Individuals are held accountable when they fail to comply with district policies regarding school violence.

(vi) The district has guidelines for what is appropriate conduct for students, teachers and staff.

(vii) District procedures include a plan of how to communicate important information effectively to parents and the general public under all types of emergency situations, including adverse situations caused by weather, the environment and human events.

(viii) District procedures include a plan to address the care and shelter of students and employees as necessary during emergency situations and under adverse conditions.

(2) District policies and procedures address the health and safety condition of facilities and the district complies with Federal, State and local requirements for its facilities. Indicators of compliance include, but are not limited to, the following:

(i) The district has established health and safety guidelines.

(ii) Evaluations are made and documented for the health and safety conditions of district facilities in accordance with Federal, State and local requirements.

(iii) The district has a corrective action plan for identified facility health and safety deficiencies.

(iv) The district takes timely corrective action when it identifies health and safety deficiencies in district facilities.

(v) The district participates in and documents voluntary efforts regarding facility health and safety conditions.

(vi) The district has an emergency response plan.

(vii) The district periodically evaluates the physical building security.

**§ 405.12. Educational service delivery standards.**

A school district will be deemed in compliance with the standards for educational service delivery if:

(1) The district's strategic plan includes strategies to improve teaching, learning and student performance in a cost-effective manner. Indicators of compliance include, but are not limited to, the following:

(i) District monitoring of the implementation of its strategic plan.

(ii) District evaluation of the impact of the strategic plan on student performance.

(iii) District initiation of actions consistent with the plan and the results of the monitoring and evaluation thereof.

(2) The district uses both academic and nonacademic data to guide it in making decisions about improving teaching and learning. Indicators of compliance include, but are not limited to, the following:

(i) The district reviews and evaluates student assessment results disaggregated by subgroups to improve teaching and learning.

(ii) The district considers input from stakeholders in making decisions about improving teaching and learning.

(iii) The district considers industry trends and effective policies in similar districts in making decisions about improving teaching and learning.

(iv) The district considers information in current industry literature in making decisions about improving teaching and learning.

(v) The district complies with Federal and State standards in making decisions about improving teaching and learning.

(3) The district provides effective and efficient instructional programs for its students. Indicators include, but are not limited to, the following:

(i) The district analyzes the needs of its students in determining instructional programs.

(ii) The district periodically evaluates the effectiveness and efficiency of its instructional programs.

(iii) The district complies with Federal and State standards of improvement of teaching and learning.

(4) The district provides effective and efficient instructional programs for students with disabilities, English language learners and at risk students. Indicators of compliance include, but are not limited to, the following:

(i) The district reviews and evaluates disaggregated student assessment results and other performance measures as available to improve the performance of students with disabilities, English language learners and at-risk students.

(ii) The district provides teachers with appropriate support and training to assist them in developing and implementing strategies to improve the performance of students with disabilities, English language learners and at-risk students.

(5) The district allocates adequate resources to properly support instruction and promote effective teaching and learning. Indicators of compliance include, but are not limited to, the following:

(i) The district periodically evaluates staffing levels at individual schools and between schools to determine optimal utilization and allocation of resources to meet the educational needs of students in the district.

(ii) Schools have an adequate supply of up-to-date instructional materials to accommodate students and teachers in an effective and efficient manner.

(iii) Instructional technology is utilized in the classroom as appropriate to enhance the curriculum and improve teaching and learning.

[Pa.B. Doc. No. 06-1205. Filed for public inspection June 30, 2006, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 168]

### Child Care

The Department of Public Welfare (Department), under the authority of Articles II and IV of the Public Welfare Code (62 P.S. §§ 201—211 and 401—493), proposes to amend Chapter 168 (relating to child care) to read as set forth in Annex A.

#### *Purpose of Proposed Rulemaking*

The purpose of this proposed rulemaking is to establish consistent child care policies within the Office of Income Maintenance (OIM) and the Office of Child Development (OCD) that best meet the needs of all families receiving subsidized child care and improve child care services to families receiving Temporary Assistance for Needy Families (TANF), General Assistance (GA) and Food Stamp benefits. This proposed rulemaking also makes this chapter applicable to food stamps recipients who qualify for subsidized child care. The Department's goal is to establish for cash assistance and food stamps recipients a "user-friendly" child care system that is accessible to eligible families who need help finding and paying for quality child care that is responsive to their needs.

The proposed rulemaking supports families and children by promoting the following goals: family self-sufficiency by giving parents reliable child care so they can work or improve their skills and earning potential through education or training, while working; and parent choice by providing parents with a broad range of child care options and empowering them to make their own decisions on the child care that best meets the needs of the child and the family.

#### *Requirements*

The proposed rulemaking benefits children and families receiving TANF, GA and Food Stamp benefits by allowing easier access to affordable, quality child care. Improvements include: incorporating the eligibility requirements

for families receiving GA and Food Stamp child care with the eligibility requirements for families receiving TANF child care; establishing consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care; clarifying co-payment requirements for families receiving TANF benefits; making the regulations easier to read; simplifying regulatory language to make the eligibility and payment process easier to understand and simplifying verification requirements to make it easier for families to apply and qualify for subsidized child care.

The proposed rulemaking establishes more verification options, allows self-certification by the parent or caretaker for certain factors and eliminates certain verification requirements. The proposed rulemaking makes it easier for parents and caretakers to document eligibility.

Following is a summary of the major proposed amendments.

The proposed rulemaking includes amendments or deletions in terminology throughout the chapter as follows:

“CAO (County Assistance Office)” is amended to “Department.”

“Work-related activities” is amended to “work activities.”

“LMA (Local Management Agency)” is deleted.

“Individual,” “person,” “participant,” “client,” “parent/caretaker,” “biological or adoptive parent,” “specified relative,” “legal guardian,” “caretaker,” “applicant” and “recipient” are amended to “parent.”

“Budget group” is amended to “family” or “TANF budget group.”

“Fee” is amended to “co-payment.”

“Special allowance” and “allowance” are amended to “payment.”

“Documented” and “documentation” are amended to “verified” and “verification.”

“Overdue” is amended to “delinquent.”

“Handicap” is amended to “injury or impairment” or “disability.”

#### *§ 168.1. Policy on payment of child care.*

The Department added cross-references to §§ 165.31 and 501.6 (relating to RESET participation requirements; and employment and training program) in subsection (a) to make the regulation easier to read and to avoid duplication of requirements. The Department also included a provision for families receiving GA and Food Stamp benefits who qualify for child care. This amendment allows incorporation of child care requirements for all families receiving TANF, GA and Food Stamp child care.

The Department clarified in subsection (b) that a recipient of GA or Food Stamp benefits who is in need of child care will be notified of the services providers offer, in addition to the types and locations of child care providers.

The Department added a cross-reference in subsection (b)(3)(i) to § 165.42 (relating to advance payment of special allowances for supportive services) to clarify that the Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system for a TANF budget group determined prospec-

tively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

The Department clarified in subsection (b)(3)(ii) that it will make an advance payment to cover the period from the first day of employment until the date of TANF discontinuance if the information regarding new employment is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

The Department added cross-references in subsection (c) to § 165.25 (relating to RESET participation requirements following an exemption) and § 165.31 to make the regulation easier to read and avoid duplication of information.

The Department clarified the cross-reference in subsection (f) to Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale) to reference the name of the appendix.

The Department clarified in subsection (g) that a parent may receive help in finding and selecting a child care provider, including information about how to identify high quality providers.

#### *§ 168.2. Definitions.*

“AMR” is defined because the term is used throughout the chapter.

“Budget group” is defined as set forth in § 183.2 (relating to definitions). The Department changed this definition to incorporate by reference the definition in § 183.2.

“CAO—County Assistance Office” is defined because the term is used throughout the chapter. The Department defined this term as the local office of the Department responsible for the determination of eligibility in the Cash Assistance, Food Stamp and Medical Assistance programs.

In the definition of “CCIS—Child Care Information Services Agency,” the Department deleted the reference to LMA because the term is no longer used.

The Department deleted the definition of “child care vendor file” because the term is obsolete.

“Co-payment” is amended to reflect that the amount the family pays for subsidized child care is due weekly rather than monthly.

“Co-payment sliding fee scale” is amended to clarify the cross-reference to Chapter 3041, Appendix B to reference the name of the appendix.

The Department defined “disability” to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care and to add clarity. The Department defined “disability” as a physical or mental impairment that precludes a parent’s ability to participate in work, education or training.

The Department defined “family” for clarity. The Department defined “family” as a budget group or a household requesting help in paying child care costs.

The Department deleted the definition of “full-time employment” because the definition in § 165.31 applies. In addition, if the eligibility requirements in Chapter 165 (relating to Road to Economic Self-sufficiency through Employment and Training (RESET) Program) change, it will not be necessary to amend this chapter.

The Department defined "household" for clarity. The Department defined household as the term as defined in 7 CFR 273.1(a)(2) (relating to household concept).

The Department defined "in-home care" for clarity. The Department defined "in-home care" as child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; family child day care homes) and who cares for a child in the child's home.

The Department deleted the definition of "LMA—Local Management Agency" because the term is no longer used.

The Department added the acronym "MCCA" to the definition of "maximum child care allowance" because the acronym is commonly known. The Department also deleted surplusage.

The Department revised the definition of "nontraditional hours" as hours of child care provided to a child whose parent works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

The Department defined "parent" for clarity. The Department defined "parent" as a TANF specified relative as defined in § 151.42 (relating to definitions), the GA payment name as defined in § 171.21(b)(2) (relating to policy) or a responsible member of the food stamp household as defined in 7 CFR 273.1(d).

The Department clarified the definition of "preexpenditure approval" to include individuals who receive GA or Food Stamp benefits.

The Department defined "provider agreement" for clarity. The Department defined "provider agreement" as a document signed by the child care provider in order to participate in the Department's subsidized child care program.

The Department revised the definition of "regulated care" as child care provided by a child day care center certified under Chapter 3270, a group child day care home certified under Chapter 3280 or a family day care home registered under Chapter 3290. This amendment was made to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

The Department clarified the definition of "relative/neighbor care" as child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 and who cares for three or fewer children unrelated to the caregiver in the caregiver's home to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

The Department defined "self-certification" to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care. The Department defined self-certification as a written statement provided by the parent for the purpose of establishing verification of a child's immunization or exemption from immunization.

The Department defined "service month" for clarity. The Department defined "service month" as the calendar month during which child care services were provided.

The Department revised the definition of "sleep-time" as care provided for a child whose parent's work shift ends between the hours of 12 a.m. and 9 a.m. to allow the parent to sleep. This amendment was made to establish

consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

The Department defined "unregulated care" for clarity. The Department defined "unregulated care" as relative/neighbor and in-home care.

The Department revised the definition of "vendor payment" as a child care payment made by the Department directly to a child care provider who has signed the provider agreement. This amendment was made to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

#### *§ 168.3. Child abuse reporting.*

The Department moved the requirement that an agency authorized by the Department to administer subsidized child care report suspected child abuse to a separate section.

#### *§ 168.4. Authority to administer subsidized child care.*

The Department added a provision authorizing the delegation of the responsibilities of the Department in this chapter to the Child Care Information Services (CCIS) agency or another approved entity. This enables the Department to delegate authority to an entity that is familiar with local needs and resources. In addition, this amendment supports a single, seamless system that will serve all families receiving subsidized child care.

#### *§ 168.11. General requirements.*

The Department amended the language in subsection (a)(1)—(5) to mirror the language in § 3041.13(a) (relating to parent choice) to provide clarity and to be consistent with the OCD policies regarding types of child care for which subsidy is available.

The Department clarified in subsection (b) that a parent may choose from any provider who meets the requirements of this chapter and who meets the Department's standards for provider participation.

#### *§ 168.17. Eligible children.*

The Department added a provision to include a child who is considered a mandatory food stamp household member as specified in 7 CFR 273.1(b). As mentioned earlier, this proposed rulemaking makes the provisions of this chapter applicable to food stamps recipients who qualify for subsidized child care.

The Department also amended the language to reflect the requirement that a child shall be under 13 years of age or shall be 13 years of age or older but under 19 years of age and incapable of caring for himself as verified by a physician or licensed psychologist. The Department made this amendment to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care. The Department made this amendment to conform OIM policy with OCD policy, which requires this standard.

The Department also amended language to reflect the requirement that a child must be age appropriately immunized unless the parent objects to immunizations on religious grounds or the child's medical condition contraindicates immunizations. The Department made this amendment to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care. The Department also clarifies that if the child does not have

age-appropriate immunizations and is not exempt from immunization, the parent has 90 days to obtain immunizations for the child.

*§ 168.18. Need for child care.*

The Department added cross-references in subsections (a) and (b)(2) to §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements. The Department also clarified that a family may receive subsidized child care when an unemployed parent is in the home as long as the parent is participating in an education program for pregnant or parenting youth that is approved by the Department.

The Department deleted subsection (b)(3) to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care. This chapter is not intended to include provisions regarding the provision of subsidized child care as it relates to child protective services. Children in a protective services situation can receive child care under purchase of service agreements between child care providers and county Children and Youth Agencies.

The Department added cross-references in subsection (c) to §§ 165.31 and 501.6 to make the regulation easier to read and to avoid duplication of information. The Department also clarified that child care will be considered as needed for entry into or during breaks in approved work activities for up to 30 days.

The Department amended subsection (d) to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care. The Department mirrored the language in § 3041.16(c) (relating to subsidy limitations).

The Department added a condition in subsection (e) that subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program to establish consistent child care policies within the OIM and the OCD. The Department mirrored the language in § 3041.16(b).

The Department added a condition in subsection (f) that a parent shall attend a face-to-face interview no later than 30 calendar days following the request for care. The Department added a provision that the 30-day time frame may be extended if a parent claims hardship due to conflicts with the parent's working hours, transportation problems or illness of the parent or another family member. At the time the parent claims hardship, the Department may grant an additional 30 days from the date the hardship is claimed for the interview. This amendment was made to establish consistent child care policies within the OIM and the OCD. The Department also added a provision that a telephone contact may be substituted for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent having to take time off from work.

The Department added a condition in subsection (g) that a parent is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the Department notifies the parent that the child may be enrolled or that the family's current child care provider is ineligible to participate in the subsidized child care program. This amendment was made to establish consistent child care policies within the OIM and the OCD. The Department mirrored the language in § 3041.16(e).

*§ 168.19. Child care arrangements.*

To establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care, the Department clarified in paragraph (1)(i) that a child care provider must comply with the Department's standards for provider participation.

*§ 168.20. Child care co-payment.*

The Department clarified in subsection (a) that the employed TANF budget group shall pay the required co-payment toward the cost of child care. In establishing consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care, it is necessary to clarify that co-payment requirements are applicable only for an employed TANF budget group.

The Department added language in subsections (b)—(e) to clarify when a co-payment is due, when a co-payment is decreased, when a co-payment is increased and when a family is ineligible for subsidized child care because the co-payments for 1 month exceed the monthly payment for care with that provider. The Department added the language to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

*§ 168.21. Ineligibility for failure to pay co-payment.*

The Department clarified in subsection (a) that the employed TANF budget group shall pay the required co-payment toward the cost of child care on the first day of the service week and that when the co-payment is not paid by the last day of the service week the employed TANF budget group is ineligible until delinquent co-payments are paid or satisfactory arrangements are made to pay the delinquent co-payments. In establishing consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care, it is necessary to clarify that co-payment requirements are applicable only for an employed TANF budget group.

The Department added language in subsections (b)—(d) to clarify when a co-payment is delinquent. The Department will provide the employed TANF budget group with advance written notice that action will be taken to terminate subsidized child care on the day the provider reports the co-payment is delinquent. The Department will also notify the budget group that when a co-payment is delinquent the first payment made during a week is applied to the current week's co-payment and that subsequent payment during a week is applied to the delinquent co-payment.

*§ 168.41. Verification requirements.*

The Department added cross-references in paragraph (1)(i) to §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements.

To establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care and reduce verification requirements for parents, in paragraph (3), the Department deleted the requirement that the parent obtain a signed written statement from the provider to verify child care costs. Verification of child care costs is a responsibility of the provider. The provider must monthly submit verification of child care costs on a form specified by the Department.

*§ 168.45. Verification of suspected child abuse.*

The Department deleted the requirement that a parent provide verification of suspected child abuse to establish consistent child care policies within the OIM and the OCD.

*§ 168.49. Verification of payment of co-payment for the employed budget group.*

The Department deleted the requirement that the provider verify to the Department that a co-payment is paid timely. The provider shall report when a co-payment is delinquent on the last day of the service week and when the delinquent co-payment has thereafter been paid or satisfactory arrangements for payment of the delinquent co-payment have been made.

*§ 168.51. Verification of age-appropriate immunizations.*

The Department amended the verification requirement, allowing a parent to provide self-certification indicating that the child has received age-appropriate immunizations or that the child is exempt from immunization on the basis of religious grounds or a medical condition which contraindicates immunizations. The Department amended this language to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care and reduce verification requirements for parents.

*§ 168.61. Reporting requirements.*

The Department clarified that a parent must report changes to child care arrangements within 10 calendar days from the date the change occurred and deleted the requirement that a parent report child care costs monthly. The Department amended this language to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care and reduce reporting requirements for parents. Reporting child care costs is a responsibility of the provider. The provider must monthly submit verification of child care costs on a form specified by the Department. The Department also clarified that documentation of child care payment shall be retained in the case record for the period of time set forth in § 3041.85 (relating to record retention).

*§ 168.71. Monthly payment determination.*

The Department clarified in paragraph (1) that the allowable child care payment is the rate the provider charges to the general public or the maximum child care allowance established by the Department, whichever is less. The Department amended this language to establish consistent child care policies within the OIM and the OCD that best meet the needs of all families receiving subsidized child care.

The Department added cross-references in paragraph (1)(i) to §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements. The Department also amended the language to reflect the amendments to paragraph (1).

The Department also added cross-references in paragraph (1)(ii) to §§ 165.31 and 501.6 and amended the cross-reference to reflect the amended definition of "co-payment." This amendment is beneficial to families because it allows families to pay a co-payment weekly rather than monthly.

The Department clarified in paragraph (1)(ii)(A) and (B) the co-payment waiver provisions for a TANF budget group determined prospectively ineligible or eligible for TANF benefits.

*§ 168.72. Determining monthly child care costs.*

The Department clarified in paragraph (1) that child care must occur during the hours of the work activity, including travel time and sleep-time and added a cross-reference to §§ 165.31 and 501.6. The Department also deleted "for third shift employment" to reflect the amended definition of "nontraditional hours."

The Department deleted "levied" and "vacation, and the like" in paragraph (2). The Department also added language to clarify that subsidized child care costs include a charge for up to 10 consecutive days on which the child was not in attendance due to illness.

*§ 168.74. Determining weekly child care co-payment for the TANF budget group.*

The Department amended the language to provide that co-payments are due weekly rather than monthly. This amendment is beneficial to families because it allows families to spread payment of their co-payment each week rather than have a single, larger co-payment at the end of the month.

*§ 168.81. Payment methods.*

The Department deleted the language regarding specific payment methods and added language to clarify that payment is made to the provider in accordance with the provisions of the provider agreement, except that payment is made to the parent when care is provided in the child's home and when the parent requires reimbursement for child care costs incurred during retroactive periods of eligibility.

*§ 168.82. Time frames for authorization of payment.*

The Department added this section to clarify the requirements and time frames associated with the authorization of payment.

*§ 168.91. Restitution.*

The Department clarified in subsection (a) that Chapter 255 (relating to restitution) applies to a parent that has received a child care payment except that the provision for recoupment of an overpayment does not apply.

*§ 168.101. Appeal and fair hearing.*

The Department deleted all references to adverse action notices and replaced it with the term "advance written notice of adverse action."

*Affected Individuals and Organizations*

The proposed rulemaking affects approximately 47,000 children who receive subsidized child care, 27,650 families who apply for or receive subsidized child care and 158 agencies authorized by the Department to administer subsidized child care, including the 59 CCIS agencies to whom the Department intends to delegate authority.

Children and families are affected by the requirements in the proposed rulemaking that specify the eligibility conditions, verification and reporting requirements that they must meet to access subsidized child care. Providers are affected by the simplified requirements that apply to the families receiving child care services. Agencies authorized by the Department to administer subsidized child care are affected since the proposed rulemaking changes the process and requirements related to the eligibility determination procedures and child care payment.

The Department has worked closely with families who access the subsidized child care program, child development and community service advocates, providers, agencies authorized by the Department to administer subsi-

dized child care and other interested stakeholders to listen and respond to the needs, concerns and suggestions of each of these groups. The proposed rulemaking is the result of an ongoing, inclusive process between the child care community and the Department.

*Accomplishments and Benefits*

The proposed rulemaking benefits approximately 47,000 children and 27,650 families of low-income by allowing easier access to affordable, quality child care. The proposed rulemaking simplifies the verification requirements to make it easier for families to apply and qualify for child care.

*Fiscal Impact*

The proposed rulemaking will result in no additional costs to parents receiving subsidized child care or providers. During a phase-in period in the first year, the estimated net cost is \$3.526 million for additional staff and related operating costs.

*Paperwork Requirements*

There are no changes in paperwork requirements as a result of the proposed rulemaking.

*Effective Date*

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

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Robert Frein, Director, Bureau of Subsidized Child Care Services, Office of Child Development, Room 521, Health & Welfare Building, P. O. Box 521, Harrisburg, PA 17105 within 30 calendar days after the date of publication in the *Pennsylvania Bulletin*. Reference Regulation No. 14-505 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 19, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-505. (1) General Fund;

	<i>Cash Grants</i>	<i>Child Care Services</i>
(2) Implementing Year 2005-06 is	\$0	\$0
(3) 1st Succeeding Year 2006-07 is	\$.62 million	\$3.91 million
2nd Succeeding Year 2007-08 is	\$3.17 million	\$6.14 million
3rd Succeeding Year 2008-09 is	\$3.97 million	\$6.33 million
4th Succeeding Year 2009-10 is	\$4.76 million	\$6.52 million
5th Succeeding Year 2010-11 is	\$5.55 million	\$6.71 million
	<i>Child Care Services (State)</i>	<i>Cash Grants (State)</i>
(4) 2004-05 Program—	\$80.21 million	\$377.33 million
2003-04 Program—	\$60.88 million	\$384.19 million
2002-03 Program—	\$59.68 million	\$330.77 million

(7) Cash Grants, Child Care Services; (8) recommends adoption. Funds have been included in the 2005-2006 budget for this purpose. Funds have been included in the Governor's requested 2005-2006 budget. This action will result in savings to the General Fund for County Assistance Offices estimated at \$1 million in 2006-2007 and \$5.81 million in each year thereafter.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART II. PUBLIC ASSISTANCE MANUAL**

**Subpart C. ELIGIBILITY REQUIREMENTS**

**CHAPTER 168. CHILD CARE**

**GENERAL PROVISIONS**

**§ 168.1. Policy on payment of child care.**

(a) To the extent funds are available, payment for child care will be made to enable the [ **parent/caretaker** ] parent to participate in [ **work-related** ] work activities as defined in §§ 165.31 and 501.6 (relating to **RESET participation requirements; and employment and training program**). ] To qualify for a child care payment the [ **individual must be eligible to receive cash assistance, including persons who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment. Child care payments are considered a reimbursement for past or future child care expenses for food stamp eligibility purposes.** ] parent shall be eligible to receive food stamps or cash assistance. This includes parents who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment.

(b) The [ **CAO** ] Department will promptly inform a recipient of food stamps or cash assistance who is in need of child care about the following:

(1) The types and locations of child care providers and the services the providers offer.

(2) The services available from the [ **Local Management Agency (LMA)** ], also known as the **Child-Care**

**Child Care Information Services (CCIS) Agency ]** CCIS, for help in finding and selecting a child care provider.

(3) Child care payments will be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.42 (relating to advance payment of special allowances for supportive services), to ensure that the [ **participant ]** parent will have access to the child care provider of the [ **participant's ]** parent's choice. The advance payment requirement does not apply to vendor payments for child care. [ **Advance payments are considered a reimbursement of future child care expenses for food stamp eligibility purposes. ]**

(i) The Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system as set forth in § 165.42 (relating to advance payment of special allowances for supportive services) for a TANF budget group determined prospectively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

(ii) The [ **CAO ]** Department will make an advance payment to cover the period from the first day of employment until the date of TANF discontinuance if the information regarding new employment is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

(c) At application, reapplication and whenever the [ **agreement of mutual responsibility is developed or revised, the CAO will inform applicants and recipients ]** AMR is developed or revised as specified in §§ 165.25 and 165.31 (relating to RESET participation requirements following exemption; and RESET participation requirements), the Department will inform parents in writing and orally of the availability of child care allowances.

\* \* \* \* \*

(f) The [ **CAO ]** Department will discuss the maximum child care allowances and the co-payment sliding fee scale in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale), whenever the [ **Agreement of Mutual Responsibility (AMR) ]** AMR is developed or revised and reflects a need for child care. The [ **CAO ]** Department will advise [ **clients ]** parents that copies of the maximum child care allowances and the co-payment sliding fee scale are available upon request [ **at the CAO ]**.

(g) The [ **CAO ]** Department will [ **refer the client to the LMA/CCIS whenever help is needed ]** provide help in finding and selecting a child care provider, including providing information about how to identify high quality providers.

**§ 168.2. Definitions.**

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

**AMR—Agreement of Mutual Responsibility.**

**Budget group—**[ **A group of persons receiving TANF. A child receiving SSI benefits and for whom**

**child care payments are requested is included in the budget group. ]** As defined in § 183.2 (relating to definitions).

**CAO—County Assistance Office—**The local office of the Department responsible for the determination of eligibility in the Cash Assistance, Food Stamp and Medical Assistance Programs.

**CCIS—Child Care Information Services Agency—**A public or private agency with which the Department has a contract to manage the subsidized child care program in part of a county, a county or several counties. [ **The subsidized child care program is for families not receiving TANF. This agency is also known as an LMA.**

**Child care vendor file—**A listing of regulated child care providers who have signed the required agreement to receive a vendor payment from the Department. ]

**Co-payment—**The [ **monthly ]** weekly amount the family pays for child care that is subsidized.

**Co-payment sliding fee scale—**A scale based on family [ **sizes ]** size and income from which a determination of the child care co-payment is made as set forth in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale).

**Disability—**A physical or mental impairment that precludes a parent's ability to participate in work, education or training.

**Family—**A budget group or a household requesting help in paying child care costs.

\* \* \* \* \*

[ **Full-time employment—**Employment which averages at least 30 hours per week in a calendar month. ]

**Household—**As defined in 7 CFR 273.1(a)(2) (relating to household concept).

**In-home care—**Child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes) and who cares for a child in the child's home.

[ **LMA—Local Management Agency—**A public or private agency with which the Department has a contract to manage the subsidized child care program for families who are not receiving TANF. This agency may be known as a CCIS agency of part of a county, a county or several counties. ]

**MCCA—Maximum child care allowance—**The ceiling set by the Department for payment of child care services [ **to budget groups eligible for child care payment ]**.

**Nontraditional hours—**Hours of child care [ **which include evening, night, early morning, holiday or weekend hours ]** provided to a child whose parent works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

**Parent—**A TANF specified relative as defined in § 151.42 (relating to definitions), the General Assistance payment name as defined in § 171.21(b)(2) (relating to policy) or a responsible member of the



food stamp household as defined in 7 CFR 273.1(d) (relating to household concept).

\* \* \* \* \*

**[ Pre-expenditure ] Preexpenditure approval**—Approval by [ a person ] an individual specified by the Department prior to the [ recipient's ] recipient of food stamps or cash assistance incurring an expense for child care.

**Provider agreement**—A document signed by the child care provider in order to participate in the Department's subsidized child care program.

**Regulated care**—[ Child care given by a person or entity which is licensed by or registered with the Department or approved by the Department of Education ] Child care provided by a child care center certified under Chapter 3270, a group child day care home certified under Chapter 3280 or a family child day care home registered under Chapter 3290.

**Relative/neighbor care**—[ Care given by a person who is exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes) ] Child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 and who cares for three or fewer children unrelated to the [ caregiver ] provider in the provider's home.

\* \* \* \* \*

**Satisfactory arrangement**—[ The plan made by the budget group to pay overdue fees which are ] The plan made by the parent to pay an overdue copayment which is acceptable to the child care provider.

**Self-certification**—A written statement provided by the parent for the purpose of establishing verification of a child's immunization or exemption from immunization.

**Service month**—The calendar month during which child care services were provided.

\* \* \* \* \*

**Sleep-time**—[ Hours of care following third shift employment when the parent/caretaker has an eligible child in the home and needs care for the child in order ] Care provided for a child when the parent's work shift ends between the hours of 12 a.m. and 9 a.m. to allow the parent time to sleep.

\* \* \* \* \*

**Unregulated care**—Relative/neighbor care and in-home care.

**Vendor payment**—A child care payment made by the Department directly to a [ regulated ] child care provider who has signed [ the Child Care Vendor Program Enrollment Request Agreement and is enrolled in the child care vendor payment system ] a Provider Agreement.

**§ 168.3. Child abuse reporting.**

Suspected child abuse shall be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the

Child Protective Services Law) and Chapter 3490 (relating to child protective services).

**§ 168.4. Authority to administer subsidized child care.**

The Department may delegate to another approved entity, such as the CCIS, the responsibilities set forth in this chapter for the purpose of administering subsidized child care.

**ELIGIBILITY REQUIREMENTS**

**§ 168.11. General requirements.**

(a) [ Special allowances ] Payment for child care [ are ] is available for the following types of [ child care ] providers:

(1) [ Center-based ] A child day care center certified under Chapter 3270 (relating to child day care centers).

(2) [ Group home ] A group child day care home certified under Chapter 3280 (relating to group child day care homes).

(3) [ Family ] A family child day care home registered under Chapter 3290 (relating to family child day care homes).

(4) [ Relative/neighbor care ] A relative or neighbor provider specifically exempt from certification or registration under Chapters 3270, 3280 and 3290.

(5) [ In-home care ] An in-home provider specifically exempt from certification or registration under Chapters 3270, 3280 and 3290.

(b) The [ parent/caretaker shall have the right to ] parent may choose from any [ type of ] child care provider that is a type of provider available under this chapter [ and the right to choose any child care provider ] who meets the requirements of this chapter and who meets the Department's standards for provider participation.

(c) [ Pre expenditure ] Preexpenditure approval is required unless the child care is for a job interview and the [ client ] parent documents that he was unable to contact the worker prior to the scheduled interview.

**§ 168.17. Eligible children.**

To be eligible for a child care payment, the [ budget group ] family shall include a child who meets the following criteria[. The child meets the following conditions ]:

\* \* \* \* \*

(2) [ Meets one of the following conditions:

(i) Is under 13 years of age.

(ii) Is 13 years of age or older and meets one of the following conditions:

(A) Is under 19 years of age and not physically capable of caring for himself as verified by a physician.

(B) is under 19 years of age with a developmental age of less than 13 years of age as verified by a physician or licensed psychologist. ] Is considered a

mandatory food stamp household member as specified in 7 CFR 273.1(b) (relating to household concept).

(3) [ Is age appropriately immunized. If the child does not have age-appropriate immunizations, the parent/caretaker has 90 days to obtain and document immunizations for the child unless one of the following applies:

(i) The parent/caretaker objects to immunizations on religious grounds.

(ii) The child's medical condition contraindicates immunizations as verified by a physician. ] Meets one of the following conditions:

(i) Is under 13 years of age.

(ii) Is 13 years of age or older but under 19 years of age and is incapable of caring for himself as verified by a physician or licensed psychologist.

(4) Is age-appropriately immunized unless one of the following applies:

(i) The parent/caretaker objects to immunizations on religious grounds.

(ii) The child's medical condition contraindicates immunization.

(iii) If the child does not have age-appropriate immunizations and is not exempt from immunization, the parent has 90 days to obtain immunizations for the child.

§ 168.18. Need for child care.

(a) Child care must be needed to enable a [ member of the budget group ] parent to participate in a [ work-related ] work activity as defined in §§ 165.31 and 501.6 (relating to RESET participation requirements; and employment and training program).

(b) Child care services will not be considered as needed when an unemployed [ parent/caretaker ] parent of the child is in the home, unless one of the following applies:

(1) The [ parent/caretaker ] parent is physically or mentally incapable of providing child care, as verified by a physician or licensed psychologist.

(2) The [ parent/caretaker ] parent is involved in [ work-related ] work activities as defined in §§ 165.31 and 501.6, or the custodial parent is participating in [ a Department of Education Pregnant and Parenting Youth Program ] an education program for pregnant or parenting youth that is approved by the Department.

[ (3) The child is at risk because of suspected child abuse. ]

(c) Child care will be considered as needed for entry into or during breaks in approved [ work-related ] work activities as defined in §§ 165.31 and 501.6 for [ one of the following:

(1) Up to 2 weeks.

(2) Up to 30 days when it is verified that the child care arrangements would otherwise be lost in the interim ] up to 30 days.

(d) [ Child will not be considered as needed when the biological or adoptive parent, specified relative or legal guardian of the child is the owner/operator of a child is the owner/operator of a child care business where care is available for the child ] When a parent is the operator of a child day care center, group child day care home or family child day care home as specified in Chapter 3270, Chapter 3280 or Chapter 3290 (relating to child day care centers; group child day care homes; and family child day care homes) or is the operator of a home that is exempt from certification or registration under section 1070 of the Public Welfare Code (62 P. S. § 1070) and when space is available to enroll the parent's child at the facility operated by the parent, that child is not eligible to receive subsidized child care.

(e) Subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program.

(f) A parent is ineligible for subsidized child care if he does not attend a face-to-face interview no later than 30 calendar days following the request for care. The Department may extend the 30-day time frame for the face-to-face interview if, on or before the 30th calendar day, the parent claims hardship due to conflicts with the parent's working hours, transportation problems or illness of the parent or another family member. At the time the parent claims hardship, the Department may grant an additional 30 days from the date the hardship is claimed for the interview. The Department may substitute a telephone contact for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent having to take time off from work.

(g) A parent is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the Department notifies the parent that the child may be enrolled or that the family's current child care provider is ineligible to participate in the subsidized child care program.

§ 168.19. Child care arrangements.

Payment for child care will be made when the child care arrangements are as follows:

(1) The [ person ] individual or entity providing child care meets the following conditions:

(i) [ Provides care in accordance with applicable standards of Federal, State and local law. ] Complies with the Department's standards for provider participation.

\* \* \* \* \*

(iii) Is [ a person who is at least ] 18 years of age or older.

(2) The [ person or entity ] individual providing child care may not be one of the following:

(i) The [ biological or adoptive parent or legal guardian ] parent of the child.

\* \* \* \* \*

§ 168.20. Child care co-payment.

(a) The employed TANF budget group shall pay the required co-payment toward the cost of child care.

(b) The co-payment is due on the first day of the service week and each week thereafter, regardless of the day the child is enrolled.

(c) If the co-payment is decreased as the result of a redetermination, the employed TANF budget group shall begin paying the reduced co-payment on the first day of the service week following the date of the redetermination.

(d) If the co-payment is increased as the result of a redetermination, the employed TANF budget group shall begin paying the increased co-payment on the first service day of the week following the notification advising the budget group of the co-payment increase.

(e) If the co-payments for 1 month are equal to or exceed the monthly payment for care, the family is not eligible for subsidized child care with that provider.

§ 168.21. Ineligibility for failure to pay co-payment.

(a) Ineligibility for child care payment results when the TANF budget group is employed and fails to pay the required co-payment toward the cost of child care as specified in § 168.20(b) (relating to child care co-payment). The TANF budget group is ineligible until [overdue] delinquent co-payments are paid or satisfactory arrangements to pay [overdue] delinquent co-payments are made with the provider.

(b) A co-payment is delinquent if it is not paid by the last day of the service week.

(c) On the day the provider reports the co-payment is delinquent, the Department will notify the TANF budget group in writing, with advance notice, that action will be taken to terminate subsidized child care for the child.

(d) When a co-payment is delinquent, the first payment made during a week is applied to the current week's co-payment. Subsequent payment during a week is applied to the delinquent co-payment.

VERIFICATION

§ 168.41. Verification requirements.

The [applicant or recipient] parent is required, as a condition of eligibility, to cooperate in providing necessary information and verification to establish eligibility.

(1) Before authorizing the initial child care payment, the [CAO] Department will determine the following:

(i) Whether the child care is necessary to participate in a [work-related] work activity as defined in §§ 165.31 and 501.6 (relating to RESET participation requirements; and employment and training program).

\* \* \* \* \*

(iii) The date the service is needed [by the participant].

\* \* \* \* \*

(2) When the [parent/caretaker] parent provides verification to the [CAO] Department that indicates a change in eligibility, payment will be reduced, terminated or increased, as appropriate, upon issuance of appropriate

notice to the [parent/caretaker] parent, in accordance with §§ 133.4 and 168.101 (relating to procedures; and appeal and fair hearing).

(3) Child care costs shall be verified by the provider monthly on a form specified by the Department [or by a written statement signed by the provider] or by a collateral contact by the [CAO and] Department with the child care provider.

(4) A collateral contact will be used whenever necessary to ensure that payment is made in advance of the date that payment is required by the child care provider consistent with § 168.1(b)(3) (relating to policy on payment of child care). When a child care [allowance] payment is authorized based on a collateral contact with or by a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the [CAO] Department within 30 days of the first day child care costs were incurred. The [CAO] Department will assist the [client] parent, as needed, to obtain a completed verification form from the provider. Failure to provide verification within the specified time period could result in nonauthorization of the child care payment.

\* \* \* \* \*

§ 168.43. Verification of [the disability of a child] a child's disability.

A written statement from a physician or licensed psychologist which confirms that the child has a physical or mental [handicap] injury or impairment which prevents the child from caring for himself is required.

§ 168.44. Verification of [the disability of a parent/caretaker] a parent's disability.

A written statement from a physician or licensed psychologist which confirms that the [biological or adoptive parent, specified relative or legal guardian has a physical or mental handicap] parent has a disability which prevents the [person] parent from providing child care is required.

§ 168.45. [Verification of suspected child abuse] (Reserved).

[The statement of the parent/caretaker, case-worker or other professional is acceptable evidence to verify suspected child abuse. Suspected child abuse will be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) as defined in Chapter 3490 (relating to protective services).]

§ 168.49. Verification of payment of co-payment for the employed budget group.

[A signed, written statement from the child care provider on a Department form which confirms that the child care co-payment has been paid for a specified month is required. If co-payments are owed, a signed, written statement by the child care provider that the overdue co-payments have been paid or that satisfactory arrangements for payment have been made is acceptable.] The provider is not required to report to the Department if a co-payment is paid timely. The provider shall report to the Department when a co-payment is delinquent on the last day of the service week, when a delin-

quent co-payment has thereafter been paid and when satisfactory arrangements for payment of a delinquent co-payment have been made.

§ 168.51. Verification of age-appropriate immunizations.

[The parent/caretaker shall provide a signed, written statement on a form specified by the Department to verify that the child has received age-appropriate immunizations, or that the parent/caretaker objects to immunizations on the basis of religious grounds, or documentation from a physician to verify that the child's medical condition contraindicates immunizations.] The parent shall provide self-certification indicating that the child has received age-appropriate immunizations or that the child is exempt from immunization on the basis of religious grounds or a medical condition which contraindicates immunizations. Self-certification is a written statement provided by the parent for the purpose of establishing verification.

REPORTING REQUIREMENTS

§ 168.61. Reporting requirements.

The [budget group] parent shall report changes to child care arrangements [and child care costs monthly consistent with Chapter 142 (relating to monthly reporting) and § 125.24(d) (relating to responsibility for reporting changes)]. Documentation will be retained in the case record to support the determination of the payment, including child care costs. These documents are retained in accordance with cash assistance case record retention policies] within 10 calendar days from the date the change occurred. Documentation of child care payment shall be retained in the case record in accordance with § 3041.85 (relating to record retention).

PAYMENT DETERMINATION

§ 168.71. Monthly payment determination.

The amount of the child care payment is determined for each month.

(1) The allowable child care payment is the [lowest of the actual child care costs, the rate charged the general public or the maximum allowance] rate the provider charges to the general public or the MCCA established by the Department, whichever is less.

(i) For [participants] parents in unpaid [work-related] work activities as defined in §§ 165.31 and 501.6 (relating to RESET participation requirements; and employment and training program), payment is [made for the actual costs of child care up to the maximum allowance] the rate the provider charges to the general public or the MCCA established by the Department [or the rate charged the general public], whichever is less.

(ii) For [participants] parents in paid [work-related] work activities as defined in §§ 165.31 and 501.6, payment is made for the actual costs of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less, minus the family co-payment as determined in § 168.74 (relating to determining [monthly] weekly child-care [co-payments] co-payment for the employed TANF budget group).

(A) A TANF budget group determined prospectively ineligible for TANF benefits as a result of starting employment will have the co-payment waived from the first day of employment until the date of discontinuance of the TANF benefits in accordance with § 183.105 (relating to increases in income), if the budget group has reported timely in accordance with § 125.24(d) (relating to responsibility for reporting changes).

(B) A TANF budget group determined prospectively eligible for TANF benefits as a result of starting employment will have the co-payment waived from the first day of employment until the last day of the calendar month in which the first pay is received, provided the TANF budget group has reported timely in accordance with § 125.24(d).

(2) When the month of child care eligibility is not a full calendar month, the child care payment is prorated for the number of calendar days for which the TANF budget group is eligible.

[ (3) Corrective or delayed payments are issued consistent with the requirements in Chapters 175 and 227 (relating to allowances and benefits; and central office disbursement). ]

§ 168.72. Determining monthly child care costs.

The actual child care costs reported and verified as paid or incurred in the month are considered. Actual child care costs include the following:

(1) A charge for child care [reasonably related to] during the hours of the [work-related] work activity as defined in §§ 165.31 and 501.6 (relating to RESET participation requirements; and employment and training program), including travel time and sleep-time [for third shift employment].

(2) A charge [levied] for up to 10 consecutive days on which the child was not in attendance due to illness[, vacation, and the like].

\* \* \* \* \*

§ 168.74. Determining [monthly] weekly child care co-payment for the employed TANF budget group.

The co-payment is determined [for a month,] weekly based upon gross monthly income and [budget group] family size, using the co-payment sliding fee scale in Chapter 3041, Appendix B. Gross monthly income is determined based on anticipated or actual amounts as determined in accordance with Chapter 183 (relating to income).

\* \* \* \* \*

CHILD CARE PAYMENT METHODS

§ 168.81. Payment methods.

The Department will make a child care payment for child care expenses paid or incurred in a month [as one of the following]:

(1) A direct check to the client when the child care provider is not enrolled in the Department's child care vendor payment system.

(2) A vendor payment to the child care provider when the provider is regulated and enrolled in the Department's child care vendor payment system except when it is verified that the client has paid the enrolled provider directly. Payment will then be issued directly to the client.

(3) A restricted endorsement check made payable to the client and the child care provider when it has been demonstrated that the client failed to use a prior child care payment for its intended purpose ]. Payment is made to the provider in accordance with the provisions of the provider agreement with the following exceptions:

(1) Payment is made to the parent when care is provided in the child's home.

(2) Payment is made to the parent when the parent requires reimbursement for child care costs incurred during retroactive periods of eligibility.

**§ 168.82. Time frames for authorization of payment.**

(a) When verification of child care costs as specified in § 168.41(3) (relating to verification requirements) is obtained or received by the Department within 5 calendar days following a request for child care payment, the Department will authorize payment no later than 10 calendar days following the date of request.

(b) When verification of child care costs as specified in § 168.41(3) is obtained or received by the Department more than 5 days following a request for child care payment, the Department will authorize payment no later than 5 calendar days after receipt of the verification.

(c) When the last day for authorization of payment falls on a weekend or holiday, the Department will authorize payment on or before the working day immediately preceding the weekend or holiday.

(d) Authorization of payment shall include actually processing the data needed to issue a check, including completing required forms and performing data entry.

(e) The Department will issue the written decision approving child care payment within the time frame for authorization of payment in this section.

(f) The Department will use the method of payment, such as a county or central issuance, that is best calculated to provide child care payment to the parent or provider in advance of the date that payment is required by the provider.

**RESTITUTION**

**§ 168.91. Restitution.**

The cash assistance provisions of Chapter 255 (relating to restitution) apply to a [ recipient of ] parent that has received a child care payment except that the provision for recoupment of an overpayment does not apply.

**APPEAL AND FAIR HEARING**

**§ 168.101. Appeal and fair hearing.**

The cash assistance provisions of Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to an applicant or recipient of a child care payment with one exception[ ; ]: the requirement for an advance written notice of adverse action will not apply to a change in the method of payment, unless the change would result in a discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements. If the [ parent/ caretaker ] parent files an appeal within 10 days of the

date of the advance written notice of adverse action, subsidy continues at the prior level until a final decision is made by the Bureau of Hearings and Appeals except when the adverse action is based solely on Federal or State law, regulations or policy or changes in Federal or State law, regulations or policy, or the Department lacks funding to continue the subsidy.

[Pa.B. Doc. No. 06-1206. Filed for public inspection June 30, 2006, 9:00 a.m.]

**DEPARTMENT OF TRANSPORTATION**

[67 PA. CODE CH. 457]

**Prequalification of Bidders**

The Department of Transportation (Department), under section 404.1 of the State Highway Law (act) (36 P. S. § 670-404.1), proposes to amend Chapter 457 (relating to prequalification of bidders) to read as set forth in Annex A.

*Purpose of this Chapter*

The purpose of this chapter is to provide a method and manner, determined to be desirable by the Secretary of Transportation, to prequalify all contractors and subcontractors who seek to perform highway project work in this Commonwealth.

*Purpose of this Proposed Rulemaking*

The purpose of this proposed rulemaking is to amend the table in § 457.5 (relating to classification) by deleting the specific classification for Rest Area Structures and Buildings.

This proposed rulemaking is necessary because work associated with the N Work Classification Code (rest area structures, buildings) is not traditionally performed by highway construction contractors. Contractors who have expertise in this work are generally not prequalified by the Department. To attract a greater number of competent bidders, this type of work should be classified as miscellaneous work.

*Persons and Entities Affected*

This proposed rulemaking will affect contractors who wish to perform project work regarding the construction of rest area structures and buildings along highways in this Commonwealth.

*Fiscal Impact*

This proposed rulemaking will have little or no fiscal impact on contractors. The Commonwealth may realize cost savings in the construction of rest area structures and buildings in the availability of a greater number of contractors able to bid on this work.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 21, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

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

*Sunset Provisions*

The Department is not establishing a sunset date for this regulation, since this regulation is needed to administer provisions required under the act. The regulations will be continuously monitored for effectiveness by the Department and the affected industry.

*Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Joseph F. Cribben, P.E., Contract Evaluation Engineer, Contract Management Division, Bureau of Construction and Materials, P. O. Box 2855, Harrisburg,

PA 17105-2855 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

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

**Fiscal Note:** 18-407. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart B. NONVEHICLE CODE PROVISIONS**

**ARTICLE III. HIGHWAYS**

**CHAPTER 457. PREQUALIFICATION OF BIDDERS**

**§ 457.5. Classification.**

(a) The contractor or subcontractor shall be classified according to the type of work and amount of work for which his experience and financial capacity will qualify him to bid. The types of work, as described in Department of Transportation Specifications, Publication 408, are listed as follows:

<i>WORK</i>	<i>CODE</i>	<i>SECT.</i>	<i>CLASSIFICATION</i>
EARTHWORK	A	200	CLEARING & GRUBBING
	B	200	BUILDING DEMOLITION
	C	200	EXCAVATING & GRADING
BASE COURSE	D	300	RIGID BASE COURSE
	E	300	FLEXIBLE BASE COURSE
PAVEMENT	F	400	BITUMINOUS PAVEMENT
	F1	400	BITUMINOUS PAVEMENT PATCHING AND REPAIR
	G	500	RIGID PAVEMENT
	G1	500	RIGID PAVEMENT PATCHING & REPAIR
	H	600	DRAINAGE, WATER MAIN, STORM SEWER
INCIDENTAL CONSTRUCTION	J	600	GUIDE RAIL, STEEL MEDIAN BARRIER, FENCES
	J1	600	CONCRETE MEDIAN BARRIER
	K	600	CURBS, SIDEWALKS, INLETS, MANHOLES, ETC.
	L	600	SLAPJACKING-SUBSEALING
ROADSIDE DEVELOPMENT	M	800	LANDSCAPING
	[ N		<b>REST AREA STRUCTURES, BUILDINGS ]</b>
TRAFFIC ACCOMMODATIONS AND CONTROL	O	900	PAVEMENT MARKINGS
	P	900	HIGHWAY/SIGN LIGHTING, SIGNAL CONTROL
	Q	900	MAINTENANCE AND PROTECTION OF TRAFFIC
	R	900	SIGN PLACEMENT (POST/STRUCTURE MOUNTED)
	R1	900	SIGN STRUCTURES
STRUCTURES	S	1000	CEMENT CONCRETE STRUCTURES

<i>WORK</i>	<i>CODE</i>	<i>SECT.</i>	<i>CLASSIFICATION</i>
	S1	1000	CULVERTS & SINGLE SPAN BRIDGES TO 80 FT
	S2	1000	REPAIR AND REHABILITATION OF STRUCTURES
	S3	1000	MODIFIED CONCRETE DECK OVERLAYS
	T	1050	ERECTION (STRUCTURAL MEMBERS)
	T1	1018	BRIDGE REMOVAL
	U	1005	PILE DRIVING
	V	1070	STEEL PAINTING (HIGH PERFORMANCE)
	V1	1071	STEEL PAINTING (CONVENTIONAL)
MISCELLANEOUS	Y		OTHERS
		* * * * *	

[Pa.B. Doc. No. 06-1207. Filed for public inspection June 30, 2006, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 127]

### Nonattainment New Source Review; Comment Period Extension

Notice of the Environmental Quality Board's (Board) proposal to amend § 121.1 (relating to definitions) and Chapter 127, Subchapter E (relating to new source review) was published at 36 Pa.B. 1991(April 29, 2006).

The Board will now accept public comments until July 31, 2006.

*Written comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be postmarked by July 31, 2006. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be postmarked by July 31, 2006. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by July 31, 2006. A subject heading of the proposal and a return name and address must be included in each transmission.

KATHLEEN A. MCGINTY,  
*Chairperson*

[Pa.B. Doc. No. 06-1208. Filed for public inspection June 30, 2006, 9:00 a.m.]

## GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, proposed to amend § 135.107 (relating to Middle Creek Wildlife Management Area).

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

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

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

### 1. Purpose and Authority

Since September goose hunting was initiated, the resident Canada goose population on and in the vicinity of the Middle Creek Wildlife Management Area has declined dramatically. As added evidence of the population decline, hunter success rates in the controlled area at Middle Creek have dropped from 57% in 1996 to 16% in 2005. The Commission believes that it is absolutely necessary to reduce the harvest of resident geese at the Middle Creek Wildlife Management Area to sustain and recover Canada goose populations in the area and preserve the quality of the waterfowl hunting experience in the controlled management area.

An interdisciplinary group has met and recommended several administrative and regulatory changes to reduce goose harvests and improve hunting on the controlled area at Middle Creek. Enhanced hunter education and changes in the management of hunting blinds on the area will be part of the changes implemented for the 2006 season. Also recommended was a reduction from 4 to 3 days in the number of waterfowl shooting days at Middle Creek, eliminating Mondays. Therefore, the Commission is proposing to amend § 135.107 to redress evidence of dramatic Canada goose population declines on and in the

vicinity of the Middle Creek Wildlife Management Area by reducing the number of waterfowl shooting days at Middle Creek from 4 to 3 days by means of the elimination of Monday hunts.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations regarding the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment of § 135.107 was proposed under this authority.

### 2. Regulatory Requirements

The proposed rulemaking will amend § 135.107 to redress evidence of dramatic Canada goose population declines on and in the vicinity of the Middle Creek Wildlife Management Area by reducing the number of waterfowl shooting days at Middle Creek from 4 to 3 days by means of the elimination of Monday hunts.

### 3. Persons Affected

Persons wishing to hunt waterfowl at the Middle Creek Wildlife Management Area on Mondays will be affected by the proposed rulemaking.

### 4. Cost and Paperwork Requirements

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

### 5. Effective Date

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

### 6. Contact Person

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

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** 48-233. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 135. LANDS AND BUILDINGS

#### Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

#### § 135.107. Middle Creek Wildlife Management Area.

(a) In addition to §§ 135.2 and 135.41 (relating to unlawful actions; and State game lands) and this subchapter, the following pertain to the Middle Creek Wildlife Management Area:

\* \* \* \* \*

(4) Waterfowl hunting is permitted on [ **Monday,** ] Tuesday, Thursday and Saturday. Starting times conform [ **with** ] to State and Federal regulations. Shooting ends at 1:30 p.m.

\* \* \* \* \*

[Pa.B. Doc. No. 06-1209. Filed for public inspection June 30, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

[31 PA. CODE CH. 118a]

### Property and Casualty Actuarial Opinion

The Insurance Department (Department) proposes to add Chapter 118a (relating to property and casualty actuarial opinion) to read as set forth in Annex A. The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), regarding the general rulemaking authority of the Department; sections 320 and 655 of The Insurance Company Law of 1921 (40 P. S. §§ 443 and 815) regarding the authority of the Insurance Commissioner (Commissioner) to require insurance companies, associations and exchanges to file statements concerning their affairs and financial condition; sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.205 and 1600.206); and section 731 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.731) regarding, respectively, the specific regulatory and rulemaking authority of the Department regarding financial reporting by the Pennsylvania Fair Plan and the Pennsylvania Professional Liability Joint Underwriting Association.

#### Purpose

The purpose of this proposed rulemaking is to establish by regulation the requirements for statements of actuarial opinion and related documents filed by property and casualty insurers with the Department. Establishing these requirements by regulation for property/casualty insurers is consistent with the approach used to establish similar requirements for actuarial review of the reserves of life/health insurers under Chapter 84b (relating to actuarial opinion and memorandum). Section 320(a)(1) of The Insurance Company Law of 1921 requires insurers to file annual financial statements with the Department and additional statements concerning their affairs and financial condition as the Commissioner may, in the Commissioner's discretion, require. Section 320 of The Insurance Company Law of 1921 further requires insurers to adhere to the instructions and accounting practices and procedures prescribed by the National Association of Insurance Commissioners (NAIC) unless otherwise provided by law, regulation or order of the Commissioner. Under this authority, the Commissioner requires insurers to include statements of actuarial opinion with annual financial statements filed on or before the first day of March each year. The statements of actuarial opinion must be prepared as prescribed by the NAIC's annual statement instructions and include the actuary's opinion with respect to the proper establishment and adequacy of the insurer's reserves. If requested by the Department, domestic insurers shall also submit the supporting actuarial report and workpapers on or before the first day of May



each year. The Department reviews this information in conducting financial analyses and onsite financial examinations of domestic insurers.

Chapter 118a establishes requirements for the filing of an additional document, an actuarial opinion summary, on or before the 15th day of March each year. The actuarial opinion summary must also be prepared in accordance with the NAIC instructions, which will become effective for financial statements reporting an insurer's condition as year-end 2005. The new actuarial opinion summary will provide the Department with information needed to quickly identify insurers with potential reserving problems and then focus heightened solvency monitoring efforts on those insurers. Therefore, Chapter 118a will clarify and supplement the new NAIC instructions regarding actuarial opinions and related documents filed by property and casualty insurers, and strengthen the Department's financial regulation tools.

#### *Explanation of Regulatory Requirements*

Section 118a.2 (relating to definitions) defines terms for purposes of the chapter. The definitions of "domestic insurer," "insurer" and "foreign insurer" clarify the scope and application of the regulation with respect to the various types of insurers writing property/casualty insurance in this Commonwealth. The definitions of "appointed actuary" and "qualified actuary" establish the qualification requirements for individuals who prepare statements of actuarial opinion, actuarial opinion summaries and related documents required under the chapter.

Section 118a.3 (relating to statement of actuarial opinion and supporting documentation) establishes annual filing requirements, with required time frames, for statements of actuarial opinion and actuarial opinion summaries with respect to domestic and foreign insurers. Section 118a.3(c) requires the preparation, maintenance and availability of supporting actuarial reports and underlying workpapers. The definitional elements of statements of actuarial opinion, actuarial opinion summaries, actuarial reports and underlying workpapers are established/updated on an annual basis in the property and casualty annual statement instructions prescribed by the NAIC. Section 118a.3 requires these documents to be prepared in accordance with the NAIC instructions as provided under the Department's authority in section 320 of The Insurance Company Law of 1921.

Section 118a.4(a) (relating to general requirements) establishes requirements for requesting the Department's approval of an individual as a "qualified actuary" when the individual is not a member of the Casualty Actuarial Society or the American Academy of Actuaries. The Department has included provisions for approval of these individuals to provide the flexibility that may be needed to meet the particular needs of smaller domestic insurers. Section 118a.4(b) requires that the members of an insurer's board of directors be provided with the annual filings made under this chapter and that the receipt of these documents be documented in the board meeting minutes. Section 118a.4(c) establishes notification requirements when an actuary is replaced by an insurer's board of directors, including notice to the Department of any disagreements with the former actuary regarding the content of filings and other documents required under the chapter. Section 118a.4(d) establishes notice requirements when an error is discovered after a filing is made with the Department and defines what types of errors must be reported. Section 118a.4(e) establishes procedural requirements for reporting errors under § 118a.4(d), including time frames for providing the required notice. Section

118a.4(f) prescribes actions to be taken by an actuary and insurer when an actuary learns that data or other information relied upon in preparing filings under the chapter were factually incorrect and the actuary cannot immediately determine whether changes must be made in filings required under the chapter.

Section 118a.5 (relating to confidentiality) clarifies the distinction between public filings and related confidential work product and states the circumstances under which the Commissioner may share confidential information filed under the chapter.

Section 118a.6 (relating to effective date and exemption) requires compliance with the chapter beginning with annual financial statements for the year in which this proposed rulemaking becomes effective and provides for exemptions consistent with the NAIC instructions.

Section 118a.7 (relating to penalties) refers to the imposition of penalties as provided by law for failure to comply with the chapter.

#### *External Comments*

In drafting this proposed rulemaking, the Department requested comments from the Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies, the Reinsurance Association of America and the Casualty Actuaries of the Mid-Atlantic Region. The comments received in response to the Department's request were considered in the development of this proposed rulemaking.

#### *Fiscal Impact*

##### *State Government*

This proposed rulemaking will clarify and strengthen existing requirements. Department costs in monitoring the financial condition of insurers will not increase as a result of this proposed rulemaking.

##### *General Public*

The proposed rulemaking has no fiscal impact on the general public.

##### *Political Subdivisions*

There will be no fiscal impact on political subdivisions as a result of the proposed rulemaking.

##### *Private Sector*

The strengthened filing requirements in this proposed rulemaking are consistent with NAIC standards. The information needed for the new actuarial opinion summary due March 15 should be known to the insurer's appointed actuary when preparing the Statement of Actuarial Opinion due March 1. Therefore, the proposed rulemaking should impose no significant additional costs on insurers in obtaining annual actuarial reviews and required documents.

##### *Paperwork*

The proposed rulemaking will not impose significant additional paperwork on the Department. The additional paperwork required for insurers also would be minimal, since the information required in the new actuarial opinion summary should be included in the work done by actuaries in preparing actuarial reports and workpapers for the statements of actuarial opinion already required to be filed with insurers' annual financial statements.

##### *Persons Regulated*

The proposed rulemaking applies to insurers licensed to write property/casualty insurance in this Commonwealth.

*Contact Person*

Questions or comments regarding this proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Special Projects Office, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following publication in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 15, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

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

M. DIANE KOKEN,  
*Insurance Commissioner*

**Fiscal Note:** 11-225. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 31. INSURANCE****PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE****CHAPTER 118a. PROPERTY AND CASUALTY ACTUARIAL OPINION**

Sec.	Purpose.
118a.1.	Purpose.
118a.2.	Definitions.
118a.3.	Statement of actuarial opinion and supporting documentation.
118a.4.	General requirements.
118a.5.	Confidentiality.
118a.6.	Effective date and exemption.
118a.7.	Penalties.

**§ 118a.1. Purpose.**

This chapter sets forth requirements relating to statements of actuarial opinion and related documents filed under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443) with the Commissioner by insurers licensed to transact property or casualty insurance, or both, in this Commonwealth.

**§ 118a.2. Definitions.**

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

*Appointed actuary*—A qualified actuary appointed by an insurer in accordance with the property and casualty annual statement instructions relating to actuarial opinions prescribed by the NAIC.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Department*—The Insurance Department of the Commonwealth.

*Domestic insurer*—An insurer incorporated or organized under the laws of the Commonwealth.

*Insurer*—The term includes the following entities licensed to transact property or casualty insurance, or both, in this Commonwealth:

- (i) An insurance company, association or exchange.
- (ii) A reciprocal or interinsurance exchange.
- (iii) An employers' mutual liability insurance association.
- (iv) The Industry Placement Facility under The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.101—1600.502).
- (v) The Pennsylvania Professional Liability Joint Underwriting Association under section 731 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.731).

*Foreign insurer*—An insurer not incorporated or organized under the laws of the Commonwealth.

*NAIC*—The National Association of Insurance Commissioners, or successor organization.

*Qualified actuary*—An individual who meets the following requirements:

- (i) Is one or more of the following:
  - (A) A member in good standing of the Casualty Actuarial Society.
  - (B) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

(C) Approved by the Commissioner as otherwise having demonstrated competency in loss reserve evaluation for property or casualty insurance, or both, to the Commissioner's satisfaction under § 118a.4(a), (relating to general requirements).

(ii) Has not been found by the Commissioner, following appropriate notice and hearing, to have done one or more of the following:

(A) Violated any provision of, or any obligation imposed by, this chapter or other laws or regulations in the course of the individual's dealings as a qualified actuary.

(B) Been found guilty of fraudulent or dishonest practices.

(C) Demonstrated incompetence, lack of cooperation or untrustworthiness to act as a qualified actuary.

(D) Prepared a statement of actuarial opinion or actuarial opinion summary that was submitted to the Commissioner during the past 5 years and rejected for failure to adhere to this chapter, including acceptable actuarial standards.

(E) Resigned or been removed as an actuary within the past 5 years as a result of acts or omissions identified in a report by the Department or other regulatory or law enforcement official of this Commonwealth or other jurisdiction pursuant to an investigation or examination, or as a result of failure to adhere to generally acceptable actuarial standards.

(iii) Has not failed to notify the Department of any action taken against the individual by a regulatory or law enforcement official of this Commonwealth or other jurisdiction relating to activities similar to those described in subparagraph (ii).

**§ 118a.3. Statement of actuarial opinion and supporting documentation.**

(a) *Statement of actuarial opinion.* Unless exempted by the Commissioner under § 118a.6 (relating to effective date and exemption), an insurer shall annually file with the Department an opinion of an appointed actuary entitled "Statement of Actuarial Opinion." Under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443), the statement of actuarial opinion shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the first day of March.

(b) *Actuarial opinion summary.* A domestic insurer required to file a statement of actuarial opinion under subsection (a) shall annually file with the Department a document entitled "Actuarial Opinion Summary" written by the insurer's appointed actuary and supporting the statement of actuarial opinion. The actuarial opinion summary shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the 15th day of March. The Department may require a foreign insurer to file an actuarial opinion summary by providing 60 days' advance notice to the insurer.

(c) *Actuarial report and workpapers.* An actuarial report and underlying workpapers shall be prepared and maintained to support a statement of actuarial opinion as required by the property and casualty annual statement instructions prescribed by the NAIC and provided to the Department upon request.

**§ 118a.4. General requirements.**

(a) The following requirements apply to a request for the Commissioner's approval of an individual as a qualified actuary under § 118a.2 (relating to definitions):

(1) The insurer shall file a request with the Department for approval of an individual as a qualified actuary at least 90 days prior to the filing of the insurer's annual financial statement.

(2) Requests filed under paragraph (1) must contain the following:

(i) A properly completed biographical affidavit in the form adopted by the NAIC.

(ii) A list of the loss reserve opinions for property or casualty insurance, or both, issued by the individual in the past 3 years.

(iii) Other information that the Commissioner in the Commissioner's discretion may require to determine the individual's qualifications.

(b) The appointed actuary shall annually provide the insurer's board of directors with the statement of actuarial opinion and actuary opinion summary, and the receipt of these documents shall be recorded in the meeting minutes of the board of directors.

(c) If an actuary who was the appointed actuary for the immediately preceding filed statement of actuarial opinion is replaced by an action of the insurer's board of directors, the insurer shall:

(1) Notify the Department in writing within 5 business days of the board's action.

(2) Provide the Department with a separate written notice within 10 business days of providing notice under paragraph (1) stating whether, in the 24 months preced-

ing the appointed actuary's replacement, there were any disagreements with the former appointed actuary relating to the content of the statement of actuarial opinion, actuarial opinion summary, actuarial report or underlying workpapers on matters of the risk of material adverse deviation, required disclosures, scope, procedure or data quality. The disagreements required to be reported include both those resolved to the former appointed actuary's satisfaction and those not resolved to the former appointed actuary's satisfaction. The notice must include a written letter addressed to the insurer by the former appointed actuary stating whether the appointed actuary agrees with the statements in the insurer's notice and, if not, stating the reasons why the appointed actuary does not agree.

(d) The insurer shall require its appointed actuary to notify the insurer's board of directors or audit committee in writing within 5 business days after a determination by the appointed actuary that the statement of actuarial opinion or actuarial opinion summary filed with the Department was in error if:

(1) The error is as a result of reliance on data or other information (other than assumptions) that, as of the balance sheet date, were factually incorrect.

(2) The determination is made between the date the statement of actuarial opinion is issued and the balance sheet date for which the next statement of actuarial opinion will be issued.

(3) The statement of actuarial opinion or actuarial opinion summary would not have been issued or would have been materially altered had the correct data or other information been used; except that the statement of actuarial opinion or actuarial opinion summary will not be considered to be in error if it would not have been issued or would have been materially altered solely because of data or information concerning events subsequent to the balance sheet date or because actual results differ from those projected.

(e) Notification provided by an appointed actuary to an insurer under subsection (d) must include a summary of the appointed actuary's findings and an amended statement of actuarial opinion and actuarial opinion summary. The insurer shall forward a copy of the summary and amended statement of actuarial opinion and actuarial opinion summary to the Commissioner within 5 business days of receipt and provide the appointed actuary with a copy of the information forwarded to the Commissioner. If the appointed actuary does not receive a copy of the information forwarded to the Commissioner within the 5 business day period, the appointed actuary shall provide the Commissioner with the information within the next 5 business days, including a statement whether the Department should rely upon the statement of actuarial opinion or actuarial opinion summary filed under this chapter.

(f) If an appointed actuary learns that data or other information relied upon in rendering a statement of actuarial opinion or actuarial opinion summary under this chapter were factually incorrect, but the appointed actuary cannot immediately determine what, if any, changes are needed in the statement of actuarial opinion or actuarial opinion summary, the appointed actuary and the insurer shall take the actions necessary for the appointed actuary to make the determination. If the insurer does not provide the necessary data corrections and other support (including financial support) within 10 business days, the appointed actuary should provide the Commissioner with notice of the situation within the next 5 business days.

**§ 118a.5. Confidentiality.**

(a) The statement of actuarial opinion shall be filed with an insurer's annual statement in accordance with the property and casualty annual statement instructions prescribed by the NAIC and shall be treated as a public document.

(b) Documents, materials or other information in the possession or control of the Department that are considered an actuarial report, workpapers or actuarial opinion summary provided in support of the statement of actuarial opinion, and any other material provided by the insurer to the Commissioner in connection with the actuarial report, workpapers or actuarial opinion summary, shall be confidential by law and privileged, will not be subject to the act of June 21, 1957 (P. L. 390, No. 212), known as the Right to Know Law (65 P. S. §§ 66.1—66.4) and 65 Pa.C.S. Chapter 7 (relating to the Sunshine Act), will not be subject to subpoena, and will not be subject to discovery or admissible in evidence in any private civil action.

(c) This section may not be construed to limit the Commissioner's authority to:

(1) Release the documents to the Actuarial Board for Counseling and Discipline (ABCD) if the material is required for the purpose of professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents.

(2) Limit the Commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

(d) Neither the Commissioner nor any individual or person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsections (b) and (c).

(e) The Commissioner may share confidential information received under this chapter with regulatory or law enforcement officials of this Commonwealth or other jurisdictions and the NAIC under sections 201-A and 202-A of The Insurance Department Act of 1921 (40 P. S. §§ 65.1-A and 65.2-A).

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information may occur as a result of disclosure to the Commissioner or as a result of sharing information under this section.

**§ 118a.6. Effective date and exemption.**

(a) Insurers shall comply with this chapter beginning with property and casualty annual statements filed for the year ending December 31, \_\_\_\_\_, and each year thereafter unless the Commissioner permits otherwise under this section. (*Editor's Note:* The blank refers to the year in which this proposed rulemaking becomes effective.)

(b) A domestic insurer may annually submit a written request to the Commissioner for approval of an exemption from the requirement to file a statement of actuarial opinion as provided in the property and casualty annual statement instructions prescribed by the NAIC.

(c) A foreign insurer exempt from filing a statement of actuarial opinion by the chief insurance regulatory official in its domiciliary jurisdiction in accordance with the

property and casualty annual statement instructions prescribed by the NAIC is exempt from this chapter, unless the Commissioner in the Commissioner's sole discretion requires otherwise.

**§ 118a.7. Penalties.**

Failure to file the statement of actuarial opinion, actuarial opinion summary and additional statements, letters, workpapers or reports required under this chapter will subject the insurer to the penalties provided by law.

[Pa.B. Doc. No. 06-1210. Filed for public inspection June 30, 2006, 9:00 a.m.]

## STATE BOARD OF EDUCATION

[22 PA. CODE CH. 36]

### Foreign Corporation Standards

The State Board of Education (Board) proposes to amend Chapter 36 (relating to foreign corporation standards) to read as set forth in Annex A. The Board is acting under the authority of section 2603-B of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B).

*Purpose*

The purpose of this proposed rulemaking is to update and clarify the regulations that establish requirements for the approval and operation of postsecondary degree-granting institutions in this Commonwealth.

*Requirements of the Proposed Rulemaking*

The proposed rulemaking addresses requirements for the corporate commitment, governance, curricula, faculty, admissions requirements, resources and facilities and evaluation and approval of degree-granting postsecondary institutions either operated or owned by a foreign corporation. A foreign corporation is an entity that is registered or chartered by another state or country.

The proposed rulemaking is designed primarily to align the regulations with section 2601-H of the code (24 P. S. § 26-2601-H), regarding power to confer degrees. This section authorized the operation of for-profit postsecondary degree granting institutions in this Commonwealth.

*Affected Parties*

The proposed rulemaking affects 2-year colleges, college and universities, specialized degree-granting institutions, professional schools and seminaries that are chartered out-of-State or out-of-country that have or seek legal authority to award college credits or grant degrees in this Commonwealth.

*Cost and Paperwork Estimates*

Since the proposed rulemaking clarifies current requirements, it does not impose any new costs or savings for the Department of Education or to postsecondary institutions.

*Effective Date*

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

Sunset Date

In accordance with its policy and practice respecting all regulations promulgated by the Board, every 4 years the Board will review the effectiveness of Chapter 36. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 19, 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 House and Senate Committees on Education. 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 Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, jbuckheit@state.pa.us within 30 days following publication in the Pennsylvania Bulletin. Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367.

JIM BUCKHEIT,
Executive Director

Fiscal Note: 6-302. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subchapter C. HIGHER EDUCATION

CHAPTER 36. FOREIGN CORPORATION STANDARDS

§ 36.2. [ Institutional ] Corporate commitment.

[ The commitment of a ] A foreign corporation [ to an off-campus enterprise ] having operations in this Commonwealth shall provide adequate support to ensure compliance with the requirements of an accrediting body recognized by the United States Department of Education and acceptable to the Pennsylvania Department of Education, as well as with applicable Pennsylvania statutes and regulations. The Commonwealth enterprise shall be consistent with [ its ] the statement of philosophy and objectives and [ shall be ] equivalent to [ its ] the commitment to similar programs conducted by the corporation on its main campus or as approved by the Department.

§ 36.3. Governance.

(a) The board of trustees shall have approved [ off-campus endeavors ] the Commonwealth enterprise

of the institution and shall have authorized the request for approval of an educational enterprise in this Commonwealth.

(b) Planning, administration and evaluation of [ an off-campus enterprise ] the Commonwealth enterprise shall be an integral and continuous part of the [ institution's ] corporation's normal procedures.

\* \* \* \* \*

(d) Institutional policies that govern the Commonwealth [ off-campus enterprises shall ] endeavor must be in written form and, when applicable, shall have the approval of the education program advisory committee.

(e) Appropriately qualified, full-time administrative or supervisory personnel, or both, shall be employed and delegated responsibility for operating [ off-campus enterprises ] the Commonwealth enterprise in this Commonwealth. The [ employees ] employees, the number depending on the size of the operation, shall be available [ on site ] onsite for academic advisement and consultation with enrollees and prospective enrollees.

§ 36.4. Curricula.

\* \* \* \* \*

(d) The quality of each program, course or offering shall be evaluated [ annually ] periodically, and at least once every 5 years, by the [ institution ] Commonwealth enterprise for compliance with [ institutional objectives ] Commonwealth approvals and regulations.

§ 36.5. Faculty.

\* \* \* \* \*

(c) Full- and part-time faculty shall, in addition to classroom instruction, be available for academic advisement and interaction with students. Graduate programs shall be planned [ jointly ] by [ the students and a ] faculty [ member ] members and approved by a faculty committee. Guidance of thesis or dissertation studies shall be the responsibility of [ a ] faculty [ member ] members with appropriate specialization.

§ 36.6. Admissions requirements.

Admissions standards [ shall ] must be comparable to the standards for admissions [ to the main campus of the parent institution ] prescribed by § 31.31 (relating to admissions requirements).

§ 36.7. Resources and facilities.

(a) Appropriate physical facilities and instructional equipment shall be adequate to initiate and continue the program, course or offering. [ Teaching space, seminar rooms, computer resources and other facilities shall be provided onsite either by the parent institution or by contract with a Commonwealth-based entity. ]

(b) Library and research resources shall be provided onsite by [ a foreign corporation ] the Commonwealth enterprise or by contract [ with a Commonwealth-based entity ], or both, for each educational endeavor in accordance with standards of professional associations and learned societies.

(c) [ **Books, periodicals, microfilms, microfiche, monographs and other collections shall** ] **Library, learning and research resources must** be sufficient in quality, number and currency to serve the program, course or offering at the required level of instruction. Records of materials provided and usage statistics shall be maintained to determine the adequacy and accessibility of library resources.

**§ 36.8. Evaluation and approval.**

\* \* \* \* \*

(d) During the first [ **semester** ] **year** of operation, a site visit shall be conducted by an evaluation committee in accordance with this chapter and this subpart.

\* \* \* \* \*

(f) Department site visits [ **will** ] **may** be conducted [ **independently of** ] **jointly with** other accrediting or approving agencies [ **and site** ], **but decisions and recommendations must be arrived at independently by the Department evaluation committee. Site visit costs pertinent to the request of the applicant shall be borne by the applicant.**

(g) Following submission of the evaluation committee's report to the institution, the institution shall within 60-calendar days of the receipt of the report file its response with the Department. [ **Final** ] **Upon receiving a response satisfactory to the Department, the Department will publish in the *Pennsylvania Bulletin* its intent to approve the enterprise at least 30 days before the date of approval. The decision of**

**the Secretary regarding approval of the enterprise [ by the Secretary ] will be rendered within [ 30 ] 60-calendar days of [ receipt of the institution's response to the evaluation committee's report ] publication in the *Pennsylvania Bulletin* if no protest or objection has been timely made to the application.**

\* \* \* \* \*

(i) If an institution is approved to operate an educational enterprise in this Commonwealth, it shall file periodic progress reports as deemed necessary by the Department. The educational enterprise may be evaluated for cause at any time and shall be reevaluated every 5 years in accordance with this subpart and this chapter. If the institution fails to maintain its enterprise according to this subpart and this chapter, authority to operate in this Commonwealth shall be revoked as provided [ **in section 312C of the act of May 5, 1933 (P. L. 289, No. 105) (15 P. S. § 7312C)** ] **by 24 Pa.C.S. § 6506(a) (relating to visitation of institutions and revocation of authority).**

(j) To withdraw from its approved enterprise in this Commonwealth, a foreign corporation shall have the approval of the Secretary and shall be in compliance with §§ 31.71 and 31.72 (relating to [ **institutional closings** ] **major corporate change**).

[Pa.B. Doc. No. 06-1211. Filed for public inspection June 30, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$500,000 in grants under its Year 2007 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$10,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

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

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

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

#### Proposed Guidelines and Conditions for the Year 2007 Dog Control Facility Bill Reimbursement Grant Program

##### 1. Definitions.

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

*Department*—The Department of Agriculture.

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

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

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

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

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

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

- Labor charges with respect to which the invoice details the exact service performed and the date of performance.

- Veterinarian services with respect to which the invoice identifies the dog treated and the reason for the treatment. Veterinarian Services may not include spay/neuter services.

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

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

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

*Humane society or association for the prevention of cruelty to animals* (SPCA)—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53 Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals or as otherwise defined in section 102 of the Dog Law (3 P. S. § 459-102).

*Program*—The Year 2007 Dog Control Facility Bill Reimbursement Program.

##### 2. Eligibility.

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

- a. Has been in operation for at least 1 year immediately preceding the application date.

- b. Has performed dog control functions for at least 1 year immediately preceding the application date.

- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.

- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2007.

- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from

Department of Agriculture Dog Wardens performing dog control functions through the year 2007.

f. Has a valid Pennsylvania 2007 "Non Profit" kennel license and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

g. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2007 calendar year or if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2007, the maximum grant amount will not exceed \$10,000.

h. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2007 calendar year or if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2007, the maximum grant amount will not exceed \$5,000.

### 3. Use of Grant Funds.

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

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2007, through December 31, 2007. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2007, or after December 31, 2007, that bill is not an eligible bill and will not be reimbursed by the Department under the Program. The sole exception to the prohibition set forth in the preceding sentence is as follows: If a bill covers materials, services or utilities provided in part in 2006 and in part in 2007, and the grant recipient was also a grant recipient under the Year 2006 Dog Control Facility Bill Reimbursement Program, the Department may, at its discretion, consider the bill an eligible bill.

### 4. Application Process.

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

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

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

- i. The name and address of the applicant.

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

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

- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2006 for the same type of materials, services or utilities for which reimbursement will be sought under the grant agreement.

- v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities and to accept stray or unwanted dogs from Department State Dog Wardens performing dog control functions through the year 2007.

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

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

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

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

- i. The number of applications received and the availability of funds for the grants sought.

- ii. The relative contribution of the applicant to dog control activities in the area it serves.

- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.

- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

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

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

### 6. Grant agreement.

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

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



By *May 15, 2007*, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1 and April 30, 2007; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By *September 15, 2007*, the grant recipient will: (1) deliver copies of the eligible bills it has paid between May 1 and August 31, 2007; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By *January 15, 2008*, the grant recipient will: (1) deliver copies of the eligible bills it has paid between September 1 and December 31, 2007; (2) verify that these

bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

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

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

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 06-1212. Filed for public inspection June 30, 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 June 20, 2006.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-14-06	Allegheny Valley Bancorp, Inc., Pittsburgh, parent company of Allegheny Valley Bank of Pittsburgh, to acquire 100% of RSV Bancorp, Inc., Pittsburgh, parent company of Mt. Troy Bank, Pittsburgh, a Federal Savings Bank	Pittsburgh	Filed

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-14-06	Allegheny Valley Bank of Pittsburgh, Pittsburgh, and Mt. Troy Bank, Pittsburgh Surviving Institution— Allegheny Valley Bank of Pittsburgh, Pittsburgh	Pittsburgh	Filed
6-14-06	The Juniata Valley Bank Mifflintown Juniata County  Purchase of assets/assumption of liabilities of one branch of Mifflinburg Bank and Trust Company, Mifflinburg Located at: Main Street Richfield Juniata County	Mifflintown	Filed

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-14-06	Graystone Bank Lancaster Lancaster County	1276 North Atherton Street State College Centre County	Withdrawn

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-16-06	The Bryn Mawr Trust Company Bryn Mawr Montgomery County	849 Paoli Pike West Chester Chester County	Filed
6-19-06	Lafayette Ambassador Bank Easton Northampton County	1127 Chestnut Street Emmaus Lehigh County	Opened

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-9-06	Orrstown Bank Shippensburg Cumberland County	13 Center Square Greencastle Franklin County	Effective
6-13-06	First Commonwealth Bank Indiana Indiana County	Logan Valley Mall West Plank Road Altoona Logan Township Blair County (Drive-Up Facility)	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-16-06	Freedom Credit Union, Philadelphia, and SE Family Federal Credit Union, Philadelphia Surviving Institution— Freedom Credit Union, Philadelphia	Philadelphia	Filed

The Department's website at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 06-1213. Filed for public inspection June 30, 2006, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Manufactured Housing Installation Program; Approved Training Curriculum for Installers

Under 12 Pa. Code § 149.4(a)(4) (relating to installer training and certification), the Department of Community and Economic Development (Department) publishes the list of approved training curriculum for those persons seeking certification as installers of manufactured homes. Persons that have successfully completed the training curriculum listed will be eligible to apply for certification as an installer as defined in the Manufacturing Housing Improvement Act (35 P.S. § 1658.1—1658.3). See 36 Pa.B. 3087 (June 24, 2006) for the adopted text of 12 Pa. Code Chapter 149 (relating to manufactured housing improvement program).

- *Pennsylvania Manufactured Housing Installer Certification Course*, administered by the Pennsylvania Construction Codes Academy.

Persons already certified as installers are required to complete a specified training curriculum every 3 years as

provided for in 12 Pa. Code § 149.4(b)(iii). The following training curriculum is approved for those installers:

- *How to Inspect Manufactured and Modular Housing*, administered by the Pennsylvania Construction Codes Academy.

Program inquiries should be directed to Mark A. Conte, Chief, Housing Standards Division, Department of Community and Economic Development, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225, (717) 720-7416, [mconte@state.pa.us](mailto:mconte@state.pa.us).

DENNIS YABLONKSY,  
*Secretary*

[Pa.B. Doc. No. 06-1214. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Manufactured Housing Installation Program; Fee Schedule

Under 12 Pa. Code § 149.7 (relating to fees), the Department of Community and Economic Development (Department) publishes the list of fees for those seeking to participate in this program as training providers and those persons seeking certification as installers of manufactured homes. The rates are effective immediately and will remain in effect until changed by a notice in the

*Pennsylvania Bulletin*. See 36 Pa.B. 3087 (June 24, 2006) for the adopted text of 12 Pa. Code Chapter 149 (relating to manufactured housing improvement program).

*Fees*

- (a) The Department will charge training providers:
- (i) \$400 for each curriculum evaluated for approval.
  - (ii) \$50 for each person registered to participate in an approved training curriculum.
- (b) The Department will charge installers an annual fee of \$150 for the issuance of individual installer certification.

Program inquiries should be directed to Mark A. Conte, Chief, Housing Standards Division, Department of Community and Economic Development, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225, (717) 720-7416, mconte@state.pa.us.

DENNIS YABLONKSY,  
*Secretary*

[Pa.B. Doc. No. 06-1215. Filed for public inspection June 30, 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**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062839	Lake Adventure Community Association, Inc. 5000 Lake Adventure Drive Milford, PA 18337	Dingman Township Pike County	UNT to Birchy Creek 01D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0112411 (Nonmunicipal)	Hillside Acres Mobile Home Park 17 Hillside Acres Gillett, PA 16925-9621	Bradford County Ridgebury Township	Buck Creek SWP 4B	Y
PA0114766 (Sewage)	South Williamsport School District 515 West Central Avenue South Williamsport, PA 17702	Susquehanna Township Lycoming County	Bender Run CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032026	Family Affair Campground 9640 Findley Lake Road North East, PA 16428-5330	North East Township Erie County	Sixteen Mile Creek 16-SM	Y
PA0221619	Otto Township Sanitary Authority Box 284 Duke Center, PA 16729	Otto Township McKean County	Knapp Creek 16-C	Y
PA0221988	North Memorial Animal Hospital 143 SR 18 New Wilmington, PA 16142	Wilmington Township Lawrence County	UNT to Shenango River 20-A	Y

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

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

**NPDES Permit No. PA0050393**, Sewage, SIC 4952, **Hilltown Township Water and Sewer Authority**, P. O. Box 365, Sellersville, PA 18960. This facility is located at Highland Park Road, Sellersville, Hilltown Township, **Bucks County**, PA 18960.

Description of Activity: Renewal of Sewage Treatment Plant's NPDES Permit to discharge treated sewage effluent to a UNT of Mill Creek.

The receiving water and UNT of Mill Creek is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-PA is located on Perkiomen Creek and is approximately 8 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10.0	15.0		20.0
Total Suspended Solids	10.0	15.0		20.0
Ammonia as N	2.0			4.0
Phosphorus as P	1.5			3.0
NO <sub>2</sub> -N and NO <sub>3</sub>	10.0			20.0
Fecal Coliform*	200 #/100 ml			Monitor and Report
Dissolved Oxygen			6.0 (Minimum)	
pH (Std Units)		within limits of 6.0 to 9.0		

\*Ultra-Violet Disinfection.

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

1. Discharge must not cause nuisance.
2. Small stream discharge—if discharge causes health hazard additional measures may be required.
3. Proper sludge disposal.

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

**Application No. PA 0248231**, Sewage, **Otterbein United Methodist Church of Duncannon**, 301 North High Street, Duncannon, PA 17020. This facility is located in Penn Township, **Perry County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, a UNT to Little Juniata Creek, is in Watershed 7-A and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Susquehanna River, approximately 11.6 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.002 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	10		20
(11-1 to 4-30)	20		40
Total Suspended Solids	10		20
NH <sub>3</sub> -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18
Total Residual Chlorine	1.0		2.0
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a geometric average	

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA 0014672**, Industrial Waste, SIC Codes 3691 and 3341, **Exide Technologies**, P. O. Box 14294, Reading, PA 19612-4294. This facility is located in Muhlenberg Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving streams, Bernhart Creek and the Schuylkill River are in Watershed 3-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Pottstown Water Company located on the Schuylkill River, approximately 22 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.25 mgd are:

<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	Monitor and Report	from 6.0 to 9.0 inclusive		
pH			from 6.0 to 9.0 inclusive		
Total Suspended Solids	63	125	30	60	75
Total Copper	1.298	2.881	0.671	1.382	1.678
Total Lead	0.300	0.645	0.144	0.309	0.360
Total Iron	0.160	0.312	0.077	0.149	0.193
Total Antimony	1.834	4.114	0.880	1.973	2.200
Total Arsenic	1.067	2.601	0.512	1.248	1.280
Total Zinc	0.893	2.165	0.428	1.038	1.070
NH <sub>3</sub> -N	12	24	5.0	10	12
CBOD <sub>5</sub>	52	83	25	40	50
Oil and Grease	31	62	15	30	30
Total Dissolved Solids	11,209	20,000	6,000	7,500	7,500

## NOTICES

*Interim*

The proposed effluent limits for Outfall 002 based on a design flow of 0.327 mgd are:

<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	Monitor and Report	Monitor and Report			
pH			from 6.0 to 9.0 inclusive		
Total Suspended Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Aluminum	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Antimony	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Arsenic	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Cadmium	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Chromium, VI	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Copper	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Lead	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Iron	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Zinc	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Dissolved Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
TUa				3.09	
Oil and Grease	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	

*Final*

The proposed effluent limits for Outfall 002 based on a design flow of 0.327 mgd and a stream flow of 8.8 cfs are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum Daily</i>	
Flow	Monitor and Report	Monitor and Report				
pH			from 6.0 to 9.0 inclusive			
Total Suspended Solids	81	162	30	60		75
Total Aluminum	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Antimony	0.704	1.408	0.258	0.516		0.645
Total Arsenic	2.509	5.018	0.920	1.840		2.300
Total Cadmium	0.210	0.420	0.077	0.154		0.193
Chromium, VI	0.521	1.042	0.191	0.382		0.478
Total Copper	0.837	1.674	0.307	0.614		0.678
Total Lead	0.379	0.758	0.139	0.278		0.348
Total Iron	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Zinc	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Dissolved Solids	2,727	5,454	1,000	2,000		2,000
TUa				3.09		
Oil and Grease	41	82	15	30		30
Stream Flow (CFS)					8.80	

The proposed effluent limits for Outfall 002 based on a design flow of 0.327 mgd and a stream flow of 4.928 cfs are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum Daily</i>	
Flow	Monitor and Report	Monitor and Report				

Parameter	Mass (lb/day)		Concentration (mg/l)			
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Minimum Daily	Instantaneous Maximum
pH			from 6.0 to 9.0 inclusive			
Total Suspended Solids	81	162	30	60		75
Total Aluminum	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Antimony	0.409	0.818	0.150	0.300		0.375
Total Arsenic	1.464	2.929	0.537	1.074		1.343
Total Cadmium	0.120	0.240	0.044	0.088		0.110
Chromium, VI	0.305	0.611	0.112	0.224		0.280
Total Copper	0.480	0.960	0.176	0.352		0.440
Total Lead	0.215	0.431	0.079	0.158		0.198
Total Iron	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Zinc	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report		
Total Dissolved Solids TUa	2,727	5,454	1,000	2,000		2,000
Oil and Grease	41	82	15	30	3.09	30
Stream Flow (CFS)						

**Application No. PA 0248142**, Sewage, **Rodger C. Petrone**, 4076 Market Street, Camp Hill, PA 17011. This facility is located in Carroll Township, **York County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Yellow Breeches Creek is in Watershed 7-E and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Yellow Breeches Creek, approximately 12.6 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 mgd are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N	Monitor and Report	Monitor and Report
Total Residual Chlorine	Monitor and Report	Monitor and Report
pH	from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	1,400/100 ml as a geometric average	

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

**PA0228401**, CAFO SIC 0241, **Schrack Farms Partnership**, 860 West Valley Road, Loganton, PA 17747. This existing facility is located in Greene Township, **Clinton County**.

Description of Proposed Activity: The applicant proposes the renewal of an NPDES permit authorizing the CAFO operation at the site. Schrack Farms Partnership is a dairy farm consisting of 850 dairy cows and 580 dairy heifers for a total of 1,670 animal equivalent units. Manure is stored in an earthen clay-lined 5 million gallon impoundment.

The receiving stream, Fishing Creek is in the State Water Plan (SWP) Watershed 9C and is classified for HQ-CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO individual permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required.

*Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412)-442-4000.*

**PA0001228**, Industrial Waste, SIC, 3621, **Curtiss-Wright Corporation**, 1000 Cheswick Avenue, Cheswick, PA 15024. This application is for renewal of an NPDES permit to discharge untreated cooling water, untreated test loop water, deionized water and stormwater from the Curtiss-Wright Electro-Mechanical Corporation in Harmar Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, dry drainage swale to a UNT-Allegheny River and dry drainage swale to the Allegheny River, 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 Oakmont, located approximately, 2.0 miles below the discharge point.

*Outfall 001:* existing discharge, design flow of 0.25 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
Manganese	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 003:* existing discharge, design flow of 0.249 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)	36 Month				
	Interim				
	Monitor and Report				
	Final				
January 1—31			40.0		110
February 1—29			40.0		110
March 1—31			46.0		110
April 1—15			52.0		110
April 16—30			58.0		110
May 1—15			64.0		110
May 16—31			72.0		110
June 1—15			80.0		110
June 16—30			84.0		110
July 1—31			87.0		110
August 1—31			87.0		110
September 1—15			84.0		110
September 16—30			78.0		110
October 1—15			72.0		110
October 16—31			66.0		110
November 1—15			58.0		110
November 16—30			50.0		110
December 1—31			42.0		110
pH	not less than 6.0 nor greater than 9.0				

*Outfall 101, 201, 301, 401, 501, 601, 701, 801, 103, 203, 303, 403, 503, 603, 703, 803 and 903:* new discharges, design flow NA.

<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				
TSS			30		60
Iron			Monitor and Report		7.08
Oil and Grease			15		30
Dissolved Oxygen	Minimum of 5.0				
pH	Monitor and Report				

*Outfalls 002 and 004:* existing discharge design flow of NA.

<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>
Discharge shall consist solely of uncontaminated stormwater runoff.					

The EPA waiver is in effect.

**PA0091740**, Industrial Waste, SIC, 4911, **West Penn Power Company**, 800 Cabin Hill Drive, Greensburg, PA 15601-1689. This application is for renewal of an NPDES permit to discharge treated leachate from the Springdale Ash Disposal Site (closed ash site) in Frazer Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Riddle Run and Tawney Run, classified as WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first



existing/proposed downstream potable water supply is Oakmont Borough Municipal Authority, located at 721 Allegheny Avenue, Oakmont, PA 15139, 4.5 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.0361 mgd. (Interim Limits)*

<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				
Suspended Solids			30		75
Aluminum			0.5		1.3
Iron			1.6		4.0
Iron, dissolved			0.33		0.83
Manganese			1.1		2.8
Boron			20		40
pH	not less than 6.0 nor greater than 9.0				

*Outfall 001: existing discharge, design flow of 0.0361 mgd (Final Limits)*

<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				
Suspended Solids			30		75
Aluminum			0.5		1.3
Iron			1.6		4.0
Iron, dissolved			0.33		0.83
Manganese			1.1		2.8
Boron			2.0		5.0
pH	not less than 6.0 nor greater than 9.0				

*Outfall 002: existing discharge, design flow of 0.0016 mgd (Final Limits)*

<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				
Suspended Solids			30		75
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA0097110**, Industrial Waste, SIC 4153, **Shade Landfill, Inc.**, 1176 No. 1 Road, Cairnbrook, PA 15924. This application is for the renewal of an NPDES permit to discharge treated leachate and under drain and stormwater from the Shade Landfill in Shade Township, **Somerset County**.

The following effluent limitations are proposed for discharge to receiving waters, Laurel Run classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority on the Allegheny River located at Freeport, PA, 105 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.025 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)	0.025		Monitor and Report		
CBOD <sub>5</sub>			31		78
BOD			37		140
Suspended Solids			23	46	
Oil and Grease			15		30
Ammonia-nitrogen			3.4		6.8
Total Residual Chlorine			0.5		1.0
Fecal coliforms: (5-1 to 9-30)			200/100 ml		1,000/100 ml
(10-1 to 4-30)			2,000/100 ml		
Antimony			0.022	0.044	
Beryllium			Nondetectable using EPA test method 210.2		
Boron			3.6	7.2	

## NOTICES

<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>
Cadmium					
Interim			0.003	0.006	
Final			0.0006	0.0012	
Copper					
Interim			0.025	0.05	
Final			0.021	0.042	
Iron			3.3	6.6	
Iron, dissolved			0.66	1.32	
Lead			0.007	0.014	
Silver			0.006	0.012	
Thallium			0.004	0.008	
Zinc			0.11	0.20	
Phenolics			0.044	0.088	
Nickel					
Interim			0.150	0.30	
Final			0.124	0.248	
a-Terpineol			0.016	0.033	
Benzoic acid			0.071	0.12	
p-Cresol			0.014	0.025	
Phenol			0.015	0.026	
pH			Not less than 6.0 nor greater than 9.0		

*Outfall 001*: existing discharge, design flow of 0.04 mgd. These limits are effective if the monthly average flow rate is greater than 0.025 mgd up to 0.04 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)	0.04	Monitor and Report			
CBOD <sub>5</sub>			31		78
BOD			37		140
Suspended Solids			23	46	
Oil and Grease			15		30
Ammonia-nitrogen			2.9	5.8	
Total Residual Chlorine			0.41		1.0
Fecal coliforms:					
(5-1 to 9-30)			200/100 ml		1,000/100 ml
(10-1 to 4-30)			2,000/100 ml		
Antimony			0.018	0.036	
Beryllium			Nondetectable using EPA test method 210.2		
Boron			2.8	5.6	
Cadmium					
Interim			0.002	0.004	
Final			0.0005	0.001	
Copper					
Interim			0.02	0.04	
Final			0.017	0.034	
Iron			2.6	5.2	
Iron, dissolved			0.53	1.06	
Lead			0.006	0.012	
Silver			0.005	0.010	
Thallium			0.004	0.008	
Zinc			0.11	0.20	
Phenolics			0.035	0.07	
Interim			0.150	0.30	
Final			0.098	0.196	
a-Terpineol			0.016	0.033	
Benzoic acid			0.071	0.12	
p-Cresol			0.014	0.025	
Phenol			0.015	0.026	
pH			Not less than 6.0 nor greater than 9.0		

*Outfall 002: existing discharge, average flow of 0.002 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>
	Monitor and Report				
Flow (mgd)			35	70	
Suspended Solids			0.005	0.01	
Cadmium			3.0	6.0	
Iron			1.03	2.06	
Manganese			0.011	0.022	
Silver				7.0	
Iron, Dissolved			not less than 6.0 nor greater than 9.0		
pH					

*Outfalls 003—007: existing discharge, design flow of varied 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>
Suspended Solids			Monitor and Report		
Oil and grease			Monitor and Report		
CBOD <sub>5</sub>			Monitor and Report		
Dissolved Solids			Monitor and Report		
Ammonia-nitrogen			Monitor and Report		
Arsenic			Monitor and Report		
Cadmium			Monitor and Report		
Chromium			Monitor and Report		
Iron			Monitor and Report		
Iron, dissolved			Monitor and Report		
Lead			Monitor and Report		
Mercury			Monitor and Report		
Selenium			Monitor and Report		
Silver			Monitor and Report		
Zinc			Monitor and Report		
pH			Monitor and Report		

The EPA waiver is in effect.

**PA0216909**, Industrial Waste, SIC, 6719, **S-All, Inc., c/o William Dux**, Hershey Square 245, 1152 Mae Street, Hummelstown, PA 17036. This application is for renewal of an NPDES permit to discharge treated groundwater from remediation activities in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Stoney Run, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Saltsburg Municipal Waterworks located at Saltsburg 22 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.0022 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	Monitor and Report				
Total Suspended Solids			30		75
Oil and Grease			15		30
Dissolved Iron					7
Carbon Tetrachloride			0.024		0.042
Chloroethane			0.175		0.175
1,1-dichloroethane			0.014		0.113
1,2-dichloroethane			0.015		0.038
1,1-dichloroethylene			0.010		0.025
Ethylbenzene			0.142		0.380
<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>
1,1,2,2-tetrachloroethane			0.010		0.013
Tetrachloroethylene			0.012		0.016
1,1,1-trichloroethane			0.005		0.018
Trichloroethylene			0.026		0.069

## NOTICES

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
1,2-dichloroethylene			0.017		0.017
Xylenes			0.244		0.316
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA0253235**, Industrial Waste, SIC, 4961, **Tarentum Housing Limited Partnership**, 4415 5th Avenue, Pittsburgh, PA 15213. This application is for an NPDES permit to discharge untreated noncontact cooling water from the proposed Tarentum Senior Housing in Tarentum and Brackenridge Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Allegheny River 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 considered during the evaluation is located on the Allegheny River 0.2 mile below the discharge point.

*Outfall 001*: new discharge to the Allegheny River, design flow of 0.91 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				
Manganese	Monitor and Report				
Iron	Monitor and Report				
Dissolved Iron	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 002*: new discharge to Allegheny River, design flow of 1.03 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				
Manganese	Monitor and Report				
Iron	Monitor and Report				
Dissolved Iron	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA0024449**, Sewage, **Youngwood Borough Authority**, 17 South Sixth Street, Youngwood PA 15697-1231. This application is for renewal of an NPDES permit to discharge treated sewage from Youngwood Borough Sewage Treatment Plant in Youngwood Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Jacks Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority-McKeesport.

*Outfall 001*: existing discharge, design flow of 0.5 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0	7.5		10.0
(11-1 to 4-30)	14.0	21.0		28.0
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.

**PA0093203**, Sewage, **The Pennsylvania State University**, 113 Physical Plant Building, University Park, PA 16802. This application is for renewal of an NPDES permit to discharge treated sewage from Penn State New Kensington Campus STP in Upper Burrell Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pucketa Creek, which are classified as a TSF 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: Oakmont Borough Water Authority.

*Outfall 001*: existing discharge, design flow of 0.015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	15			30
Suspended Solids	25			50
Ammonia Nitrogen (5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
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			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0093611**, Sewage, **ST Development Company, LLC**, 2611 Memorial Boulevard, Connellsville PA 15425. This application is for renewal of an NPDES permit to discharge treated sewage from ST Development Company STP in Bullsken Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale to Irish Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Westmoreland County Municipal Authority, McKeesport Plant, on the Youghioghenny River.

*Outfall 001*: existing discharge, design flow of 0.0061 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
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			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0098183**, Sewage, **Gary A. Sippel**, 2593 Wexford-Bayne Road, Sewickley, PA 15143. This application is for renewal of an NPDES permit to discharge treated sewage from Stone Mansion STP in Franklin Park Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters known as Swale to UNT of East Branch Big Sewickley Creek, which are classified as a TSF 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 Nova Chemicals, Beaver Valley Plant on the Ohio River at river mile 29.5.

*Outfall 001*: existing discharge, design flow of 0.03583 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
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			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218391**, Sewage, **Georges Creek Municipal Authority**, P. O. Box 338, Smithfield, PA 15478. This application is for renewal of an NPDES permit to discharge treated sewage from Georges Creek Municipal Authority STP in Georges Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Georges Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Dunkard Valley Joint Municipal Authority on the Monongahela River.

*Outfall 001*: existing discharge, design flow of 0.16 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0	4.5		6.0
(11-1 to 4-30)	9.0	13.5		18.0
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			
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0253057-A1**, Sewage, **Anthony and Ruth Testa**, 428 Truby Street, Greensburg, PA 15601. This application is for amendment of an NPDES permit to discharge treated sewage from Testa SF STP in Donegal Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters known as Roaring Run which is classified as a HQ-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 Indian Creek Valley Water Authority.

*Outfall 001*: new discharge, design flow of 0.0004 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	10			20
(11-1 to 4-30)	20			40
Suspended Solids	20			40
Ammonia Nitrogen				
(5-1 to 10-31)	5.0			10.0
(11-1 to 4-30)	15.0			30.0
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.

**PA0253324**, Sewage, **Guardian Elder Care, LLC**, P. O. Box 240, Brockway, PA 15824. This application is for issuance of an NPDES permit to discharge treated sewage from Scenery Hill Manor Person Care Home in Armstrong Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT to Cheese Run, 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 Buffalo Township Municipal Authority.

*Outfall 001*: new discharge, design flow of 0.0044 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.5			7.0
(11-1 to 4-30)	10.0			20.0
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			
Total Residual Chlorine	0.3			0.7
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0239836**, Sewage, **Robert C. and Helen McCanna**, 8 Deer Run Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Activity: A new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company is located on the Allegheny River and is approximately 128.4 miles below point of discharge.

The receiving stream, the South Branch Willow Creek is in Watershed 16-B and classified for HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	10		20
Total Suspended Solids	10		20
Fecal Coliform			
(5-1 to 9-30)	200/100ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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### **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. 2206403**, Sewerage, **Dauphin Borough**, 200 Church Street, P. O. Box 487, Dauphin, PA 17018. This proposed facility is located in Dauphin Borough, **Dauphin County**.

Description of Proposed Action/Activity: Application for the construction/operation of a pump station and force main.

**WQM Permit No. 2806403**, Sewerage, **Ray and Rubie Wingert**, 2635 Grand Point Road, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Application for the construction/operation of a small flow spray irrigation system to serve their single family residence located on Lot No. 13, Grand Point Road.

**WQM Permit No. WQG02210601**, Sewerage, **South Middleton Township Municipal Authority**, 345 Criswell Drive, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for the construction/operation of the Villa Estates pumping station.

**WQM Permit No. WQG02440601**, Sewerage, **Derry Township Sanitary Sewer Authority**, 15 West Mill Street, P. O. Box 465, Yeagertown, PA 17099. This proposed facility is located in Derry Township, **Mifflin County**.

Description of Proposed Action/Activity: Application for the construction/operation of a sewer extension to serve the Blossom Hill residential community.

**WQM Permit No. WQG02280601**, Sewerage, **Guilford Township Authority**, 115 Spring Valley Road, Chambersburg, PA 17201. This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Application for the construction/operation of the Woodstock Drainage Basin Diversion Pumping Station.

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

**WQM Permit No. 1185402-A5**, Sewerage, **Ebensburg Borough Municipal Authority**, Ebensburg Municipal Building, 300 West High Street, Ebensburg, PA 15931. This proposed facility is located in Cambria Township, **Cambria County**.

Description of Proposed Action/Activity: Application for changes to the proposed sludge dewatering equipment, including replacement of the existing sludge belt filter press.

**WQM Permit No. WQG-026107**, Sewerage, **Forward Township**, 500 Liggett Avenue, Monongahela, PA 15063. This proposed facility is located in Forward/Elizabeth Townships, **Allegheny County**.

Description of Proposed Action/Activity: Application for the extension of existing sewer system, construction of new gravity sewer line and gravity sanitary sewer system.

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

**WQM Permit No. 2506408**, Sewerage, **Pleasant Ridge Manor—West**, 8300 West Ridge Road, Girard, PA 16417. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the installation of dechlorination process to an already existing wastewater treatment facility.

**WQM Permit No. 2503418**, Sewerage, Amendment No. 1, **Municipal Authority of the Borough of Waterford**, 30 South Park Row, P. O. Box 49, Waterford, PA 16441. This proposed facility is located in Waterford Borough, **Erie County**.

Description of Proposed Action/Activity: This project is for the rerating of the wastewater treatment plant from 240,000 gpd limit to 324,000 gpd.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506042	Tummilow and Sons, Inc. 1024 Pottstown Pike Chester Springs, PA 19425	Chester	East Vincent township	UNT French Creek EV
PAI011506043	Griffiths Construction Company 851 Chester Spring Road Chester Springs, PA 19425	Chester	Charlestown Township	Pickering Creek HQ-TSF
PAI011506044	Downingtwn Area School District 122 Wallace Avenue Downingtwn, PA 19335	Chester	West Bradford Township	Broad Run EV
PAI012306002	NVS Custom homes, LP 347 East Conestoga Road Wayne, PA 19087	Delaware	Thornbury Township	UNT Chester Creek TSF, MF



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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024506014	Bestway of Pennsylvania, Inc. 3870 SR 191/390 Cresco, PA 18326	Monroe	Barrett Township	Cranberry Creek HQ-CWF
PAS10S046R(2)	S.I.D.E. Corporation P. O. Box 1050 Blakeslee, PA 18610	Monroe	Tobyhanna Township	Tobyhanna Creek HQ-CWF
PAI024506013	Sciota Properties, LLC HC 1, Box 70 Saylorsburg, PA 18353	Monroe	Hamilton Township	McMichael Creek 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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906012	Lehigh Valley Hospital & Health Network Cedar Crest and I-78 P. O. Box 689 Allentown, PA 18105-1556	Lehigh	Salisbury Township	Little Lehigh Creek HQ-CWF

*Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10V040-1	The Glen at Tamiment & Eagle Village Property Owners Associations Recreation Areas 920 Matson Ford Road West Conshohocken, PA 19428	Pike	Lehman Township	Tributary 05057 to Little Bushkill Creek HQ-CWF  Little Bushkill Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032806006	Divinity Investments, LLC P. O. Box 1180 Chambersburg PA 17201	Franklin	Antrim Township	UNT Muddy Creek HQ-CWF

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

*Erie Conservation District: 1927 Wager Road, Erie, PA 16509*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062506002	Greater Erie Industrial Development Corp (GEIDC) 5240 Knowledge Parkway Erie, PA 16520	Erie	City of Erie	Cemetery Run Motsch Run/Lake Erie WWF

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## VII. List of NOIs for NPDES and/or Other General Permit Types

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PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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### CAFO Notices of Intent Received

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

**PAG124804, CAFO, SIC 0213, John and Trisha Stone**, 12547 Stage Road, McClure, PA 17841. This existing facility is located in Spring Township, **Snyder County**. Description of Size and Scope of Proposed Operation/Activity: 4,200 swine finishing operation (558.9 AEUs).

The receiving stream, Middle Creek is in the Penns Watershed 6A and classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

### **PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

#### **SAFE DRINKING WATER**

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

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

**Permit No. 4606506**, Public Water Supply

Applicant	<b>Audubon Water company</b>
Township	Lower Providence
County	<b>Montgomery</b>
Responsible Official	Joseph H. Russell
Type of Facility	PWS
Consulting Engineer	Evans Mill Environmental, Inc.
Application Received Date	June 13, 2006
Description of Action	Permitting of Well No. 15 to replace existing Well 10.

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

**Permit No. 0605523**, Public Water Supply.

Applicant	<b>Mohrsville Water Supply Authority</b>
Municipality	Centre Township
County	<b>Berks</b>
Type of Facility	Installation of arsenic treatment to existing water system.
Consulting Engineer	Michael W Wellet, P. E. Hammerhead Engineering & Environmental Services, LL 107 Hillside Terrace Califon, NJ 4119
Permit to Construct Issued:	6/12/2006

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 7010057, Mt. Joy Township, **Adams County** on 6/15/2006 for the operation of facilities approved under Construction Permit No. 0105507 MA.

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

**Application No. 6206502**, Public Water Supply

Applicant	<b>North Warren Municipal Authority</b>
Township or Borough	Conewango Township
	<b>Warren County</b>
Responsible Official	Skip Jacobson, Authority Chairperson
Consulting Engineer	Dale W. Sorensen, P. E. Project Consultant Northwest Engineering Inc P. O. Box Q Tidioute PA 16351
Application Received Date	05/26/2006
Description of Action	Application is to supply public water service from the North Warren Municipal Authority, to the North Ridge Subdivision, a 47-lot residential subdivision currently under construction.

#### **MINOR AMENDMENT**

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

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

**Application Minor Amendment.**

Applicant	<b>Borough of Alburdis</b>
	Alburdis Borough
	<b>Lehigh County</b>

Responsible Official Steven R. Hill  
260 Franklin Street  
Alburtis, PA 18011-0435  
(610) 966-4777

Type of Facility Community Water System

Consulting Engineer Ronald E. Coleman, P. E.  
R.E. Coleman Associates  
1055 Andrew Drive  
West Chester, PA 19380-4293  
(610) 840-9100

Application Received Date May 22, 2006

Description of Action Application for construction of a 200,000 gallon finished water storage tank to serve the Borough of Alburtis.

**Application No. 3906504**, Public Water Supply.

Applicant **Borough of Alburtis**  
Alburtis Borough  
**Lehigh County**

Responsible Official Steven R. Hill  
260 Franklin Street  
Alburtis, PA 18011-0435  
(610) 966-4777

Type of Facility Community Water System

Consulting Engineer Ronald E. Coleman, P. E.  
R. E. Coleman Associates  
1055 Andrew Drive  
West Chester, PA 19380-4293  
(610) 840-9100

Application Received Date May 22, 2006

Description of Action Application for a new well to augment the existing supply wells serving the Borough of Alburtis.

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

**Application No. 5606503MA**, Minor Amendment.

Applicant **Conemaugh Township Municipal Authority**  
113 South Main Street  
P. O. Box 429  
Davidsville, PA 15928-0429

Township or Borough Conemaugh Township

Responsible Official Mark Blasko, Chairperson  
Conemaugh Township Municipal Authority  
113 South Main Street  
P. O. Box 429  
Davidsville, PA 15928-0429

Type of Facility Water storage tank

Consulting Engineer The EADS Group, Inc.  
450 Aberdeen Drive  
Somerset, PA 15501

Application Received Date June 13, 2006

Description of Action Construction of a 500,000 gallon finished water storage tank known as the Davidsville Water Storage Tank No. 2. Also blasting/painting to the 200,000 gallon finished water storage tank known as the Davidsville Water Storage Tank No. 1.

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

**Application No. 2099501-MA1**, Minor Amendment

Applicant **Borough of Cambridge Springs**

Township or Borough Cambridge Springs Borough  
**Crawford County**

Responsible Official Peggy Lewis, Borough Manager

Type of Facility Public Water Supply

Application Received Date 05/30/2006

Description of Action Replacement of an existing elevated 200,000-gallon water tank with a 495,000 gallon stand pipe water tank. Tank location is on Sitler Avenue.

**WATER ALLOCATIONS**

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

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

**WA4-1006**, Water Allocations. **Borough of Shippingport**, P. O. Box 76, Shippingport, PA 15077, **Beaver County**. The applicant is requesting a new subsidiary water allocation to purchase 15,350 gpd from the Midland Municipal Authority located in Beaver County.

**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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Palinkas Residence**, Cheltenham Township, **Montgomery County**. Tiffani Doerr, GES, Inc. 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of Sandor Palinkas, 322 Bent Road, Wyncote, PA 19095 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of No. 2 fuel oil. The future use of the property is residential.

**Sun Malvern Tanker Spill Site**, East Whiteland Township, **Chester County**. Patrick S. Crawford, P. G., GES, Inc. 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of Tony Bamonte, Liberty Prop. Trust, LP, 500 Chesterfield Pkwy., Malvern, PA 19355 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with unleaded gasoline, MTBE and BTEX. The intended future use of the property is expected to remain nonresidential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on May 22, 2006.

**Absco Parcel A**, City of Philadelphia, **Philadelphia County**. Angelo Waters, Urban Engineers, Inc. 530 Walnut St. 14th Floor, Philadelphia, PA 19106 on behalf of Andy Karff, Absco, Inc., 1310-28 N. Second St. Philadelphia, PA 19122 has submitted a Notice of Intent to

Remediate. Soil at the site has been impacted by release of metals, PCBs and lead. The intended future use of Parcel A is for residential/commercial development.

**B-1 Parcel, Holme and Poquessing Streets**, City of Philadelphia, **Philadelphia County**. Bill Schmidt, Pennoni Assoc., Inc. 3001 Market St. Philadelphia, PA 19104 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of pesticides and other organics.

**Bucks County Intermediate Unit**, Bristol Township, **Bucks County**. Michael Sarcinello, Aquaterra Tech. Inc., P. O. Box 744, West Chester, PA 19381 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of No. 2 fuel oil.

**Penn Tank Lines Accidental Tankers Spill**, West Caln Township, **Chester County**. Gilbert J. Marshall, P. G., Marshall Geoscience, Inc. 170 E. First Avenue, Collegeville, PA 19426 on behalf of Michael W. Rebert, P. E., Penndot, Maintenance District 6-2, 401 Montgomery Avenue, West Chester, PA 19380 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with unleaded gasoline. The site will be restored to its ordinal conditions, and future use of the site will remain unchanged.

**Absco Parcel B**, City of Philadelphia, **Philadelphia County**. Angelo Waters, Urban Engineers, Inc. 530 Walnut St. 14th Floor, Philadelphia, PA 19106 on behalf of Andy Karff, Absco Inc. 1310-28 N. Second St. Philadelphia, PA 19122 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of metals and PCB'S. The intended future use will remain as commercial and industrial use.

**Hunter Residence**, East Marlborough Township, **Chester County**. Steve Morpus, HMHTTC Response, Inc. 19 Davison Lane, New Castle, DE. 19720 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of No. 2 fuel oil.

**Northern Shipping Facility**, City of Philadelphia, **Philadelphia County**. Jamey Stynchula, Pennoni Assoc., Inc. 3001 Market St. Philadelphia, PA 19104 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of inorganic, lead and arsenic. The future use of the property is for residential and commercial use.

**Kovalchick Salvage Company**, Solebury Township, **Bucks County**. George Field, SAIC, 6310 Allentown Blvd. Harrisburg, PA 17112 on behalf of Joseph Kovalchick, Kovalchick Salvage Corporation, 1060 Wayne Avenue, Indiana, PA 15701 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of No. 2 fuel oil and other organics.

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

**Wolfe's General Store**, Brown Township, **Lycoming County**. Environmental Compliance and Control, Inc., 400 Morris Ave., Denville, NJ 07834 on behalf of Tom and Deborah Finkbinder, Wolfe's General Store, P. O. Box 1, Slate Run, PA 17769 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with heating oil and kerosene. The applicant proposes to remediate the site to meet the Statewide Heath Standard.

**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.PAD000736942. Calgon Carbon Corporation**, P. O. Box 717, Pittsburgh, PA 15230. Operation of a carbon regeneration facility in Neville Township, **Allegheny County**. Application to modify the permit to lower carbon regeneration furnace after burner temperature and oxygen content received in Regional Office on May 3, 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.*

**58-303-006: New Milford Materials, LLC** (P. O. Box 324A-1, Montrose, PA 18801) for construction of a batch asphalt plant and associated air cleaning device with the capability of utilizing waste derived liquid fuel on Carey Road, New Milford Township, **Susquehanna County**.

**48-313-100: Ecopax, LLC—United Plastics Group** (30 Commerce Drive, Somerset, NJ 08873) for construction of two Styrofoam production lines and associated air cleaning devices in Forks Township, **Northampton County**.

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

**01-03031A: ISP Minerals, Inc.** (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for replacement of dust collectors. Existing sources will be controlled by the use of two new fabric filter baghouses in Hamiltonban Township, **Adams County**.

**36-03116A: Wilbur Chocolate Co., Inc.** (48 North Broad Street, Lititz, PA 17543) for installation of a new roasting system at their chocolate manufacturing facility in Mount Joy Borough, **Lancaster County**.

**38-05035: PPL Distributed Generation, LLC** (Two North Ninth Street, GENPL8, Allentown, PA 18101) for a landfill gas to energy facility with Greater Lebanon Refuse Authority to install two engine generators (Caterpillar Model 3520, 1,600 kilowatts each) in North Annville Township, **Lebanon County**. The facility's primary emissions will be NOx.

**67-05032D: Harley-Davidson Motor Company Operations, Inc.** (1425 Eden Road, York, PA 17402) for the venting to atmosphere of the exhaust from an existing cartridge filter at the York motorcycle assembly plant in Springettsbury Township, **York County**.

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

**41-399-027A: Smurfit-Stone Container Enterprises, Inc.** (P. O. Box 371, Jersey Shore, PA 17740) for modification of a paperboard/plastic film gluing operation by increasing the amount of adhesive and cleaning solvent used as well as by using an adhesive with a higher volatile HAP content thereby resulting in an increase in the emission of both VOCs and volatile HAPs in Porter Township, **Lycoming County**.

**41-320-002: Webb Communications** (One Maynard Street, Williamsport, PA 17701) for construction of four heatset web offset lithographic printing presses and an

associated air cleaning device (a regenerative thermal oxidizer) and for the installation of the same air cleaning device on two existing heatset web offset lithographic printing presses in the City of Williamsport, **Lycoming County**.

**49-00052A: Butter Krust Baking Co., Inc.** (249 North Eleventh Street, Sunbury, PA 17801-2433) for construction and operation of a natural gas-fired bread oven with a catalytic oxidizer to control the air contaminant emissions from the oven at their Northumberland Plant located in the Borough of Northumberland, **Northumberland County**.

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

**42-211A: M & M Royalty, Ltd.** (Route 146, Smethport, PA 16749) for construction—modification of a natural gas stripping operation in the Township of Sergeant, **McKean County**.

**10-305A: Recmix of PA, Inc.** (359 North Pike Road, Sarver PA 16055) for installation of an aggregate drying system and blending station to produce a cement additive, in the Township of Winfield, **Butler County**.

**42-206B: Holm Industries** (700 1/2 Elk Avenue, Kane, PA 16735) plan approval for modification of existing plan approval language regarding pH limits for the scrubber control device at the Kane facility in the Borough of Kane, **McKean 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.**

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

**40-318-056: Quality Collision, Inc.** (701 Route 309, Dallas, PA 18612) for construction of two paint spray booths and curing chamber, with the associated air cleaning devices, at 365 Courtdale Avenue, Courtdale Borough, **Luzerne County**. This facility is a non-Title V facility. The VOC emissions associated with this project will be less than 10 tons per year. The particulate emissions will be less than 0.02 grain per dry standard cubic foot. The company shall comply with 25 Pa. Code § 123.31 for malodorous emissions. The company shall comply with 25 Pa. Code § 123.41 for opacity. The company will operate the facility and maintain the processes and air cleaning device systems in accordance with the good engineering practices to assure proper operation of the equipment. The Plan Approval and resulting State-only Operating Permit will contain record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**48-313-098: Elementis Pigments, Inc.** (1525 Wood Avenue, Easton, PA 18042) for construction of an iron oxide repack system and associated fabric collector in Wilson Borough, **Northampton County**. The particulate emissions from the fabric collector will not exceed the Best Available Technology standard of 0.02 grain/dscf (0.83 ton per year total). The Plan Approval and Operating Permit will contain recordkeeping, monitoring, reporting and work practice requirements and emission restrictions designed to keep the facility operating within all

applicable air quality requirements. The facility currently has a Title V Operating Permit No. 48-00018. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

**40-318-055: Silgan Closures** (350 Jaycee Drive, West Hazleton, PA 18202) for an amendment to restrict HAPs emissions in Valmont Industrial Park, Hazle Township, **Luzerne County**. The company currently has a Title V permit number 40-00004. The HAPs from the facility must never exceed 9.9 tpy of any single HAP and must never exceed 24.9 tpy of all aggregated HAPs, based on a 12-month rolling sum. The company shall comply with 25 Pa. Code § 123.31 for malodorous emissions from the facility. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**36-05117A: Dart Container Corp. of PA** (110 Pitney Road, Lancaster, PA 17602-2616) for use of Nos. 4—6 fuel oil in the facility's two existing boilers in East Lampeter Township, **Lancaster County**. The use of the heavier fuel oils is expected to increase the facility's potential-to-emit PM10 by 10 tpy, SOx by 14 tpy and NOx by 59 tpy. The facility's boilers are subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. The plan approval and operating permit will include emission restrictions, testing requirements, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility 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.*

**55-399-007A: Kerrico Corp.** (R. R. 1, Box 131H, Selinsgrove, PA 17870) for modification of a cast polymer bathroom and kitchen countertop manufacturing operation in Penn Township, **Snyder County**.

The respective facility is a major (Title V) facility for HAPs but a Title V operating permit has not yet been issued.

The respective modifications consist of using methylene chloride, a HAP which Kerrico is currently not permitted to use, for certain select cleaning operations and increasing the amount of acetone used for cleaning purposes. Kerrico has also requested approval to use pigmented gelcoats in addition to the clear gelcoats and white/off-white gelcoats which were previously approved by the Department of Environmental Protection (Department). The use of methylene chloride is expected to result in an increase of up to 1.43 tons per year in the amount of HAPs emitted by the facility. The increase in acetone usage is expected to result in an increase of up to 5.0 tons per year in the amount of acetone emitted by the facility. The use of pigmented gelcoats in addition to clear gelcoats and white/off-white gelcoats is not expected to result in an increase in the emission of any air contaminant.

The Department's review of the information submitted by Kerrico Corporation indicates that the use of methylene chloride for certain select cleaning operations, the increased usage of acetone and the use of pigmented gelcoats should comply with all applicable regulatory

requirements pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.5780—63.5935 (National Emission Standards for Hazardous Air Pollutants; Reinforced Plastic Composites Production). Based on this finding, the Department proposes to issue plan approval for the proposed modifications.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Conditions contained in Plan Approval 55-399-007 remain in effect unless superseded or amended by a condition contained herein. If there is a conflict between a condition contained in Plan Approval 55-399-007 and a condition contained herein, the permittee shall comply with the condition contained herein rather than the conflicting condition contained in Plan Approval 55-399-007.

2. Pigmented gelcoats applied in this facility shall be applied in conformance with all conditions contained in Plan Approval 55-399-007 which have applicability to gelcoats except as specified herein.

3. "Clear gelcoats," "white/off-white gelcoats" and "pigmented gelcoats" (as those terms are defined in Subpart WWWW) are the only gelcoats that shall be applied at this facility. The clear gelcoats shall contain no more than 44% VOCs (by weight) and no more than 44% volatile HAPs (by weight). The white/off-white gelcoats shall contain no more than 30% VOCs (by weight) and no more than 30% volatile HAPs (by weight). The pigmented gelcoats shall contain no more than 31% VOCs (by weight) and no more than 31% volatile HAPs (by weight).

4. Methylene chloride may be used to clean cured resin from the mixing cylinder and associated auger incorporated in the Respecta DB-11/10-20 continuous casting machine but shall not be used anywhere else in the facility for any purpose.

5. The total combined facility-wide emission of methylene chloride shall not exceed 1.43 tons in any 12-consecutive month period.

6. The total combined facility-wide emission of acetone shall not exceed 10.0 tons in any 12-consecutive month period.

7. The total combined facility-wide emission of volatile HAPs shall not exceed 37.55 tons in any 12-consecutive month period and the total combined facility-wide emission of VOCs shall not exceed 38.53 tons in any 12-consecutive month period.

**49-00020B: Truck Accessories Group, Inc., d/b/a Leer East** (3560 Housels Run Road, Milton, PA 17847) for construction of a mold maintenance area, a wet-out reinforcement area, a secondary lamination area, a base rail lamination area, a truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic truck cap and tonneau cover assembly and final finish operations, an aluminum welding operation and an aluminum truck cap assembly, final finish and installation operation in an existing fiberglass reinforced plastic and aluminum truck cap manufacturing facility in Milton Borough, **Northumberland County**.

The respective facility is a major facility for both VOCs and HAPs and one for which a Title V operating permit (49-00020) has been issued.

The operation of the proposed air contamination sources, all of which actually already exist onsite, will result in the emission of up to 34,883 tons of VOCs, 25.71 tons of volatile HAPs (most of which will be styrene), 1.284 tons of PM including PM10 or less, also known as PM10 and .62 ton of metallic HAPs, 4.8 tons of acetone and .49 ton of ammonia per year.

The Department of Environmental Protection's (Department) review of the information submitted by Truck Accessories Group, Inc. indicates that the proposed air contamination sources should comply with all Air Quality requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12, the New Source Review requirements of 25 Pa. Code §§ 127.2011—27.217, the Reasonably Available Control Technology requirements of 25 Pa. Code §§ 129.91—129.95 and Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.5780—63.5935 (National Emission Standards for Hazardous Air Pollutants; Reinforced Plastic Composites Production). Based on this finding, the Department to issue plan approval for the construction of the proposed air contamination sources. Additionally, if the Department subsequently determines that the respective air contamination sources are being operated and maintained in accordance with the conditions of the plan approval as well as with all applicable regulatory requirements, the conditions established in the plan approval will be incorporated into Title V Operating Permit 49-00020 by means of administrative amendment in accordance with 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The VOC contents of the 3m flowable finishing putty, 3m short strand fiberglass reinforce filler, axel xtend 802, axel xtend cx-500, cook composites hq retention green tooling gelcoat, alpha/owens corning polyester resin solution in styrene and Sherwin-Williams/Krylon Ultra Flat Black Aerosol marking paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 1.84, 2.72, 6.03, 7.01, 4.30, 2.94 and 3.45 pounds per gallon, respectively. No other VOC-containing materials shall be used in this area.

2. The volatile HAP contents of the 3M Flowable Finishing Putty, 3M Short Strand Fiberglass Reinforce Filler, Axel Xtend CX-500, Cook Composites HQ Retention Green Tooling Gelcoat, Alpha/Owens Corning Polyester Resin Solution in Styrene and Sherwin-Williams/Krylon Ultra Flat Black Aerosol Marking Paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 1.84, 2.72, 7.01, 4.30, 2.94 and .59 pounds per gallon, respectively. No other volatile HAP-containing materials shall be used in this area.

3. The combined styrene and methyl methacrylate content of the Alpha/Owens Corning Polyester Resin Solution in Styrene (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 32% by weight (weighted average over any 12 consecutive month period with a maximum of 35% by weight for any single shipment received). The

styrene content of the 3M Flowable Finishing Putty and 3M Short Strand Fiberglass Reinforce Filler (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 20% by weight, and 43% by weight for the Cook Composites HQ Retention Green Tooling Gelcoat (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential). No other styrene-containing materials shall be used in this area.

4. The VOC, volatile HAP and PM emissions from the mold maintenance area shall not exceed 1.08, .33 and .00245 tons in any 12-consecutive month period, respectively.

5. Materials other than Sherwin-Williams/Krylon Ultra Flat Black Aerosol Marking Paint applied in the mold maintenance area shall be applied by hand only and all containers of materials shall be kept closed except when material is being removed from or introduced into the container.

6. Records shall be maintained of the amounts, VOC contents, volatile HAP contents, styrene contents and methyl methacrylate contents of the materials used in the mold maintenance area each month as well as of the total VOC and total volatile HAP emissions from the area and the weighted 12-consecutive month average combined styrene and methyl methacrylate content of the Alpha/Owens Corning Polyester Resin Solution in Styrene. This data shall be reported to the Department on a quarterly basis.

7. The neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area shall have a combined styrene and methyl methacrylate content of no greater than 32% by weight (weighted average over any 12-consecutive month period with a maximum of 35% by weight for any single shipment received) as well as a vapor suppressant factor of at least .05 and shall be applied using nonatomized resin application technology (as defined in condition 47 herein). No other volatile HAP-containing materials shall be used in these areas. No other VOC-containing materials shall be used in these areas other than ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) and, in the base rail lamination area only, Xtend 19SAM with a VOC content no greater than 5.71 pounds per gallon (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

8. The total combined amount of neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area shall not exceed 158,199 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein, and the total combined VOC emissions shall not exceed 26.2 tons in any 12-consecutive month period (excluding those from the use of cleanup solvent).

9. The total combined volatile HAP emissions from the wet-out reinforcement area, secondary lamination area and base rail lamination area shall not exceed 24.31 tons in any 12-consecutive month period.

10. The amount of Xtend 19SAM (or alternative material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the base rail lamination area shall not exceed 660 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein.

11. The volatile HAP emissions from the wet-out reinforcement area, secondary lamination area and base rail lamination area shall each not exceed 66.94 pounds per ton of neat resin (weighted average over 12-consecutive months). Records shall be maintained to demonstrate compliance with this limitation and this data is to be reported to the Department on a quarterly basis.

12. The total combined monthly neat resin usage in the wet-out reinforcement area, secondary lamination area and base rail lamination area may be determined by subtracting the amount of neat resin used in the primary lamination area each month from the total amount of neat resin used in the facility each month. Records shall be maintained of the maximum amount of filled resin delivered in a single pump stroke for the primary lamination area pump, the number of pump strokes occurring in the primary lamination area each month, the total amount of neat resin used in the entire facility each month, the volume percent of resin contained in the filled resin each month, the amount of filled resin used in the primary lamination area each month and the total combined amount of neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area each month.

13. Records shall be maintained of the identities, amounts, VOC contents, volatile HAP contents, styrene contents and methyl methacrylate contents of the neat resin and any other materials used in the wet-out reinforcement area, secondary lamination area and base rail lamination area each month as well as of the total VOC and total volatile HAP emissions from each of these areas and the weighted 12-consecutive month average combined styrene and methyl methacrylate content of the neat resin. This data shall be reported to the Department on a quarterly basis.

14. The VOC contents of the CASA 246-DB adhesive, Quick Clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed .57, 1.32 and 5.3 pounds per gallon, respectively. No other VOC-containing materials shall be used in this process.

15. The volatile HAP contents of the Quick Clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed .58 and 3.68 pounds per gallon, respectively, and the ammonia content of the CASA 246-DB adhesive shall not exceed 1%. No other volatile HAP-containing materials shall be used in this process.

16. The amounts of CASA 246-DB adhesive, quick clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed 12,000, 27 and 30 gallons, respectively, in any 12-consecutive month period, except as may be allowed by condition 46 herein.

17. The VOC emissions from the truck cap and tonneau cover headliner adhesive process shall not exceed 3.52 tons in any 12-consecutive month period.

18. The volatile HAP, ammonia and PM emissions from the truck cap and tonneau cover headliner adhesive process shall not exceed .07, .49 and .28 tons, respectively, in any 12-consecutive month period.



19. Adhesive and paint used in the truck cap and tonneau cover headliner adhesive process shall be applied in either the truck cap headliner adhesive spray booth or the tonneau headliner adhesive spray booth and shall only be applied with high volume low pressure spray equipment (or alternate technology determined by the Department to have an equivalent, or lower, air contaminant emission potential).

20. The truck cap and tonneau headliner adhesive spray booths shall each be equipped with dry filters with a PM removal efficiency of at least 95%.

21. Containers of materials used in the truck cap and tonneau cover headliner adhesive process shall be kept closed except when the material is being removed from or introduced into the container.

22. Records shall be maintained of the amounts, VOC contents, volatile HAP contents and ammonia contents of the materials used in the truck cap and tonneau cover headliner adhesive process each month as well as of the total VOC and total volatile HAP emissions from the process. This data shall be reported to the Department on a quarterly basis.

23. The VOC contents of the 3M Primer 94, 3M Scotch-Grip Industrial Adhesive 4799, Sika Flex 255-FC, Sika Activator, Probond Trite-R-Bond 2287A, Henkel Loctite 262, Tremco Trelglaze SA1100 and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 6.26, 4.13, .30, 5.6, 7.32, 1.19, .26 and 6.67 pounds per gallon, respectively. No other VOC-containing materials shall be used in this operation other than isopropanol (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

24. The volatile HAP contents of the 3M Primer 94, 3M Scotch-Grip Industrial Adhesive 4799, Sika Flex 255-FC and Probond Trite-R-Bond 2287A (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 2.47, 1.51, .30 and .38 pounds per gallon, respectively. No other volatile HAP-containing materials shall be used in this operation.

25. The VOC and volatile HAP emissions from the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 2.43 and .64 tons in any 12-consecutive month period, respectively.

26. Materials applied in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall be applied by hand. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

27. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation each month as well as of the total VOC and total volatile HAP emissions from this operation. This data shall be reported to the Department on a quarterly basis.

28. The VOC contents of the 3M Finesse II Finishing Material, 3M Perfect-It III Finishing Glaze, 3M Super Duty Rubbing Compound, 3M General Purpose Adhesive Cleaner and Spartan Chemical Company Glass Cleaner (or alternate materials determined by the Department to

have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 1.92, 1.6, 1.91, 6.81 and .91 pounds per gallon, respectively. No other VOC-containing material shall be used in this operation other than ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

29. The volatile HAP content of the 3M General Purpose Adhesive Cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 5.16 pounds per gallon. No other volatile HAP-containing materials shall be used in this operation.

30. The VOC, volatile HAP and PM emissions from the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed .73, .13 and .0008 tons in any 12-consecutive month period, respectively.

31. The 3M Finesse II Finishing Material, 3M Perfect-It III Finishing Glaze, 3M Super Duty Rubbing Compound and 3M General Purpose Adhesive Cleaner (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall be applied by hand only. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

32. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as of the total VOC and total volatile HAP emissions from the operation. This data shall be reported to the Department on a quarterly basis.

33. No more than 385,000 pounds of electrodes shall be used in the aluminum welding operation in any 12-consecutive month period.

34. The PM and HAP emissions from the aluminum welding operation shall not exceed 1.0 and .62 tons in any 12-consecutive month period, respectively. The permittee shall maintain records of the amount of electrodes used each month and other records as are necessary to demonstrate compliance with these emission limitations.

35. The VOC contents of the 3M Primer 94, Sika Flex 255-FC, Sika Activator, Henkel Loctite 262, Spartan Chemical Company Glass Cleaner and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation shall not exceed 6.26, .30, 5.6, 1.19, .91 and 6.67 pounds per gallon, respectively. No other VOC-containing materials shall be used in this operation other than isopropanol and mineral spirits (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential).

36. The volatile HAP contents of 3M Primer 94 and Sika Flex 255-FC (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation

shall not exceed 2.47 and .30 pounds per gallon, respectively. No other volatile HAP-containing materials shall be used in this operation.

37. The VOC, volatile HAP and PM emissions from the aluminum truck cap assembly, final finish and installation operation shall not exceed .91, .23 and .00025 tons in any 12-consecutive month period, respectively.

38. The 3M Primer 94, Sika Flex 255-FC, Sika Activator, Henkel Loctite 262 and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation shall be applied by hand only. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

39. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the aluminum truck cap assembly, final finish and installation operation each month as well as of the total VOC and total volatile HAP emissions from the operation. This data shall be reported to the Department on a quarterly basis.

40. The only cleanup solvent to be used in the mold maintenance area is acetone. The only cleanup solvents to be used in the wet-out reinforcement area, secondary lamination area and base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall be acetone and ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

41. Condition No. 002 of Source ID P101 (gelcoat and primary lamination operation) of Title V Operating Permit 49-00020 is hereby modified to state that the combined VOC emissions from the gelcoat and primary lamination operations shall not exceed 52.75 tons in any 12-consecutive month period.

42. No more than a combined total of 1,455 gallons of acetone may be used in Source ID P101, the mold maintenance area, wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation in any 12-consecutive month period nor shall the combined acetone emissions from these areas exceed 4.8 tons in any 12-consecutive month period.

43. Records shall be maintained of the total combined amount of acetone used in Source ID P101, the mold maintenance area, wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as of the amount of 100% acetone removed from these areas and shipped offsite in liquid form. This data shall be submitted to the Department on a quarterly basis.

44. The total combined amount of ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in Source P101, the wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 1,000 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein, and shall not result in the emission of more than 26 pounds of VOCs in any 12-consecutive month period. The vapor pressure of the ISP Technologies Shipshape-resin

cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) shall not exceed .29 mm Hg (millimeters of mercury) at 20°C.

45. Records shall be maintained of the amount and vapor pressure of the ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in Source P101, the wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as the total combined amount of VOCs emitted from its use and the amount of 100% ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) removed from these areas and shipped offsite in liquid form. This data shall be reported to the Department on a quarterly basis.

46. In cases where a material substitution has been made and an alternate material is employed which has a lower air contaminant emission potential than the original material, as determined by the Department, the permittee may use more of the respective material in a 12-consecutive month period than they may be limited to under a material usage limitation contained herein provided the resultant emissions of VOCs, volatile HAPs, styrene and any other air contaminants do not exceed any applicable (12-consecutive month) emission limitation contained herein.

47. "Nonatomized Resin Application Technology", as that term is used herein, is defined as a resin application system in which resin flows from the applicator in a steady and observable coherent flow without visible droplets for a minimum distance of 3 inches from the application orifices and which results in a volatile HAP emission rate which is no greater than that predicted by the use of the applicable nonatomized application equations contained in Table 1 of Subpart WWWW of the National Emission Standards For Hazardous Air Pollutants, 40 CFR 63.5780—63.5935.

48. The height of the existing gelcoat booth No. 1 stack, the existing gelcoat booth No. 2 stack and the existing lamination booth stack shall be increased to 37.25, 37.25 and 34.75 feet above grade, respectively.

49. Condition No. 005 of Source P101 (gelcoat and primary lamination operations) of Title V Operating Permit 49-00020 is hereby modified to allow the use of ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

50. The permittee must obtain 80.07 tons of VOC emission reduction credits.

51. The mold maintenance area, wet-out reinforcement area, secondary lamination area and base rail lamination area are subject to Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.5780—63.5935 (National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production).

The mold maintenance area, wet-out reinforcement area, secondary lamination area, truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic and truck cap and tonneau assembly and final finish operations, aluminum welding operation and aluminum truck cap assembly, final finish and installation operation are subject to the Reasonably Available Control

Technology (RACT) requirements of 25 Pa. Code §§ 129.91—129.95. The Department of Environmental Protection has made a preliminary determination to approve the RACT plan submitted by Truck Accessories Group, Inc. for these air contamination sources.

This preliminary RACT determination, if approved, will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP). The SIP revision will not adopt any new regulations. It will contain the requirements established by the Department in its approval of the RACT plan. Conditions 1, 3, 5—8, 12—14, 16, 17, 19, 21—23, 25—28, 31, 32, 35, 38—41, 44—47 and 49 above, either in whole or in part, contain the Department's preliminary RACT determination for the respective air contamination sources.

A copy of the plan approval application, including the RACT plan, is available for public inspection during normal business hours at the address listed below. Persons interested in inspecting the application must schedule an appointment in advance.

A public hearing will be held solely for the purpose of receiving comments on the Department's RACT determination and associated proposed SIP revision. The Department will not be entertaining comments regarding any other aspect of the respective plan approval application or the Department's review of said application at this hearing. The hearing will be held on August 15, 2006, at 1 p.m. at the Department of Environmental Protection's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. The public is invited to appear at this public hearing and comment on the Department's preliminary RACT determination and proposed SIP revision.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (570) 327-3659 at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the testimony are also requested. Each organization is requested to designate one individual to present testimony on its behalf.

Persons with a disability who wish to comment at the hearing and require auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (570) 327-3659 to discuss how the Department may accommodate your needs.

Persons unable to attend the hearing, but wish to comment on the Department's preliminary RACT determination and proposed SIP revision or persons who have comments which they believe should be considered in the Department's review of any other aspect of the respective plan approval application or persons who wishes to protest the issuance of plan approval may do so by submitting their comments or protests in writing to the Department at the address listed as follows. Comments or protests must be received by the Department by no later than August 30, 2006, to be considered. Each protest or comment should include the following: name, address and telephone number of the person submitting the protest or comment and a concise statement explaining the relevancy of the comment or protest being presented to the Department.

The Department may hold an additional public hearing to solicit comments on issues and concerns, other than the Department's preliminary RACT determination and proposed SIP revision, pertaining to the respective plan

approval application and the Department's review thereof if the Department, in its discretion, decides a hearing is warranted based on the information received. Persons requesting a hearing, protesting the issuance of plan approval or submitting comments will be notified of the decision to hold an additional public hearing by publication in a newspaper of general circulation in the Milton area or by letter or telephone if the Department feels that telephone notification is sufficient.

Written comments, protests or requests for additional public hearing should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective plan approval application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

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

**04-00725A: Pennsylvania Biodiesel, Inc.** (759 Northgate Circle, New Castle, PA 16105) for construction and operation of a new biodiesel manufacturing plant in Potter Township, **Beaver County**.

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

**10-001J: AK Steel Corporation** (Route 8 South, Butler, PA 16003-0832) for modification to an existing Electric Arc Furnace (EAF) in Meadville, **Clarion County**.

Notice is hereby given under 25 Pa. Code §§ 127.44, 127.521 and 40 CFR 52.21 (1)(2), that the Department of Environmental Protection (Department) is soliciting comments on the proposed Air Quality Plan Approval for AK Steel Corporation to modify existing EAF sources at AK Steel Corporation. This modification will allow the three EAFs to increase production from 1.2 million tons to 1.31 million tons of steel per year.

AK Steel has filed an application with the Department (230 Chestnut Street, Meadville, PA 16335) to modify three EAFs. The project includes installation of combination side-wall burners/lances on all three EAFs. These burners, which are produced by a variety of manufacturers, are capable of firing a mixture of gas/oxygen, pure oxygen or inert gas from either traditional burner ports or as a supersonic coherent jet. The side-wall burners will use natural gas during the initial melting phase. The lances will inject carbon and oxygen during the melting and refining stages of the steel making process.

Applicable requirements for the proposed application include the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21). This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Based on the information provided by the applicant and Department's own analysis, the proposed modifications to the EAFs would emit: NO<sub>x</sub> 351.4 tpy; CO 3484.7 tpy; VOCs 39.2 tpy; SO<sub>x</sub> 66.5 tpy; PM less than 10 $\mu$ m, 165.7 tpy; and, Total Suspended Particulates, 165.7 tpy. Based on the information provided by the applicant and Department's own analysis, the proposed modifications to the

EAFs will have a net emission increase of: NOx 9.4 tpy; CO 2638.6 tpy; VOCs 23.6 tpy; SOx 34.5 tpy; PM less than 10  $\mu\text{m}$  9.2 tpy; and, Total Suspended Particulates 16.8 tpy.

According to 40 CFR 52.21(l)(2), an alternative to the air quality models specified in 40 CFR Part 51, Appendix W (relating to Guideline on Air Quality Models) may be used to model air quality if the United States Environmental Protection Agency (EPA) approves the substitute model. Use of the substitute model is subject to notice and an opportunity for public comment.

As an alternative to EPA Guideline Models, ISC-Prime was used in the air quality analysis for the proposed EAF project. Specific approval for the use of ISC-Prime in this analysis was granted by the EPA Region III Administration on October 18, 2005. Under 25 Pa. Code §§ 127.44, 127.83 and 40 CFR 52.21(l)(2) and (q), notice is hereby given that the Department is soliciting written comments on the use of the ISC-Prime, non-guideline model.

The Department has determined that the application reflects the use of Best Available Control Technology, as required by the PSD regulations. The facility will only trigger PSD for CO. The preliminary analysis results for CO indicate 11,429  $\mu\text{m}^3$  for a 1-hour averaging period and 8,000  $\mu\text{g}/\text{m}^3$  for an 8-hour averaging period. The Class II Area Significance Level is 2000  $\mu\text{g}/\text{m}^3$  for a 1-hour averaging period and 500  $\mu\text{g}/\text{m}^3$  for an 8-hour averaging period.

The results of the NAAQS analysis for CO indicates a total value of 13,693  $\mu\text{g}/\text{m}^3$  for a rural 1-hour averaging period and a total value of 9,963  $\mu\text{g}/\text{m}^3$  for a rural 8-hour averaging period. The NAAQS for a rural 1-hour averaging period is 40,000  $\mu\text{g}/\text{m}^3$  and a rural 8-hour averaging period is 10,000  $\mu\text{g}/\text{m}^3$ .

No visibility impairment analysis was performed since CO is not associated with degradation in visibility. No significant impact on soils and vegetation is anticipated. There is no expected impact on air quality from residential, commercial, and industrial growth associated with the project. There is no consumption of increment, because there is no increment for CO.

Sources subject to PSD regulations must meet certain conditions prior to the issuance of a preconstruction/modification approval. These conditions are briefly described below. For exact text, please refer to the 40 CFR 52.21.

#### *Conditions*

The following conditions apply to the melt shop, including EAF Nos. 2—4:

1. Total allowable emission limits for the Baghouse No. 3 are given as follows:

a) Total allowable particulate emission concentration is 0.0036 gr/dscf

b) Total allowable particulate emission rate of 29.9 lb/hr

c) 8-hour maximum CO emission rate of 695 lb/hr

2. Total allowable emission limits from the Baghouse No. 3 are calculated as a 12-month rolling sum:

a) PM/PM10—130.8 ton per year

b) CO—3,046 tons per year

The Department reserves the right to establish and impose more stringent limitations based on stack test results.

a) NOx—328.5 tons per year

b) SOx (Measured as SO<sub>2</sub>)—66.5 tons per year

c) VOC—39.2 tons per year

3. Total allowable emission limits for the Melt Shop (combined emissions from No. 3 Baghouse and No. 1/2 Baghouse) are calculated as a twelve-month rolling sum:

a) PM/PM10—165.7 ton per year

b) CO—3,485 tons per year

The Department reserves the right to establish and impose more stringent limitations based on stack test results.

a) NOx—354.1 tons per year

b) SOx (Measured as SO<sub>2</sub>)—66.5 tons per year

c) VOC—39.2 tons per year

4. The capture efficiency from the Nos. 2—4 EAFs Direct Evacuation Control duct shall be at least 90%.

5. Total allowable particulate emission concentration for the Baghouse No. 1/2 is 0.04 gr/dscf.

6. a) The permittee shall limit the total steel production from electric arc furnace Nos. 2—4 combined so as not to exceed 1,310,000 tpy based on a consecutive 12-month period.

b) The permittee shall limit the total steel production from electric arc furnaces Nos. 2—4 combined so as not to exceed 210 ton per hour based on a consecutive 24-hour period.

7. a) Within 60 days after achieving maximum production at which the affected facility will be affected but not later than 180 days after issuance of the plan approval, a stack test shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 and the most current edition of the Department's "Source Testing Manual" for CO, PM, NOx, SOx (Measured as SO<sub>2</sub>) and VOC emissions concurrently from Baghouse No. 3 and Baghouse No. 1/2. Stack tests must be conducted at 90% of 210 ton per hour (189 ton per hour) or the permitted maximum production allowed will become the production rate plus 10% or the production rate recorded during the most recent compliant stack testing. The stack test shall consist of three 8 hour stack tests when all permitted air pollution sources are operating at a maximum or normal rated capacity. The results, of the first three stack tests performed in accordance with the approved protocol, shall be averaged and compared with the emission limitation to show compliance.

b) At least 60 days prior to performing a stack test, three copies of a protocol shall be submitted in accordance with the provisions of 25 Pa. Code Chapter 139. The protocol shall contain, at a minimum: location of sampling ports, planned production rates, % sulfur in coke added to EAFs, amount of coke added to EAFs and amount of oxygen injected during refining phase, type of steel produced and any other information applicable to the stack testing. Performance of a stack test prior to Department approval of the protocol may invalidate the results.

c) At least 2 weeks prior to the test, the Department shall be informed, in writing, of the date and time of the test.

d) Within 60 days after completion of stack testing, three copies of the complete test report, including, but not limited to, production rates during testing, % sulfur in coke added to EAFs, amount of coke added to EAFs and amount of oxygen injected during refining phase, type of

steel produced, calculation methods and results, and any other applicable testing information that will allow for complete review of the test and results, shall be submitted to the Department for approval.

e) Actions Related to Noncompliance Demonstrated by a Stack Test:

i) If the results of a stack test, performed as required by this approval, exceed the level specified in any condition of this approval, the Permittee shall take appropriate corrective actions. Within 30 days of the Permittee receiving the stack test results, a written description of the corrective actions shall be submitted to the Department. The Permittee shall take appropriate action to minimize emissions from the affected facility while the corrective actions are being implemented. The Department shall notify the Permittee within 30 days, if the corrective actions taken are deficient. Within 30 days of receipt of the notice of deficiency, the Permittee shall submit a description of additional corrective actions to the Department. The Department reserves the authority to use enforcement activities to resolve noncompliant stack tests.

ii) If the results of the required stack test exceed any limit defined in this plan approval, the test was not performed in accordance with the stack test protocol or the source and/or air cleaning device was not operated in accordance with the plan approval, then another stack test shall be performed to determine compliance. Within 120 days of the Permittee receiving the original stack test results, a retest shall be performed. The Department may extend the retesting deadline if the Permittee demonstrates, to the Department's satisfaction, that retesting within 120 days is not practicable. Failure of the second test to demonstrate compliance with the limits in the plan approval, not performing the test in accordance with the stack test protocol or not operating the source and/or air cleaning device in accordance with the plan approval may be grounds for immediate revocation of the plan approval to operate the affected source.

8. Stack tests for determining emissions of PM from stationary sources shall conform with the following:

a) Test methods for particulate emissions shall include dry filters and provide for at least a 95% collection efficiency of PM.

b) Isokinetic sampling procedures shall be used in sampling for PM emissions and the weights of soluble and insoluble particulate determined gravimetrically after the removal of uncombined water.

c) Test methods and procedures shall be equivalent to those specified in 25 Pa. Code § 139.4(5) (relating to references). The equipment shall be inert where appropriate and similar to that specified in 25 Pa. Code § 139.4(1).

d) The minimum sampling time shall be one hour and the minimum sample volume shall be 50 cubic feet or as specified in an applicable standard or by the Department, corrected to standard conditions (dry basis).

e) Results shall be calculated based upon sample train component weights specified in 25 Pa. Code § 139.4(5). Results shall be reported as pounds of PM per hour and in accordance with the units specified in 25 Pa. Code §§ 123.11—123.13 (relating to particulate matter emissions).

9. An annual stack test shall be performed on No. 3 Baghouse to demonstrate compliance with the CO emission rate of 695 pounds per hour. The stack test shall consist of three eight hour stack tests utilizing a Depart-

ment approved method. The results of the stack tests shall be averaged and compared with the emission limitation to show compliance. This stack test shall be performed in accordance with Conditions 7(a)—(c)

10. The Department reserves the right to require stack testing to verify that the capture efficiency from the Nos. 3 and 4 EAF Direct Evacuation Control duct. The company shall conduct Method 5 particulate testing in the following locations:

a) No. 3 or No. 4 Direct Evacuation System ductwork

b) No. 3 or No. 4 Primary canopy hood system ductwork

A mass emission rate shall be determined from each location. The ratio of the mass emission rate from the Direct Evacuation System to the primary capture system, multiplied by 0.99 shall be greater than or equal to 5.68.

11. The permittee shall monitor the emissions of PM10 that could increase as a result of the project and that are emitted by Baghouse Nos. 3 and 1/2. The monitoring shall include annual PM10 stack testing for a period of ten years. The stack test shall consist of three 8 hour stack tests utilizing a Department approved method.

12. a) The permittee shall maintain, monthly, records of total carbon steel production and total stainless steel production from electric arc furnaces Nos. 2—4.

b) The permittee shall maintain daily records of total steel production from electric arc furnaces Nos. 2—4.

c) The permittee shall maintain records of rates and total coke injection and oxygen injection during the refining stage for each heat.

d) The permittee shall maintain records of sulfur content of each coke shipment.

e) Records shall be maintained for 5 years and made available to the Department upon request.

13. The permittee shall submit a report to the Department within 60 days after the end of each year during which records must be generated under 40 CFR 52.21(r)(6)(iii) indicating Baghouse Nos. 3 and 1/2 annual emissions during the calendar year that preceded submission of the report. The report shall also include the baseline actual emissions as defined in 40 CFR 52.21(b)(48)(i) and as identified in the plan approval application. In addition, the report shall include the comparison (net change) of the baseline actual emissions and the projected actual emissions, and the major modification thresholds for all of the regulated NSR pollutants (as defined in 40 CFR 52.21(b)(50)). The report shall be submitted to John F. Guth, Regional Air Quality Manager, 230 Chestnut Street, Meadville, PA 16335.

14. If the results of stack testing required by 40 CFR 60.14 indicate an increase in PM at the Baghouse Nos. 3 or 1/2, as a result of the modifications to the electric arc furnaces, the facility must comply with 40 CFR 60 Subpart AA—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon—Oxygen Decarburization Vessels Constructed After August 17, 1983.

15. The facility shall continue to comply with the existing Site Level requirements of the Title V Operating Permit. The facility shall continue to comply with the existing Source Level requirements of the Title V Operating Permit unless the condition is specifically changed in this Plan Approval for the following sources: 102 Electric Arc Furnace No. 2, 103 Electric Arc Furnace No. 3, 104 Electric Arc Furnace No. 4, 136 AOD Reactor, 140 Continuous Caster No. 2, 141 Continuous Caster No. 3, 142 Vacuum Degas, 149 Argon Stirring Station (EAST),

247 Ladle Preheater No. 1, 248 Ladle Preheater No. 2, 249 Ladle Preheater No. 3, 250 Ladle Preheater No. 4, 251 Ladle Preheater No. 5 and 252 Ladle Preheater No. 6.

The Department has made a preliminary determination to approve the plans submitted by AK Steel Corporation subject to the conditions listed previously. A final determination will be made based on any additional inputs received.

The Department will consider any written comments received within 30 days of the publication of this notice. Persons may oppose this preliminary determination by filing a written notice with the Department of Environmental Protection, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, Attn.: John Guth, Regional Air Program Manager.

Each protest shall include the following:

1. Name, address and telephone number of the person filing each protest.
2. Identification of the proposed plan approval issuance being opposed (10-001J).
3. Concise statement of the reasons for objection to the issuance of the plan approval and the relevant facts upon which the objections are based.

Copies of the application and the modeling analysis used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 pm. at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA. Appointments for scheduling a review may be made by calling Linda Conway at (814) 332-6340.

If sufficient public interest is generated, the Department, prior to the issuance of the plan approval, may in its discretion, hold a public meeting or fact-finding conference, at which time any person may appear and give testimony. If it is decided to hold a public hearing, then a notice to this effect shall be published in the local newspaper giving the place and time of the hearing.

For any additional information contact George Monasky, P.E. or John Guth at (814) 332-6940 or by writing the Department at the Meadville previous address.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting the Department, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate your needs.

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### PUBLIC HEARINGS

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*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

**49-00020B: Truck Accessories Group, Inc. d/b/a Leer East** (3560 Housels Run Road, Milton, PA 17847) for construction of a mold maintenance area, a wet-out reinforcement area, a secondary lamination area, a base rail lamination area, a truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic truck cap and tonneau cover assembly and final finish operations, an aluminum welding operation and an aluminum truck cap assembly, final finish and installation operation in an existing fiberglass reinforced plastic and aluminum truck cap manufacturing facility in Milton Borough, **Northumberland County**.

The respective facility is a major facility for both VOCs and volatile HAPs and one for which a Title V operating permit (49-00020) has been issued.

The operation of the proposed air contamination sources, all of which actually already exist onsite, will result in the emission of up to 34.883 tons of VOCs, 25.71 tons of volatile HAPs (most of which will be styrene), 1.284 tons of PM including PM10 and .62 ton of metallic HAPs), 4.8 tons of acetone and .49 ton of ammonia per year.

The Department of Environmental Protection's (Department) review of the information submitted by Truck Accessories Group, Inc. indicates that the proposed air contamination sources should comply with all Air Quality requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12, the New Source Review requirements of 25 Pa. Code §§ 127.201—127.217, the Reasonably Available Control Technology requirements of 25 Pa. Code §§ 129.91—129.95 and Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.5780—63.5935 (National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production). Based on this finding, the Department proposes to issue plan approval for the construction of the proposed air contamination sources. Additionally, if the Department subsequently determines that the respective air contamination sources are being operated and maintained in accordance with the conditions of the plan approval as well as with all applicable regulatory requirements, the conditions established in the plan approval will be incorporated into Title V Operating Permit 49-00020 by means of administrative amendment in accordance with 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The VOC contents of the 3M flowable finishing putty, 3M short strand fiberglass reinforce filler, axel xtend 802, Axel Xtend CX-500, cook composites HQ retention green tooling gelcoat, Alpha/Owens Corning polyester resin solution in styrene and Sherwin-Williams/krylon ultra flat black aerosol marking paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 1.84, 2.72, 6.03, 7.01, 4.30, 2.94 and 3.45 pounds per gallon, respectively. No other VOC-containing materials shall be used in this area.

2. The volatile HAP contents of the 3M Flowable Finishing Putty, 3M Short Strand Fiberglass Reinforce Filler, Axel Xtend CX-500, Cook Composites HQ Retention Green Tooling Gelcoat, Alpha/Owens Corning Polyester Resin Solution in Styrene and Sherwin-Williams/Krylon Ultra Flat Black Aerosol Marking Paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 1.84, 2.72, 7.01, 4.30, 2.94 and .59 pound per gallon, respectively. No other volatile HAP-containing materials shall be used in this area.

3. The combined styrene and methyl methacrylate content of the Alpha/Owens Corning Polyester Resin Solution in Styrene (or alternate material determined by the Department to have an equivalent, or lower, air contami-

nant emission potential) used in the mold maintenance area shall not exceed 32% by weight (weighted average over any 12-consecutive month period with a maximum of 35% by weight for any single shipment received). The styrene content of the 3M Flowable Finishing Putty and 3M Short Strand Fiberglass Reinforce Filler (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the mold maintenance area shall not exceed 20% by weight, and 43% by weight for the Cook Composites HQ Retention Green Tooling Gelcoat (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential). No other styrene-containing materials shall be used in this area.

4. The VOC, volatile HAP and PM emissions from the mold maintenance area shall not exceed 1.08, .33 and .00245 tons in any 12-consecutive month period, respectively.

5. Materials other than Sherwin-Williams/Krylon Ultra Flat Black Aerosol Marking Paint applied in the mold maintenance area shall be applied by hand only and all containers of materials shall be kept closed except when material is being removed from or introduced into the container.

6. Records shall be maintained of the amounts, VOC contents, volatile HAP contents, styrene contents and methyl methacrylate contents of the materials used in the mold maintenance area each month as well as of the total VOC and total volatile HAP emissions from the area and the weighted 12-consecutive month average combined styrene and methyl methacrylate content of the Alpha/Owens Corning Polyester Resin Solution in Styrene. This data shall be reported to the Department on a quarterly basis.

7. The neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area shall have a combined styrene and methyl methacrylate content of no greater than 32% by weight (weighted average over any 12-consecutive month period with a maximum of 35% by weight for any single shipment received) as well as a vapor suppressant factor of at least .05 and shall be applied using nonatomized resin application technology (as defined in condition 47 herein). No other volatile HAP-containing materials shall be used in these areas. No other VOC-containing materials shall be used in these areas other than ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) and, in the base rail lamination area only, Xtend 19SAM with a VOC content no greater than 5.71 pounds per gallon (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

8. The total combined amount of neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area shall not exceed 158,199 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein, and the total combined VOC emissions shall not exceed 26.2 tons in any 12-consecutive month period (excluding those from the use of cleanup solvent).

9. The total combined volatile HAP emissions from the wet-out reinforcement area, secondary lamination area and base rail lamination area shall not exceed 24.31 tons in any 12-consecutive month period.

10. The amount of Xtend 19SAM (or alternative material determined by the Department to have an equivalent,

or lower, air contaminant emission potential) used in the base rail lamination area shall not exceed 660 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein.

11. The volatile HAP emissions from the wet-out reinforcement area, secondary lamination area and base rail lamination area shall each not exceed 66.94 pounds per ton of neat resin (weighted average over 12-consecutive months). Records shall be maintained to demonstrate compliance with this limitation and this data is to be reported to the Department on a quarterly basis.

12. The total combined monthly neat resin usage in the wet-out reinforcement area, secondary lamination area and base rail lamination area may be determined by subtracting the amount of neat resin used in the primary lamination area each month from the total amount of neat resin used in the facility each month. Records shall be maintained of the maximum amount of filled resin delivered in a single pump stroke for the primary lamination area pump, the number of pump strokes occurring in the primary lamination area each month, the total amount of neat resin used in the entire facility each month, the volume percent of resin contained in the filled resin each month, the amount of filled resin used in the primary lamination area each month and the total combined amount of neat resin used in the wet-out reinforcement area, secondary lamination area and base rail lamination area each month.

13. Records shall be maintained of the identities, amounts, VOC contents, volatile HAP contents, styrene contents and methyl methacrylate contents of the neat resin and any other materials used in the wet-out reinforcement area, secondary lamination area and base rail lamination area each month as well as of the total VOC and total volatile HAP emissions from each of these areas and the weighted 12-consecutive month average combined styrene and methyl methacrylate content of the neat resin. This data shall be reported to the Department on a quarterly basis.

14. The VOC contents of the CASA 246-DB adhesive, Quick Clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed .57, 1.32, and 5.3 pounds per gallon, respectively. No other VOC-containing materials shall be used in this process.

15. The volatile HAP contents of the Quick Clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed .58 and 3.68 pounds per gallon, respectively, and the ammonia content of the CASA 246-DB adhesive shall not exceed 1%. No other volatile HAP-containing materials shall be used in this process.

16. The amounts of CASA 246-DB adhesive, Quick Clean No. 6 cleanup solvent and Dupont 99K black paint (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the truck cap and tonneau cover headliner adhesive process shall not exceed 12,000, 27 and 30 gallons, respectively, in any 12-consecutive month period, except as may be allowed by condition 46 herein.

17. The VOC emissions from the truck cap and tonneau cover headliner adhesive process shall not exceed 3.52 tons in any 12-consecutive month period.

18. The volatile HAP, ammonia and PM emissions from the truck cap and tonneau cover headliner adhesive process shall not exceed .07, .49 and .28 tons, respectively, in any 12-consecutive month period.

19. Adhesive and paint used in the truck cap and tonneau cover headliner adhesive process shall be applied in either the truck cap headliner adhesive spray booth or the tonneau headliner adhesive spray booth and shall only be applied with high volume low pressure spray equipment (or alternate technology determined by the Department to have an equivalent, or lower, air contaminant emission potential).

20. The truck cap and tonneau headliner adhesive spray booths shall each be equipped with dry filters with a PM removal efficiency of at least 95%.

21. Containers of materials used in the truck cap and tonneau cover headliner adhesive process shall be kept closed except when the material is being removed from or introduced into the container.

22. Records shall be maintained of the amounts, VOC contents, volatile HAP contents and ammonia contents of the materials used in the truck cap and tonneau cover headliner adhesive process each month as well as of the total VOC and total volatile HAP emissions from the process. This data shall be reported to the Department on a quarterly basis.

23. The VOC contents of the 3M Primer 94, 3M Scotch-Grip Industrial Adhesive 4799, Sika Flex 255-FC, Sika Activator, Probond Trite-R-Bond 2287A, Henkel Loctite 262, Tremco Trelglaze SA1100 and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 6.26, 4.13, .30, 5.6, 7.32, 1.19, .26 and 6.67 pounds per gallon, respectively. No other VOC-containing materials shall be used in this operation other than isopropanol (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

24. The volatile HAP contents of the 3M Primer 94, 3M Scotch-Grip Industrial Adhesive 4799, Sika Flex 255-FC and Probond Trite-R-Bond 2287A (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 2.47, 1.51, .30 and .38 pounds per gallon, respectively. No other HAP pollutant-containing materials shall be used in this operation.

25. The VOC and volatile HAP emissions from the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall not exceed 2.43 and .64 tons in any 12-consecutive month period, respectively.

26. Materials applied in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation shall be applied by hand. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

27. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the fiberglass reinforced plastic truck cap and tonneau cover assembly operation each month as well as of the total VOC and total volatile HAP emissions from this operation. This data shall be reported to the Department on a quarterly basis.

28. The VOC contents of the 3M Finesse II Finishing Material, 3M Perfect-It III Finishing Glaze, 3M Super Duty Rubbing Compound, 3M General Purpose Adhesive Cleaner and Spartan Chemical Company Glass Cleaner (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 1.92, 1.6, 1.91, 6.81 and .91 pounds per gallon, respectively. No other VOC-containing material shall be used in this operation other than ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

29. The volatile HAP content of the 3M General Purpose Adhesive Cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 5.16 pounds per gallon. No other volatile HAP-containing materials shall be used in this operation.

30. The VOC, volatile HAP and PM emissions from the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed .73, .13 and .0008 tons in any 12-consecutive month period, respectively.

31. The 3M Finesse II Finishing Material, 3M Perfect-It III Finishing Glaze, 3M Super Duty Rubbing Compound and 3M General Purpose Adhesive Cleaner (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall be applied by hand only. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

32. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as of the total VOC and total volatile HAP emissions from the operation. This data shall be reported to the Department on a quarterly basis.

33. No more than 385,000 pounds of electrodes shall be used in the aluminum welding operation in any 12-consecutive month period.

34. The PM and HAP emissions from the aluminum welding operation shall not exceed 1.0 and .62 tons in any 12-consecutive month period, respectively. The permittee shall maintain records of the amount of electrodes used each month and other records as are necessary to demonstrate compliance with these emission limitations.

35. The VOC contents of the 3M Primer 94, Sika Flex 255-FC, Sika Activator, Henkel Loctite 262, Spartan Chemical Company Glass Cleaner and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation shall not exceed 6.26, .30, 5.6, 1.19, .91 and 6.67 pounds per gallon, respectively. No other VOC-containing materials shall be used in this operation other than isopropanol and mineral spirits (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential).

36. The volatile HAP contents of 3M Primer 94 and Sika Flex 255-FC (or alternate materials determined by



the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation shall not exceed 2.47 and .30 pounds per gallon, respectively. No other volatile HAP-containing materials shall be used in this operation.

37. The VOC, volatile HAP and PM emissions from the aluminum truck cap assembly, final finish and installation operation shall not exceed .91, .23 and .00025 tons in any 12-consecutive month period, respectively.

38. The 3M Primer 94, Sika Flex 255-FC, Sika Activator, Henkel Loctite 262 and WD-40 Nonaerosol (or alternate materials determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in the aluminum truck cap assembly, final finish and installation operation shall be applied by hand only. Containers of materials shall be kept closed except when material is being removed from or introduced into the container.

39. Records shall be maintained of the amounts, VOC contents and volatile HAP contents of the materials used in the aluminum truck cap assembly, final finish and installation operation each month as well as of the total VOC and total volatile HAP emissions from the operation. This data shall be reported to the Department on a quarterly basis.

40. The only cleanup solvent to be used in the mold maintenance area is acetone. The only cleanup solvents to be used in the wet-out reinforcement area, secondary lamination area and base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall be acetone and ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

41. Condition No. 002 of Source ID P101 (gelcoat and primary lamination operation) of Title V Operating Permit 49-00020 is hereby modified to state that the combined VOC emissions from the gelcoat and primary lamination operations shall not exceed 52.75 tons in any 12-consecutive month period.

42. No more than a combined total of 1,455 gallons of acetone may be used in Source ID P101, the mold maintenance area, wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation in any 12-consecutive month period nor shall the combined acetone emissions from these areas exceed 4.8 tons in any 12-consecutive month period.

43. Records shall be maintained of the total combined amount of acetone used in Source ID P101, the mold maintenance area, wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as of the amount of 100% acetone removed from these areas and shipped offsite in liquid form. This data shall be submitted to the Department on a quarterly basis.

44. The total combined amount of ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in Source P101, the wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation shall not exceed 1,000 gallons in any 12-consecutive month period, except as may be allowed by condition 46 herein,

and shall not result in the emission of more than 26 pounds of VOCs in any 12-consecutive month period. The vapor pressure of the ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) shall not exceed .29 mm Hg (millimeters of mercury) at 20°C.

45. Records shall be maintained of the amount and vapor pressure of the ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) used in Source P101, the wet-out reinforcement area, secondary lamination area, base rail lamination area and fiberglass reinforced plastic truck cap and tonneau cover final finish operation each month as well as the total combined amount of VOCs emitted from its use and the amount of 100% ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) removed from these areas and shipped off-site in liquid form. This data shall be reported to the Department on a quarterly basis.

46. In cases where a material substitution has been made and an alternate material is employed which has a lower air contaminant emission potential than the original material, as determined by the Department, the permittee may use more of the respective material in a 12-consecutive month period than they may be limited to under a material usage limitation contained herein provided the resultant emissions of VOCs, volatile HAPs, styrene and any other air contaminants do not exceed any applicable (12-consecutive month) emission limitation contained herein.

47. "Nonatomized resin application technology," as that term is used herein, is defined as a resin application system in which resin flows from the applicator in a steady and observable coherent flow without visible droplets for a minimum distance of 3 inches from the application orifices and which results in a volatile HAP emission rate which is no greater than that predicted by the use of the applicable nonatomized application equations contained in Table 1 of Subpart WWWW of the National Emission Standards For Hazardous Air Pollutants, 40 CFR 63.5780—63.5935.

48. The height of the existing gelcoat booth No. 1 stack, the existing gelcoat booth No. 2 stack and the existing lamination booth stack shall be increased to 37.25, 37.25 and 34.75 feet above grade, respectively.

49. Condition No. 005 of Source P101 (gelcoat and primary lamination operations) of Title V Operating Permit 49-00020 is hereby modified to allow the use of ISP Technologies Shipshape-resin cleaner (or alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential).

50. The permittee must obtain 80.07 tons of VOC emission reduction credits.

51. The mold maintenance area, wet-out reinforcement area, secondary lamination area and base rail lamination area are subject to Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.5780—63.5935 (National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production).

The mold maintenance area, wet-out reinforcement area, secondary lamination area, truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic and truck cap and tonneau assembly and final

finish operations, aluminum welding operation and aluminum truck cap assembly, final finish and installation operation are subject to the Reasonably Available Control Technology (RACT) requirements of 25 Pa. Code §§ 129.91—129.95. The Department has made a preliminary determination to approve the RACT plan submitted by Truck Accessories Group, Inc. for these air contamination sources.

This preliminary RACT determination, if approved, will be submitted to the Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP). The SIP revision will not adopt any new regulations. It will contain the requirements established by the Department in its approval of the RACT plan. Conditions 1, 3, 5—8, 12—14, 16, 17, 19, 21—23, 25—28, 31, 32, 35, 38—41, 44—47 and 49, either in whole or in part, contain the Department's preliminary RACT determination for the respective air contamination sources.

A copy of the plan approval application, including the RACT plan, is available for public inspection during normal business hours at the address listed. Persons interested in inspecting the application must schedule an appointment in advance.

A public hearing will be held solely for the purpose of receiving comments on the Department's RACT determination and associated proposed SIP revision. The Department will not be entertaining comments regarding any other aspect of the respective plan approval application or the Department's review of said application at this hearing. The hearing will be held on August 15, 2006, at 1 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. The public is invited to appear at this public hearing and comment on the Department's preliminary RACT determination and proposed SIP revision.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (570) 327-3659 at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the testimony are also requested. Each organization is requested to designate one individual to present testimony on its behalf.

Persons with a disability who wish to comment at the hearing and require auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (570) 327-3659 to discuss how the Department may accommodate your needs.

Persons unable to attend the hearing, but wish to comment on the Department's preliminary RACT determination and proposed SIP revision or person who has comments which they believe should be considered in the Department's review of any other aspect of the respective plan approval application or persons who wishes to protest the issuance of plan approval may do so by submitting their comments or protests in writing to the Department at the address listed. Comments or protests must be received by the Department by no later than August 30, 2006, to be considered. Each protest or comment should include the following: name, address and telephone number of the person submitting the protest or comment and a concise statement explaining the relevancy of the comment or protest being presented to the Department.

The Department may hold an additional public hearing to solicit comments on issues and concerns, other than the Department's preliminary RACT determination and

proposed SIP revision, pertaining to the respective plan approval application and the Department's review thereof if the Department, in its discretion, decides a hearing is warranted based on the information received. Persons requesting a hearing, protesting the issuance of plan approval or submitting comments will be notified of the decision to hold an additional public hearing by publication in a newspaper of general circulation in the Milton area or by letter or telephone if the Department feels that telephone notification is sufficient.

Written comments, protests, or requests for additional public hearing should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective plan approval application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

### OPERATING PERMITS

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00046: Accellent, Inc.**, (200 West 7th Avenue, Trappe, PA 19426) for renewal of the Title V Operating Permit in Trappe Borough, **Montgomery County**. The initial permit was issued on July 3, 2001. The facility is primarily used for the fabrication of metal tubing used in the medical, aerospace and automotive industries. The facility cleans the metal parts in the three vapor degreasers that are located at the facility. The vapor degreasers are subject to the requirements of 40 CFR Part 63 Subpart T, and the facility is using control combinations to comply with these regulations. Other sources of VOCs include three boilers, several space heaters, plastic coating processes and parts washers. As a result of potential emissions of VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

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

**39-00046: Eastern Industries, Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for operation of two batch asphalt plants with the capability of utilizing waste derived liquid fuel and associated air cleaning devices at their Wescosville facility in Lower Macungie Township,

**Lehigh County.** This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility.

**39-00052: Eastern Industries Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for operation of a batch asphalt plant and crushing operation and associated air cleaning devices at their Ormrod facility in North Whitehall Township, **Lehigh County.** This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility.

**48-00051: Eastern Industries Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for operation of a batch asphalt plant and associated air cleaning device at their Bath facility in East Allen Township, **Northampton County.** This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility.

**48-00052: Eastern Industries Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for operation of a batch asphalt plant and associated air cleaning device in the City of Bethlehem, **Northampton County.** This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility.

**58-00005: Eastern Industries Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for operation of a batch asphalt plant and crushing operation and associated air cleaning devices at their Clifford Quarry in Clifford Township, **Susquehanna County.** This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility.

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

**06-03077: F. M. Brown's Sons, Inc.** (205 Woodward Avenue, Sinking Springs, PA 19608-0116) for operation of their agricultural foods and products plant in Sinking Springs Borough, **Berks County.** The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**06-03096A: Lucas Lane, Inc.** (10 Lucas Lane, Bernville, PA 19506) for operation of a thermal unit to recycle used oil filters at the Bernville location in Upper Tulpehocken Township, **Berks County.** This recycling operation is a non-Title V facility and will result in less than 5 tons per year of any one pollutant. Standard monitoring, recordkeeping and work practice standards are included to keep the facility operating within all applicable requirements.

**22-03010: East Harrisburg Cemetery** (2260 Herr Street, Harrisburg, PA 17109) for a natural minor permit renewal at Susquehanna Township, **Dauphin County.** The facility operates a crematorium and the PM emission from the operation is about 0.05 ton per year. Natural Minor Operating Permit renewal shall contain additional operating restrictions, recordkeeping and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**28-05022: Signature Companies** (5171 Innovation Way, Chambersburg, PA 17201) for operation of their wood furniture manufacturing facility in Greene Township, **Franklin 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, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.*

**08-00007: Leprino Foods Co.** (400 Leprino Ave. Waverly, NY 14892) for operation of their cheese making and manufacturing facility in South Waverly Borough, **Bradford County.** The facility's main sources include four 20.9 mmBtu/hr natural gas/Nos. 2 and 4—6 fuel oil fired boilers and a natural gas fired whey drying and packaging operation. The facility has the potential to emit SO<sub>x</sub> and NO<sub>x</sub> above the major emission thresholds but has taken elective restrictions to emit less than the major emission thresholds for NO<sub>x</sub> and SO<sub>x</sub>. This facility also has the potential to emit CO, VOCs, HAPs and PM<sub>10</sub> below the major emission thresholds.

## 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 men-

tioned 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.*

**32733709 and NPDES Permit No. PA0214159. Robindale Energy Services, Inc.** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), to renew the permit for the Dilltown Facility in Brush Valley Township, **Indiana County** and related NPDES permit. No additional discharges. Application received May 30, 2006.

**56841603 and NPDES Permit No. PA0588504. PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541-0260), to renew the permit for the Shade Creek Prep Plant in Shade Township, **Somerset County** and related NPDES permit. No additional discharges. Application received May 15, 2006.

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

**56950111 and NPDES No. PA0213225. Sherpa Mining Contractors, Inc.**, 337 Benny Road, Hooversville, PA 15936, revision of an existing bituminous surface and auger mine to add 108.5 acres to the permit area. Total SMP acres goes to 458.4. Also, to change the postmining land use from woodland to wildlife habitat in Shade Township, **Somerset County**. Receiving streams: UNTs to Shade Creek and Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWI. Application received June 13, 2006.

**56900109 and NPDES No. PA0598887. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, permit renewal for the continued operation and restoration of a bituminous surface mine in Quemahoning and Somerset Townships, **Somerset County**, affecting 48.2 acres. Receiving stream: Wells Creek classified for the following use: WWF. The first downstream potable water supply intake

from the point of discharge is Hooversville Borough Municipal Authority Stonycreek SWI. Application received June 13, 2006.

**32010101 and NPDES No. PA0248916. Millwood Development, Inc.**, 1293 Route 217, Derry, PA 15627, permit renewal for the continued operation and restoration of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 77.0 acres. Receiving streams: UNT to Kiskiminetas River and UNT to Blacklegs Creek classified for the following uses: WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 14, 2006.

**32010101 and NPDES No. PA0248916. Millwood Development, Inc.**, 1293 Route 217, Derry, PA 15627, transfer of an existing bituminous surface mine from Opal Industries, Inc., P. O. Box 980, Latrobe, PA 15650, located in Conemaugh Township, **Indiana County**, affecting 77.0 acres. Receiving streams: UNT to Kiskiminetas River and UNT to Blacklegs Creek classified for the following uses: WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 14, 2006.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03010101 and NPDES Permit No. PA0202975. Patriot Mining Co., Inc.** (P. O. Box 4360, Star City, WV 26504). Renewal application for reclamation only, to an existing bituminous surface mine, located in Dunkard and Perry Townships, **Greene County**, affecting 336 acres. Receiving stream: Dooley Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 30, 2006.

**02860201 and NPDES Permit No. PA0588407. Minerals Technology, Inc.** (100 High Tower Blvd., Suite 301, Pittsburgh, PA 15205). Renewal application for continued NPDES treatment to an existing coal refuse reprocessing site, located in Harmar Township, **Allegheny County**, affecting 156.6 acres. Receiving stream: Guys Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 5, 2006.

**03020108 and NPDES Permit No. PA0250198. Seven Sisters Mining Company, Inc.** (P. O. Box 300,

US 22, Delmont, PA 15626-0300). Application received to revise Module 10 of the permit for an existing bituminous surface mining site located in South Bend Township, **Armstrong County**, affecting 183.5 acres. Receiving streams: UNTs to Crooked Creek, classified for the following use: WWF. There are no potable water supply intakes within 10 miles from the point of discharge. Application received: June 7, 2006.

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

**17000107 and NPDES Permit No. PA0242951. Shud's Coal Hounds, Inc.** (5757 Green Acre Road, Houtzdale, PA 16651), permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Woodward and Bigler Townships, **Clearfield County**, affecting 167.8 acres. Receiving streams: UNTs to Upper Morgan Run and Goss Run. Application received: June 9, 2006.

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

**54850204R4 and NPDES Permit No. PA0592749. Jeddo-Highland Coal Company** (46 Public Square,

Suite 600, Wilkes-Barre, PA 18701), renewal of an existing coal refuse reprocessing operation in Porter Township, **Schuylkill County** affecting 1,756.0 acres, receiving stream: Wiconisco Creek. Application received June 12, 2006.

**19960101R2 and NPDES Permit No. PA0223719. City of Philadelphia, Trustee** (21 South 12th Street, Philadelphia, PA 19107), renewal of an existing anthracite surface mine and coal refuse disposal operation that includes NPDES Permit for discharge of treated mine drainage in Conyngham, Butler and Union Townships, **Columbia and Schuylkill Counties** affecting 876.0 acres, receiving stream: Mahanoy Creek. Application received June 15, 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 <sup>1</sup>			
pH <sup>1</sup>		greater than 6.0; less than 9.0	

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

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**63960301 and NPDES Permit No. PA0201766. Dick Corporation** (P. O. Box 10896, Pittsburgh, PA 15236). Renewal application for reclamation only of an industrial surface mining permit, located in Hanover Township, **Washington County**, affecting 33.2 acres. Receiving stream: UNT to Kings Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 2, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10930310 and NPDES Permit No. PA0211826. Atlantic States Materials of PA, Inc.** (P. O. Box 269, Mercer, PA 16137). Revision to an existing sand, gravel and topsoil operation in Worth Township, **Butler County** affecting 134.0 acres. Receiving streams: Slippery Rock Creek and UNTs to Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to include a post mining land use change from unmanaged natural habitat to recreational on lands of Benvue Farms, Inc. Application received: June 9, 2006.

**25010302. A.C.A. Sand and Gravel, LLC** (19170 Route 89, P. O. Box 16, Corry, PA 16407). Transfer of an

existing sand and gravel operation in Concord Township, **Erie County** affecting 121.0 acres. Receiving streams: None. There are no potable surface water supply intakes within 10 miles downstream. Transfer from Rodger E. Niemeyer, Sr. Application received: June 12, 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 Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E39-465. HomePro Enterprises, Inc.**, 112 Elm Road, Allentown, PA 18104, in Upper Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of a tributary to Little Cedar Creek (HQ-CWF) consisting of a 20-foot by 4.5-foot concrete box culvert depressed 6-inches below streambed elevation; to construct and maintain a nonjurisdictional dam in the floodway of the tributary; and to construct and maintain two utility line crossings of the tributary consisting of an 8-inch diameter DIP water line and an 8-inch diameter PVC sanitary line, both encased in 18-inch diameter steel casing. The project is associated with the Blue Barn Estate's Residential Development and is located on the west side of Blue Barn Road, approximately 6 mile north of its intersection with Tilghman Street (Allentown West, PA Quadrangle N: 18.2 inches; W: 11.8 inches).

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

**E06-610: City of Reading**, 503 North Sixth Street, Reading, PA 19601-3690 in the City of Reading, **Berks County**, ACOE Philadelphia District.

To restore approximately 1,600 LF of Angelica Creek, including a 400-foot realignment, riparian buffers, two acres of new wetlands, creation of a recreational fishing pond, restoration of meadow habitat and various enhancements to the Environmental Park located west of Route 10 in the City of Reading at the former site of Angelica Lake (Reading, PA Quadrangle; Latitude: 40° 18' 44", Longitude: 75° 55' 34"; N: 11.3 inches; W: 7.1 inches).

**E22-505: Harry Fox, Jr.**, 600 Cold Springs Road, Dillsburg, PA 17019 in Swatara Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain: 1) a 36-inch by 325-foot plastic pipe stream enclosure, which will impact 0.026 acre of bank and channel wetlands; 2) a 15-inch, 24-inch and a 36-inch plastic pipe outfall with rip-rap rock aprons in and along a UNT to Beaver Creek (WWF) near the intersection of Sue Drive and New Derry Street (Harrisburg East, PA Quadrangle N: 3.2 inches; W: 0.3 inches, Latitude: 40° 16.0' 2.12", Longitude: 76° 45' 3.87") in Swatara Township, Dauphin County. The impact due to

the stream enclosure will require mitigation. To compensate for the proposed impacts, the applicant proposes the construction of 0.153 acre of replacement wetlands and approximately 900-feet of stream channel restoration.

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

**E14-489. The Pennsylvania State University Office of Physical Plant**, 113 Physical Plant Building, University Park, PA 16802. Upper Slab Cabin Run, in College Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 11.7 inches; W: 11.8 inches).

To construct and maintain a stream restoration project using in stream cross vanes to reconstruct incised sections of Slab Cabin Run to its original marsh floodplain to stabilize channel erosion and provide opportunity for bio-retention and assimilation of pollutants in urban stormwater runoff to reduce impairment of Slab Cabin Run and Spring Creek identified by the Department. This stream is classified as a HQ-CWF and this project proposes to impact 600 linear feet of stream with structures and 250 linear feet of wetlands with flood reattachment channels.

**E18-410. Department of Conservation and Natural Resources, Bureau of Forestry, Sproul State Forest District 10**, 15187 Renovo Road, Renovo, PA 17764. Hiking Bridge replacement, in Chapman Township, **Clinton County**, ACOE Baltimore District (Renovo East, PA Quadrangle N: 13.17 inches; W: 2.52 inches).

The applicant proposes to construct a 24 ft. span wooden pedestrian bridge across Little McCloskey Run (HQ-CWF). The structure is intended to have a 4 foot 6 inch underclearance with 3 foot 6 inch guide rails. This project will not impact any wetland and will have a temporary impact on the stream of 25 feet.

**E47-085. Mahoning Creek Watershed Association**, P. O. Box 24, Danville, PA 17821. Mahoning Creek Stabilization, in Valley Township, Montour County, ACOE Baltimore District (Riverside, PA Quadrangle N: 19.62 inches; W: 0.61 inch).

The applicant is proposing to stabilize a 700 ft. section of Mahoning Creek (TSF) by means of a combination of traditional riprap and natural channel design techniques. The stabilization project intends to create a natural, stable working stream system that will aid in the reduction of sediment loading and enhance aquatic habitat. The completed project is intended to have one cross vane structure and one straight vane structure along with 185 linear feet of riprap. The riprap will be placed at the lower section of the project since this area is already at bedrock. This project does not intend to impact any wetlands.

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

**E02-1535. Manor House Kitchens, Inc.**, 3297 Babcock Boulevard, Pittsburgh, PA 15237-2829. To construct a culvert in Ross Township, **Allegheny County**, Pittsburgh ACOE District. (Emsworth, PA, Quadrangle N: 5.6 inches; W: 2.55 inches; Latitude: 40° 31' 51"; Longitude: 80° 01' 06"). The applicant proposes to construct and maintain a culvert having a span of 16.0 feet with a minimum under clearance of 5.5 feet and approximately 65.0 feet in length in the channel of Girty's Run (WWF) for the purpose of providing access to applicant's property. The project is located approximately 2,000 feet

north from the intersection of Babcock Boulevard and Hillcrest Drive in Ross Township, Allegheny County, and will impact 65.0 linear feet of stream channel.

**E02-1537. Palm Properties, LLC**, 3447 Hart's Run Road, Glenshaw, PA 15116. To extend the existing stream enclosure in Indiana Township, **Allegheny County**, Pittsburgh ACOE District. (Glenshaw, PA Quadrangle N: 8.93 inches; W: 5.44 inches and Latitude: 40° 26' 31"—Longitude: 79° 54' 51"). The applicant proposes and after the fact permit to operate and maintain an existing 115 linear foot 72 inch diameter CMP extension of an existing stream enclosure in a UNT to Little Pine Creek (TSF), an existing concrete retaining wall approximately 350' in length, various outfall structures, and a previously permitted existing stream crossing consisting of a 5 foot by 20 foot box culvert and a 230 foot 18 inch CMP stream enclosure which drains less than 100 acres; for the purpose of operating a retail and office development. The project is located at the southern corner of the intersection of Hart's Run Road and Saxonburg Boulevard. The project impacts approximately 400 feet of stream channel, with an additional impact of 230 feet on a tributary of the main tributary.

**E56-340. Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To fill wetland in Allegheny Township, **Somerset County**, Baltimore ACOE District. (New Baltimore, PA Quadrangle starting at N: 15.0 inches, W: 13.6 inches, Latitude: 39° 57' 26" and Longitude: 78° 50' 54"; and ending at N: 19.2 inches, W: 5.1 inches, Latitude 39° 59' 00" and Longitude: 78° 47' 24"). The applicant proposes to fill 0.02 acre of PEM wetland. The applicant also proposes to construct and maintain a total of 160° LF of 18" to 36" culvert; temporarily divert or relocate 80° LF of stream, reline or replace a total of 185° LF of existing 18" to 54" culvert; and remove a total of 384 LF of existing 15" to 48" culvert in drainage areas less than 100 acres in UNTs to the Raystown Branch Juniata River (CWF), Wambugh Run (CWF) and Three Lick Run (CWF). The project is associated with a 1.3 mile relocation and a 0.8 mile relocation of the Turnpike west bound lanes to an alignment adjacent to the east bound lanes, and other improvements between New Baltimore Borough and the Allegheny Tunnel from mile post 123.34 to 129.93.

**E63-585. Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106. To stabilize Mingo Creek in Carroll Township, **Washington County**, Pittsburgh ACOE District. (Monongahela, PA Quadrangle N: 14.9 inches; W: 15.5 inches and Latitude: 40° 12' 29"—Longitude: 79° 59' 05"). The applicant proposes to construct and maintain 400 LF of stream stabilization and restoration in Mingo Creek (HQ-TSF). This project is intended to protect fill supporting the Mon-Fayette Expressway from threatened erosion and starts 40 ft. downstream of SR 1087 (Ginger Hill Road).

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

**E10-420. Grace Community Church**, P. O. Box 2467, Cranberry Township, PA 16066. Church expansion in Cranberry Township, **Butler County**, ACOE Pittsburgh District. (Baden, PA Quadrangle N: 40° 40' 57"; W: 80° 08' 08").

To include the following activities as part of the expansion of the Grace Community Church:

1. To install and maintain a precast Con/Span arch culvert with a 20-foot by 6-foot waterway opening and

having a length of 75-feet, with associated fill in a tributary to Brush Creek (WWF) for a new access driveway;

2. To realign approximately 165 feet of the stream channel and fill an adjoining de minimis (.022 acre) area of wetland (PEM/PSS) for the expansion of the existing parking lot and associated grading.

3. To relocate and maintain an 8-inch diameter sanitary sewer line across the tributary to Brush Creek (WWF).

4. To expand the existing stormwater detention basin disturbing a portion of an adjoining de minimis (.009 acre) area of wetland (PEM).

5. To construct and maintain a 12-foot by 6-foot wooden footbridge over a drainage swale having a drainage area of less than 100 acres.

This project was previously permitted under E10-307, which expired December 31, 2002, without having been constructed

**E16-132. Clarion Area Authority**, 14 N. 5th Ave., Clarion, PA 16214. Clarion Area Authority Sanitary Sewer Outfall Reconstruction along Trout Run, in Monroe Township, Clarion County, ACOE Pittsburgh District (Clarion, PA Quadrangle N: 41, 12', 07"; W: 79, 24', 25").

To reconstruct and modify the existing sanitary sewer outfall from the Clarion Area Authority treatment plant located along Trout Run near its mouth at the Clarion River to include the following activities:

1. To realign and maintain approximately 180 feet of the channel of Trout Run extending upstream from the Clarion River. This involves permanent impact to 2,500 square feet of the existing channel of Trout Run.

2. To extend and maintain the existing 18-inch diameter effluent line approximately 160 feet downstream along the left (south) side of the floodway of Trout Run.

3. To construct and maintain approximately 200 feet of stabilized open channel along the left side of the floodway of Trout Run extending from the proposed headwall downstream to the Clarion River.

Project also includes the installation of temporary stream crossings of Trout Run for construction access at four locations on the existing access road following Trout Run between the existing sewage treatment plant and the Clarion River.

**E61-276, Ryan C. Moncheck**, 206 Morewood Road, Glenshaw, PA 15116-2047. Yost Drive River Access, in Scrubgrass Township, **Venango County**, ACOE Pittsburgh District (Eau Claire, PA Quadrangle N: 20.7 inches; W: 4.6 inches).

The applicant proposes to construct and maintain a private boat access involving the removal approximately 306 cubic feet (17-foot long by 6-foot wide by 3-foot deep) of sediment from the Allegheny River within the Federal Scenic River Corridor approximately 2.1 miles NE of the intersection of SR 208 and SR 3007. The Allegheny River is a perennial stream classified as a WWF. The project proposes to directly impact approximately 100 square feet of stream.

**E62-407, Warren General Hospital**, Two Crescent Park West, Warren, PA 16365. Pine Grove Surgical Center, in Pine Grove Township, **Warren County**, ACOE Pittsburgh District (Russell, PA Quadrangle N: 14.73 inches; W: 1.66 inches).



The applicant proposes to fill 0.038 acre (de minimis) of wetland for the construction of a surgical center on the same property as an existing medical center approximately 0.4 mile SW of the intersection of SR 62 and SR 1016. The project proposes to directly impact 0.038 acre of wetland.

**E62-409, West PA Net**, 20 Market Street Plaza, Warren, PA 16365. West PA Net Fiber Optic Crossing Allegheny River, in Glade Township and Meade Township, **Warren County**, ACOE Pittsburgh District (Clarendon, PA Quadrangle N: 20.2 inches; W: 4.0 inches).

The applicant proposes to install and maintain an aerial fiber optic cable crossing of the Allegheny River within the Federal Scenic River Corridor on existing electrical infrastructure approximately 0.5 mile east of the intersection of SR 6 and SR 59. The Allegheny River is a perennial stream classified as a WWF.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D31-018EA. Orbisonia Lions Civic Association**, R. R. 1 Box 1156, Three Springs, PA 17264. Cromwell

Township, **Huntingdon County**, ACOE Baltimore District.

Project proposes to breach and remove Old Furnace Dam across Blacklog Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 2,500 feet southeast of the intersection of US 522 and SR944 (Orbisonia, PA Quadrangle N: 20.2 inches; W: 1.9 inches).

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D08-063A. John and Holly Firely** (798 Sharon Lane, Harleysville, PA 19438). To modify, operate and maintain Galvin Pond Dam across a tributary to Trout Creek (WWF), impacting 0 acre of wetland and 0 feet of stream, for the purpose of upgrading the structure to comply with current dam safety standards (Bentley Creek, PA Quadrangle N: 13.4 inches; W: 9.0 inches) in Ridgebury Township, **Bradford County**. Proposed modifications consist of leveling the crest of the dam and improving the emergency spillway.

## 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

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
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
PA0007455 IW	Lycoming Engines 652 Oliver Street Williamsport, PA 17701-6441	Williamsport Lycoming County	Lycoming Creek 10A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0000434 Industrial Waste	Manor Township Joint Municipal Authority 2310 Pleasant View Drive Ford City, PA 16226-1535	Armstrong County Manor Township	Allegheny River	Y
PA0097306 Industrial Waste	Municipal Authority of the Township of Robinson (MATR) P. O. Box 15539 Pittsburgh, PA 15244-0539	Allegheny County Robinson Township	Ohio River	Y
PA0218278 Industrial Waste	Westinghouse Plasma Center P. O. Box 410 Madison, PA 15663-0410	Westmoreland County Sewickley Township	UNT of Calley's Run	Y
PA0218511 Industrial Waste	Municipal Water Authority of Aliquippa 160 Hopewell Avenue Aliquippa, PA 15001	Beaver County City of Aliquippa	Logstown Run	Y
PA0093033 Sewage	Eastern Armstrong County Municipal Authority P. O. Box 262 Elderton, PA 15736-0262	Armstrong County Elderton Borough	Logstown Run	Y
PA0095745 Sewage	Deer Lakes Mobile Home Park 19 Moretti Drive Tarentum, PA 15084	Allegheny County West Deer Township	UNT of Little Deer Creek	Y
PA0218812 Sewage	Indiana County Municipal Services Authority 827 Water Street Indiana, PA 15701	Indiana County Montgomery Township	Cush Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0209783	Jerry Novosel SFTF 41 Gearhart Road Pulaski, PA 16143	Mercer County Shenango Township	UNT to Buchanan Run 20-A	Y
PA0239771	Green Meadows Mobile Home Park 189 Thomas Circle Enon Valley, PA 16120	New Beaver Borough Lawrence County	UNT to Jenkins Run	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. PA0058947**, Industrial Waste, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the authorization of a new permit to discharge from a facility known as JDM-Grant Avenue Batch Plant into Pennypack Creek in Watershed 3J.

**NPDES Permit No. PA0058955**, Industrial Waste, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the authorization of a new permit to discharge from a facility known as JDM-Bartram Batch Plant into the Schuylkill River in Watershed 3J.

**NPDES Permit No. PA0011631**, Industrial Waste, **Exelon Generation Company, LLC**, 100 Cromby Road, Phoenixville, PA 19460. This proposed facility is located in East Pikeland Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from a facility know as Cromby Generating Station to the Schuylkill River and Stony Run (Outfall 007) in Watershed 3D.

**NPDES Permit No. PA0031887**, Sewage, **Green Hill MHC, LLC**, P. O. Box 677, Morgantown, PA 19543-0677. This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge sewage effluent to Green Lane Reservoir in Watershed 3E.

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

**NPDES Permit No. PA-0065081**, Sewage, **James Davis**, 118 Whispering Acre Lane, Wind Gap, PA 18091. This proposed facility is located in Bushkill Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit.

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

**NPDES Permit No. PA0080730**, Sewage, **West Perry School District, Blain Elementary**, 2606 Shermans Valley Road, Elliptsburg, PA 17024. This proposed facility is located in Blain Borough, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Sherman Creek in Watershed 7-A.

**NPDES Permit No. PA0084034**, Sewage, **West Perry School District, Carroll Elementary**, 2606 Shermans Valley Road, Elliptsburg, PA 17024. This proposed facility is located in Carroll Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Sherman Creek in Watershed 7-A.

**NPDES Permit No. PA0084581**, Industrial Waste, **New Holland Borough Authority**, Water Treatment Plant, 436 East Main Street, New Holland, PA 17557. This proposed facility is located in East Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Mill Creek in Watershed 7-J.

**NPDES Permit No. PA0054852, Amendment No. 1**, Industrial Waste, **WBLF Acquisitions Company, LLC**, 256 Eagle View Road, PMB 231, Exton, PA 19341. This proposed facility is located in Cumru Township, **Berks County**.

Description of Proposed Action/Activity: Transfer of Permit.

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

**PAS314801, Industrial Waste**, SIC 4922, **Dominion Transmission**, 5094 Route 349, Westfield, PA 16950-9624. This existing facility is located in Clymer Township, **Tioga County**.

Description of Proposed Activity: The applicant has been issued a stormwater permit that will authorize the discharge of stormwater from a retention pond.

The receiving stream, Mill Creek, is in the State Water Plan watershed 4A and is classified for: TSF. The nearest downstream public water supply is the PA-NY border, is located on the Cowanesque River, 30.5 river miles below the point of discharge.

The monitoring for Outfall 001, from the permit effective date through 1 year following the permit effective date:

<i>Parameter</i>	<i>Daily Maximum (µg/l)</i>	<i>Measurement Frequency</i>	<i>Sample Type</i>
benzene	Report	1/Quarter	Grab
ethylbenzene	Report	1/Quarter	Grab
toluene	Report	1/Quarter	Grab
total xylenes	Report	1/Quarter	Grab
cumene	Report	1/Quarter	Grab
naphthalene	Report	1/Quarter	Grab
MTBE	Report	1/Quarter	Grab
n-butylbenzene	Report	1/Quarter	Grab
sec-butylbenzene	Report	1/Quarter	Grab
isopropyltoluene	Report	1/Quarter	Grab
methylene chloride	Report	1/Quarter	Grab
n-propylbenzene	Report	1/Quarter	Grab
1,2,4-trimethylbenzene	Report	1/Quarter	Grab
1,3,5-trimethylbenzene	Report	1/Quarter	Grab

The monitoring for Outfall 001, from 1 year following the permit effective date to the permit expiration date:

<i>Parameter</i>	<i>Daily Maximum (µg/l)</i>	<i>Measurement Frequency</i>	<i>Sample Type</i>
benzene	Report	1/Quarter	Grab
ethylbenzene	Report	1/Quarter	Grab
toluene	Report	1/Quarter	Grab
total xylenes	Report	1/Quarter	Grab

In addition to the proposed monitoring or inspection, the permit contains the following major special conditions:

1. Requirements Applicable to Stormwater Outfalls.
2. Stormwater/Groundwater Impoundment Modifications.

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

**PA0252930**, Industrial Waste, **Trans Technology Corporation**, 700 Liberty Avenue, P. O. Box 3300, Union, NJ 07083-3300. This proposed facility is located in Conemaugh Township, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance for groundwater remediation.

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

**NPDES Permit No. PA0239666**, Sewage, **Tracey, Inc., Cromwell Estates Mobile Home Park**, P. O. Box 55, Valencia, PA 16059. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to a UNT to Bull Creek in Watershed 18-A.

**NPDES Permit No. PA0239771**, Sewage, **Green Meadows Mobile Home Park**, 189 Thomas Circle, Enon Valley, PA 16120. This proposed facility is located in New Beaver Borough, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to a UNT to Jenkins Run in Watershed 20-B.

### **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. 1506401**, Sewerage, **Blackburn Realty Associates, Inc.**, 1595 Paoli Pike, Suite 201, P. O. Box 1906, West Chester, PA 19380-6167. This proposed facility is located in East Marlborough Township, **Chester County**.

Description of Action/Activity: Construction and operation of an existing automatic lift pump station to be retro-fitted with larger pumps to serve existing and new domestic wastewater projects.

**WQM Permit No. WQG01-0011**, Sewerage, **Maureen Skelly, Skelly Residence**, 234 Ridge Avenue, Newtown, PA 18940. This proposed facility is located in Wrightstown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a small flow sewage treatment facility.

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

**WQM Permit No. WQG0170601**, Sewerage, **Greg Gearhart**, 84 Warrington Road, Dillsburg, PA 17019. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of Small Flow Treatment Facilities.

**WQM Permit No. WQG01670603**, Sewerage, **Rodger Petrone**, (Grantham Crossing Lot 9), 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a small flow sewage treatment facility to serve a single family residence on Lot 9.

**WQM Permit No. WQG01670602**, Sewerage, **Rodger Petrone**, (Grantham Crossing Lot 7), 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a small flow sewage treatment facility to serve a single family residence on Lot 7.

**WQM Permit No. WQG01670604**, Sewerage, **Rodger Petrone**, (Grantham Crossing Lot 16), 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a small flow sewage treatment facility to serve a single family residence on Lot 16.

**WQM Permit No. WQG01280601**, Sewerage, **Mr. and Mrs. Richard Runyon**, 6625 McClays Mill Road, Newburg, PA 17240. This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a small flow sewage treatment facility to serve their single family residence.

**WQM Permit No. 0692205, Transfer No. 1**, Industrial Waste, **WFLF Acquisition Company, LLC**, 256 Eagle View Road, PMB 231, Exton, PA 19341. This proposed facility is located in Cumru Township, **Berks County**.

Description of Proposed Action/Activity: Transfer of Permit.

**WQM Permit No. 0606201**, CAFO, **Michael Werner, Joe Jurgielewicz & Son, Ltd.**, P. O. Box 257, Shartlesville, PA 19554. This proposed facility is located in Tilden Township, **Berks County**.

Description of Proposed Action/Activity: Approval of the construction of, modification to, and operation of manure and food processing waste treatment facilities as follows: New waste transfer lines will be installed to route wastewater to the existing "Storage 0" impoundment and an existing collection manhole. Wastewater in Storage 0 will be pumped to the collection manhole; Wastewater will be pumped from the collection manhole to a new solids separator system, to be housed within the new waste treatment building; Effluent from the separator system will be pumped to a new Dissolved Air Flotation (DAF) unit, to be housed within the new waste treatment building; Effluent from Storage No. 1 will flow into Storage No. 2, which will be partially aerated. Waste solids from Storage No. 2 will be returned to Storage No. 1.

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

**WQM Permit No. WQ5503403-A1**, Sewerage 4952, **Beavertown Municipal Authority**, 419 Old Orchard Drive, Beavertown, PA 17813. This proposed facility is located in Beavertown Borough, **Snyder County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management permit for the modifications to the Ball Field wastewater pumping station and the Beavertown Municipal Authority Wastewater Treatment Plant.

**WQG Permit No. 01590605**, 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: Permit issuance for a system consisting of a 1,000-gallon septic tank, an effluent filter, two free access sand filters, an erosion chlorinator, and a chlorine contact tank.

**WQG Permit No. 01080601**, 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: Permit issuance for a system consisting of a 1,000-gallon septic tank, an effluent filter, two free access sand filters, an erosion chlorinator, and a chlorine contact tank.

**WQG Permit No. 01080603**, Sewerage, **William and Mary Timm**, 147 Murray Creek Road, Athens, PA 18810. This proposed facility is located in Athens Township, **Bradford County**.

Description of Proposed Action/Activity: Permit issuance for a system consisting 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. 1906401**, Sewerage 4952, **Millville Borough**, P. O. Box 30, Millville, PA 17846-0030. This proposed facility is located in Millville Borough, **Columbia County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management permit for the wastewater treatment plant hydraulic upgrade from 0.250 mgd to 0.300 mgd.

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

**WQM Permit No. 3206201**, Industrial Waste, **TransTechnology Corporation**, 700 Liberty Avenue, P. O. Box 3300, Union, NJ 07083-3300. This proposed facility is located in Conemaugh Township, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of groundwater extraction wells and treatment facility for the cleanup of groundwater.

**WQM Permit No. 6306201**, Industrial Waste, **Molycorp, Inc.**, 1217 West Wayne Street, Washington, PA 15301. This proposed facility is located in Canton Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for contact water treatment system, noncontact water sedimentation basins.

**WQM Permit No. 0205406**, Sewerage, **Woodville Associates, Ltd.**, 5020 Thoms Run Road, Oakdale, PA 15071. This proposed facility is located in Collier Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sanitary sewer system to service a 569 lot single- and multi-family home development.

**WQM Permit No. 5602403-A1**, Sewerage, **Conemaugh Township**, 1120 Tire Hill Road, Johnstown, PA 15905. This proposed facility is located in Conemaugh Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a new sludge dewatering facility.

**WQM Permit No. 6306402**, Sewerage, **Washington County Authority**, 100 West Beau Street, Suite 304, Washington, PA 15301. This proposed facility is located in Cecil Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of gravity sewers to serve Southpoint II-Phase 1 development at the former Western Center.

**WQM Permit No. 6505410**, Sewerage, **Unity Township Municipal Authority**, P. O. Box 506, Pleasant Unity, PA 15676. This proposed facility is located in Unity Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a new pump station, sewage treatment plant and sewer system to extend public sanitary sewer service in the Fourteen Mile Run Watershed.

**WQM Permit No. WQG016127**, Sewerage, **Craig Dongilli**, 308 Van Meter Road, Belle Vernon, PA 15012. This proposed facility is located in Rostraver Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of a single residence sewage treatment plant.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions****V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504057	Wawa, Inc. 260 West Baltimore Pike Wawa, PA 19063	Chester	North Coventry Township	Schuylkill River (HQ-TSF)
PAI011504071	Peter Kjellerup 8 Federal Road West Grove, PA 19390	Chester	Penn Township	UNT East Branch Big Elk Creek (HQ-TSF-MF)
PAI011504083	Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Chester	Wallace Township	East Branch Brandywine River (HQ-TSF-MF)
PAI011506015	John C. and Ester M. Kolb 321 Fairview Road Glenmoore, PA 19343	Chester	Wallace Township	North Branch Indian Run (HQ-CWF)
PAI011506020	Anthony and Deborah Galante 17 Yeaton Lane Glenmoore, PA 19343	Chester	East Nantmeal Township	Beaver Run (EV)
PAI011506031	Wyeth Pharmaceuticals 31 Morehall Road Frazer, PA 19355	Chester	West Chester Borough	UNT Goose Creek (CWF)
PAI011506022	Clinton Blackwell, Jr. 155 Walker Road Landenberg, PA 19350	Chester	Franklin Township	Tributary Big Elk Creek (HQ-TSF-MF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505010	Adrian Dumitru 1232 Pine Ridge Bushkill, PA 18324	Monroe	Smithfield Township	Marshalls Creek HQ-CWF
PAI024805027	Nazareth Area School District One Education Plaza Nazareth, PA 18064	Northampton	Lower Nazareth Township	Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030506002	Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Bedford	Bedford Township	Shobers Run HQ-CWF UNT to Shobers Run HQ-CWF
PAI033105003	Mr. and Mrs. Silas Dubbel 63764 A Cold Springs Road Huntingdon, PA 16652	Huntingdon	Oneida Township	UNT Standing Stone Creek HQ-CWF

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

*Clearfield Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-8130.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041403010	Janos Koltay, Sandy Hills 507 Katrina Circle State College, PA 16803	Centre	Rush Township	Clover Run HQ-CWF

Central Office: Bureau of Watershed Management, 400 Market Street, Floor 10, P. O. Box 8554, Harrisburg, PA 17105-8775.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI153906001	Allentown Commercial & Industrial Development Authority Gerald Aubano 435 Hamilton Ave. Allentown, PA 11805	Lehigh	City of Allentown	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063705002(1)	Turnpike Commission Attention: Frank Kempe 700 South Eisenhower Road Middletown, PA 17057-5529 and Co-Permittee Joseph B. Fay Company P. O. Box 66 Russellton, PA 15084	Lawrence	Little Beaver and North Beaver Townships	North Fork Little Beaver Creek HQ

## VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

#### General Permit Type—PAG-2

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Schuylkill Township Chester County	PAG2001504123	Sue Ellen Masters Ferry Lane Valley Forge, PA 19380	UNT Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tredyffrin Township Chester County	PAG2001506023	Swedesford Associates, LP 1 West First Avenue, Ste 4100 Conshohocken, PA 19428	Trout Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
West Brandywine Township Chester County	PAG2001506020	Jonathan Howe 152 Culbertson Run Road Downingtown, PA 19335	Beaver Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106019	Capital Program Office 1515 Arch Street, 11th Floor Philadelphia, PA 19102	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106033	Agusta Aerospace Corporation 3076 Red Lion Road Philadelphia, PA 19114	Poquessing Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106039	School District of Philadelphia 440 North Broad Street, 3rd Floor Philadelphia, PA 19130	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Rush Township Schuylkill County	PAG2005406002	Shawn and Laura Gilbert 137 Ye Old Hauto Rd. Tamaqua, PA 18252	Neifert Creek to Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742
Hanover Township Luzerne County	PAG2004006009	Earth Conservancy 101 South Main St. Ashley, PA 18706	Solomon Creek CWF	Luzerne County Conservation District (570) 674-7991
Lehigh Township Northampton County	PAG2004805046	John J. Voortman 4780 Vera Cruz Rd. Center Valley, PA 18034	Tributary to Lehigh River (PA 903 Bridge to Allentown Dam) CWF	Northampton County Conservation District (610) 746-1971
Borough of Chambersburg Franklin County	PAG2002806020	Woodstock Townhomes Antonia Mourtil 574 Middle Neck Road Great Neck NY 11023	UNT Conococheague CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Borough of Waynesboro Franklin County	PAG2002806022	Encore Developers, LLC P. O. Box 912 Waynesboro PA 17268	UNT to Antietam Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG2002806029	Rite Aid #232-04 Susan Whaley RP Fayetteville, LLC P. O. Box 3247 Gettysburg PA 17325	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Hamilton and Fannett Townships Franklin County	PAG2002806030	PL-1 Pressure Restoration Sites Paul Ruppert Dominion Transmission Inc 445 West Main Street Clarksburg WV 26301	Back Creek CWF Tuscora Creek TSF/CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Upper Bern Township Berks County	PAG2000606016	Robert Ciccone 6866 Christphalt Drive Bath, PA 18014	Trib to Mill Creek TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Derry Township Dauphin County	PAG2002206027	The Hershey Trust Co. 100 Mansion Road East Hershey, PA 17033	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Paxton Township Dauphin County	PAR10I269R	Eastern Development & Planning, Inc. 7300 Derry Street Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Paxton Township Dauphin County	PAG2002206029	Central Dauphin School District 600 Rutherford Road Harrisburg, PA 17109-5227	Spring Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Allegheny County Moon Township	PAR10A499R	True Line Corporation 6 Commerce Drive Pittsburgh, PA 15239	Flaugherty Run (WWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County South Fayette Township	PAR10A5582	MHM Partners 409 Broad Street Sewickley, PA 15143	Millers Run Coal Run (CWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Richland Township	PAG2000205022-1	Echo Richland Associates 701 Alpha Drive Pittsburgh, PA 15238	Deer Creek (CWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Richland Township	PAG2000206010	Richland Holdings, LLC 1426 Pittsburgh Road Valencia, PA 16059	Deer Creek (CWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Monroeville	PAG2000206018	Gordon Food Services, Inc. P. O. Box 1787 Grand Rapids, MI 49501-1787	Thompson Run (WWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Ross Township	PAG2000206019	Heintz Builders P. O. Box 1918 Cranberry Township, PA 16066	Girtys Run (WWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Findlay Township	PAG2000206024	Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Montour Run (TSF)	Allegheny County Conservation District (412) 241-7645
Allegheny County McCandless Twp	PAG2000206026	Newfoundland Group 5200 Brooktree Road Suite 320 Wexford, PA 15090	Pine Creek (CWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Pleasant Hills Boro	PAG2000206027	Dollar Bank 3 Gateway Center, Suite 9E Pittsburgh, PA 15222	Monongahela River (WWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County Pittsburgh	PAG2000206030	Department of Public Works 301 City-County Building 414 Grant Street Pittsburgh, PA 15219	Ohio River (WWF)	Allegheny County Conservation District (412) 241-7645
Allegheny County South Park Township & Bethel Park	PAG200206031	Allegheny County Department of Public Works 501 County Office Building 542 Forbes Avenue Pittsburgh, PA 15219	Lick Run (WWF)	Allegheny County Conservation District (412) 241-7645



## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allegheny County Plum Borough	PAG2000206042	Allegheny County Parks Department 211 County Office Building 542 Forbes Avenue Pittsburgh, PA 15219	Piersons Run (TSF)	Allegheny County Conservation District (412) 241-7645
Washington County North Strabane Twp	PAG20006306015	Hampton Inn & Suites Racetrack Road Hotel, LP 375 Southpointe Boulevard Suite 410 Canonsburg, PA 15317	Chartiers Creek (WWF)	Washington County Conservation District (724) 228-6774
Edinboro Borough Erie County	PAG2002506004	H.A.N.D.S. 502 East 12th Street Erie, PA 16503	Darrows Creek WWF	Erie Conservation District (814) 825-6403
City of Hermitage Mercer County	PAG2004306008	Ronald Anderson UDE of Freeway, LTD 1607 Motor Inn Drive Girard, OH 44420	UNT Bobby Run WWF	Mercer Conservation District (724) 662-2242
City of Hermitage Mercer County	PAG2004306009	Donald M. Carlson Carlson & McGinley Real Estate Services, Inc. 106 South 18th Street Pittsburgh, PA 15203 and Co-permittee Edwin D. Pope FWG Real Estate, LLC Birmingham Towers Suite 710 2100 Wharton Street Pittsburgh, PA 15203	UNT Shenango River WWF	Mercer Conservation District (724) 662-2242
Tioga County Middlebury Township	PAG2005906011	William Moral 940 Long Mill Road Telford, PA 18969	North Run WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Mifflin County Granville Township	PAR113522	GE Inspection Technologies, LP 50 Industrial Park Road Lewistown, PA 17044	Juniata River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Southampton Township	PAR123551	Wenger's Feed Mill, Inc. 101 West Harrisburg Ave. Rheems, PA 17570	UNT to Furnace Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Delaware Township Northumberland County	PAR204808 (Stormwater)	Hoeganaes Corporation 1001 Taylors Lane Cinnaminson, NJ 08077-2017	UNT to Muddy Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Penn Hills Township Allegheny County	PAR606175	ACE Auto Wrecking, Inc. 4550 Verona Road Verona, PA 15147	Sandy Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Erie Erie County	PAR808381	Watkins Motor Lines, Inc. 1144 West Griffin Road Lakeland, FL 33805	City of Erie storm sewers to Lake Erie Outer Harbor	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-4</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Blair County Frankstown Township	PAG043658	Christi Owen R. R. 3, Box 499 Hollidaysburg, PA 16648	UNT to Oldtown Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Athens Township Bradford County	PAG045218	William and Mary Timm 147 Murray Creek Road Athens, PA 18810	Murray Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Westfield Township Tioga County	PAG045215	Rodney J. Cowburn 340 Church Street Westfield, PA 16950	Broughton Hollow WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Rome Township Bradford County	PAG045214	Ronald L. and Linda D. Smith R. R. 1, Box 573 Union Valley Road Ulster, PA 18850	Parks Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Allegheny County Plum Borough	PAG046115	James and Marlene McKinnon 1642 Old Leechburg Road New Kensington, PA 15068-9367	Tributary to Little Plum Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Washington County Amwell Township	PAG046102	Elisabeth M. Morris 559 Waynesburg Road Washington, PA 15301-3272	Little Ten Mile Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allegheny County Jefferson Borough	PAG046109	James B. Husser 4043 Bedell Road Finleyville, PA 15332	Lobbs Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Westmoreland County Rostraver Township	PAG046326	Craig Dongilli 308 Van Meter Road Belle Vernon, PA 15012	UNT of Youghiogeny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Pittsfield Township Warren County	PAG049263	Eric W. Sproveri 304 1/2 E. Main Street Youngsville, PA 16371	UNT to Gar Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Clarion County	PAG048759	Jennifer A. and Ronald J. Grooms 1423 Marble Strobleton Road Lucinda, PA 16235-5013	UNT to Mahles Run 17-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cussewago Township Crawford County	PAG049257	Brian A. Miller 23511 Fry Road Venango, PA 16440	UNT to French Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pine Grove Township Warren County	PAG049259	Connie C. Todryk 12905 California Street Yucaipa, CA 92399	Wiltsie Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Mercer County	PAG048977	Gary M. Chizmar 4639 Pitts Road Adamsville, PA 16110	UNT to Crooked Creek 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Crawford County	PAG048728	Matthew D. Higham 18376 Barber Road Meadville, PA 16335	UNT to French Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Springfield Township Mercer County	PAG048710	Dennis Shadron 1293 South Perry Highway Mercer, PA 16137	UNT to Breakneck Creek 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Girard Township Erie County	PAG049248	Michael R. Sorze 3144 West 23rd Street Erie, PA 16506	UNT to Elk Creek 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Franklin Township Erie County	PAG048768	Jeffrey S. McIntyre 7405 Old State Road Edinboro, PA 16412	UNT to Little Elk Creek 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Hayfield Township Crawford County	PAG049252	Gary E. Hawk 17632 S. Norrisville Road Conneautville, PA 16406	UNT to Rundelstown Creek 16D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048764	Roy A. and Luann M. Strobel 5721 Gibson Hill Road Edinboro, PA 16412	UNT to Conneauttee Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Penn Township Butler County	PAG048386	Theodore N. Boyda 236 Renfrew Road Renfrew, PA 16053	Thorn Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-7*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Quincy, MA	PAG079914	New England Organics 135 Presumpscot ST, Unit 1 Portland, ME 04103	New England Fertilizer Company 97 East Howard Street Quincy MA 02169	BWSFR (717) 787-8184

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Springdale Borough Allegheny County	PAG106105	United Refining Company P. O. Box 780 15 Bradley Street Warren, PA 16365-0780	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

## 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

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

**Permit No. 5595501-T1—Operation** Public Water Supply.

Applicant	<b>Perry Township Municipal Authority</b>
Township or Borough	Perry Township
County	<b>Snyder</b>
Responsible Official	Belinda Courtney Perry Township Municipal Authority 9351 Route 35 Mt. Pleasant Mills, PA 17853
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A

Permit Issued Date 6/14/06  
 Description of Action Transfer and operation of the Church Hills Estates system for Perry Township Municipal Authority. The facility includes Well No. 1, sodium hypochlorite facilities, a 137,000 gallon steel standpipe and the distribution system.

**Permit No. 1404501—Operation** Public Water Supply.

Applicant **Orchard Creek Partnership**  
 Township or Borough Benner Township  
 County **Centre**  
 Responsible Official Louis Glantz, President  
 Orchard Creek Partnership  
 1901 East College Avenue  
 State College, PA 16801

Type of Facility Public Water Supply—Operation  
 Consulting Engineer Brooks Harris, P. E.  
 ELA Group, Inc.  
 2013 Sandy Drive, Suite 103  
 State College, PA 16803

Permit Issued Date 6/19/06

Description of Action Operation of a new source of supply, Opequon Well No. 1, distribution system and detention piping to serve the Opequon Hill Subdivision. Disinfection, sequestration and finished water storage will be provided through the existing Hampton Hills Subdivision public water supply.

**Permit No. M.A.—Operation** Public Water Supply.

Applicant **Pennsylvania American Water Company**  
 Township or Borough Milton Borough  
 County **Northumberland**  
 Responsible Official Paul A. Zielinski, Director  
 Environmental Mgmt. & Compliance  
 Pennsylvania American Water Company  
 800 West Hersheypark Drive  
 Hershey, PA 17033

Type of Facility Public Water Supply—Operation  
 Consulting Engineer Scott Thomas, P. E.  
 Pennsylvania American Water Company  
 800 West Hersheypark Avenue  
 Hershey, PA 17033

Permit Issued Date 6/19/06

Description of Action Blasting and painting of the interior and exterior of the 650,000-gallon Clarifier/Flocculator No. 1 located at the Milton water filtration plant.

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

**Permit No. 5636541**, Public Water Supply.

Applicant **Al's Water Service, Inc.**  
 2699 Jefferson Avenue  
 Washington, PA 15301  
 Borough or Township Canton Township  
 County **Washington**  
 Type of Facility Bulk Water Hauling Facility  
 Consulting Engineer Sawyer Engineering  
 205 Robinhood Lane  
 McMurray, PA 15317  
 Permit to Construct May 11, 2006  
 Issued

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

**Permit No. 6200504-MA2**, Minor Amendment

Applicant **Youngsville Borough**  
 Borough or Township Youngsville Borough  
 County **Warren**  
 Type of Facility Public Water Supply  
 Permit to Construct 06/15/2006  
 Issued

**Permit No. 844W-T1-MA1**, Minor Amendment

Applicant **Mt. Jewett Borough Authority**  
 Borough or Township Mt. Jewett Borough  
 County **McKean**  
 Type of Facility Public Water Supply  
 Permit to Construct 06/19/2006  
 Issued

**Permit No. 6205501**, Public Water Supply

Applicant **Pennsylvania American Water Company**  
 Borough or Township Glade Township  
 County **Warren**  
 Type of Facility Public Water Supply  
 Permit to Construct 06/19/2006  
 Issued

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

*Plan Location: between US 15 and Lake Heritage in both Straban and Mt. Joy Townships, Adams County.*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Straban and Mt. Joy Townships	1745 Granite Station Road Gettysburg, PA 17325	Adams
	902 Hoffman Home Road Gettysburg, PA 17325	

*Plan Description:* The approved plan provides for the installation of a new pump station, approximately 1,400 feet of eight inch gravity sewer and 8,000 feet of four inch force main. The name of the project is White Run Municipal Authority and the DEP Code No. are A3-01929-244-34m and A3-01924-193-3m. 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 authority.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Antis Township	909 North Second Street Bellwood, PA 16617	Blair

*Plan Description:* The approved plan provides for the extension of sanitary sewer collection service to the North Sixth Street area of the township to serve 10 existing homes with malfunctioning on lot sewage systems. 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>
King Township	634 South Imler Valley Road Osterburg, PA 16667	Bedford

*Plan Description:* The approved plan provides for an extension of public sewers to serve four existing single family residences (1080 gpd sewage flow). 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.

*Southwest Regional Office, Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Marion Township	485 Hartzell School Road Fombell, PA 16123	Beaver

*Plan Description:* The approved plan provides for construction of a 6,000-gallon per day sewage treatment plant to serve six existing residential apartment buildings and one cottage. The property is located at Brush Creek Road and Wisers Grove Road. The proposed discharge point is Brush Creek, classified as a WWF. Any required NPDES Permits or WQM Permits must be obtained in the name of the applicant as appropriate. The Department's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Farmington Township	32691 Route 66 Leeper, PA 16233	Clarion

*Plan Description:* The approved plan provides for proposed extensions of the existing sewerage collection system north to serve the Village of Crown and the Route 66 Corridor south of Leeper. The sewer project will serve 132 EDUs using both small diameter pressure sewers with grinder pumps and conventional gravity sewers and pump stations. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION UNDER ACT 2, 1995 PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Schoenfellinger Res.** New Britian Township, **Bucks County**. Richard Trimpi, Trimpi Associates, Inc. 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Jen Konefal, 782 Township Line Rd., Chalfont, PA 18914 has submitted a Final Report concerning remediation of site soil contaminated with No. 2. fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

**Domus Apts 34th & Chestnut St.** City of Philadelphia, **Philadelphia County**. Jamey Stynchula, Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Ira Kauderer, University of Philadelphia, 133 S. 36th St., Suite 3000, Philadelphia, PA 19104 has submitted a Remedial Investigation Report, Cleanup Plan and Final Report concerning remediation of site soil contaminated with semivolatle organic compounds and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Inglis Apt at Elmwood**, City of Philadelphia, **Philadelphia County**. Scott Smith, Powell-Harpstead, 800 E. Washington St., West Chester, PA 19380 on behalf of Arthurette Morris-Stone, Inglis Housing Corp., 2600 Belmont Ave., Philadelphia, PA 19131 has submitted a Final Report concerning remediation of site soil contaminated with other organic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Liberty Knoll Apt**, New Garden Township, **Chester County**. Joseph Diamadi, Jr. Marshall Geoscience, Inc., 170 E. First Ave, Collegeville, PA 19426 on behalf of Clyde Spinelli, Media Real Estate Co., Inc. 203 E. Baltimore Ave., Media, PA 19063 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Tledyne-AMCO Facility**, Mohnton Borough, **Berks County**. MACTEC Engineering and Consulting, Inc., 5202 Militia Hill Road, Plymouth Meeting, PA, 19462-1216, on behalf of TDY Industries, Inc., 1000 Six PPG Place, Pittsburgh, PA, 15222, submitted a Cleanup Plan concerning remediation of site soil, groundwater and surface water contaminated with solvents. The applicant is seeking to remediate to a combination of Site-Specific and Statewide Health Standards.

**Bon Secours Holy Family Regional Health System**, Altoona City, **Blair County**. Mountain Research, 825 25th Street, Altoona, PA, 16601, on behalf of Bon Secours Holy Family Regional Health System, 2500 Seventh Avenue, Altoona, PA, 16601, submitted a Final Report concerning remediation of site soils and groundwater contaminated with diesel fuel. The report is intended to document remediation of the site to the Statewide Health Standard.

**Charles Ness Estate**, Manchester Township, **York County**. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA, 17011, on behalf of Charles Ness Estate, Cathy Ness Anderson, Executor, P. O. Box 144, Felton, PA, 17322 and Johnston Construction, P. O. Box 97, Dover, 17315-0097, submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard under the low risk policy.

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

**Zuck Road Property Tract 78 (formerly known as Legacy Woods Condominiums)**, Millcreek Township, **Erie County**. Burt Waite, Moody & Associates, inc., 11548 Cotton Road, Meadville, PA 16335 on behalf of Peter and Mary Fedorka, 2500 South Shore Drive, Erie, PA 16505 has submitted a Remedial Investigation Report and a Cleanup Plan concerning remediation of site soils contaminated with lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative

form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Messiah College Hoffman UST Release**, Upper Allen Township, **Cumberland County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA, on behalf of Messiah College, One College Avenue, Grantham, PA 17027, submitted a Final Report concerning remediation of site soils contaminated with No. 2 heating oil. The site was determined to qualify for the Department's low-risk sites program, and the findings of the Final Report were based upon the judgment of James LaRegina, P. G., who is the Pennsylvania licensed professional under whose seal the Report was submitted. A thorough technical review was not performed by Department staff on this report. The site was afforded liability protection as outlined in Chapter 5 of Act 2 in a letter dated June 5, 2006.

**Adhesives Research**, Springfield Township, **York County**. URS Corporation, 5010 Ritter Road, Suite 101, Mechanicsburg, PA, 17055, on behalf of Adhesives Research, Inc., 400 Seaks Run Road, P. O. Box 100, Glen Rock, PA 17327, submitted a Final Report within 90 days of release concerning remediation of site soils contaminated with VOCs. The Final Report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on June 7, 2006.

**Newark Paperboard Products, Mercer Division**, Manchester Township, **York County**. EPSYS Corporation, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103, on behalf of Robert H. Mullen, The Newark Group, Inc., 20 Jackson Drive, Cranford, NJ 07016 and Rick Theriault, The Newark Group, Inc., 100 South Kimball Street, Bradford, MA 01835, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with No. 2 fuel oil. The final Report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on June 8, 2006.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permit approved under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301315. PPL Montour, LLC**, 18 McMichael Road, Washingtonville, PA 17884, for Ash Basin 1 at the PPL Montour Steam Electric Plant located in Derry Township, **Montour County**. The major permit modification for the groundwater abatement plan for a residual waste disposal impoundment originally approved by the Williamsport Regional Office on May 19, 2006, was rescinded on June 16, 2006, to allow the balance of the 60-day public comment period to be fulfilled.

Comments concerning the application should be directed to David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101,

Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Williamsport Regional Office, (570) 327-3653. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 40 days of this notice and may recommend revisions to and approval or denial of the application.

### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**40-302-159GP1: Freedom Corrugated** (595 Oak Ridge Road, Hazleton, PA 18202) on June 14, 2006, to construct and operate Johnston Boiler No. 1 in the Humboldt Industrial Park, Hazle Township, **Luzerne County**.

**40-302-160GP1: Freedom Corrugated** (595 Oak Ridge Road, Hazleton, PA 18202) on June 14, 2006, to construct and operate Johnston Boiler No. 2 in the Humboldt Industrial Park, Hazle Township, **Luzerne County**.

**40-302-161GP1: Fairchild Semiconductor Corp.** (125 Crestwood Road, Mountaintop, PA 18707) on June 14, 2006, to construct and operate of Cleaver Brooks Boiler No. 3 at the facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**.

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

**GP3-06-03137: H. B. Mellott Estate, Inc.** (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267) on June 14, 2006, for Portable Nonmetallic Mineral Processing Plant under GP3 in Ontelaunee Township, **Berks County**.

**GP11-06-03137: H. B. Mellott Estate, Inc.** (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267) on June 14, 2006, for Nonrod Engines under GP11 in Ontelaunee Township, **Berks 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.*

**09-0126B: Air Liquide Electronics U. S., LP** (19 Steel Road W., Morrisville, PA 19067) on June 20, 2006, to operate a wet scrubber in Falls Township, **Bucks County**.

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

**39-313-046: ACME Cryogenics, Inc.** (2801 Mitchell Avenue, Allentown, PA 18103) on June 8, 2006, to install



an air cleaning device (replacement) to capture emissions from a brass and copper dipping operation at the facility in Allentown, **Lehigh County**.

**45-310-039: Locust Ridge Quarry** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on June 13, 2006, to construct a particle separator and associated air cleaning device in Tobyhanna Township, **Monroe County**.

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

**21-05011A: Frog Switch and Manufacturing Co.** (600 E. High Street, P. O. Box 70, Carlisle, PA 17013) on June 14, 2006, to replace a natural gas fired heat treat furnace in Carlisle Borough, **Cumberland County**.

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

**10-027E: Penreco** (138 Petrolia Street Karns City, PA 16041) on May 31, 2006, to construct a new gas/oil fired boiler rated at 91 mmBtu/hr to replace the existing coal fired boiler in Karns City Boro, **Butler County**. The new boiler is subject to the New Source Performance Standards (NSPS) for boilers greater than 10 mmBtu and less than 100 mmBtu. The facility 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.*

**09-0050C: Hanson Aggregates BMC, Inc.** (P. O. Box 231, Easton, PA 18044) on June 16, 2006, to operate a drum mix asphalt plant in Wrightstown Township, **Bucks County**.

**09-0152: Gelest, Inc.** (612 William Leigh Drive, Tullytown, PA 19007) on June 15, 2006, to operate equipment for speciality chemicals in Falls Township, **Bucks County**.

**23-0094: CCL Label, Inc.** (1515 Garnet Mine Road, Boothwyn, PA 19061) on June 15, 2006, to operate a two rotogravure printing presses in Bethel Township, **Delaware County**.

**46-0027A: Johnson & Johnson Pharmaceutical Research & Development, LLC** (Welsh and McKean Roads, Spring House, PA 19477) on June 16, 2006, to operate a selective catalytic reduction in Lower Gwynedd Township, **Montgomery County**.

**46-0166: M & M Stone Co.** (P. O. Box 189, Telford, PA 18969-0189) on June 15, 2006, to operate a batch asphalt plant in Lower Salford Township, **Montgomery County**.

**46-0221: Upper Moreland Hatboro Joint Sewer Authority** (P. O. Box 535/2875 Terwood Road, Willow Grove, PA 19090) on June 16, 2006, to operate a tri-mer odor scrubbers in Upper Moreland Township, **Montgomery County**.

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

**36-05015C: Dart Container Corp. of PA** (P. O. Box 546, Leola, PA 17540) on June 16, 2006, to use landfill

gas as a fuel in their facility's boilers at their Leola plant in Upper Leacock Township, **Lancaster County**. This plan approval was extended.

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

**08-00012A: Cargill Meat Solutions Corp.** (P. O. Box 188, Wyalusing, PA 18853) on June 13, 2006, to operate a 41.84 million Btu per hour natural gas, No. 2 fuel oil, tallow and biogas-fired boiler and a biogas flare on a temporary basis until October 11, 2006, in Wyalusing Township, **Bradford County**. The plan approval has been extended.

**49-00005B: Hoeganaes Corp.** (4330 Paradise Road, Watsonstown, PA 17777) on June 15, 2006, to operate the insulated particles process identified in the respective plan approval on a temporary basis until October 27, 2006, at the Watsonstown Plant in Delaware Township, **Northumberland County**.

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

**30-00099D: Allegheny Energy Supply Co., LLC** (800 Cabin Hill Drive, Greensburg, PA 15601) on June 12, 2006, to allow completion of stack testing at the Hatfield Power Station in Monongahela Township, **Greene County**. This plan approval was extended.

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

**10-027E: Penreco** (138 Petrolia Street Karns City, PA 16041) on May 31, 2006, to construct a new gas/oil fired boiler rated at 91 mmBtu/hr to replace the existing coal fired boiler in Karns City Boro, **Butler County**. The new boiler is subject to the New Source Performance Standards for boilers greater than 10 mmBtu and less than 100 mmBtu. The facility is a Title V Facility.

**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.*

**28-03028: New Enterprise Stone & Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664-0077) on June 14, 2006, to operate an existing limestone crushing plant and an existing concrete batch plant for the facility (Dry Run Quarry) in Fannett Township, **Franklin County**. This is a renewal of the State-only operating permit.

**36-03147: A & M Composting, Inc.** (2022 Mountain Road, Manheim, PA 17545-9517) on June 12, 2006, to operate their sludge composting facility in Penn Township, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**04-00006: Brighton Steel, Inc.** (510 45th Street, Beaver Falls, PA 15010) for operation of a steel foundry facility at the Beaver Falls Casting Plant in **Beaver County**. This is a State-only Operating Permit.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.*

**N05-008: Erie Steel, Ltd.** (3630 North 2nd Street, Philadelphia PA 19140) on June 16, 2006, to operate a metal coil surface coating facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include 15,565 lb steel/ hr Coiled Steel Coater and a 3.4 mmBtu/hr natural gas fired VOC incinerator with recuperator.

**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.**

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

**37-00013: CEMEX, Inc.** (2001 Portland Park, Wampum, PA 16157) on June 9, 2006, for an administrative amendment to their Title V Operating Permit in Wampum Borough, **Lawrence County**.

In accordance with 25 Pa. Code § 127.462, the Department issued a minor operating permit modification of the facility's Title V Operating Permit. The minor operating permit modification was made to remove conditions that were errantly placed into the reissued permit. The conditions are not essential for the permittee's compliance with applicable standards. No comments were received during the public comment period for these changes.

**33-00055: Glen-Gery Corp.** (Route 28, Summerville, Pa. 15864) on June 13, 2006, for an Administrative Amendment of the Title V Operating Permit, to incorporate the conditions of Plan Approval No. 33-055B. The facility is located in Summerville Borough, **Jefferson County**.

**43-00039: Glenn O. Hawbaker, Inc.** (73 Glacial Till Road, Grove City, PA 16127-4019) on June 19, 2006, for an administrative amendment of Synthetic Minor Permit to change the name and address of the facility, change the name of permit contact and responsible official. These changes are because of change of ownership.

**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.*

**30841320 and NPDES Permit No. PA0213861. Dana Mining Company of PA, Inc.** (P. O. Box 1170, Morgantown, WV 26507), to renew the permit for the Dooley Run Mine in Dunkard Township, **Greene County** and related NPDES permit. No additional discharges. Application received: July 29, 2005. Permit issued: June 12, 2006.

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

**56950103 and NPDES No. PA0213071. Heritage Mining Company,** P. O. Box 126, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface auger mine in Shade Township, **Somerset County**, affecting 78.5 acres. Receiving streams: UNTs to/and Oven Run; UNTs to/and Stony Creek River, classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: April 20, 2006. Permit issued June 13, 2006.

**32940105 and NPDES Permit No. PA0212806. Keystone Coal Mining Corporation,** P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774, permit renewal for reclamation only of a bituminous surface mine in Center Township, **Indiana County**, affecting 180.0 acres. Receiving stream: UNT to Yellow Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Edison Mission Energy Homer City Generating Station, PWS ID No. 5320802. Application received: February 28, 2005. Permit issued: June 12, 2006.

**32010103 and NPDES No. PA0248959. KMP Associates Inc.,** 1094 Lantz Road, Avonmore, PA 15618-1241, permit renewal for reclamation only of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 8.5 acres. Receiving streams: UNTs to Big Run, classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: April 26, 2006. Permit issued: June 13, 2006.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**26050107 and NPDES Permit No. PA0250741. Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687-1301). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Stewart Township, **Fayette County**, affecting 162.6 acres. Receiving streams: UNTs to Cucumber Run. Application received: June 16, 2005. Permit issued: June 14, 2006

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**24030101 and NPDES Permit No. PA0242306. Tamburlin Brothers Coal Co., Inc.** (P. O. Box 1419, Brockport, PA 15823). Commencement, operation and restoration of a bituminous strip operation in Horton Township, **Elk County** affecting 53.2 acres. Receiving streams: Little Toby Creek. Application received: February 6, 2003. Permit Issued: June 8, 2006.

**10060101 and NPDES Permit No. PA0258091. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127). Commencement, operation and restoration of a bituminous strip operation in Clay Township, **Butler County** affecting 89.9 acres. Receiving streams: UNT to South Branch Findley Creek. Application received: January 6, 2006. Permit Issued: June 14, 2006.

**10-05-01 and NPDES Permit No. PA0242667. Denis Tiche** (222 Goff Station Rd., Boyers, PA 16020). Proposal to enter into a Government Financed Construction Contract on a 11.3 acre site in Venango and Marion Townships, **Butler County**. The proposal includes the reclamation of 900 feet of abandoned highwall while remaining 2.9 acres of coal incidental and necessary to the reclamation activities. Receiving streams: Seaton Creek. Application received: March 25, 2005. Permit Issued: June 14, 2006.

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

**14820103 and NPDES No. PA0611719. Junior Coal Contracting, Inc.** (2330 Six Mile road, Philipsburg, PA 16866), permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Rush Township, **Centre County**, affecting 199.4 acres. Receiving streams: UNT to Trout Run and UNT to Moshannon Creek for the following use: CWF. Application received: January 20, 2006. Permit renewed: June 8, 2006.

*Noncoal Permits Actions*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**26060601 and NPDES Permit No. PA0250872. T & B Excavating** (336 Old McClellandtown Road, P. O. Box 337, McClellandtown, PA 15458). Permit issued for commencement, operation, and reclamation of a large noncoal surface mining site (sandstone quarry) located in Nicholson Township, **Fayette County**, affecting 17.9 acres. Receiving streams: UNTs to York Run. Application received: February 23, 2006. Permit issued: June 14, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**42060801. William K. Robinson** (P. O. Box 76, Roulette, PA 16746). Commencement, operation and restoration of a small noncoal bluestone operation in Liberty Township, **McKean County**. Receiving streams: Two Mile Creek. Application received: April 19, 2006. Permit Issued: June 9, 2006.

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

**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. NPDES Permit issued: June 6, 2006.

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

**7474SM2C6 and NPDES Permit No. PA0124303. Essroc Cement Corp.** (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Upper and Lower Nazareth Townships, **Northampton County**. Receiving stream: UNT to Shoeneck Creek. Application received: January 23, 2006. Renewal issued: June 15, 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.**

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

**14064013. HRI, Inc.** (1750 W. College Ave., State College, PA 16801), blasting for SR 322, Section No 2, detention pond and trench, located in Harris Township, **Centre County**. Permit issued June 16, 2006. Permit expiration date is: December 30, 2006.

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

**09064117. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Coventry Meadows in Hilltown Township, **Bucks County** with an expiration date of June 30, 2007. Permit issued June 12, 2006.

**09064118. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Heritage Center in Buckingham Township, **Bucks County** with an expiration date of June 30, 2007. Permit issued June 12, 2006.

**15064117. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Weatherstone Development in West Vincent Township, **Chester County** with an expiration date of June 30, 2007. Permit issued June 12, 2006.

**21064145. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Trindle Springs Heights in Hampden Township, **Cumberland County** with an expiration date of June 10, 2007. Permit issued June 12, 2006.

**28064155. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Liberty Property Trust in Guilford Township, **Franklin County** with an expiration date of June 30, 2007. Permit issued June 12, 2006.

**28064156. Geological Technologies, Inc.** (P. O. Box 70, Falling Waters, WV 25419), construction blasting for L & S Stone North Plant parking lot in Antrim Township, **Franklin County** with an expiration date of May 18, 2007. Permit issued June 12, 2006.

**36064162. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Woods Edge Development in Manor Township, **Lancaster County** with an expiration date of June 15, 2007. Permit issued June 12, 2006.

**39064109. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510), construction blasting for Harvest Fields in Lower Macungie Township, **Lehigh County** with an expiration date of June 1, 2007. Permit issued June 12, 2006.

**67064121. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Kingswood Estates in Springettsbury Township, **York County** with an expiration date of June 30, 2007. Permit issued June 12, 2006.

**06064114. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction

blasting for Wyomissing Borough Sanitary Sewer in Wyomissing Borough, **Berks County** with an expiration date of June 15, 2007. Permit issued June 13, 2006.

**06064115. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Heritage Mews in Exeter Township, **Berks County** with an expiration date of June 15, 2007. Permit issued June 13, 2006.

**36064161. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Lupine Meadows in Mt. Joy Township, **Lancaster County** with an expiration date of June 15, 2007. Permit issued June 13, 2006.

**38064115. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Mark Hershey Farms Grain Silos in West Lebanon Township, **Lebanon County** with an expiration date of June 30, 2007. Permit issued June 13, 2006.

**28064005. Jemco, Inc.** (3338B Prices Distillery Road, Ijamsville, MD 21754), construction blasting at Falling Springs Estates in Guilford Township, **Franklin County** with an expiration date of May 9, 2007. Permit issued June 13, 2006.

**36064007. AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Sewer Main Replacement in Ephrata Borough, **Lancaster County** with an expiration date of August 28, 2006. Permit issued June 13, 2006.

**28064006. Rogele, Inc.** (1025 South 21st Street, Harrisburg, PA 17104), construction blasting for Greencastle Area Water Authority water main extensions and replacements in Antrim Township, **Franklin County** with an expiration date of July 31, 2006. Permit issued June 14, 2006.

**09064119. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Warwick Office Park in Warwick Township, **Bucks County** with an expiration date of March 30, 2007. Permit issued June 14, 2006.

**35064109. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Greenwood Estates in Moosic Borough, **Lackawanna County** with an expiration date of July 31, 2007. Permit issued June 14, 2006.

**45064143. Ed Wean Drilling & Blasting, Inc.** (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Leisure Lands in Middle Smithfield Township, **Monroe County** with an expiration date of June 8, 2007. Permit issued June 14, 2006.

**52064122. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Ranchlands in Lehman Township, **Pike County** with an expiration date of June 12, 2007. Permit issued June 14, 2006.

**64064108. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Paupacken Lake Estates in Lake and Paupack Townships, **Wayne County** with an expiration date of June 12, 2007. Permit issued June 14, 2006.

**67064120. Fitz & Smith, Inc.** (P. O. Box 178, Dalstown, PA 17313), construction blasting for Laurel Manor Sanitary Sewer in Dover Township, **York County** with an expiration date of June 17, 2007. Permit issued June 14, 2006.

**67064122. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Farm Lane Estates in Jackson Township, **York County** with an expiration date of June 30, 2007. Permit issued June 14, 2006.

**67064123. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Briarcliff Subdivision in Fairview Township, **York County** with an expiration date of June 30, 2007. Permit issued June 14, 2006.

**67064124. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for ECI Wireless Frogtown in Monaghan Township, **York County** with an expiration date of June 30, 2007. Permit issued June 14, 2006.

**09064116. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for The Arbours at Morgan Creek in Richland Township, **Bucks County** with an expiration date of June 11, 2007. Permit issued June 15, 2006.

**21064147. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting for Pine Creek in North Middleton Township, **Cumberland County** with an expiration date of October 15, 2006. Permit issued June 15, 2006.

**28064157. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Nicholson Square in Chambersburg Borough, **Franklin County** with an expiration date of June 30, 2007. Permit issued June 15, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E45-464. Jim Schlier**, P. O. Box 471, Tannersville, PA 18372. Pocono Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To place fill in a de minimis area of wetlands equal to 0.01 acre for the purpose of expanding the usable area of a commercial property. The project is located between SR 0080 and SR 4004 (Camelback Road), approximately 0.4 mile south of Interchange 44 (Mount Pocono, PA Quadrangle N: 8.8 inches; W: 9.2 inches) in Pocono Township, Monroe County.

**E64-253. Great Valley Nature Center**, Route 29 and Hollow Road, P. O. Box 82, Devault, PA 19432. Dreher Township, **Wayne County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a 6-inch PVC screened dry hydrant intake structure along the northern shoreline of an existing man-made pond and across approximately 20 LF of EV, PEM wetlands and to modify and maintain an existing road crossing of a tributary to Mill Creek (HQ-CWF), with work including minor grading in the floodway for the purpose of constructing roadway improvements. The activities are part of the development of a residential education center known as Great Valley Nature Center—North. The project is located on the north side of SR 0507, approximately 0.5 mile west of the intersection of SR 0507 and SR 0196. (Sterling, PA Quadrangle N: 4.7 inches; W: 0.2 inch). (Subbasin: 01C)

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

**E22-503. Ned Smith Center for Nature and Art**, 176 Water Company Road, Millersburg, PA 17061 in Upper Paxton Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a 10-foot wide, 2-span pedestrian bridge having normal spans of 100 feet and 136 feet and underclearances of 10 feet and 17.8 feet respectively across Wiconisco Creek (TSF) located at the Ned Smith Center (Millersburg, PA Quadrangle, N: 6.5 inches; W: 7.0 inches; Latitude: 40° 32' 07"; Longitude: 76° 55' 31") in Upper Paxton Township, Dauphin County.

**E05-336. Shobers Run Golf Company, LLC**, 5950 Berkshire Lane, Suite 990, Dallas, TX 75225 in Bedford Township, **Bedford County**, ACOE Baltimore District.

To restore Shobers Run (HQ-CWF) and UNTs to Shobers Run (HQ-CWF) and conduct other various activities at the Bedford Springs Golf Course including:

1. The construction and maintenance of a stream restoration project in and along Shobers Run (HQ-CWF) beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending 7,787 feet upstream (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27") involving approximately 5,079 feet of channel relocation, floodway excavation and grading, 0.06 acre of permanent PFO wetland impacts and 0.01 acre of permanent PEM wetland impacts, 0.65 acre of temporary PFO wetland impacts and 0.02 acre of temporary PEM wetland impacts, and the placement and maintenance of 16 rock cross vanes and 14 root wads.

2. The construction and maintenance of a stream restoration project in and along a UNT to Shobers Run (HQ-CWF) beginning at its confluence with Shobers Run (Rainsburg, PA Quadrangle N: 20.30 inches, W: 2.75 inches; Latitude: 39° 59' 11", Longitude: 78° 31' 10") and ending 717 feet upstream (Rainsburg, PA Quadrangle N: 20.05 inches, W: 2.60 inches; Latitude: 39° 59' 06", Longitude: 78° 31' 06") involving approximately 245 feet of channel relocation, floodway excavation and grading and the placement and maintenance of five rock cross vanes.

3. The construction and maintenance of a stream restoration project in and along a UNT to Shobers Run (HQ-CWF) beginning at its confluence with Shobers Run (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.55 inches; Latitude: 39° 59' 19", Longitude: 78° 31' 04") and ending 594 feet upstream (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches; Latitude: 39° 59' 19", Longitude: 78° 30' 58") involving approximately 300 feet of channel relocation, the creation of an additional 72 feet of stream channel, floodway excavation and grading, and the placement and maintenance of 11 rock cross vanes.

4. The construction and maintenance of a channel extension on a UNT to Shobers Run (HQ-CWF) beginning at its current confluence with Shobers Run (Rainsburg, PA Quadrangle N: 20.40 inches, W: 2.80 inches; Latitude: 39° 59' 14", Longitude: 78° 31' 12") and ending 95 feet at a relocated reach of Shobers Run (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.30 inches; Latitude: 39° 59' 15", Longitude: 78° 31' 28").

5. To remove 12 existing golf cart bridges and to construct and maintain the following:

a. Six single-span golf cart bridges each having a width of 10 feet, normal span of 80 feet and an average underclearance of 4.5 feet across Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 21.72 inches, W: 1.32 inches, N: 21.42 inches, W: 1.75 inches, N: 21.25 inches, W: 2.07 inches, N: 20.75 inches, W: 2.55 inches, N: 20.00 inches, W: 2.92 inches, N: 19.72 inches, W: 3.40 inches; Latitude: 39° 59' 00", Longitude: 78° 31' 25", Latitude: 39° 59' 07", Longitude: 78° 31' 13", Latitude: 39° 59' 21", Longitude: 78° 31' 05", Latitude: 39° 59' 31", Longitude: 78° 30' 52", Latitude: 39° 59' 35", Longitude: 78° 30' 44", Latitude: 39° 59' 40", Longitude: 78° 30' 33").

b. One single-span golf cart bridge having a width of 10 feet, a normal span of 120 feet, and an underclearance of 4.5 feet across Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.8 inches; Latitude: 39° 59' 13", Longitude: 78° 31' 10").

c. One single-span golf cart bridge having a width of 10 feet, a normal span of 40 feet, and an underclearance of 3.5 feet across an off-stream pond (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 44").

6. To remove eight existing golf cart bridges and/or culverts and to construct and maintain the following:

a. Five 20-foot long, 6-inch depressed, 36-inch CMP culverts in three UNTs to Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches, N: 20.15 inches, W: 2.70 inches, N: 20.10 inches, W: 2.65 inches, N: 20.10 inches, W: 2.65 inches, N: 20.05 inches, W: 2.60 inches; Latitude: 39° 59' 20", Longitude: 78° 30' 58", Latitude: 39° 59' 09", Longitude: 78° 31' 09", Latitude: 39° 59' 09", Longitude: 78° 31' 08", Latitude: 39° 59' 08", Longitude: 78° 31' 07", Latitude: 39° 59' 06", Longitude: 78° 31' 07").

b. One 20-foot long, 6-inch depressed, 57-inch by 38-inch arch culvert in a UNT to Shobers Run (Rainsburg, PA Quadrangle N: 19.75 inches, W: 3.35 inches; Latitude: 39° 59' 02", Longitude: 78° 31' 26").

c. One 20-foot long, 6-inch depressed, 36-inch CMP culvert in an off-stream pond (Rainsburg, PA Quadrangle N: 21.45 inches, W: 1.95 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 49").

7. To construct and maintain seven temporary road crossings each having a length of 30 feet and consisting of three 36-inch CMP culverts and clean rock fill in Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 21.65 inches, W: 1.55 inches, N: 21.40 inches, W: 1.95 inches, N: 21.20 inches, W: 2.20 inches, N: 20.80 inches, W: 2.55 inches, N: 20.50 inches, W: 2.65 inches, N: 20.15 inches, W: 2.80 inches, N: 20.00 inches, W: 3.05 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 39", Latitude: 39° 59' 34", Longitude: 78° 30' 49", Latitude: 39° 59' 30", Longitude: 78° 30' 55", Latitude: 39° 59' 22", Longitude: 78° 31' 04", Latitude: 39° 59' 17", Longitude: 78° 31' 08", Latitude: 39° 59' 09", Longitude: 78° 31' 11", Latitude: 39° 59' 05", Longitude: 78° 31' 18").

8. To replace in-kind and maintain an existing 384-foot long, 12-inch diameter stream enclosure in a UNT to Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 20.95 inches, W: 2.10 inches; Latitude: 39° 59' 25", Longitude: 78° 30' 53").

9. To construct and maintain a 10-foot long, 8-inch diameter PVC intake structure along the left bank of Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 21.40 inches, W: 1.95 inches; Latitude: 39° 59' 34", Longitude: 78° 30' 49") to provide water to an off stream pond.

10. To construct and maintain an 18-inch diameter PVC intake structure with 0.5-inch protective screening located approximately 30 feet from the shoreline in Red Oaks Lake (HQ-CWF) (Rainsburg, PA Quadrangle N: 19.85 inches, W: 2.40 inches; Latitude: 39° 59' 00", Longitude: 78° 30' 58").

11. To maintain 14 existing outfall structures ranging in diameter between 4 and 18 inches at various locations along the left and right floodways of Shobers Run (HQ-CWF) and three UNTs to Shobers Run (HQ-CWF) beginning at T-408 (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending at a point 7,787 feet upstream along Shobers Run (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

12. To construct and maintain 29 outfall structures ranging in diameter between 4 and 6 inches at various locations along the left and right floodways and channels of Shobers Run (HQ-CWF) and three UNTs to Shobers Run (HQ-CWF) beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending at a point 7,787 feet upstream along Shobers Run (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

13. To construct and maintain one 30-inch CMP outfall in a PEM wetland (Rainsburg, PA Quadrangle N: 21.80 inches, W: 1.65 inches; Latitude: 39° 59' 41", Longitude: 78° 30' 45").

14. To construct and maintain two 4-inch outfalls in an off-stream pond (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 36", Longitude: 78° 30' 43").

15. To construct and maintain one 6-inch PVC outfall and a 5-foot wide riprap apron in Red Oaks Lake (HQ-CWF) (Rainsburg, PA Quadrangle N: 19.85 inches, W: 2.4 inches; Latitude: 39° 59' 00", Longitude: 78° 30' 58").

16. To construct and maintain a 20-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.00 inches, W: 2.90 inches; Latitude: 39° 59' 00", Longitude: 78° 31' 13"), a 16-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.65 inches, W: 2.55 inches; Latitude: 39° 59' 16", Longitude: 78° 31' 00"), a 22-foot long, 6-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 21.00 inches, W: 2.40 inches; Latitude: 39° 59' 22", Longitude: 78° 30' 56"), and an 18-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.30 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 30") in Shobers Run (HQ-CWF).

17. To construct and maintain two 80-foot long, 4-inch diameter (Rainsburg, PA Quadrangle N: 19.72 inches, W: 3.40 inches, N: 21.25 inches, W: 2.07 inches; Latitude: 39° 58' 48", Longitude: 78° 31' 30", Latitude: 39° 59' 28", Longitude: 78° 30' 46") irrigation line crossings of Shobers Run (HQ-CWF) attached to existing bridges.

18. To construct and maintain four 3-foot long, 4-inch diameter irrigation line crossings (Rainsburg, PA Quadrangle N: 19.75 inches, W: 3.35 inches, N: 20.05 inches, W: 2.60 inches, N: 20.10 inches, W: 2.65 inches, N: 20.70 inches, W: 2.45 inches; Latitude: 39° 58' 50", Longitude: 78° 31' 32", Latitude: 39° 59' 02", Longitude: 78° 31' 02", Latitude: 39° 59' 04", Longitude: 78° 31' 02", Latitude: 39° 59' 16", Longitude: 78° 30' 58") and one 3-foot long, 6-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches; Latitude: 39° 59' 18", Longitude: 78° 30' 52") in three UNTs to Shobers Run (HQ-CWF).

19. To construct and maintain one 30-foot long, 3-inch diameter irrigation line crossing of an off-stream pond (Rainsburg, PA Quadrangle N: 21.45 inches, W: 1.95 inches; Latitude: 39° 59' 30", Longitude: 78° 30' 46").

20. To construct and maintain a 180-foot long, 2-inch diameter irrigation line crossing in PEM wetlands resulting in 0.01 acre of temporary impacts (Rainsburg, PA Quadrangle N: 21.80 inches, W: 1.65 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 40").

21. To construct and maintain one 16-foot long, 15-inch diameter PVC sanitary sewer crossing in Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 20.70 inches,

W: 2.55 inches; Latitude: 39° 59' 21", Longitude: 78° 31' 07") and one 3-foot long, 15-inch diameter PVC sanitary sewer crossing in a UNT to Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.50 inches; Latitude: 39° 59' 21", Longitude: 78° 31' 06").

22. To remove accumulated sediments from a 0.25-acre off-stream pond, to remove the existing outlet structure and fill 256 feet of the existing outlet channel, and to construct and maintain an 8-inch Agri-Drain water level control structure (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 36", Longitude: 78° 30' 43").

23. To remove an existing golf cart path resulting in temporary impacts to 0.01 acre of PFO wetlands (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.85 inches; Latitude: 39° 59' 14", Longitude: 78° 31' 12").

24. To fill a total of 0.20 acre of three PEM wetlands at three separate locations (Rainsburg, PA Quadrangle N: 20.55 inches, W: 2.50 inches, N: 21.45 inches, W: 2.00 inches, N: 21.80 inches, W: 1.60 inches; Latitude: 39° 59' 17", Longitude: 78° 31' 03", Latitude: 39° 59' 36", Longitude: 78° 30' 51", Latitude: 39° 59' 42", Longitude: 78° 30' 44") and 0.04 acre of PSS wetlands (Rainsburg, PA Quadrangle N: 21.80 inches, W: 1.60 inches; Latitude: 39° 59' 42", Longitude: 78° 30' 44") for the construction of golf cart paths.

The project is located along Sweet Root Road (T-408) approximately 800 feet southeast of the Bedford Springs Hotel in Bedford Township, Bedford County and will result in a total of 9,354 linear feet of impacts to watercourses, approximately 0.25 acre of impacts to bodies of water, 0.31 acre of permanent impacts to wetlands, and 0.69 acre of temporary impacts wetlands. The applicant will create a total of 8.73 acres of replacement wetlands at various locations along the left and right floodplains of Shobers Run (HQ-CWF) beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending 7,787 feet upstream (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

**E01-258. Reuben J. Ness**, 180 Brickyard Road, New Oxford, PA 17350 in New Oxford Township, **Adams County**, ACOE Baltimore District.

To construct and maintain an access road through a palustrine emergent wetland associated to Pine Run (WWF) at a point west of Route 94 (McSherrystown, PA Quadrangle N: 20.2 inches; W: 3.7 inches; Latitude 39° 51' 40"; Longitude 77° 01' 35") in New Oxford Township, Adams County. The project will permanently impact 0.25 acre of palustrine emergent wetlands. The permittee is required to provide a minimum of 0.50 acre of replacement wetlands onsite adjacent to existing wetlands. The replacement ratio is 2:1 because the applicant started constructing the access road, impacting wetlands, prior to obtaining a permit.

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

**E08-433. Schrader Creek Watershed Association**, c/o **Hugh McMahan**, R. D. 2, Box 292, Towanda, PA 18848. Water Obstruction and Encroachment Joint Permit for three passive treatment systems.

In Leroy Township, **Bradford County**, ACOE Baltimore District, (Leroy, PA Quadrangle N: 0.5 inches; W: 13.1 inches).

*Site No. 1—Little Schrader Creek*, construct, operate and maintain one (1) 3-foot high low head dam (containing two weir structures), 35 linear feet each of 36-inch diameter HDPE pipe and 48-inch diameter HDPE pipe and associated 35 linear feet of rip-rap protection, 7,500 square foot ALB treatment facility.

In Leroy Township, **Bradford County**, ACOE Baltimore District, (Canton, PA Quadrangle N: 0.5 inches; W: 0.5 inches).

*Site No. 2—Pine Swamp Run*, construct, operate and maintain one (1) 3-foot high low head dam (containing two weir structures), a 7,500 square foot ALB treatment facility and 5,000 square foot AVFW treatment facility.

In Canton Township, **Bradford County**, ACOE Baltimore District (Grover, PA Quadrangle N: 17.49 inches; W: 6.25 inches).

*Site No. 3—Lye Run*, construct, operate and maintain one 3-foot high low head dam (containing two weir structures), 35 linear feet of 48-inch diameter HDPE pipe and associated 20 linear feet of rip-rap protection, 7,500 square foot ALB treatment facility and 7,500 square foot AVFW treatment facility while permanently impacting 432 square feet of PEM wetland.

All impacted streams are Exceptional Value Fisheries. This permit also authorizes the construction, operation, maintenance and removal of temporary access roads, channel diversions, cofferdams and stockpiles in and along Little Schrader Creek, Pine Swamp Run and Lye Run. All 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.

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

**E10-416, TSC/Cranberry, LLC**, 250 Grandview Drive, Fort Mitchell, KY 41017. TSC/Cranberry Commercial Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 43', 8.4"; W: 80°, 06', 15.6").

To conduct the following activities for the construction of a Tractor Supply Company commercial retail facility along the east side of SR 19 Perry Highway approximately 0.25 mile south of North Boundary Road:

1. To fill a total of 0.56 acre of two wetland areas.
2. To realign two sections for a total of 145 feet of the channel of a tributary to Brush Creek.
3. To construct and maintain a retaining wall and fill within the right floodway of a tributary to Brush Creek for a total distance of approximately 500 feet.
4. To install and maintain a sanitary sewer line crossing of wetlands adjoining the tributary to Brush Creek to connect to the existing Cranberry Township sewer line.

Project includes creation of 0.65 acre of replacement wetland off site within the flood plain of Brush Creek on property within Thorn Hill Industrial Park located between Commonwealth Drive and I-76 south of Freedom Road.

**E43-328, Department of Transportation, District 1-0**, 255 Elms Street, P. O. Box 398, Oil City, PA 16301. SR 2004, Section B00 Across Neshannock Creek, in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Mercer, PA Quadrangle N: 7.88 inches; W: 13.94 inches).



To remove the existing 7.2' by 5.0' concrete box culvert and to construct and maintain a 9.0' by 6.0' concrete box culvert 40.0' long in a UNT to Neshannock Creek (TSF) on SR 2004, Section B00, Segment 0010, Offset 0976, Station 9+78.00 and to remove the existing single span steel through-truss bridge and to construct and maintain a single span prestressed concrete spread box beam bridge having a clear span of 84.48 feet, an underclearance of 11.59 feet, and a skew of 80° across Neshannock Creek on SR 2004, Section B00, Segment 0010, Offset 1162, Station 11+99.00 and to remove and replace the 48" diameter by 45' long CMP in a UNT to Neshannock Creek on SR 2004, Section B00, Segment 0010, Offset 1439, Station 14+26.00 and to place and maintain fill in approximately 0.038 acres of PEM/PSS/PFO wetland all located on SR 2004 approximately 3.5 miles south of the City of Mercer.

### WATER QUALITY CERTIFICATIONS

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 323-3636.*

*Certification Request Initiated by:* Department of the Army, Baltimore District, Corps of Engineers, P. O. Box 1715, Baltimore, MD 21203. ACOE Baltimore District.

**Department of the Army**, Baltimore District, Corps of Engineers, P. O. Box 1715, Baltimore, MD 21203. ACOE Baltimore District. Mansfield Borough, **Tioga County**, ACOE Baltimore District.

The proposed action is to repair approximately 1,00 feet of eroded bank along a former landfill. The second and third components consist of removing sediment from within the confines of the Tioga River and Corey Creek Conduit as future conditions warrant. The fourth component consists of excavating a low flow channel in the Tioga River for about 2,000 feet. The final component is to remove 5,000 cubic yards of gravel, sand and other materials from the Tioga River. This material will be moved to three separate disposal sites adjacent to the Tioga River. Multiple work sites associated with this project will be located in Mansfield Borough north and south of the SR 6 bridge crossing over the Tioga River on property owned by the Army Corps of Engineers. Work will also take place above and below the Corey Creek Conduit located on Mansfield 7.5' Quadrangle, N: 11.0 inches; W: 11.3 inches.

Final Action on Request: Proposed.

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## SPECIAL NOTICES

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### Public Hearing

*Southcentral Regional Office: Regional Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4802.*

Application No. PAI-0306-05-001, Leon Snyder, 80 Lyons Road, Fleetwood, PA 19522-9720.

Leon Snyder has submitted an application for an Individual NPDES permit for a proposed subdivision named Mulberry Hill Subdivision 2 located off Five Points Road, approximately 5.5 miles from its intersection with Dryville Road. The proposed subdivision will be situated near Pine Creek, which is classified as an EV Stream.

The Department of Environmental Protection (Department) has conducted administrative and initial technical reviews of the application. The project has been developed

to a point in which a final technical review can be completed in conjunction with comments received from the public.

The Department has scheduled a public hearing to receive testimony and comments on the proposed NPDES permit. The hearing will be held on Wednesday, August 16, 2006, at 10 a.m. at the Longswamp Township Municipal Building, 1112 State Street, Mertztown, PA 19539.

Persons intending to testify at the hearing should register by Friday, August 11, 2006, by calling Vicki Welty at (717) 705-4729. Persons wishing to submit testimony but cannot attend the hearing may do so in writing by Wednesday, August 16, 2006. Written comments should be sent to Kirit Shah, Project Manager, Watershed Management Program, Permitting and Technical Services Section, Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. If the Department does not receive any testimony registration requests by Friday, August 11, 2006, the public hearing will be cancelled.

All testimony should be to the point. Each individual will have up to 10 minutes for his/her presentation. To ensure that all speakers have a fair and equal opportunity to present their testimony, relinquishing of time will be prohibited. Further details relating to the procedures to be followed at the hearing will be outlined at the beginning of the proceedings.

The permit application is on file at the Department's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. An appointment to review the file may be scheduled by calling the File Room at (717) 705-4732 between the hours of 8 a.m. and 4 p.m., Monday through Friday.

Comments received will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period and careful review of all comments received, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

[Pa.B. Doc. No. 06-1216. Filed for public inspection June 30, 2006, 9:00 a.m.]

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### Small Business Advantage Grant Program

The Department of Environmental Protection (Department) announces an open opportunity to apply for funding in the third year of the Commonwealth's Small Business Advantage Grant Program for pollution prevention and energy efficiency projects. Small Business Advantage is a grant program providing up to 50% matching grants, to a maximum of \$7,500, to enable a small business in this Commonwealth to adopt or acquire equipment or processes that result in energy efficiency or pollution prevention. Well-designed energy efficient or pollution prevention projects can help small businesses cut costs and reduce the risk of potential regulatory problems, while simultaneously protecting the environment.



An eligible applicant must be a for-profit small business owner whose business or facility is located within this Commonwealth. All small businesses in this Commonwealth are eligible, including, but not limited to, manufacturers, retailers, service providers, mining businesses and agricultural concerns. The project to which the grant will apply must be located within the applicant's facility in this Commonwealth and save the business at least 10% annually in energy or pollution related expenses.

For questions or concerns regarding the eligibility of a project, contact Dave Barnes, Office of Energy and Technology Deployment, Small Business Ombudsman's Office at (717) 783-8411 or [epadvantagegrant@state.pa.us](mailto:epadvantagegrant@state.pa.us) before submitting an application. The Department will begin accepting applications on July 1, 2006.

Applications are available by contacting the Department of Environmental Protection, Office of Energy and Technology Deployment, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8772, Harrisburg, PA 17105-8772, (717) 783-8411. Applications are also available on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: SBAdvantage). The application package contains the materials and instructions necessary for applying for a grant.

Applications must be postmarked or hand delivered by 4 p.m. on December 15, 2006. Faxes or other electronic submission will not be accepted.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1217. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Small Water Systems Technical Assistance Center Advisory Board Meeting

The Small Water Systems Technical Assistance Center Advisory Board (Board) will meet from 10 a.m. to 3 p.m. on July 12, 2006, in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. This meeting will be a continuation of the Board's May 18, 2006, meeting.

Questions concerning the meeting should be directed to Ray Braun at (717) 772-2186 or [rbraun@state.pa.us](mailto:rbraun@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1218. Filed for public inspection June 30, 2006, 9:00 a.m.]

### State Board for Certification of Sewage Enforcement Officers Meeting

The State Board for Certification of Sewage Enforcement Officers will hold a meeting on Tuesday, July 18, 2006, at 9:30 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the meeting should be directed to Cheri Sansoni, (717) 772-5158, [csansoni@state.pa.us](mailto:csansoni@state.pa.us). An agenda and meeting materials for the July 18, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's

(Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1219. Filed for public inspection June 30, 2006, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold public meetings from 9 a.m. to 4 p.m. on Wednesday, July 19, 2006, and from 9 a.m. to 2:30 p.m. on Thursday, July 20, 2006, at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

The Department reserves the right to cancel these meetings without prior notice.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Kenneth McGarvey at (717) 783-0572 or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1220. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Integrated Human Immunodeficiency Virus (HIV) Planning Council; Public Meetings

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, July 11, 2006, from 10:30 a.m. to 3 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

The Department reserves the right to cancel these meetings without prior notice.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other

accommodation to do so should also contact Joseph Pease at (717) 783-0572 or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1221. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on September 13, 2006, from 10 a.m. to 2 p.m. at the National Civil War Museum, 1 Lincoln Circle, Reservoir Park, Harrisburg, PA 17103.

For additional information, contact Jayme L. Trogus, Public Health Educator, Health Education and Information Program, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA, at (717) 787-6214 or at the telephone numbers which follow.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) or who wish to attend the meeting and require an auxiliary aid should contact Jayme L. Trogus at (717) 787-6214 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1222. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Messiah Village  
100 Mount Allen Drive  
Mechanicsburg, PA, 17055  
FAC ID 910802

Woodland Retirement Center  
P. O. Box 280, Route 522  
Orbisonia, PA 17243  
FAC ID 233002

The Lutheran Home a Hollidaysburg  
916 Hickory Street  
Hollidaysburg, PA 16648  
FAC ID 010502

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.12(b) (relating to nursing services):

Mercy Jeannette Hospital Skilled Nursing Center  
600 Jefferson Avenue  
Jeannette, PA 15644  
FAC ID 100302

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotope, Braille) should contact the Division of Nursing Care Facilities at the address or phone numbers 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. 06-1223. Filed for public inspection June 30, 2006, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Diamond Mine '06 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

- Name:* The name of the game is Pennsylvania Diamond Mine '06.
- Price:* The price of a Pennsylvania Diamond Mine '06 instant lottery game ticket is \$3.
- Play Symbols:* Each Pennsylvania Diamond Mine '06 instant lottery game ticket will contain four play areas designated as "Diamond 1," "Diamond 2," "Diamond 3" and "Diamond 4." There are 60 play symbols, 3 of which will be located in "Diamond 1," 6 of which will be located in "Diamond 2," 10 of which will be located in "Diamond 3" and 15 of which will be located in "Diamond 4." Each ticket will also contain a "YOUR NUMBERS" area. The "YOUR NUMBERS" area will consist of 28 play symbols. The play symbols that may be located in the four play areas and the "YOUR NUMBERS" area are the numbers 01 through 60.
- Prizes:* The prizes that can be won in this game are: \$3, \$6, \$9, \$30, \$90, \$300, \$3,000 and \$60,000. The player can win up to 5 times on each ticket.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Diamond Mine '06 instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets in which five of the "YOUR NUMBERS" play symbols match the same exact five play symbols, in "Diamond 4," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$60,000 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets in which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Diamond 4," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$3,000 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets in which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Diamond 3," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$300 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$300.

(d) Holders of tickets in which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in either "Diamond 2" or "Diamond 3," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$90 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$90.

(e) Holders of tickets in which three of the "YOUR NUMBERS" play symbols match the same exact three

play symbols, in "Diamond 4," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$30 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$30.

(f) Holders of tickets in which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Diamond 3," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$30 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$30.

(g) Holders of tickets in which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in either "Diamond 1," "Diamond 2" or "Diamond 4," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$9 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$9.

(h) Holders of tickets in which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in either "Diamond 1" or "Diamond 4," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$6 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$6.

(i) Holders of tickets in which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in either "Diamond 2" or "Diamond 3," appearing in a horizontal line and having a corresponding prize arrow with a prize amount of \$3 appearing in that prize arrow, on a single ticket, shall be entitled to a prize of \$3.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When You Match All of the Numbers in a Complete Horizontal Line on Any Diamond, Win Prize Shown in the Arrow Pointing to that Line:*

Diamond 1	Diamond 2	Diamond 3	Diamond 4	Win:	Approximate Odds of 1 in:	Approximate No. of Winners Per 7,200,000 Tickets:
	\$3			\$3	16.67	432,000
		\$3		\$3	16.67	432,000
\$6				\$6	50	144,000
	\$3	\$3		\$6	50	144,000
			\$6	\$6	33.33	216,000
\$9				\$9	166.67	43,200
	\$9			\$9	166.67	43,200
		\$3	\$6	\$9	166.67	43,200
			\$9	\$9	166.67	43,200
\$6		\$3		\$9	166.67	43,200
\$6 + \$9				\$15	200	36,000
\$6	\$3		\$6	\$15	200	36,000
\$6		\$3	\$6	\$15	200	36,000
	\$9		\$6	\$15	200	36,000
		\$30		\$30	333.33	21,600
			\$30	\$30	500	14,400
\$6	\$3 + \$9	\$3	\$9	\$30	200	36,000
	\$90			\$90	1,000	7,200
		\$90		\$90	1,000	7,200
		\$300		\$300	30,000	240
			\$3,000	\$3,000	120,000	60
			\$60,000	\$60,000	720,000	10

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell

Pennsylvania Diamond Mine '06 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money.* For a period of 1 year from the announced close of Pennsylvania Diamond Mine '06, prize money from winning Pennsylvania Diamond Mine '06 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Diamond Mine '06 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law.* In purchasing a ticket, the customer agrees to comply with and abide by the State

Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game.* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Diamond Mine '06 or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-1224. Filed for public inspection June 30, 2006, 9:00 a.m.]

[Correction]

**Pennsylvania Lightning Bucks Instant Lottery Game**

An error occurred in the document announcing a new lottery game which appeared at 36 Pa.B. 3168 and 3169 (June 24, 2006). The correct version of paragraph (7) is as follows with ellipses referring to the existing text of the rules for the Pennsylvania Lightning Bucks Instant Lottery Game.

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

\* \* \* \* \*

7. *Number and Description of Prizes and Approximate Odds.* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Get 3 Like Amounts, Win That Prize. Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 12,000,000 Tickets:</i>
3-FREE's	TICKET	15	800,000
3-\$1's	\$1	15	800,000
3-\$2's	\$2	18.75	640,000
3-\$5's	\$5	37.50	320,000
3-\$10's	\$10	300	40,000
QUICK \$10 (FIREFLY)	\$10	100	120,000
3-\$20's	\$20	600	20,000
3-\$10's + QUICK \$10 (FIREFLY)	\$20	600	20,000
3-\$30's	\$30	3,000	4,000
3-\$20's + QUICK \$10 (FIREFLY)	\$30	3,000	4,000
3-\$50's	\$50	6,000	2,000
3-\$100's	\$100	48,000	250
3-\$500's	\$500	240,000	50
3-\$2,000's	\$2,000	1,200,000	10

QUICK \$10 (FIREFLY) = Win \$10 automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

\* \* \* \* \*

[Pa.B. Doc. No. 06-06-1169. Filed for public inspection June 23, 2006, 9:00 a.m.]

[Correction]

**Pennsylvania Lucky Genie Instant Lottery Game**

An error occurred in the document announcing a new lottery game which appeared at 36 Pa.B. 3169, 3170 and 3171 (June 24, 2006). The correct version of paragraph (8) is as follows, with ellipses referring to the existing text of the rules for the Pennsylvania Lucky Genie Instant Lottery Game.

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

\* \* \* \* \*

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Either of the Lucky Numbers Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$1 × 2	\$2	18.75	384,000
\$2	\$2	18.75	384,000
\$2 × 2	\$4	30	240,000
\$4	\$4	30	240,000
\$1 × 5	\$5	50	144,000
\$5	\$5	50	144,000
\$1 × 10	\$10	300	24,000
\$2 × 5	\$10	300	24,000
\$1 w/LAMP	\$10	150	48,000
\$10	\$10	150	48,000
\$2 × 10	\$20	750	9,600
\$4 × 5	\$20	1,500	4,800
\$5 × 4	\$20	1,500	4,800
\$10 × 2	\$20	750	9,600
\$2 w/LAMP	\$20	750	9,600
\$20	\$20	750	9,600
\$5 × 10	\$50	1,846	3,900
\$10 × 5	\$50	1,846	3,900
\$5 w/LAMP	\$50	1,846	3,900
\$50	\$50	1,690	4,260
\$10 × 10	\$100	4,800	1,500
\$20 × 5	\$100	4,800	1,500
\$10 w/LAMP	\$100	4,800	1,500
\$100	\$100	4,800	1,500
\$50 × 10	\$500	40,000	180
\$50 w/LAMP	\$500	40,000	180
\$500	\$500	40,000	180
\$25,000	\$25,000	720,000	10

LAMP (LAMP) = Win 10 times the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

\* \* \* \* \*

[Pa.B. Doc. No. 06-06-1170. Filed for public inspection June 23, 2006, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Armstrong County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation (Department) plans to construct a new bridge to replace the existing Beatty Mills Bridge carrying T-659 over Buffalo Creek in North Buffalo Township, Armstrong County, PA. The existing wrought iron pony truss bridge has been determined eligible for the National Register of Historic Places which qualifies it as a Section 2002/Section 4(f) resource.

Mitigation measures to minimize harm to the resource include the following:

1. The Department will record the structure following State-level recordation guidelines.

2. The Department, in consultation with the State Historic Preservation Officer, shall ensure that a plan is prepared for marketing the Beatty Mills Bridge.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize effects.

RICHARD H. HOGG, P. E.,  
*Deputy Secretary for Highway Administration*

[Pa.B. Doc. No. 06-1225. Filed for public inspection June 30, 2006, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

Tennessee Gas Pipeline Company v. DEP; EHB  
Doc. No. 2005-261-C

The Department of Environmental Protection (Department) and Tennessee Gas Pipeline Company (TGP) have submitted a Consent Adjudication for approval by the Environmental Hearing Board (Board). TGP maintains a compressor station, Compressor Station 319, in Wyalusing Township, Bradford County. The company that maintains the turbine compression engines operated at Compressor Station 319 recommends turbine core exchanges at a certain number of fired-hours of service. TGP's "turbine core" includes the compressor (air compressor, gas generator/gas producer), combustor and power turbine of the turbine compression engine. TGP engages in turbine core exchanges as recommended by the manufacturer. For TGP's exchanges, the replacement turbine core is not the same core as was initially removed for overhaul. In response to Department inquiries, TGP provided a substantial package of information on its turbine core exchanges. The Department treated the submission as a request for approval of a routine maintenance, repair and replacement plan for TGP's turbine compression engines. By letter dated July 29, 2005, the Department disapproved that plan. On August 25, 2005, TGP filed an appeal of the Department's disapproval of that plan. The appeal was docketed with the Board at EHB Doc. No. 2005-261-C.

The Department and TGP have agreed to a settlement in the form of a Consent Adjudication, the major provisions of which include:

1. When TGP conducts a turbine core replacement at any compressor station that TGP operates in the Northcentral Region of the Department, TGP shall provide certain information in the written notice within the specified time frame.

2. At the time of the turbine core exchange, TGP shall review the availability of lower emitting new or refurbished turbine cores suitable for placement into the turbine compression engine whose turbine core is being replaced. TGP shall install the lower emitting turbine core or, if the core will be replaced with an identical core, certify that a lower emitting core is not available.

3. TGP shall perform emissions testing for oxides of nitrogen and carbon monoxide within 90 days of completing the turbine core replacement.

4. A plan approval and/or operating permit will be required if the turbine core replacement does not meet the terms described in the relevant parts of the Consent Adjudication.

5. The turbine core replacements allowed under the provisions of the Consent Adjudication may occur for no more than 15 years from the date of the first replacement that occurs after the effective date of the Consent Adjudication. Any subsequent proposed turbine core replacements will require a plan approval application including a best available technology evaluation to be submitted to the Department for its review and approval.

Copies of the full Consent Adjudication are in the hands of: Dawn M. Herb, Assistant Counsel, Department of Environmental Protection, Northcentral Region Office of Chief Counsel, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 321-6568; David G. Mandelbaum, Esquire, and Sabrina Rudnick, Esquire, Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, PA 19103-7599, (215) 864-8102 or (215) 864-8344; and at the office of the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8457, (717) 787-3483 and may be reviewed by any interested party on request during normal business hours. Public comments will be received for 30 days from the date of this notice. A copy of any comments should be sent to each of the parties at the addresses listed previously. This notice is being provided under 25 Pa. Code §§ 1021.38 and 1021.141 (relating to publication of notice; and termination of proceedings). The Consent Adjudication is subject to final approval by the Board. The Board may schedule a hearing prior to taking action on the Consent Adjudication. For any aggrieved person not a party to the action, an appeal of the Consent Adjudication must be filed with Commonwealth Court within 30 days of the date of the Board's action.

MICHAEL L. KRANCER,  
*Chairperson*

[Pa.B. Doc. No. 06-1226. Filed for public inspection June 30, 2006, 9:00 a.m.]

## GOVERNOR'S OFFICE

### Regulatory Agenda

Executive Order 1996-1, requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. The following is the twenty-first publication of the Administration's regulatory agenda, grouped by agency. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed below (as well as any considered subsequent to publication of this Agenda) is published.

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ADMINISTRATION</b>			
No regulations being developed or considered at this time.			
<b>AGING</b>			
Pa. Code Title VI Chapter 3 Fair Hearings and Appeals	December 2007, as proposed	This regulation has been initially reviewed by stakeholders in response to passage of Acts 169-96 and 13-97 amending the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102) and of Executive Order 1996-1. It is being reviewed internally to improve Departmental procedures and efficiencies.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 11 Older Adult Daily Living Centers	September 2008, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of long term care services.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 15 Protective Services for Older Adults	December 2007, as proposed.	The law and regulations are under review in light of the decision of the Pennsylvania Supreme Court in <i>Nixon et al. v. Commonwealth, et al.</i> , which found the current protective services law and regulations to be unconstitutional.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 20 Family Caregiver Support Program	December 2008, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussion regarding development of the family caregiver support program.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 21 Domiciliary Care Services for Adults	December 2008, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of community living alternatives.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 22 Pharmaceutical Assistance Contract for the Elderly	December 2006, as proposed.	The Department is working with the Administration to amend the PACE law and regulations to effect coordination of the Federal prescription drug benefit with the PACE/PACENET programs.	Thomas Snedden 717-787-7313
Pa. Code Title VI Chapter 23 Long Term Care Ombudsman Program	December 2007, as proposed.	The Department wishes to promulgate regulations for the Long Term Care Ombudsman program in order to bring it into conformity with national standards.	Robert Hussar 717-783-6207
<b>AGRICULTURE</b>			
Domestic Animal 7 Pa. Code Chapter 2	June, 2006, as proposed.	This long-term project is intended to update the Department's regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Paul Knepley, DVM (717) 772-2852
Cervidae 7 Pa. Code Chapter 18	June, 2006, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to license and regulate cervidae livestock operations.	Paul Knepley, DVM (717) 772-2852
Animal Exhibition Sanitation 7 Pa. Code Chapter 21	June, 2006, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to enforce sanitation requirements at animal exhibitions, and to regulate as necessary to meet this requirement.	Paul Knepley, DVM (717) 772-2852
Amusement Rides 7 Pa. Code Chapter 139	August, 2006, as proposed.	This regulation will update the current regulation at 7 Pa. Code Chapter 139 to reflect changes to the Amusement Ride Inspection Act (4 P. S. §§ 401—418).	Bill Wehry (717) 787-4626

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Harness Racing Commission 58 Pa. Code Chapters 181, 183, 185 and 186—190	September, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in harness racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 181, 183, 185 and 186—190, including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Anton J. Leppler (717) 787-5196
Horse Racing Commission 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173	May, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173 including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Benjamin H. Nolt, Jr. (717) 787-1942
Horse Racing Commission 58 Pa. Code § 163.531 Definitions	May, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a short-term project and would amend 58 Pa. Code § 163.531 by amendment to the Definitions Section of the Pennsylvania Breeders' Fund Program found at 58 Pa. Code §§ 163.531—163.538.	Benjamin H. Nolt, Jr. (717) 787-1942
Pesticide Regulations 7 Pa. Code Chapter 128	January, 2007, as proposed.	This regulation will amend 7 Pa. Code Chapter 128 and is necessary to update current regulations, to make them more user friendly, address pesticide security issues, set minimum certification age requirements, dealer licensing, and changes in federal pesticide registration changes.	David Scott (717) 772-5214
Chemsweep Regulations 7 Pa. Code Chapter 128b	July, 2006, as final.	This regulation will amend 7 Pa. Code Chapter 128b to expand the pesticide disposal program which has been limited to agricultural pesticide products. The amendment will include all Commonwealth citizens who are in possession of cancelled, unused or suspended pesticides.	Don Gilbert (717) 772-5210
Fertilizer Regulations 7 Pa. Code Chapter 73	September, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S.A. §§ 6701—6725 (Fertilizer Act).	John Breitsman (717) 772-5215
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	September, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S.A. §§ 6901—6921 (Soil and Plant Amendment Act.)	John Breitsman (717) 772-5215
Dog Law 7 Pa. Code Chapters 23, 25 and 27	July, 2006, as proposed	House Bill 397 of 1996 accomplished revisions of the Dog Law that will necessitate regulatory revisions. This regulation is a long-term project and would amend 7 Pa. Code Chapters 23, 25 and 27 to bring them into greater conformity with statutory revisions. The Dog Law (3 P. S. §§ 459-10 et seq.) is the statutory basis for this regulation.	Mary Y. Bender (717) 787-4833



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Clean and Green Regulations 7 Pa. Code Chapter 137b	October, 2006, as proposed.	This regulation will address statutory changes made by Act 235 of 2004, and will otherwise update the current regulation.	Sandra E. Robison (717) 783-3167
Agricultural Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	July, 2007, as proposed.	This regulation will address statutory changes made by Act 61 of 2005, and will otherwise update the current regulation.	Sandra E. Robison (717) 783-3167
Seed Testing Labeling and Standards 7 Pa. Code Chapter 111	September, 2007, as proposed.	This regulation will supplant the current regulation and implement provisions of 3 Pa.C.S.A §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
General Provisions and Standards for Seed Certification 7 Pa. Code Chapter 113	September, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 113 and 115 by combining them into one chapter—Chapter 113 and implement provisions of 3 Pa.C.S.A. §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
Commercial Manure Hauler and Broker Certification Program 7 Pa. Code Chapter 130e.	December, 2006, as final.	This will establish regulations for the Commercial Manure Hauler and Broker Certification Program. This regulation will establish certification requirements for those persons commercially hauling or applying manure on behalf of an agricultural operation.	Johan E. Berger (717) 772-4189
<b><i>BANKING</i></b>			
Annual Assessment Regulation	Late 2006	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Carter D. Frantz (717) 787-1471
Regulation defining unfair/unethical and improper conduct of Mortgage Business under [Acts]	Late 2006	63 P. S. § 456.310(a); 7 P. S. § 6616(1); 7P. S. § 6212.	Carter D. Frantz (717) 787-1471
<b><i>BOARD OF PARDONS</i></b>			
No regulations being developed or considered at this date.			
<b><i>COMMUNITY &amp; ECONOMIC DEVELOPMENT</i></b>			
Building Energy Conservation Standards 12 Pa. Code Chapter 147 (Final regulation with rulemaking omitted)	Summer 2006	The regulation will repeal this chapter, as the statute upon which this chapter is based has been repealed by the Pennsylvania Construction Code Act.	Matthew Speicher (717) 720-7317
Manufactured Housing Improvement Program (Final regulation)	Summer 2006	As required by the Manufactured Housing Improvement Act (act of November 29, 2004, P. L. _____, No. 158)), the department will propose final regulations governing the training and certification of new manufactured home installers; the training of those persons who inspect the installation of new manufactured homes in PA; and the enforcement of the regulations once promulgated.	Jill B. Busch (717) 720-7314
Manufactured Housing 12 Pa. Code Chapter 143 (Final regulation)	Summer 2006	The purpose of the final regulation is to establish fees charged to manufacturers and retailers to cover the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development and to update the existing regulation with the term "Housing Standards Division."	Lisa Maiorana (717) 720-7330

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Industrialized Housing and Components 12 Pa. Code Chapter 145 (Proposed Regulation)	Summer of 2006	The purpose of the proposed regulation is to eliminate the exception for the insulation requirement for industrialized homes and adopt the model code requirements for energy efficiency; designate the International Residential Code as the primary standard; provide clarity for the third-party agencies regarding the frequency of inspections; and to reduce the number of required inspections by the Department.	Matthew Speicher (717) 720-7317
Pennsylvania Industrial Development Authority 12 Pa. Code Chapter 73 (Statement of Policy)	Summer of 2006	The purpose of the statement of policy is to make comprehensive changes to PIDA's policy with respect to project eligibility, advanced technology designation, financial considerations, engineering guidelines, and project format.	Tim Anstine (717) 720-7312
<b>COMMISSION ON CRIME AND DELINQUENCY</b>			
No regulations being developed or considered at this time.			
<b>CONSERVATION &amp; NATURAL RESOURCES</b>			
Conservation of Native Wild Plants (Chapter 45)	Publish proposed rulemaking March 2007.	This proposal is being developed to update existing native wild plant regulations. The legal basis for these regulations is the Wild Resource Conservation Act of 1982. This update is necessary to change the status of various plants to reflect field work completed during the last three years. Recommendations of the Rare Plant Committee and the Vascular Plant Technical Committee and the Vascular Plant Technical Committee will be considered during the development of this proposed rulemaking.	Chris Firestone, Mike Lester and Dan Devlin 717-783-3227 Susan Wood 772-4171 (Office of Chief Counsel)
State Forests—General Provisions (Chapter 21)	Publish proposed rulemaking March 2007.	A number of revisions are needed to make this chapter more consistent with state parks regulations and to update, clarify, and correct provisions. Legal basis: The Conservation and Natural Resources Act, 71 P. S. Sec. 1340.313 (rulemaking authority).	Matt Beaver—(Bureau of Forestry): 717-783-0379 Susan Wood— (Office of Chief Counsel): 717-772-4171
<b>CORRECTIONS</b>			
Revisions to the existing regulations governing county correctional facilities, 37 Pa. Code Chapter 95.	June, 2006, as proposed	The regulation will be revised to eliminate unnecessary regulations and amending necessary regulations to be consistent with current correctional practice.	William Sprenkle (717) 975-4965
Promulgation of state intermediate punishment regulations.	June, 2006, as proposed	The regulations will replace the guidelines currently in effect.	Randall N. Sears (717) 731-0444
Amendments to 37 Pa.Code § 94.3(a)(2)	September, 2006, as proposed	The amendment will permit the Secretary to waive the Department's requirement that an inmate serve a minimum of nine months in a facility prior to placement in a community corrections center.	Randall N. Sears (717) 731-0444

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>EDUCATION</b>			
Higher Education—General Provisions 22 Pa. Code, Chapter 31	July 2006, as final.	These regulations are necessary to establish procedures for the approval and operation of institutions of higher education in the Commonwealth. Specific revisions are necessary to clarify the intent of the chapters, modify the timeframe during which new institutions must achieve accreditation, update provisions for library and learning resources, address policies for marketing credit cards on campuses and amend regulations to accommodate for-profit baccalaureate and higher education. These regulations are promulgated under authority of the Public School Code of 1949. 24 P. S. §§ 1-101—27-2702.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Higher Education—Foreign Corporation Standards 22 Pa. Code, Chapter 36	July 2006, as proposed.	These regulations are necessary to establish procedures for the approval and operation of out-of-state institutions of higher education currently operating or seeking to operate programs in the Commonwealth.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Certification of Professional Personnel 22 Pa. Code, Chapter 49	July 2006, as final.	Regulations outline requirements for teacher preparation, certification and continuing professional education for professional educators.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Certification of Professional Personnel 22 Pa. Code, Chapter 49	September 2006, as proposed.	Regulations outline requirements for teacher preparation, certification and professional educators. These revisions restructure the requirements for early childhood, elementary/middle school and special education teachers. They also impose new policy on continuing professional education.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320
General Vocational Education Standards 22 Pa. Code, Chapter 339	Fall 2006, as final.	A revision of Chapter 339 is necessary to assist schools in developing, funding and maintaining programs that will provide the Commonwealth with a competent workforce. Discussions with the State Board of Vocational Education, as well as practitioners in that field, will be initiated to revise these standards. These regulations are promulgated under the authority of the Pennsylvania School Code, Article 18, regarding Vocational Education, and section 2502.8, regarding Vocational Education Funding. These standards are also provided for under Chapter 4 of Title 22 of the Pa. Code, section 4.32(a).	Lee Burket (717) 787-5530
Standards for Approved Private Schools 22 Pa. Code, Chapter 171 Subchapters A & B	Fall 2006, as proposed.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, PL 30, No. 14, March 16, 1949, P. S. Section 1-101, et. Seq. The revised standards will reflect the changes in Chapter 14 and IDEA.	John Tommasini (717) 783-6134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Regulations of the State Board of Private Academic Schools 22 Pa. Code, Chapters 51, 53, 55, 57, 61 and 63	The Board has informally discussed revision of the regulations, received public input and is reviewing that input with the Department to determine appropriate next steps.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. section 6701 et. Seq.)	Mary Ramirez (717) 783-3755
Academic Standards and Assessment, 22 Pa. Code, Chapter 4	November 2006, as final.	These regulations outline state academic standards that public schools must provide instruction to bring students up to proficiency and also provides for the Pennsylvania System of School Assessment, high school graduation requirements and requirements for credentials other than the high school diploma.	Jim Buckheit (717) 787-3787 or Diane Castelbuono (717) 787-2127
Chapter 4—Career Education and Work Academic Standards 22 Pa. Code, Chapter 4	July 2006, as final.	The Career Education and Work academic standards describe what students should know and be able to do at grades 2, 5, 8 and 11 in four areas: career awareness and preparation; career acquisition; career retention and advancement; and, entrepreneurship. Academic standards in career education and work are established in the State Board's Chapter 4 regulations.	Jim Buckheit (717) 787-3787 or Lee Burket (717) 787-5530
Regulations of the State Board of Private Licensed Schools 22 Pa. Code, Chapter 73	Accepted by Board on November 4, 2004 and with revisions on February 17, 2005. September 2006, as proposed.	These regulatory changes increase the minimum surety for schools, eliminate "Demonstrated Competency" as an instructor qualification, clarifies that violations of the ethics statement are enforceable, clarify last date of attendance for refund purposes, and eliminate tiered fines, setting the fine for all violations at the statutory maximum of \$1000.	Patricia Landis (717) 783-8228
Higher Education—Institutional Approval 22 Pa. Code, Chapter 40	June 2006, as proposed.	These regulations establish procedures for the approval and operation of independent two-year college, college seminary or university, or for status as a State System, State-related or State-aided institution for the purposes of awarding college credits and granting degrees.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Higher Education—Program Approval 22 Pa. Code, Chapter 42	June 2006, as proposed.	These regulations establish procedures for approval of specialized associate degree programs, upper division programs at two-year and community colleges, graduate programs and vocational education programs.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Academic Standards and Assessment, Student Attendance and Students and Student Services 22 Pa. Code, Chapters 4, 11 & 12	June 2006, as proposed.	These regulations outline proposed enrollment, curriculum and program standards for pre-kindergarten programs.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320 or (717) 783-6828
Special Education Services and Programs 22 Pa. Code, Chapter 14	January 2007, as proposed.	These regulations outline how special education services and programs are to be provided to children with disabilities. Specific revisions are necessary to incorporate the recent changes to IDEA 2004.	Jim Buckheit (717) 787-3787 or Linda Rhen (717) 783-2311
<b><i>EMERGENCY MANAGEMENT AGENCY</i></b>			
No regulations being developed or considered at this time.			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ENVIRONMENTAL HEARING BOARD</b>			
Pa. Code Title 25 Chapter 1021 Practice and Procedure	The Board published final rulemaking of previously proposed rule changes in the Pennsylvania Bulletin on February 11, 2006. New proposed rulemaking may be published at the end of 2006 or early 2007.	The Environmental Hearing Board Rules Committee has recommended revising the Board's rules of practice and procedure to add new rules addressing the following issues: 1) default judgment; 2) withdrawal of appeals without prejudice; 3) prepayment of penalties. The Rules Committee is also considering the clarification of existing rules.	Mary Anne Wesdock 412-565-5245
<b>ENVIRONMENTAL PROTECTION</b>			
Triennial Review of Water Quality Standards Clean Streams Law 25 Pa. Code, Chapter 93 Water Quality Standards and Chapter 16 Water Quality Toxics Management Strategy—Statement of Policy	FY06-07	This review identifies amendments to the Water Quality Standards and the Water Quality Toxics Management Strategy—Statement of Policy. Water Quality Criteria and Standards in Chapters 93 and 16 are revised to reflect the latest scientific information and Federal guidelines for criteria development, as required by the triennial review requirements in the federal Clean Water Act.	Tom Barron 717-787-9637
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code, Chapter 77	FY06-07	Revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including hydrologic data requirements.	Bill Allen 717-783-9580
Program Conditions and Remining Financial Guarantees Surface Mining Conservation & Reclamation Act 25 Pa. Code, Chapters 86, 87, 88	FY06-07	Program conditions, responding to OSM disapprovals and remining financial guarantees proposal that includes revisions to self-bonding, seismic safety factors and impoundments.	Bill Allen 717-783-9580
Water Supply Replacement Surface Mining Conservation & Reclamation Act 25 Pa. Code, Chapters 87, 88	FY06-07	Revisions to Chapters 87 & 88, which will clarify what is necessary to meet the coal mine operator's obligation to permanently pay the operation and maintenance costs for replacement water supplies.	Keith Brady 717-787-4814
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code, Chapter 78	FY06-07	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes changes to bond amount and plugging procedures to attain a more effective seal; quantity and quality for replacement water supplies as well as adequate operation and maintenance; and alternate requirements for casing, cementing and plugging wells through mineable coal seams to facilitate future mining through the wells or recovery of coal bed methane prior to mining.	Ron Gilius 717-772-2199

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Chapter 85—Bluff Recession and Setback Amendments Bluff Recession and Setback Act 25 Pa. Code, Chapter 85	FY06-07	This proposal will update Chapter 85 based on the bluff study that resulted from a petition submitted by the Millcreek Township Board of Supervisors, Erie County.	Andrew Zemba 717-772-5633
NPDES Permitting Program Amendments Clean Streams Law 25 Pa. Code, Chapter 91 & 92	FY06-07	Revisions to Chapter 91 (General Provisions) and 92 (National Pollution Discharges Elimination System Permitting, Monitoring and Compliance—NPDES) that govern the NPDES permitting program for point source discharges of water pollution.	Tom Franklin 717-787-8184
Watershed Permits Clean Streams Law 25 Pa. Code, Chapter 92	FY06-07	Revision to Chapter 92 (National Pollution Discharges Elimination System Permitting, Monitoring and Compliance—NPDES) to allow for a watershed permit in watersheds covered by a TMDL or similar allocation.	Lee McDonnell 717-787-8184
Newtown Creek et al Stream Redesignation Package Clean Streams Law 25 Pa. Code, Chapter 93	FY06-07	This proposal identifies seven streams (Pine Run, Clearfield County; Indian Spring Run, Chester and Lancaster Counties; Lizard Creek, Carbon County; Indian Creek, Fayette County; Messenger Run, Warren County; Newtown Creek, Bucks County; and Stone Creek, Bedford County) that should be redesignated to provide the correct aquatic life use designation in the water quality standards for these Commonwealth streams.	Rodney McAllister 717-787-9637
Water Quality Network Stream Redesignation Package Clean Streams Law 25 Pa. Code, Chapter 93	FY06-07	This proposal identifies nine stream segments (Blue Eye Run, Warren County; Conewago Creek, Adams County; E. Br. Dyberry Creek, Wayne County; East Hickory Creek, Warren County, Minister Creek, Forest County; Muncy Creek, Sullivan County; Spruce Run, Union County; UNT Tunkhannock Creek, Susquehanna County and Young Womans Creek, Lycoming County) that should be redesignated to provide the correct aquatic life use designation in the water quality standards for these Commonwealth streams.	Rodney McAllister 717-787-9637
Public Notification Revisions Safe Drinking Water Act 25 Pa. Code, Chapter 109	FY06-07	Amendments to several sections in Chapter 109 to strengthen the public notification (PN) requirements for imminent threat violations and situations. Will include enhancements to the pre-planning requirements in the Operation and Maintenance Plan and Emergency Response Plan sections, and revisions to the Tier 1 PN delivery requirements.	Lisa Daniels, Deb Rotz 717-772-4018
Stage 2 Disinfectants and Disinfection Byproducts Rule Safe Drinking Water Act 25 Pa. Code, Chapter 109	FY06-07	This rule will implement the requirements of the federal Stage 2 DDBR that was effective March 6, 2006. The rule will require community water systems and noncommunity water systems, which treat drinking water with a primary disinfectant other than UV to conduct additional compliance monitoring for trihalomethanes and haloacetic acids.	Tom Franklin 717-783-1820

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Chapter 109 General Update Safe Drinking Water Act 25 Pa. Code, Chapter 109	FY06-07	This general update will revise several sections in Chapter 109 to retain or obtain primacy, including monitoring and reporting requirements for lead, copper, arsenic, radionuclides inorganic chemicals, volatile synthetic organic chemicals, and synthetic organic chemicals. Other sections will be clarified, such as QA/QC requirements for on-line instrumentation; reporting requirements for failure to monitor; and compliance determinations for the chemical contaminants. The update also will include mandatory electronic data reporting requirements.	Lisa Daniels 717-772-2189
Water Resources Planning Water Resources Planning Act 25 Pa. Code, Chapter 110	FY06-07	Addition of new Chapter 110 (Water Resources) establishing requirements for the registration, record keeping and periodic reporting of water withdrawals and water uses in accordance with the Water Resources Act (Act 220 of 2002) to provide information for water resources planning and development of the State Water Plan.	Susan Weaver 717-783-8055
Glass Furnaces Air Pollution Control Act, 25 Pa. Code, Chapters 121 and 129	FY06-07	The proposal would add nitrogen oxide emission reduction requirements for glass furnaces.	Terry Black 717-787-2030
Clean Air Interstate Rule Air Pollution Control Act 25 Pa. Code, Chapters 121, 129 and 145	FY06-07	Revise Air Quality Regulations to comply with the federal Clean Air Interstate Rule by reducing emissions of sulfur oxides and nitrogen oxides from electric generating units.	Wick Havens 717-772-3436
Mercury Emissions Air Pollution Control Act 25 Pa. Code, Chapter 123	FY06-07	Revise Air Quality regulations to reduce mercury emissions from coal-fired electric generating units or cogeneration units.	John Slade 717-783-9476
Clean Vehicles Program Amendment Air Pollution Control Act 25 Pa. Code, Chapter 126	FY06-07	Revisions to the existing Pennsylvania Clean Vehicles Program in Chapter 126 (Motor Vehicles and Fuels Program). The regulation provides an extension to 2008 for automakers to comply with the current requirements.	Arleen Shulman 717-772-3926
Nonattainment New Source Review Air Pollution Control Act 25 Pa. Code, Chapter 127	FY06-07	The Department's existing nonattainment new source review (NSR) regulations will be amended to clarify existing requirements and to develop an approvable "equivalency" demonstration as a revision to the State Implementation Plan	Terry Black, John Slade 717-787-2030
Air Quality Permit Streamlining Air Pollution Control Act 25 Pa. Code, Chapter 127	FY06-07	The proposed regulation will revise certain public notice provisions and public comment provisions to extend from 120 to 180 days the duration for temporary "shake-down" operation of new equipment subject to the Plan Approval requirements.	Terry Black, John Slade 717-787-2030
Cement Kilns Air Pollution Control Act 25 Pa. Code, Chapters and 129	FY06-07	The proposal would add nitrogen oxide emission reduction requirements for cement kilns.	Terry Black 717-787-2030

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Portable Fuel Containers Air Pollution Control Act 25 Pa. Code, Chapter 130	FY06-07	The proposal would revise the portable fuel container regulation to reflect new technology. The new technology makes the containers user-friendlier and provides a slight increase in volatile organic compound and hazardous air pollutant emission reductions.	Terry Black 717-787-2030
Consumer Products Air Pollution Control Act 25 Pa. Code, Chapter 130	FY06-07	The proposal would revise the consumer product regulation to add additional categories of regulated products. The revisions will reduce volatile organic compound and hazardous air pollutant emissions.	Terry Black 717-787-2030
Surface Mine Safety Surface Mine Conservation and Reclamation Act, Noncoal Surface Mine Conservation and Reclamation Act 25 Pa. Code, Chapter 209	FY06-07	Revision to Chapter 209 (Coal Mines) to adopt by reference the Federal MSHA regulations for surface coalmines and surface noncoal mines.	Bill Allen 717-783-9580
Radiation Protection Program Radiation Protection Act, Radon Certification Act 25 Pa. Code, Chapter 215-240	FY06-07	Rewording of existing requirements and definitions for clarity; updating of U.S. Nuclear Regulatory Commission incorporation by reference citations; reinstating industrial radiography incident reporting requirement inadvertently deleted by previous rulemaking; updating radon protocols; and deleting notary requirements from radon services permit applications	L. Ray Urciuolo 717-783-9730
Storage Tank Amendments Storage Tank and Spill Prevention Act 25 Pa. Code, Chapter 246	FY06-07	This proposal represents comprehensive amendments to the Storage Tank and Spill Prevention provisions of Chapter 245, which was last updated in 1997.	Ray Powers 717-772-5809
Waste Facility Notification near Military Airports Solid Waste Management Act 25 Pa. Code, §§ 271.1, 279.112, 287.1 & 293.112	FY06-07	This proposed regulation is in response to a petition filed by the Department of Defense. It would amend the Municipal and Residual Waste Regulations to include military airport in the definition of "airport" and require a transfer facility applicant to notify the PENNDOT's Bureau of Aviation and the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6 miles of an airport runway.	Steve Socash 717-787-7381
Hazardous Waste Program Solid Waste Management Act 25 Pa. Code, Chapters 260-270	FY06-07	Revisions to various chapters in Article VII (Hazardous Waste Management) of Subpart D that govern the generation, treatment, storage, transportation and disposal of hazardous waste.	Rick Shipman 717-783-3390
Coal Mine Reclamation Surface Mining Conservation and Reclamation Act 25 Pa. Code, Chapter 86	FY06-07	Revisions to Chapter 86 (Surface and Underground Mining: General) to eliminate an existing reclamation fee and to provide for the reclamation of sites where the operator reclamation bond has been forfeited.	Keith Brady 717-787-4814
Mine Opening Blasting Surface Mine Conservation and Reclamation Act 25 Pa. Code, Chapter 89	FY06-07	Revisions to Chapter 89 (Underground Mining of Coal and Coal Preparation Facilities) to better coordinate regulation of blasting of underground mine entries between surface blasting requirements and underground blasting requirements.	Bill Allen 717-783-9580



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>GENERAL SERVICES</b>			
Methods of Awarding Contracts 4 Pa. Code Chapter 69	Summer 2006, as final omitted	These regulations should be repealed since they have been superseded by enactment of the Commonwealth Procurement Code.	Mary Benefield Seiverling (717) 772-2749
Processing Subscriptions and Sales of <i>Pennsylvania Code</i> and Related Publications 4 Pa. Code Chapter 81	Summer 2006, as final omitted	These regulations should be repealed since the DGS' Bureau of Management Services no longer has responsibility for processing subscriptions and orders for the <i>Pennsylvania Code</i> .	Mary Benefield Seiverling (717) 772-2749
Surplus State Property 4 Pa. Code Chapters 41, 43, 45 & 47	Summer 2006, as final omitted.	These regulations should be repealed because they do not reflect current law and practice.	Mary Benefield Seiverling (717) 772-2749
Bookstore Operations. Chapter 83	Summer 2006, as final omitted	These regulations should be repealed since the bookstore operations were transferred to the Pa. Historical and Museum Commission by statute.	Mary Benefield Seiverling (717) 772-2749
Distribution of Federally Donated Foods to Needy Households, 4 Pa. Code Chapters 51, 53 & 55	Summer 2006, as final omitted	These regulations should be repealed since the responsibility for this program was transferred to the Dept. of Agriculture.	Mary Benefield Seiverling (717) 772-2749
Committee on Construction Contract Documents, 4 Pa. Code Chapter 62	Summer 2006, as final omitted	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Mary Benefield Seiverling (717) 772-2749
Commonwealth Parking Facilities 4 Pa. Code Chapter 71.	March, 2007, as proposed	With construction the parking areas have changed significantly so the regulations need to be repealed or substantially revised.	Mary Benefield Seiverling (717) 772-2749
Responsibility 4 Pa. Code Chapter 60	July 2006, as proposed	This chapter should be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Mary Benefield Seiverling (717) 772-2749
Death Benefits For Survivors of Fireman and Law Enforcement Officers 4 Pa. Code Chapter 89	September 2006, as proposed	Amendments are needed to this regulation to make it consistent with the changes in the legislation.	Mary Benefield Seiverling (717) 772-2749
Selections Committee, 4 Pa. Code Chapter 64.	December 2006, as proposed	These regulations will be reviewed to ensure that they accurately reflect present practice and are consistent with the Procurement Code.	Mary Benefield Seiverling (717) 772-2749
Emergency Construction Repairs 4 Pa. Code Chapter 67	February 2007, as proposed	The regulation should be amended to more accurately reflect present practice and to delete antiquated contract provisions.	Mary Benefield Seiverling (717) 772-2749
Exercise of First Amendment Rights on Commonwealth Property 4 Pa. Code Chapter 85	March 2007, as proposed	The regulation will be rewritten to reflect the current organizational structure and to conform to changes which will be made to the Statement of Policy in Chapter 86.	Mary Benefield Seiverling (717) 772-2749
Use of the Forum 4 Pa. Code Chapter 87	November 2006, as proposed	The regulations should be amended to reflect the Department's current use of a Rental Agreement instead of a permit and to reflect the current organizational structure.	Mary Benefield Seiverling (717) 772-2749

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>HEALTH</b>			
Health Facility Licensure—General Administrative Chapter & General and Special Hospitals 28 Pa. Code § 51.1 et seq. 28 Pa. Code § 101.1 et seq.	November 2006, as proposed.	The amendments to existing regulations will update the licensure requirements for hospitals and other health care facilities. Pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b.	Barbara Holland 717-346-9692 James T. Steele, Jr. 717-783-2500
Communicable Diseases 28 Pa. Code § 27.1 et seq.	December 2006, as proposed.	The amendments to existing regulations will clarify the Department's authority to perform disease surveillance and investigation. Pursuant to the Disease Prevention and Control Law of 1955, 35 P. S. §§ 521.1—521.21.	Yvette M. Kostelac 717-783-2500
Head Injury Program	December 2006, as proposed	The amendments to existing regulations will address client enrollment and provider issues. Pursuant to 35 P. S. § 6934(e).	Crystal Fox 717-783-2500
Supplemental Nutrition Program for Women, Infant's and Children (WIC) 28 Pa. Code § 1101.1 et seq.	June 2006, as final-omitted	The amendments to existing regulations will bring the Commonwealth into compliance with the requirements of the federal Child Nutrition and WIC Reauthorization Act of 2004 and allow participants to use WIC vouchers at any WIC authorized store. The amendments will also prohibit authorization of stores that get more than 50% of their annual food revenue from the sale of WIC foods and clarify the availability of minimum inventory during store reviews.	Robert Datorre 717-783-2500
School Immunization Requirements 28 Pa. Code §§ 23.83 and 23.86	July 2006, as proposed	The amendments to existing regulations will revise immunization requirements for school entry and attendance, add a grace period for the provision of vaccinations in order for them to be considered valid, and change school reporting requirements to require reporting of doses of vaccine given. Pursuant to the Disease Prevention and Control Law of 1955 35 P. S. § 521.1 et seq.; the Administrative Code of 1921 (71 P. S. § 541(c.1)) and the Public School Code of 1949 (24 P. S. § 13-1303a).	Yvette M. Kostelac 717-783-2500
<b>HOUSING FINANCE AGENCY</b>			
No regulations being developed or considered at this date.			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>INFRASTRUCTURE INVESTMENT AUTHORITY</b>			
25 Pa. Code §§ 963.12(a)(6) and (7) 963.13(b) 2, 963.13(c), 963.14(a), 963.15(a), and 25 Pa. Code § 965.4((9).	Spring 2007	PENNVEST recommends the following revisions: (1). Delete 25 Pa. Code § 963.12(a) (6) in its entirety and the second sentence of 25 Pa. Code § 963.13(b)(2) thereby allowing PENNVEST to provide financial assistance (loan or grant) for costs associated with the development of an approvable official sewage plan under the Sewage Facilities Act, 35 P. S. § 750.1 et seq. (2). Delete 25 Pa. Code § 963.12(a)(7) thereby allowing PENNVEST to provide financial assistance (loan and grant) for costs associated with the extraction for profit of minerals or other resources from wastewater or sludge whether the project is sponsored by a public or private actor. (3). Amend 25 Pa. Code § 963.13 (c) by revising the section to provide for an amortization of advance funding loans with a term of 59 months of interest only and repayment on principal and interest on the 60th month. (4). Amend 25 Pa. Code § 963.14(a) by revising the section to clarify when the use of an affordability analysis for the award of grants is necessary. (5). Amend 25 Pa. Code § 963.15(a) by revising the first sentence to provide for a change in the normal loan term to allow 3 years of interest only preceding the 20 year term. (6). Amend 25 Pa. Code § 965.4 (9) to allow for eligible land costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	Shawn W. Weis (717)-783-6776
<b>INSURANCE</b>			
Producer Licensing, 31 Pa. Code, Chapter 37, §§ 37.1—37.84	Summer/Fall 2006, as proposed.	Act 147 of 2002 sets new standards for Producers in the Commonwealth. This chapter will be repealed and replace with new regulation consistent with the statute.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Motor Vehicle Financial Responsibility Law—Evidence of Financial Responsibility, 31 Pa. Code, Chapter 67, §§ 67.21-28	Summer 2006, as proposed	Amend to make the regulation consistent with statutory requirements.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Credit Life Insurance & Credit Accident & Health Insurance, 31 Pa. Code, Chapter 73, §§ 73.103 & 73.138	Spring 2006, as final.	Amend the regulation to meet NAIC standards.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Replace Life Insurance Annuities, 31 Pa. Code, Chapter 81, §§ 81.1—9	Fall/Winter 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts, 31 Pa. Code, §§ 84a.1—84a.8	Spring 2006, as final.	Amend the regulation to new minimum standards adopted by the NAIC.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Life Insurance Illustrations (New Chapter 87a)	Fall/Winter 2006, as proposed.	Act 154 of 1996 provides for life insurance illustration requirements for life insurance policies. The statute sunsets when a life insurance illustration regulation becomes effective. A life insurance illustration regulation will eliminate misleading illustrations, make illustrations more understandable, and standardize terms and illustration formats for the entire life insurance industry. Further, it is more appropriate that technical requirements, such as these, appear in a regulation rather than in statutory form.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Cash Advances to Insurance Companies 31 Pa. Code, Chapter 105, §§ 105.1—105.2	Spring 2006, as proposed.	Review to determine whether to amend or repeal based on statutory amendments enacted in 2004 (Act No. 216 of 2004).	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Property and Casualty Actuarial Opinion, 31 Pa. Code, §§ 118a.1—118a.7 (NEW)	Spring/Summer 2006, as proposed.	New regulation to require property & casualty insurers to annually submit an Actuarial Opinion Summary of the Actuarial Report on loss and loss adjustment expense reserves, including information on the opining actuary's best estimate and/or range of reasonable estimates.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Preparation of Filing of Property and Casualty Forms for Approval, 31 Pa. Code, Chapter 133, §§ 133.1—133.12	Summer/Fall 2006, as proposed.	Repeal pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Description of Reserves—Prohibited Phrases, 31 Pa. Code, Chapter 139, §§ 139.1—139.3	Fall/Winter 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Unfair Insurance Practices; Unfair Claims Settlement Practices, 31 Pa. Code, Chapter 146, §§ 146.1—146.10	Summer/Fall 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Requirements for Qualified Reinsurers 31 Pa. Code, Chapter 161 §§ 161.1—161.9	Spring 2006, as proposed.	Amend to update requirements for assets held in trust.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Medical Catastrophe Loss Fund, 31 Pa. Code, Chapter 242 §§ 242.1—242.18	Summer/Fall 2006, as proposed.	Amend the regulation to be consistent with the statute.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Health Care Provider Retention Program, 31 Pa. Code, Chapter 248, §§ 248.1—248.11 (NEW)	Summer/Fall 2006, as proposed.	Adopt regulations per the Medical Care Availability and Reduction of Error (Mcare) Act (40 P. S. §§ 1303.1101 et seq.)	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Viatical Regulations (NEW chapter)	Summer/Fall 2006, as proposed.	New regulation addressing issues pertaining to the Licensing of Viatical Brokers.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
UM/UIM Stacking Waiver Form (NEW Chapter)	Fall/Winter 2006, as proposed.	New regulation to address a statutory correction recommended by the State Supreme Court.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
<b>LABOR AND INDUSTRY</b>			
Repeal of mine and excavation regulations, Title 34, Chap. 33, Bureau of Occupational and Industrial Safety.	Submit final-omitted regulation in Summer 2006.	Will revoke Labor and Industry's authority to regulate mines and excavations. The Department of Environmental Protection now has this authority.	Edward Leister 717-787-3323
Liquefied Petroleum Gas, Title 34. Bureau of Occupational and Industrial Safety.	Submit proposed rulemaking in Fall 2006.	Will enact the Propane and Liquefied Petroleum Gas Act passed in June 2002. Will govern the design, installation and construction of containers and equipment for storage and handling of liquefied petroleum gas, specify the odorization of the gases and establish guidelines for the processing and technologies that are not covered by industry standards.	Edward Leister 717-787-3323
Uniform Construction Code Amendments, Bureau of Occupational and Industrial Safety	Submit final-omitted regulation in Summer 2006	Regulations will incorporate amendments to Construction Code Act and incorporate the 2006 International Code Council series of codes as legally-required.	Edward Leister 717-787-3323
Business Enterprise Program, Title 34. Bureau of Blindness and Visual Services	Submit proposed rulemaking in Summer 2006.	Concerns operation of snack bars and similar operations in Commonwealth facilities under the Federal Randolph-Sheppard Act and related Pennsylvania laws.	Lucy Shumaker 717-783-3784
Office of Vocational and Rehabilitation, Title 34.	Submit Proposed Rulemaking Spring 2006	Regulations will govern the registration process and implement the Sign Language Interpreter and Transliterator Registration Act which was enacted in 2004. (Act 57 of 2004).	Catherine N. Wojciechowski 717-787-4186
Prevailing Wage Appeals Board (PWAB), Title 34, Chap 213.	Submit proposed rulemaking in Fall 2006.	PWAB will amend its regulations to reduce paperwork requirements and improve/streamline procedures.	Richard C. Lengler 717-783-9288
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Tax Services	Submit proposed rulemaking in Summer 2006.	Update Unemployment Compensation tax and select benefit regulations.	Scott Miedrich 717-787-2097
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Benefits	Submit proposed rulemaking in Summer 2006.	Update requirements and procedures for filing benefit and claim applications.	Jeri Morris 717-787-3667
Unemployment Compensation, Title 34, Chapter 101, Unemployment Compensation Board of Review	Submit proposed rulemaking in Fall 2006.	Update appeal and hearing procedures to reflect evolving procedures and statutory changes.	Edward Rawlings 717-787-1620
Bureau of Workers' Compensation Title 34, Chapter 121	Submit final-form regulation Summer 2006.	Updating regulations concerning processing of claims forms/petitions to reflect changes in law and technology.	Thomas Dinsmore 717-772-0621
Bureau of Workers' Compensation, Title 34, Chapter 127, Medical Cost Containment	Submit proposed rulemaking by Summer 2006.	Update processes governing medical care and costs under the Workers' Compensation Act.	Eileen Wunsch 717-772-1912

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Bureau of Workers' Compensation, Title 34, Chapter 123	Submit final-form regulation in Summer 2006.	Update procedures for qualifications of vocational experts to reflect passage of Act 88.	Eileen Wunsch 717-772-1912
Bureau of Workers' Compensation, Title 34, Chapter 125A, Self-Insurance	Submit proposed rulemaking in Fall 2006.	Clarify standards and security requirements for individual self-insured employees.	George Knehr 717-783-4476
Bureau of Mediation, Title 34	Submit proposed rulemaking in Fall 2006	Specify procedures and process for Bureau mediators.	William D. Gross 717-787-2803
<b>MILITARY AND VETERANS AFFAIRS</b>			
State Veterans Home 43 Pa. Code Section 7.1 et. seq.	July 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly. This regulation is a long-term project and would amend 43 Pa. Code Chapter 7.	Dennis T. Guise 717-861-8503
<b>MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION</b>			
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 203	Final regulations, August 2006.	The Commission intends to update regulations promulgated pursuant to 53 Pa.C.S. § 2164(1),(8), and (14 (relating to Part III, Subpart C, of the Local Government Code).	Syndi L. Guido 717-772-0905
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 203	Proposed regulations, August 2006.	The Commission intends to amend regulations to allow physicals to be performed by physicians' assistants and certified nurse practitioners.	Syndi L. Guido 717-772-0905
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 204.	Proposed regulations, January 2007.	Act 79 of 2005 requires the Commission to promulgate regulations to implement the Retired Law Enforcement Identification Act.	Syndi L. Guido 717-772-0905
<b>PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PROBATION AND PAROLE</b>			
The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5(13) requires the Commission to "make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers."	The proposed regulation will be published in the Pennsylvania Bulletin in the fall of 2006.	The County Probation and Parole Officers' Education and Training Commission is in the process of promulgating these regulations and anticipates the completion of proposed regulations by Fall 2006 for publication in the <i>Pennsylvania Bulletin</i> .	Henry L. Van Brederode 717-787-5699 x 389

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
The Domestic and Sexual Violence Victim Address Confidentiality Act 23 Pa.C.S.A. § 6712 requires the Office of the Victim Advocate to promulgate regulations to establish an address confidentiality program to protect victims of sexual and domestic violence.	The proposed regulation will be published in the Pennsylvania Bulletin in the summer of 2006.	23 Pa.C.S.A. § 6712 (2) requires the Office of the Victim Advocate to promulgate the required regulations by July 1, 2006.	Victoria Sostack 717-783-5157
<b><i>PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM</i></b>			
No regulations being developed or considered at this time.			
<b><i>PUBLIC WELFARE</i></b>			
Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	February 2007, as proposed	This regulation incorporates the amendments to the Juvenile Act as a result of Act 126 of 1998 and the federal regulations (effective March 27, 2000) for Title IV-B and Title IV-E funding for child welfare services for children in their own homes and for children receiving placement services. Major changes include permanency hearings and the matters to be determined, requirements related to reasonable efforts including aggravated circumstances contrary to the welfare and best interests and redefining permanency goals for children.	Ruth O'Brien (717) 783-2800
Administration and Operation of a Children and Youth Social Services Agency 55 Pa. Code Chapter 3680	August 2007, as proposed	This regulation incorporates the changes identified in the Child and Family Services Review, including requirements for visitation with fathers and non-custodial parents and between siblings; concurrent planning; improving permanency outcomes for children; and preserving connections with family and community for children placed out of the home.	Ruth O'Brien (717) 783-2800
Food Stamp Disqualification Penalties 55 Pa. Code Chapter 501	October 2006, as proposed	This regulation incorporates a revision to the Food Stamp disqualification penalties as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The revision increases the Food Stamp intentional program violation disqualification penalties from six months to one year for the first violation and from one year to two years for the second violation. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Family Violence Option 55 Pa. Code Chapter 187	February 2007, as proposed	This regulation codifies the provision in the TANF State Plan to screen and identify victims of domestic violence, refer those individuals to counseling and supportive services, establish service plans, provide universal notification and make appropriate referrals to social service agencies. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Breast and Cervical Cancer Prevention and Treatment Program 55 Pa. Code Chapter 140	September 2006, as final-form	This regulation provides Medicaid benefits to individuals diagnosed with Breast and Cervical Cancer, effective January 1, 2002. The BCCPT Act of 2000 amended Title XIX of the Social Security Act by giving states the option of providing full Medicaid benefits to a new group of individuals. This regulation provides Medical Assistance for women who have breast and cervical cancer, including pre-cancerous conditions of the breast and cervix, in addition to full Medicaid benefits. Specifically, uninsured and underinsured women under the age of 65, screened and diagnosed with either breast or cervical cancer, including pre-cancerous conditions of the breast or cervix, by a provider or facility funded in full or part by the Centers for Disease Control and Prevention under its National Breast and Cervical Cancer Early Detection Program, will be eligible for Medicaid benefits. Pennsylvania has chosen the Department of Health Healthy Woman Project as the screening entity for this program. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization, professional medical organizations and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Medical Assistance Changes (MAC) 55 Pa. Code Chapters 133, 140, 141, 178 and 181	November 2006, as proposed	This regulation incorporates eligibility requirements for Temporary Assistance for Needy Families (TANF)-related, Supplemental Security Income (SSI)-related and General Assistance (GA)-related Medicaid. Some of the major changes include revisions to: 1) the application and redetermination process; 2) the qualification requirements and eligibility rules for Healthy Beginnings; 3) the income eligibility methodologies for TANF-related categories of Medicaid; 4) the income and resource requirements for the Medicaid Program; 5) Extended Medical Coverage to include provisions as set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); 6) the GA-related Nonmoney Payment (NMP) and Medically Needy Only (MNO) eligibility criteria as set forth in Act 35; 7) the qualifying criteria for TANF-related categories to include a new eligibility group as set forth in § 1931 of the Social Security Act.	Ruth O'Brien (717) 783-2800
Early and Periodic Screening Diagnosis Treatment (EPSDT) 55 Pa. Code Chapters 1101, 1121, 1123, 1147, 1241	March 2007, as final-omitted	This regulation relating to services provided as a follow-up to an EPSDT visit or encounter that are not currently recognized under the approved Medical Assistance State Plan. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Medical Assistance Case Management Services 55 Pa. Code Chapter 1239	March 2007, as proposed	This regulation codifies payment for medically necessary case management services as mandated by Omnibus Budget Reconciliation Act '89 to Medical Assistance recipients under the age of 21. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
OMNIBUS Pharmacy 55 Pa. Code Chapters 1121, 1126, 1129, 1141, 1163, 1221, 1225, 1243	February 2007, as final-omitted	This final regulation codifies Act 1994-49 provisions that discontinue payment for all drugs, devices, products, services and procedures that are used or related to treating infertility, including surrogacy services, effective September 1, 1994. This regulation also provides that the medical assistance program provides drug coverage to medically needy only recipients receiving nursing facility services. This includes medically needy only recipients who reside in nursing facilities and intermediate care facilities/mental retardation (ICF/MR). This regulation was reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Physician Assistant/Midwife 55 Pa. Code Chapter 1141	June 2007, as final-omitted	This final regulation codifies revised supervision requirements for physician assistants and midwives. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Discontinuance of the Mandatory Second Opinion Program 55 Pa. Code Chapter 1150	February 2007, as final-omitted	This final regulation removes the mandatory second opinion program requirement for certain surgical procedures. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Capital Component Payment for Replacement Beds 55 Pa. Code Chapter 1187	July 2008, as proposed	This regulation codifies the policy as set forth in the Statement of Policy published at 27 Pa.B. 6238 (November 29, 1997). This regulation will specify the conditions under which the Department will recognize nursing facility beds as replacement beds for purposes of making capital component payments for those beds. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
New Definition of "Emergency Medical Condition" 55 Pa. Code Chapters 1101, 1141, 1150, 1221	March 2007, as proposed	This regulation codifies the revised definition of "emergency medical condition" contained in the Balanced Budget Act of 1997, effective July 1, 1998. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Definition of Medically Necessary 55 Pa. Code Chapter 1101	February 2007, as proposed	This proposed regulation replaces the current definition of "medically necessary" with the definition found in the HealthChoices Request for Proposal. This regulation was reviewed on 9/21/01 by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Tobacco Cessation and Nutritional Supplements 55 Pa. Code Chapter 1121	February 2007, as final-omitted	This final regulation will provide coverage under the Medical Assistance Program for tobacco cessation products and counseling services and will extend coverage for nutritional supplements to eligible Medical Assistance recipients 21 years of age and older. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Dental Services 55 Pa. Code Chapter 1149	March 2007, as final-omitted	This final regulation will provide coverage for crown core build-up and will revise the Medical Assistance Orthodontia Program. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Preadmission Requirements for Nursing Facility Services 55 Pa. Code Chapter 1187	July 2007, as final	This regulation will require nursing facilities to have all individuals applying for nursing facility services, evaluated by the Department or an independent assessor if it is likely that the applicant will use Medical Assistance as a payer source within 12 months of admission. The purpose of this regulation is to allow an individual to remain in the community by delaying or eliminating the need for admission to a nursing facility. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Penile Prosthesis 55 Pa. Code Chapters 1141, 1163,	February 2007, as proposed	This regulation revises the current § 1141.59(8) noncompensable services and § 1163.59(a)(4) noncompensable services, items and outliers days.	Ruth O'Brien (717) 783-2800
Extension of County Transition Payments and Double Disproportionate Share 55 Pa. Code Chapter 1187	July 2007, as final-omitted	This regulation will extend the county nursing facility transition rates for the period July 1, 2003, through June 30, 2009, and will increase the disproportionate share incentive payments to qualified nursing facilities for the period July 1, 2003 through June 30, 2008. The disproportionate share incentive payment shall be increased to equal two times the disproportionate share per diem incentive calculated in accordance with 55 Pa. Code § 1187.111(c). This regulation will be reviewed by the Medical Assistance Advisory Committee. These changes are made in accordance with the Intergovernmental Transfer Agreements.	Ruth O'Brien (717) 783-2800
Home Health Regulation 55 Pa. Code Chapter 1249	July 2006, as final-form	The proposed regulation: 1. removes the State requirement that clients be homebound to receive home health agency services. Requiring a client to be homebound is in violation of "Olmstead Update No. 3" codified at 42 CFR 440.230(c) and 440.240(b); 2. moves service limitations from the regulations to the fee schedule which will permit program exceptions to the limitations when appropriate.	Ruth O'Brien (717) 783-2800
Changes to Nursing Facility Rate Setting System 55 Pa. Code Chapter 1187	June 2006, as final-omitted	This regulation will support the balancing of long term care by encouraging the continued trend of having nursing facilities serve higher acuity MA recipients, encouraging right sized facilities and decreased reliance on MA payments. Further objectives of this regulation will be to provide greater predictability in rate setting, reduce the number of appeals and incorporate performance standards/incentives to encourage cost effective and high quality care in the most appropriate setting.	Ruth O'Brien (717) 783-2800
Medical Assistance Provider Appeal Procedures 55 Pa. Code Chapter 41	October 2006, as final-form	This regulation implements 67 Pa.C.S. 1106 and establishes rules of procedure governing Medical Assistance Provider appeals.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Third Party Liability Programs 55 Pa. Code Chapter 259	February 2007, as proposed	Section 1902(a)(25) of the Social Security Act (42 U.S.C. § 1396a(a)(25)) requires the Department to develop and implement a TPL program to ensure that Medicaid is the payor of last resort. Section 1906 of the Social Security Act (42 U.S.C. § 1396(e)) authorizes the Department to have a special program to enroll certain MA recipients into group health insurance. Both the general TPL program and the special group health insurance program have been in operation in Pennsylvania for a number of years. During this period of operation, questions have arisen as to interpretation and procedures under the Federal and state's statutes. This proposed regulation is needed to supply guidance with respect to issues not directly addressed by the Federal and state statutes, to resolve ambiguities and to fill gaps in the state statutory language.	Ruth O'Brien (717) 783-2800
Licensure and Approval Appeal Procedures 55 Pa. Code Various Chapters	February 2006, as proposed	This regulation replaces the uncodified regulation at 7 Pa.B. 3266 with the General Rules of Administrative Practice and Procedure (1 Pa. Code Chs. 31-35) for all facilities and agencies certified by the Department.	Ruth O'Brien (717) 783-2800
Psychiatric Outpatient Clinics 55 Pa. Code Chapter 5200	February 2007, as proposed	This proposed regulation revises the current regulations pertaining to organization, staffing, and supervision for licensed psychiatric outpatient services. This regulation will be reviewed by the Mental Health Advisory Council and the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Family-Based Mental Health Service Providers Draft Regulation, 55 Pa. Code Chapter 5260	June 2007, as proposed	This proposed regulation would establish requirements for the delivery of services, and payment of family-based mental health services for children and adolescents.	Ruth O'Brien (717) 783-2800
Residential Treatment Facilities (RTF) for Mental Health Services 55 Pa. Code Chapters 31, 1157, 1165	November 2006, as proposed	This regulation codifies coverage for mental health services to children under 21 years of age that are provided in a residential treatment facility. This regulation was reviewed by the Medical Assistance Advisory Committee (MAAC) on 3/28/02 and again to the MAAC as well as other interested stakeholders on 4/20/06. The comments and revised regulations are under review by the Department.	Ruth O'Brien (717) 783-2800
Intermediate Care Facilities for the Mentally Retarded 55 Pa. Code Chapter 6650	October 2006 as proposed	This regulation applies to private and public residential facilities receiving monies for intermediate care facilities for the mentally retarded (ICFs/MR) or intermediate care facilities for persons with other related conditions (ICFs/ORC). This regulation will include facility capacity, facility expansion, new ICF/MR development, conversion of state funded programs to ICF/MR, conversion of existing ICF/MR to the Medicaid Consolidated Waiver program, medication administration, medication administration training, self-administration of medications and medication log.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Child Care Facilities 55 Pa. Code Chapters 3270, 3280, 3290, 3300	February 2007 as final-form	The purpose of the proposed rulemaking is to update the minimum standards for child care facilities. The regulations need to be updated to reference the current laws that directly impact on the operation of child care facilities, to incorporate the Department's statements of policy issued since 1992, to implement changes in recommended health and safety practices, to clarify regulations and to reflect best practice in the field of child care.	Ruth O'Brien (717) 783-2800
Child Care 55 Pa. Code Chapter 168	July 2006 as proposed	The purpose of the proposed rulemaking is to align the Office of Income Maintenance and Office of Child Development policies regarding subsidized child care and increase child care services to families receiving Temporary Assistance for Needy Families, General Assistance, and Food Stamp benefits. The proposed amendments will simplify policies and create a more user-friendly system for families.	Ruth O'Brien (717) 783-2800
Payment for Burial and Cremation 55 Pa. Code Chapters 283, 285	September 2006	The proposed rulemaking increases the maximum payment to funeral directors for burial or cremation services to a standard \$750 for all eligible individuals. This rulemaking also increases maximum level of contributions that may be made by another agency or individual towards burial expenses without reducing the Department payment. This amount is increased from \$180 to \$750. Additionally, this proposed rulemaking eliminates several restrictive requirements for burial, thus allowing families and funeral directors more flexibility and choice in planning and selecting burial goods and services.	Ruth O'Brien (717) 783-2800
Revisions to Special Allowances for Supportive Services 55 Pa. Code Chapter 165	March 2007 as proposed	The purpose of this proposed regulation is to ensure adequate and consistent availability and distribution of special allowances. These special allowances are for supportive services to recipients of cash assistance who are engaged or intend to engage in employment and training activities approved by the Department.	Ruth O'Brien (717) 783-2800
Deficit Reduction Act of 2005 (TANF Reauthorization) 55 Pa. Code Chapter 165	February 2007 as proposed	The purpose of this proposed regulation is to incorporate revised policies for work participation according to Federal statutes and regulations.	Ruth O'Brien (717) 783-2800
<b>REVENUE</b>			
Construction Contractors 61 Pa. Code, §§ 31.11—31.16 and 46.11—46.17	July 2007, as proposed	The regulation will provide an update to the rules regarding contracts with exempt and nonexempt entities following Act 45 of 1998. Department awaiting decision of the Pennsylvania Supreme Court.	Douglas Berguson 717-346-4633
Construction Contractors 61 Pa. Code §§ 31.11, 46.2, 46.3, 46.6 and 46.9	July 2007, as final.	Chapter 46 Construction Contractors Sales Tax Requirements and Amendment to § 31.11 to avoid duplication of regulations.	Douglas Berguson 717-346-4633
Prebuilt Housing	June 2006, as final.	The regulation codifies legislative changes relating to prebuilt housing that were set forth in Act 23-2000 (72 P. S. §§ 7201(g)(8), (vv)—(zz), 7202(f) and 7204(60)).	Douglas Berguson 717-346-4633
Realty Transfer Tax Amendments 61 Pa. Code, Chapter 91	July 2007, as final.	The amendments to Chapter 91. Realty Transfer Tax, are made to address numerous legislative changes and to bring the regulatory provisions into conformity with Departmental policy.	Douglas Berguson 717-346-4633

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Small Games of Chance Amendments 61 Pa. Code, Part VII	September 2006, as final.	The regulation contains comprehensive amendments to Part VII to incorporate legislative changes made to the Local Option Small Games of Chance Act (10 P. S. §§ 311—328) in 1990 and 2000 and to codify policy and administrative changes regarding games of chance.	Douglas Berguson 717-346-4633
Support Offset and Other Personal Income Tax Provisions	March 2007, as proposed	This regulatory change will amend certain regulatory provisions to provide for the intercept of income tax refunds from individuals who are delinquent in support payments and redirect the funds accordingly. Other amendments are proposed to update and/or clarify personal income tax provisions.	Douglas Berguson 717-346-4633
Pennsylvania Gaming Cash Flow Management 61 Pa. Code §§ 1001.1—1001.11	July 2006, as temporary	The Department is proposing temporary regulations for Chapter 1001, Pennsylvania Gaming Cash Flow Management in accordance with the Pennsylvania Race Horse Development and Gaming Act 2004 (Act 71).	Douglas Berguson 717-346-4633
Terminal-based Lottery Games 61 Pa. Code §§ 875.1—875.17	May 2006, as final	The regulation establishes and details the procedures that will be followed in operating and administering the Terminal-based Lottery Games.	Douglas Berguson 717-346-4633
Contract Carriers Exemption Certificate-Transfer of Registration § 31.46	December 2006, as proposed	This regulatory change will amend certain regulatory provisions for exemption from sales tax for transfer of registration to conform to Federal legislation.	Douglas Berguson 717-346-4633
<b><i>SECURITIES COMMISSION</i></b>			
Limited offerings 64 Pa. Code § 203.041	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Proxy materials 64 Pa. Code § 203.151	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Debt securities of nonprofit organizations 64 Pa. Code § 203.161	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Registration by coordination 64 Pa. Code § 205.021	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Effective period of registration statement 64 Pa. Code § 207.101	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Required records; report on sales of securities and use of proceeds 64 Pa. Code § 209.010	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Retroactive registration of certain investment company securities 64 Pa. Code § 210.010	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Surety bonds 64 Pa. Code § 303.051	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Rescission offers 64 Pa. Code § 504.060	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Denial for abandonment 64 Pa. Code § 602.022	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Filing requirements 64 Pa. Code § 603.011	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Interim guidelines for the registration of associated persons—statement of policy 64 Pa. Code § 604.013	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Interim guidelines for the qualification and examination of associated persons —statement of policy 64 Pa. Code § 604.014	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Interim guidelines for the effectiveness of registration of associated persons —statement of policy 64 Pa. Code § 604.015	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Guidelines for Waivers of Uniform Securities Agent State Law Examination (Series 63), Uniform Investment Adviser Law Examination (Series 65) and General Securities Representative Non-Member Examination (Series 2)—statement of policy 64 Pa. Code § 604.016	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Broker-dealers, investment advisers, broker-dealer agents and investment adviser representatives using the Internet for general dissemination of information on products and services—statement of policy 64 Pa. Code § 604.020	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Use of prospective financials statements 64 Pa. Code § 609.010	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Accountants 64 Pa. Code § 609.033	Proposed Rulemaking Fall 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
Takeover offer or report regarding participating broker-dealers 64 Pa. Code § 1001.010	Proposed Rulemaking May 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
<b>STATE</b>			
Bureau of Commissions, Elections and Legislation -Alteration of Local Election Districts- 4 Pa. Code § 184 (16-36)	Summer 2006, as Proposed.	The regulation would address the statutory requirements relating to local redistricting in Article V of the Election Code, 25 P. S. §§ 2701—2750. Statutory Authority: Section 2750 of the Election Code, 25 P. S. § 2570, which authorizes the Secretary of the Commonwealth to promulgate regulations relating to Election District Alteration and Data Reporting.	L. Lawrence Boyle (717) 783-1657
State Board of Accountancy -General Revisions- 49 Pa. Code, Chapter 11. (16A-559)	Fall 2006, as Final.	The regulation would clarify certain issues related to the enforcement of the C.P.A. Law; make requirements consistent with the language of the C.P.A. Law; repeal outdated and unnecessary requirements; and make editorial changes. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.	Penny Walker (717) 783-1404
-Continuing Education- 49 Pa. Code §§ 11.61—11.69a (16A-5511)	Fall 2006, as Proposed.	The regulation would amend continuing professional education requirements for licensed certified public accountants and public accountants. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.	
State Architects Licensure Board -Architect Registration Examination Requirements- 49 Pa. Code § 9.45(b) (16A-419)	Fall 2006, as Proposed.	This regulation would adopt a 5-year “rolling clock” requirement that applicants pass all divisions of the Architect Registration Examination within a rolling 5-year period. Statutory Authority: Section 6(a) and (d) of the Architects Licensing Law, 63 P. S. § 34.6(a) and (d).	Penny Walker (717) 783-3397

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Schedule of Civil Penalties- 49 Pa. Code § 43b.11a. (16-32)	Fall 2006, as Final.	This regulation would amend the schedule of Act 48 civil penalties for violations of the Architects Licensure Law and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Barber Examiners -Student Work and Curriculum- 49 Pa. Code, Chapter 3 (16A-427)	Fall 2006, as Proposed	The regulation would amend the current regulations to allow for part-time attendance at barber schools; to allow for transfer of hours between a barber shop and a barber school or between barber shops regardless of whether the shop or school is in-state or out-of-state; to require shop owners and schools to submit a quarterly report of student hours to the Board; and to require a shop owner, or a shop owner's designee, to notify the Board of each student to be trained in the shop. Statutory Authority: Section 15-A.4(b) of the Barbers' License Law, 63 P. S. § 566.4(b).	Hilarene Staller (717) 783-3402
-Schedule of Civil Penalties- 49 Pa. Code § 43b.4 (16-32)	Fall 2006, as Final.	This regulation would amend the schedule of Act 48 civil penalties for violations of the Barbers' Licensing Law and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Certified Real Estate Appraisers -General Revisions- 49 Pa. Code, Chapter 36. (16A-7014)	Summer 2006, as Proposed.	The regulation represents a comprehensive revision of requirements relating to education and experience for initial certification, continuing education for renewal of certification, standards of practice, and supervision of appraisal assistants. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2); and Section 3 of the Assessors Certification Act, 63 P. S. § 458.3.	Michelle Smey (717) 783-4866
State Board of Chiropractic -Chiropractic specialties- 49 Pa. Code Ch. 5 (16A-4312)	Fall 2006, as Proposed.	The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. The regulation would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).	Deborah Smith (717) 783-7155
-Patient records- 49 Pa. Code § 5.51 (16A-4313)	Fall 2006, as Proposed.	The regulation would clarify the requirements for patient records. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).	
-Volunteer license- 49 Pa. Code § 5.20 (number not yet assigned)	Fall 2006, as Proposed.	This regulation is required to conform the regulations to the amendments to the Volunteer Health Services Act under Act 58 of 2002. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302.	
Commissioner, BPOA  -Schedule of Civil Penalties- 49 Pa. Code §§ 43b.4, 43b.8, and 43b.9 and 43b.11a (16-32)	Fall 2006, as Final.	The regulation would amend the schedules of civil penalties for the State Architects Licensure Board, State Board of Barber Examiners; State Real Estate Commission and State Board of Vehicle Manufacturers, Dealers and Salespersons that were previously codified as regulations under Act 48 of 1993. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Cynthia K. Montgomery (717) 783-7200



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Corporations Bureau  -UCC Revised Article 9- (16-35)	Fall 2006, as Proposed.	This regulation would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
State Board of Cosmetology -Accreditation of cosmetology schools- 49 Pa. Code §§ 7.111 and 7.113a (16A-4511)  -Removal of term "manager"- 49 Pa. Code, Chapter 7 (16A-4513)	Fall 2006, as Final.  Fall 2006, as Final.	This regulation amends the Board's existing regulations to clarify the accreditation requirements for cosmetology schools. Statutory Authority: Sections 6 and 11 of the Beauty Culture Law, 63 P. S. §§ 512 and 517.  This regulation amends Chapter 7 to delete all references to the manager's license, which was eliminated by Act 98 of 2002. Statutory Authority: Section 11 of the Beauty Culture Law, 63 P. S. § 517	Hilarene Staller (717) 783-7130
State Board of Dentistry -Expanded Function Dental Assistants' Curriculum Requirements- 49 Pa. Code, Chapter 33 (16A-4616)  -Administration of Local Anesthesia by Dental Hygienists- 49 Pa. Code, Chapter 33 (16A- 4617)  -Dental Hygienists Scope of Practice- 49 Pa. Code, Chapter 33 (16A- 4617)  -Sexual Misconduct- 49 Pa. Code, Chapter 33 (16A-4618)  -Volunteer license- 49 Pa. Code § 33.110 (number not yet assigned)	Fall 2006, as Proposed.  Spring 2006, as Proposed.  Fall 2006, as Proposed.  Fall 2006, as Proposed.	This regulation is intended to establish curriculum requirements for schools offering education programs for expanded function dental assistants. Statutory Authority: Section 3(a) of the Dental Law, 63 P. S. § 122(a).  This regulation will establish the requirements under which a dental hygienist may be permitted to administer local anesthesia under the direct supervision of a dentist. Statutory Authority: Section 3(d) of the Dental Law, 63 P. S. § 122(d).  This regulation is intended to update and amend the scope of practice of dental hygienists to conform to modern dental practices and will establish the requirements under which a dental hygienist may be permitted to administer local anesthesia under the direct supervision of a dentist. Statutory Authority: Section 3(d) of the Dental Law, 63 P. S. § 122(d).  This regulation will define sexual misconduct as it pertains to dentists, dental hygienists and expanded function dental assistants. Statutory Authority: Sections 3(c), (d) (d.1) and (o) of the Dental Law, 63 P. S. § 122(c), (d), (d.1) and (o).  This regulation is required to amend the current regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).	Lisa Burns (717) 783-7162
State Registration Board for Professional Engineers, Land Surveyors and Geologists			Terrie Kocher (717) 783-7049

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-General Revisions- 49 Pa. Code, Chapter 37 (number not yet assigned)	Fall 2006, as Proposed.	The regulation would clarify education and experience requirements for regular and grandfathered candidates for examination and licensure; revise categories of acceptable professional references for candidates; update the branches of engineering for which license examinations are offered; prescribe standards relating to the use of an electronic seal and signature; clarify criteria for approval of fictitious and corporate names that use variations of professional titles; eliminate unnecessary administrative requirements; and make editorial changes. Statutory Authority: Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. § 151.	
State Board of Funeral Directors -Professional Misconduct- 49 Pa. Code §§ 13.201, 13.202. (16A-4814)	Fall 2006, as Final.	The amendment would add to the Board's standards of practice and conduct. Statutory Authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).	Michelle Smey (717) 783-3397
-General Revisions- 49 Pa. Code, Chap. 13 (number not yet assigned)	Fall 2006, as Proposed	These amendments would update the Board's regulations related to advertising, application procedures, facility requirements, qualifications for licensure and responsibilities of supervisors. Statutory authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).	
-Forms Review- 49 Pa. Code §§ 13.204 and 13.244 (16A-4813)	Fall 2006, as Proposed.	This proposed regulation would clarify the criteria by which the Board will review form statements of funeral goods and services and preneed contracts and add grounds for the Board to disapprove forms. Statutory Authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).	
-Preneed Funeral Arrangements- 49 Pa. Code, Chapter 13 (16A-4815)	Fall 2006, as Proposed.	This regulation would clarify and add additional requirements for funeral directors who enter into preneed funeral arrangement agreements. Statutory Authority: Sections 13(c) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.13(c) and 479.16(a).	
State Board of Landscape Architects -General Revisions- 49 Pa. Code, Chapter 15. (16A-618)	Summer 2006, as Final.	The regulation would entail general revisions of the Board's current regulations. Statutory Authority: Section 4(9) of the Landscape Architects' Registration Law, 63 P. S. § 904(9).	Terrie Kocher (717) 772-8528
State Board of Medicine -Athletic Trainers- 49 Pa. Code, Chap. 16 (16A-4915)	Fall 2006, as Final.	This joint regulation would implement Act 92 of 2001, which gave the Medical and Osteopathic Boards jurisdiction over athletic trainers (formerly regulated by the State Board of Physical Therapy). Statutory Authority: Section 3 of Act 92 of 2001.	Tammy Radel (717) 783-1400
-Acupuncture Registration- 49 Pa. Code, Chapter 18, §§ 18.11—18.19 (16A-4919)	Fall 2006, as Final.	This regulation will amend the Board's existing regulations so that they comport with the Act 49 amendments to the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.	
-Physician Assistants- 49 Pa. Code, Chapter 18, Subchapter D (16A-4916)	Fall 2006, as Final.	This regulation amends the Board's regulations pertaining to physician assistants. Statutory Authority: Section 13 of the Medical Practice Act of 1985, 63 P. S. § 422.1.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Respiratory Care Practitioners Continuing Education- 49 Pa. Code, Chapter 18, Subchapter F. (16A-4921)	Summer 2006, as Final.	This regulation is needed to carry out the legislative mandate of Act 55 of 2004 which required certified respiratory care practitioners to complete 20 credits of continuing education each biennium as a condition of certificate renewal. Statutory Authority: Section 1 of Act 55 of 2004 and section 36.1(f) of the Medical Practice Act of 1985, 63 P. S. § 422.36a(f).	
-Volunteer License- 49 Pa. Code § 16.18 (number not yet assigned)	Fall 2006, as Proposed.	This regulation is required to amend the current regulations regarding volunteer licenses to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	
State Board of Nursing -LPN/IV Therapy- 49 Pa. Code § 21.145 (16A-5122)	Fall 2006, as Proposed	This regulation addresses the LPN's role in working with peripherally inserted central catheters (PICC lines). Statutory Authority: Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	Ann Steffanic (717) 783-7142
-RN and LPN Program Examination Pass Rates- 49 Pa. Code, Chapter 21 (16A-5123)	Fall 2006, as Proposed.	This regulation will clarify the procedure for removing a nursing education program from the approved list and further establish standards for placing a nursing education program on provisional approval or removing the program from the approved list based on the failure rate for first-time examinees on the licensure examination. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	
-CRNP General Revisions- 49 Pa. Code, Chapter 21, Subchapter C (16A-5124)	Fall 2006, as Proposed.	This regulation is required to implement Act 206 of 2002, which gave exclusive jurisdiction over CRNPs to the State Board of Nursing and to revise the existing regulations to allow the effective use of CRNPs to the full extent of their education and training. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 7(c) of Act 306 of 2002, P. L. 1567, No. 206, December 9, 2002.	
-Fees for CRNP Continuing Education Course Approval- 49 Pa. Code, Chapter 21 (16A-5128)	Fall 2006, as Proposed.	This regulation would establish a fee for the approval of CRNP continuing education courses. Statutory Authority: Sections 8.1(c) and 11.2(a) and (d) of the Professional Nursing Law, 63 P. S. §§ 218.1(c), 221.2(a) and (d).	
-Nursing Programs and Faculty Requirements- 49 Pa. Code, Chapter 21 (16A-5129)	Fall 2006, as Proposed.	This regulation updates the Board's regulations relating to nursing education programs as part of a systematic review of the professional nursing regulations undertaken by the Board. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
-Volunteer License- 49 Pa. Code, Chapter 21, Subchapter F, §§ 21.601—21.607. (number not yet assigned)	Fall 2006, as Proposed.	This regulation is required to amend the regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
State Board of Examiners of Nursing Home Administrators			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Administrator-In-Training- 49 Pa. Code, Chapter 39 (16A-627)	Fall 2006, as Proposed.	This regulation would create an alternative method for obtaining experience and training prior to admission to the licensing examination. Statutory Authority: Section 4(c) of the Nursing Home Administrators Licensing Act, 63 P. S. § 1104(c).	
State Board of Occupational Therapy Education and Licensure -Orders- 49 Pa. Code § 42.25 (16A-676)	Fall 2006, as Proposed.	This regulation would authorize an occupational therapist to receive an oral order when it is impracticable to receive a written order. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Chris Stuckey (717) 783-1389
State Board of Optometry -Volunteer License- 49 Pa. Code § 23.26 (number not yet assigned)	Fall 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).	Deborah Smith (717) 783-7155
State Board of Osteopathic Medicine -Athletic Trainers- 49 Pa. Code, Chap. 16 (16A-5314)	Fall 2006, as Final	This joint regulation would implement Act 92 of 2001, which gave the Medical and Osteopathic Boards jurisdiction over athletic trainers (formerly regulated by the State Board of Physical Therapy). Statutory Authority: Section 3 of Act 92 of 2001.	Gina Bittner (717) 783-4858
-Respiratory Care Practitioners- 49 Pa. Code, Chapter 25 (16A-5317)	Fall 2006, as Final	This regulation will amend the Board's regulations by including continuing education requirements for respiratory therapists. Statutory Authority: Section 10.2(f) of the Osteopathic Medical Practice Act, 63 P. S. § 271.10b(f).	
-Volunteer License- 49 Pa. Code, Chapter 25, Subchapter L, §§ 25.601—25.607. (number not yet assigned) .	Fall 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	
State Board of Pharmacy -Supplies and Equipment- 49 Pa. Code, Chapter 27 (16A-5415)	Fall 2006, as Proposed.	The regulation would amend existing regulations pertaining to supplies and equipment to eliminate a specific list of supplies and allow pharmacies to keep on hand supplies specific to the pharmacy's area of practice. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	Melanie Zimmerman (717) 783-7156
-General Revisions- 49 Pa. Code, Chapter 27 (16A-5416)	Fall 2006, as Proposed.	The proposed regulation would update the regulations of the Board to delete outdated portions and amend sections to recognize current pharmacy practice. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
-Continuing Education- 49 Pa. Code § 27.32 (16A-5417)	Fall 2006, as Proposed.	The proposed regulation would clarify the Board's continuing education requirements. Statutory Authority: Section 3.1 of the Pharmacy Act, 63 P. S. § 390-3.1.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Syringes and Needles- 49 Pa. Code, Chapter 27 (16A-5418)	Fall 2006, as Proposed.	This regulation would amend existing regulations to eliminate the requirement for a prescription prior to dispensing needles and syringes by a pharmacist. Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j) and 390-6(k)(1) and (9).	
-Pharmacist Breaks- 49 Pa. Code Chapter 27 (16A-5419)	Fall 2006, as Proposed.	This regulation would permit a sole pharmacist on duty to take up to a thirty-minute break while the pharmacy remains open. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
State Board of Physical Therapy -Biennial Renewal Fees- 49 Pa. Code § 40.5 (16A-6511)	Fall 2006, as Proposed.	This regulation would increase the biennial renewal fees for physical therapists, physical therapy assistants and certificate holders. Statutory Authority: Section 8(b) of the Physical Therapy Practice Act, 63 P. S. § 1308(b).	J. Robert Kline (717) 783-7134
State Board of Podiatry -Certificate of Authority to Perform Acupuncture- 49 Pa. Code, Chapter 29 (16A-449)	Fall 2006, as Proposed.	This regulation is required to establish the fees and regulate the practice of acupuncture by podiatrists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.	Gina Bittner (717) 783-4858
-Volunteer License- 49 Pa. Code § 29.55 (number not yet assigned)	Fall 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	
State Board of Psychology -Qualifications- 49 Pa. Code, Chapter 41 (16A-6315)	Fall 2006, as Proposed.	This regulation amends education, experience and examination requirements as well as creates new and amends existing supervisor requirements. Statutory Authority: Sections 3.2(1) and (2) of the Professional Psychologists Practice Act, 63 P. S. §§ 1203.2(1) and (2).	Chris Stuckey (717) 783-7155
-Electronic Transfer of Continuing Education Rosters- 49 Pa. Code § 41.59 (16A-6317)	Spring 2007, as Proposed.	This regulation would require continuing education sponsors to electronically transfer continuing education rosters to the Board. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.	
-Code of Ethics- 49 Pa. Code § 41.61 (16A-6318)	Fall 2006, as Proposed	This regulation would update the Board's Code of Ethics so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).	
State Real Estate Commission -Seller's Property Disclosure Statement- 49 Pa. Code § 33.335a (16A-5611)	Summer 2006, as Final (with Proposed rulemaking omitted)	This regulation adopts a form "seller's property disclosure statement" as required by Act 114 of 2000. Statutory Authority: Section 7304(a) of the Residential Real Estate Transfers Law, 63 P. S. § 7304(a).	Deborah Misheck (717) 783-3658

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Education- 49 Pa. Code § 35.384, 35.385. (16A-5613)	Winter 2006-2007, as Proposed.	The Proposed Regulation would require new licensees to complete a mandatory 14-hour post-licensure course in lieu of their continuing education. Statutory Authority: Sections 404 and 404.1 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.404a.	
-Consumer Notice- 49 Pa. Code § 35.336 (16A-5614)	Fall 2006, as Proposed.	This regulation would shorten and simplify the Consumer Notice mandated by section 608 of the Real Estate Licensing and Registration Act. Statutory Authority: 63 P. S. § 455.608.	
-Schedule of Civil Penalties- 49 Pa. Code § 43b.8 (16-32)	Fall 2006, as Final.	This regulation would amend the existing Act 48 Schedule of Civil Penalties formerly promulgated by the Real Estate Commission in 1998. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors -Continuing Education- 49 Pa. Code, Chapter 47 (16A-6912)	Fall 2006, as Final.	This regulation would require that licensees complete continuing education as a condition of license renewal. Statutory Authority: Sections 18(a) 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. §§ 1918(a) and 1906(2).	Sandra Matter (717) 783-1389
-Sexual Misconduct- 49 Pa. Code §§ 50.20—50.25. (16A-691)	Summer 2006, as Final.	This regulation defines the professional relationship and prohibits sexual intimacies between a client/patient and the social worker, clinical social worker, marriage and family therapist or professional counselor. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	
-Technical Amendments- 49 Pa. Code §§ 47.1 and 47.1a. (16A-699)	Fall 2006, as Final.	This regulation clarifies the definition of "accredited school" and deletes the requirement that supervisors of clinical social work applicants for licensure hold a license to practice social work in this Commonwealth so long as they are currently licensed to practice social work in any jurisdiction. Statutory Authority: Section 6 of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906.	
-Child Abuse Reporting Requirements- 49 Pa. Code, Chapters 48 and 49 (16A-6910)	Fall 2006, as Final.	This regulation would extend the mandatory reporting requirements of the Child Protective Services Law (CPSL) to marriage and family therapists and professional counselors. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2) and Section 6383 of the CPSL, 23 Pa.C.S. § 6383.	
-Standards of Professional Conduct- 49 Pa. Code, Chapters 47, 48 and 49 (16A-6911)	Fall 2006, as Proposed.	The regulation would establish a code of ethics and standards of professional conduct for social workers, clinical social workers, marriage and family therapists, and professional counselors licensed by the board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	
State Board of Examiners in Speech -Language and Hearing			Sandra Matter (717) 783-1389

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Assistant Regulations- 49 Pa. Code §§ 45.301—308. (16A-6801)	Fall 2006, as Proposed.	This amendment would update the regulatory provisions pertaining to assistants. Statutory Authority: Section 5(8) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(8).	
-Standards of Practice and Conduct- 49 Pa. Code § 45.103 (number not yet assigned)	Fall 2006, as Proposed.	This regulation would provide the Board with an enforcement mechanism to compel a mental or physical exam where there is probable cause to believe a licensee is unable to practice with reasonable skill and safety because of illness, drunkenness, excessive use of controlled substances, chemicals or other materials or as a result of a physical or mental condition. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).	
State Board of Vehicle Manufacturers, Dealers and Salespersons -Salesperson License- 49 Pa. Code, Chapter 19 (16A-609)	Fall 2006, as Proposed.	The Board of Vehicles Act requires every person who is engaged in the buying, selling or exchanging of vehicles for a commission, compensation or other consideration, to be a licensed salesperson on behalf of a dealer, unless that person is the dealer. This regulation would clarify that the reference to "dealer" in the phrase "unless that person is the dealer" refers only to a person holding a dealer license as a sole proprietor. Statutory Authority: Section 4(9) of the Board of Vehicles Act, 63 P. S. § 818.4(9).	Pamela Marsden (717) 783-1697
-Act 48 of 1993 Civil Penalties- 49 Pa. Code, Chapter 43b.9 (16-32)	Fall 2006, as Final.	This regulation would amend the schedule of Act 48 of 1993 civil penalties for violations of the Board of Vehicles Act and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Veterinary Medicine -Certified Veterinary Technician Specialties- 49 Pa. Code § 31.38. (16A-5716)	Fall 2006, as Final.	This regulation would provide that only an individual certified by a veterinary technology academy recognized by the National Association of Veterinary Technicians may hold himself or herself out as a specialist. Statutory Authority: Section 11 of the Veterinary Medicine Practice Act, 63 P. S. § 485.11.	J. Robert Kline (717) 783-7134
-Biennial Renewal Fees- 49 Pa. Code § 31.41 (16A-5717)	Summer 2006, as Final.	This regulation would increase the biennial license renewal fee for veterinarians from \$225 to \$300, and would increase the biennial renewal fee for certified veterinary technicians from \$60 to \$75. Statutory Authority: Section 13(a) of the Veterinary Medicine Practice Act, 63 P. S. § 485.13(a).	
-Veterinary Dentistry- 49 Pa. Code, Chapter 31 (16A-5718)	Spring 2007, as Proposed.	This regulation would address issues relating to veterinary dentistry. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.	
-Record Keeping- 49 Pa. Code, Chapter 31 (16A-5719)	Fall 2006, as Proposed	This regulation would establish standards for veterinary medical records. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Facilities- 49 Pa. Code, Chapter 31 (16A-5720)	Spring 2007, as Proposed.	This regulation would establish standards for and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.	
-Professional Conduct- 49 Pa. Code, Chapter 31 (16A-5721)	Fall 2006, as Proposed.	This regulation would clarify the types of conduct that constitutes unprofessional conduct which may lead to disciplinary action under section 21(1) of the Veterinary Medicine Practice Act. Statutory Authority: Sections 5 and 21 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.21.	
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>			
4 Pa. Code § 250.2. Time to appeal. (This proposed regulation will supercede that portion of 1 Pa. Code § 35.35 pertaining to the 10-day period of time to appeal from delegated actions of subordinate officers and substitute a 30-day period of time to file an appeal.)	Spring 2006 The Board started the promulgation at its April 26, 2006 meeting.	Current hearing regulations are inconsistent with operational practice supporting member-friendly service.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code §§ 250.1 and 250.15. Applicability of general rules. (These current regulations will be modified to permit the application of proposed 4 Pa. Code § 250.2.)	Spring 2006 The Board started the promulgation at its April 26, 2006 meeting.	Specific provisions in SERS' regulations should be exceptions to the general rules of administrative practice and procedure.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code § 247.11 Priority of taxation, attachments and assignments of funds. (This proposed regulation will clarify the priority of payments to be made from the members' accounts by SERS pursuant to 71 Pa. C.S. § 5953.)	Summer/Fall 2006	The statute does not set priorities among conflicting demands on members' accounts. A recent court decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Brian McDonough, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code § 247.7(c). Priority of death benefit payment. (This proposed regulation will clarify the priority of death benefit payments to be made by SERS pursuant to the second sentence of 71 Pa.C.S. § 5905(g).)	Summer/Fall 2006	The statute does not set priorities among conflicting demands on members' death benefits. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 241.1. Preliminary Provisions. (This proposed regulation will delete the definition of the phrase "class of service multiplier" from the definitional section of the regulations.)	Spring 2006	The final-form documents have been filed with the Legislative Reference Bureau. The definition to be repealed is outmoded and does not apply to the benefit formula currently in use.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
4 Pa. Code § 243.8. Membership, Credited Service, and Eligibility for Benefits. (This proposed regulation will delete the classes of service which were closed to new members on March 1, 1974)	Spring 2006 The final-form documents have been filed with the Legislative Reference Bureau.	The regulation has been rendered obsolete by changes to SERS' enabling legislation and benefit formula.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
4 Pa. Code § 249.2 Preliminary Provisions. (This proposed regulation will delete the portion of this regulation dealing with public inspection of certain records of the State Employees' Retirement Board.)	Spring 2006 The final-form documents have been filed with the Legislative Reference Bureau.	The regulation is outmoded, unenforceable and is unnecessary due to the Right-To-Know Law.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
4 Pa. Code § 247.3. Reduction of annuities because of Social Security old-age insurance benefits.	Fall/Winter 2006	This reserved section will be used to clarify the effect of COLAs on annuity reductions.	Brian McDonough, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
<b>STATE POLICE</b>			
Interception, maintenance, and destruction of Mobile Video Recordings 37 Pa. Code Chapter 50	January 2007, as proposed.	Act 53 of 2002 requires the State Police Commissioner, in consultation with the Attorney General, to promulgate these regulations. 18 Pa.C.S. §§ 5704(16), 5749	Syndi L. Guido Policy Director 717-772-0905
DNA Detection of Sexual and Violent Offenders. 37 Pa. Code Chapter 58	January 2007, as proposed	Act 185 of 2004 repealed Chapter 47 of Title 42 of the Pennsylvania Consolidated Statutes and amended Title 44 to add Chapter 23, DNA Data and Testing. The act requires the State Police to promulgate rules and regulations to carry out its provisions.	Syndi L. Guido Policy Director 717-772-0905

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Administration of Megan's Law—Neighbor Notification 37 Pa. Code Chapter 55	January 2007, as proposed	Act 18 of 2000, known as Megan's Law, provides for the registration of sexual offenders and community notification for sexually violent predators. The act requires the Department to promulgate guidelines for the general administration of the act in consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole, and the chairmen and minority chairmen of the Senate and House Judiciary Committees. The act also requires the Department to write regulations regarding neighbor notification of sexually violent predators' residence, school, or employer. See 42 Pa.C.S. § 9799.1 Although the requisite guidelines and regulations have been promulgated, the Department is in the process of updating them in light of Act 152 of 2004, which made substantive amendments to Megan's Law.	Syndi L. Guido Policy Director 717-772-0905
<b>STATE SYSTEM OF HIGHER EDUCATION</b>			
No regulations being developed or considered at this date.			
<b>TRANSPORTATION</b>			
177-Emission Inspection 67 Pa. Code, Chapter 177	July 2006	This regulation must be retained to stay in compliance with clean-air goals. Due to various Vehicle Code amendments and other desired changes, amendments to the regulation are required in the area of inspection station signage.	John Munafo 717-787-2171
43-Temporary Registration Cards and Plates 67 Pa. Code, Chapter 43	March 2007	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supercedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations or fines will be removed from the regulation, as these items are now addressed in the required contracts.	Andy Cleaver 717-787-2171
75-Driver's License Exam 67 Pa. Code, Chapter 75	October 2006	The regulation is being revised to allow chiropractors to complete the learner's permit physical. HB1912, Act 76, passed July 15, 2004, requires us to allow chiropractors to complete this physical.	Anne Titler 717-783-4737
21-Odometer Read Disclosure Statements 67 Pa. Code, Chapter 21	March 2007	Changes are needed to bring the regulation current with the Vehicle Code, to specify the age at which a vehicle becomes exempt from odometer disclosure.	Andy Cleaver 717-787-2171
23-Delivery of Certificates of Title 67 Pa. Code, Chapter 23	March 2007	The method of title delivery has changed due to the electronic lien and title program (75 Pa.C.S. Section 1151). This Chapter needs to be updated to reflect the ability to transmit titles with liens electronically, rather than by mail.	Andy Cleaver 717-787-2171
13-Special Mobile Equipment 67 Pa. Code, Chapter 13	March 2007	Act 211 of 2004, which took affect January 29, 2005, changed the vehicle code definition of special mobile equipment. The regulation needs revised to align with that definition change.	Andy Cleaver 717-787-2171
17-Authorization to Verify ID Numbers 67 Pa. Code, Chapter 17	March 2007	Changes needed to document the Vehicle Identification Number (VIN) verification process. The VIN verification process is not currently documented in either the Vehicle Code or in regulations.	Andy Cleaver 717-787-2171
51-Transfer, Exchange & Reclassification of Registration 67 Pa. Code, Chapter 51	September 2006	An amendment is needed to eliminate the actual transfer fee dollar amount reference in the regulation, and replace with a reference to Section 1927 of the Vehicle Code where the fee is already listed. This will eliminate regulatory changes, if the fee amount changes in the Vehicle Code.	Phil VanBriggle 717-787-2171

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
71-School Bus Drivers 67 Pa. Code, Chapter 71	October 2006	The regulation needs to be revised to allow chiropractors to complete the school bus driver physical. HB1912, Act 76, passed July 15, 2004, requires us to allow chiropractors to complete this physical.	Chris Miller 717-346-9479
221-Obligations of Insurer and Vehicle Owner Pa. Code, Chapter 221	December 2006	This regulation should be updated to reflect the changes being proposed for more use of electronic reporting of insurance cancellation information by insurers.	Phil VanBriggles 717-787-2171
255-Messenger Services 67 Pa. Code, Chapter 255	March 2007	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supersedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations, or fines will be removed from the regulation as these items are now addressed in the required contracts.	Andy Cleaver 717-787-2171
457-Prequalification of Bidders 67 Pa. Code, Chapter 457	September 2006	The Bureau of Construction Materials is proposing changes to the regulation due to policy changes and ECMS bid procedure changes since the last modification which was in 1998.	Joseph Cribben 717-787-3733
471-Aviation 67 Pa. Code, Chapter 471	December 2006	This regulation is being revised to clarify requirements and to allow for more practical application and enforcement of those requirements.	Brian Gearhart 717-705-1250

[Pa.B. Doc. No. 06-1227. Filed for public inspection June 30, 2006, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, June 15, 2006, and announced the following:

*Regulations Deemed Approved under section 5(g) of the Regulatory Review Act—Effective June 14, 2006*

Insurance Department #11-227: Credit Life Insurance and Credit Accident and Health Insurance (amends 31 Pa. Code Chapter 73)

Insurance Department #11-228: Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts (amends 31 Pa. Code Chapter 84a)

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-1228. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. 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](http://www.irrc.state.pa.us) for updates.

<i>Final-Omit Reg. No.</i>	<i>Agency/Title</i>	<i>Public Received Meeting</i>
11-233	Insurance Department Advances Made to Companies (Other Than Mutual Life)	6/15/06 7/20/06

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-1229. Filed for public inspection June 30, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Encompass Insurance Company of America; Private Passenger Auto Insurance Rate Revision; Rate Filing

On June 12, 2006, the Insurance Department (Department) received from Encompass Insurance Company of America a filing for a proposed rate level change for private passenger auto insurance.

The company requests an overall 6.9% increase amounting to \$5.814 million annually, to be effective August 24, 2006, for new business and renewal business.

Unless formal administrative action is taken prior to August 11, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1230. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Keystone Health Plan Central; Base Rates; Rate Filing

On June 19th, 2006, Keystone Health Plan Central submitted Filing No. 06-J to revise its base rates. In this filing, Keystone Health Plan Central has requested a rate reduction of 4.57% for its fourth quarter 2006 rates. The filing will impact approximately 64,000 members. An effective date of October 1, 2006, has been requested.

A copy of the filing is available on the Insurance Department's (Department) website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1231. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Keystone Health Plan Central; Medical Rider Rates; Rate Filing

On June 19th, 2006, Keystone Health Plan Central submitted Filing No. 06-K to revise its fourth quarter 2006 medical rider rates. The rate changes vary with the options chosen. The filing will impact approximately 64,000 members. An effective date of October 1, 2006, has been requested.

A copy of the filing is available on the Insurance Department's (Department) website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1232. Filed for public inspection June 30, 2006, 9:00 a.m.]

### Westfield Insurance Company; Homeowners Insurance Rule/Rate Revision; Rate Filing

On June 13, 2006, the Insurance Department (Department) received from Westfield Insurance Company a filing for a proposed rate level and rule change for homeowners insurance.

The company requests an overall 4.2% decrease amounting to -\$1.096 million annually effective October 1, 2006.

Unless formal administrative action is taken prior to August 12, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1233. Filed for public inspection June 30, 2006, 9:00 a.m.]

## PATIENT SAFETY AUTHORITY

### Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member Board of Directors on Tuesday, July 11, 2006, at 10:30 a.m. in the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B. K. RABINOWITZ,  
*Administrator*

[Pa.B. Doc. No. 06-1234. Filed for public inspection June 30, 2006, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

### Conditional Category 1 Slot Machine License Hearing Schedule

The Pennsylvania Gaming Control Board (Board), under 58 Pa. Code § 441.19 (relating to initial slot machine application deadlines), has adopted a schedule for the slot machine licensing hearings for Conditional Category 1 slot machine license applications. The hearings, which will be open to the public, will be conducted on August 7–9, 2006, at the Auditorium, State Museum Building, Third and North Streets, Harrisburg. The times and dates of the hearings are as follows:

#### Monday, August 7, 2006

2 p.m.—Washing Trotting Association, Inc. (Meadowlands)

#### Tuesday, August 8, 2006

9 a.m.—Presque Isle Downs, Inc. (Erie)

12:30 p.m.—Downs Racing, LP (Wilkes-Barre)

3 p.m.—Chester Downs and Marina, LLC (Chester)

#### Wednesday, August 9, 2006

9 a.m.—Mountainview Thoroughbred Racing Association (Grantville)

12:30 p.m.—Greenwood Gaming and Entertainment, Inc. (Bensalem)

THOMAS A. DECKER,  
*Chairperson*

[Pa.B. Doc. No. 06-1235. Filed for public inspection June 30, 2006, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by July 24, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-00122875. James and Dina Lilly t/a JDK Services** (129-F Groffdale Drive, Quarryville, Lancaster County, PA 17566)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

**A-00122880. Norman O. and Mabel F. Martin** (85 N. Farmersville Road, Ephrata, Lancaster County, PA 17522)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, and from points west of Route 1 in the County of Chester, to points in Pennsylvania, and return.

**A-00122881. Martha K. Boyer t/a Vu Gaesht Onna** (1071 Huff Road, New Columbia, Union County, PA 17856)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Township of White Deer, and within 35 miles of said township, to points in Pennsylvania, and return.

**A-00122882. Brad Allen Wright** (290 Samuels Church Road, McClure, Mifflin County, PA 17841)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Mifflin and Snyder, to points in Pennsylvania, and return.

#### Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.*

**A-00122873 AA Taxi, Inc.** (540 Toftrees Avenue, No. 342, State College, Centre County, PA 16803) a corporation of the Commonwealth, for the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand, in the County of Centre; which is to be a transfer of all of the rights authorized under the certificate issued at A-00119864, F.1 to AA Transit, Inc., subject to the same limitations and conditions. *Attorney:* Richard Campbell, Esquire, 720 S. Atherton Street, State College, PA 16801.

**A-00120860, F. 2. Transportation Information Enterprises, LLC** (4001 Clairton Boulevard, West Mifflin, Allegheny County, PA 15206) a corporation of the Commonwealth, for the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand, in the City of Pittsburgh, Allegheny County; which is to be a transfer of all the rights under the certificate issued at A-00076135, F.2 to Peoples Cab Co., subject to the same limitations and conditions. *Attorney:* Ray F. Middleman, Esquire, 117 VIP Drive, Wexford, PA 15090.

#### Application of the following for the approval of the *right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.*

**A-00121372. Thomas A. Riley** (208 Goat Hill Road, Peach Bottom, Lancaster County, PA 17563)—certificate of public convenience to discontinue the right to transport, as a common carrier, persons in paratransit service, whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1236. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-311394F7037. Deposit Telephone Company, Inc. and T-Mobile USA, Inc.** Joint petition of Deposit Telephone Company, Inc. and T-Mobile USA, Inc. for approval of a multistate wireless traffic exchange agreement under section 252(e) of the Telecommunications Act of 1996.

Deposit Telephone Company, Inc. and T-Mobile USA, Inc., by its counsel, filed on June 1, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a multistate wireless traffic exchange agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Deposit Telephone Company, Inc. and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1237. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-311394F7024. Sugar Valley Telephone Company and T-Mobile USA, Inc.** Joint petition of Sugar Valley Telephone Company and T-Mobile USA, Inc. for approval of a multistate wireless traffic exchange agreement under section 252(e) of the Telecommunications Act of 1996.

Sugar Valley Telephone Company and T-Mobile USA, Inc., by its counsel, filed on June 15, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a multistate wireless traffic exchange agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Sugar Valley Telephone Company and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1239. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-311394F7023. Mahanoy and Mahantango Telephone Company and T-Mobile USA, Inc.** Joint petition of Mahanoy and Mahantango Telephone Company and T-Mobile USA, Inc. for approval of a multistate wireless traffic exchange agreement under section 252(e) of the Telecommunications Act of 1996.

Mahanoy and Mahantango Telephone Company and T-Mobile USA, Inc., by its counsel, filed on June 15, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a multistate wireless traffic exchange agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Mahanoy and Mahantango Telephone Company and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1238. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-311401F7001. Verizon North Inc. and CBB Carrier Services, Inc.** Joint petition of Verizon North Inc. and CBB Carrier Services, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and CBB Carrier Services, Inc., by its counsel, filed on June 16, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and CBB Carrier Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1240. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-311401F7000. Verizon Pennsylvania Inc. and CBB Carrier Services, Inc.** Joint petition of Verizon Pennsylvania Inc. and CBB Carrier Services, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and CBB Carrier Services, Inc., by its counsel, filed on June 15, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and CBB Carrier Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1241. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Telecommunications

**A-310782F7000. Verizon Pennsylvania Inc. and IDT America, Corp.** Joint petition of Verizon Pennsylvania Inc. and IDT America, Corp. for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and IDT America, Corp., by its counsel, filed on June 15, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and IDT America, Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1242. Filed for public inspection June 30, 2006, 9:00 a.m.]

## Water Service

**A-210116F0002. Three-Lane Utilities, Inc.** Application of Three-Lane Utilities, Inc. for approval of the right to begin to offer, render, furnish or supply water service to the public in an additional portion of Westfall Township, Pike County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 17, 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:* Three-Lane Utilities, Inc.

*Through and By Counsel:* Kenneth Zielonis, Esquire, Stevens and Lee, 17 North Second Street, 16th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1243. Filed for public inspection June 30, 2006, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-019.1, U/G Storage Tank Removal at Pier 98 S. Annex until 2 p.m. on Thursday, July 27, 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 July 7, 2006. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held July 13, 2006, at 10 a.m. at 140 E. Oregon Ave. (pier entrance west of Corner of Columbus Blvd. and Oregon Ave.), Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 06-1244. Filed for public inspection June 30, 2006, 9:00 a.m.]

# STATE CONSERVATION COMMISSION

## Dirt and Gravel Roads Pollution Prevention Maintenance Program

As required by 25 Pa. Code § 83.604(f) (relating to apportionment criteria), the State Conservation Commission (Commission) is providing public notice of the apportionment of Fiscal Year (FY) 2006 Dirt and Gravel Road Pollution Prevention Maintenance Program (Program) funds to participating county conservation districts. This apportionment is authorized under 75 Pa.C.S. § 9106 (relating to dirt and gravel road maintenance).

### A. Effective Date

This apportionment is effective upon publication in the *Pennsylvania Bulletin*. Allocations will be disbursed when funds are released from the Treasury after July 1, 2006. The final amount and time of release of these allocations are subject to the final passage of the State budget of 2006-2007.

### B. Background

The Commission approved the following allocations at their public meeting on March 15, 2006: \$3.528 million of FY 06 funds are apportioned according to stipulations in 75 Pa.C.S. § 9106(c). Copies of 25 Pa. Code § 83.604 and 75 Pa.C.S. § 9106 are available from Michael Klimkos, State Conservation Commission Office, Room 407, Agriculture Building, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717) 787-8821.

The following allocations are being made to the county conservation districts participating in the Program. Not all counties receive an allocation as provided for at Pa. Code § 83.613(a) (relating to performance standards).

### FY 2006—2007 Allocations

*Adams	\$15,000*
**Allegheny	\$0**
Armstrong	\$127,973
*Beaver	\$15,000*
Bedford	\$41,022
*Berks	\$15,000*
Blair	\$20,773
Bradford	\$315,337
Bucks	\$16,604
Butler	\$30,098
Cambria	\$15,156
Cameron	\$33,386
Carbon	\$25,955
Centre	\$33,576
Chester	\$17,181
Clarion	\$60,990
Clearfield	\$67,166
Clinton	\$22,948
Columbia	\$79,468
Crawford	\$147,591
*Cumberland	\$15,000*
Dauphin	\$23,599
Elk	\$24,238

Erie	\$53,308
Fayette	\$32,468
Forest	\$21,414
Franklin	\$15,328
Fulton	\$30,368
Greene	\$37,971
Huntingdon	\$72,068
Indiana	\$93,510
Jefferson	\$45,399
Juniata	\$36,166
Lackawanna	\$28,596
Lancaster	\$16,765
*Lawrence	\$15,000*
*Lebanon	\$15,000*
Lehigh	\$26,313
Luzerne	\$25,094
Lycoming	\$82,993
McKean	\$21,316
Mercer	\$47,624
Mifflin	\$20,905
**Monroe	\$0**
*Montgomery	\$15,000*
Montour	\$17,885
**Northampton	\$0**
Northumberland	\$48,110
Perry	\$42,036
Pike	\$57,042
Potter	\$133,531
Schuylkill	\$54,020
Snyder	\$28,229
Somerset	\$33,794
Sullivan	\$68,323
Susquehanna	\$135,913
Tioga	\$315,545
Union	\$25,489
Venango	\$74,679
Warren	\$193,065
Washington	\$76,873
Wayne	\$115,257
Westmoreland	\$27,405
Wyoming	\$58,130
York	\$107,007

\* \$15,000 minimum applied

\*\* Did not meet SCC spending requirements for allocation eligibility

Total Allocated to Districts = \$3,528,000

DENNIS C WOLFF,  
Chairperson

[Pa.B. Doc. No. 06-1245. Filed for public inspection June 30, 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



① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
  
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

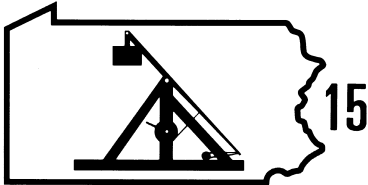
## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreaury.org](http://www.patreaury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

## SERVICES



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### Environmental Maintenance Service

**OSM 11(4789)101.1** Abandoned Mine Reclamation Project, Weyerough Run North. The principal items of work and approximate quantities include 49,325 cubic yards of Grading Site 1, 241,000 cubic yards of Grading Site 2, 31.8 acres of Seeding and planting 19,450 Trees. This project issues on June 9, 2006 and bids will be opened on July 11, 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:** Chest Township, Cambria County  
**Duration:** 365 calendar days after official starting date.  
**Contact:** Construction Contracts Section, 717-787-7820

**BF 491-101.1** Abandoned Mine Land Reclamation Project, Hamilton Brothers Coal, Inc. Mining Permit Nos. 17880122 and 17910122. The principal items of work and approximate quantities include 362,00 cubic yards of Grading, 12 acres of Selective Grading, 400 cubic yards of Ditch Excavation, 2,700 square yards of HVECMB and 82 acres of Seeding. This project issues on June 9, 2006 and bids will be opened July 11, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received.

**Department:** Environmental Protection  
**Location:** Beccaria Township, Clearfield County  
**Duration:** 300 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-787-7820

**OSM11(4789)101.1** Abandoned Mine Reclamation Project, Weyerough Run North. The principal items of work and approximate quantities include 49,325 cubic yards of Grading Site 1, 241,000 cubic yards of Grading Site 2, 31.8 acres of Seeding and planting 19,450 Trees. This project issues on June 9, 2006 and bids will be opened on July 11, 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:** Chest Township, Cambria County  
**Duration:** 365 calendar days after official starting date.  
**Contact:** Construction Contracts Section, 717-787-7820

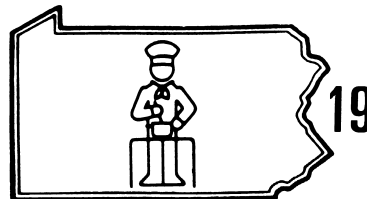


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### Financial and Insurance Consulting

**PSERS RFP 2006-2** The Public School Employees' Retirement System (PSERS) is seeking a firm or organization to provide pharmacy benefit management services for the prescription drug programs of the Health Options Program (HOP). The prescription drug programs relevant to this RFP cover approximately 40,000 individuals in an employer/union direct Medicare PDP and 1,000 individuals in an under-65 program. Most participants reside in Pennsylvania. Approximately 10% of participants reside outside the Commonwealth. A copy of the RFP may be obtained at PSERS website by close of business on May 26, 2006, at <http://www.psers.state.pa.us/org/RFP.htm>. A Preproposal Conference will be held on June 5, 2006 at 2:00 PM at PSERS Main Office. Proposals are due June 27, 2006 at 2:00 PM.

**Department:** Public School Employees' Retirement System  
**Location:** 5 North 5th Street, Harrisburg, PA 17101  
**Duration:** One year with 4 one-year options.  
**Contact:** Terrienne P. Mirarchi, 717-720-4604



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### Food

**FROZENS-FY06-HOU** Vendor shall supply frozen food items to include, but not be limited to, frozen vegetables, frozen entrees such as pizza; pierogies; waffles; frozen potato products such as tater tots, french fries; frozen eggs, etc. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**FRESH EGGS-QBC-FY06** Vendor shall supply fresh eggs; shell, white, grade A, medium or large, naturals, PA Spec. 3-10, Effective 5/1/74. To be supplied thirty (30) dozen/case. Bids may be solicited on a weekly, monthly or quarterly basis with deliveries scheduled weekly, bi-weekly or monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**BREAD-QBC-FY06** The vendor shall supply bread and rolls, to include but not be limited to, white and/or whole wheat, hamburger/hotdog/hoagie or sandwich rolls. Bids may be solicited on a monthly, quarterly or semi-annual basis with deliveries scheduled weekly, bi-weekly or monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PORK-QBC-FY06** Vendor shall supply pork and pork products to include, but not be limited to, pork roasts, ham, pulled pork, pork mixed products, etc. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PORK-HOU-FY06** Vendor shall supply pork and pork products to include, but not be limited to, pork roasts, ham, pulled pork, pork mixed products, etc. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**POULTRY-FY06-HOU** Vendor shall supply poultry and poultry products to include, but not be limited to, chicken, whole, pieces, ground, patties (both breaded and unbreaded); turkey, fresh or frozen, whole or ground, boneless/formed roasts; poultry franks; poultry kielbasa, poultry cold-cuts, turkey hams, pulled poultry pieces, etc. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

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**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**DAIRY-QBC-FY06** Milk and milk products, to include, but not be limited to: skim milk, 2%, chocolate, in both 5-gal containers and half-pints. Cheese, to include but not be limited to, American, Swiss, Cheddar, Cottage. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**BEEF-QBC-FY06** Vendor shall supply beef and beef products to include, but not be limited to, beef cubes, beef roast, cubed steak, wafer steak, ground beef, meatballs, patties, Salisbury steaks, sausage and beef/soy mixed and beef/veal mixed products. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**FRESH EGGS-HOU-FY06** Vendor shall supply fresh eggs; shell, white, grade A, medium or large, naturals, PA Spec. 3-10, Effective 5/1/74. To be supplied thirty (30) dozen/case. Bids may be solicited on a weekly, monthly or quarterly basis with deliveries scheduled weekly, bi-weekly or monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**SEAFOOD-HOU-FY06** Fish and seafood to include, but not be limited to, haddock and cod, breaded and/or unbreaded; minced clams; crabmeat and other seafood as required. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**SEAFOOD-QBC-FY06** Fish and seafood to include, but not be limited to, haddock and cod, breaded and/or unbreaded; minced clams; crabmeat and other seafood as required. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PRODUCE-HOU-FY06** Produce: Fresh fruits and vegetables, ready-to-use vegetables. Bids will be solicited monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PRODUCE-QBC-FY06** Produce: Fresh fruits and vegetables, ready-to-use vegetables. Bids will be solicited monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**MILK/DAIRY-HOU-FY06** Milk and Milk products, to include, but not be limited to: skim milk, 2%, chocolate, in both 5-gal containers and half-pints. Cheese, to include but not be limited to, American, Swiss, Cheddar, Cottage, etc. Bids will be solicited monthly or quarterly with deliveries scheduled as needed, except milk will be bid semi-annually with vendors selected by lottery. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**DAIRY-HOU-FY06** Milk and milk products, to include, but not be limited to: skim milk, 2%, chocolate, in both 5-gal containers and half-pints. Cheese, to include but not be limited to, American, Swiss, Cheddar, Cottage. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**BEEF-FY06-HOU** Vendor shall supply beef and beef products to include, but not be limited to, beef cubes, beef roast, cubed steak, wafer steak, ground beef, meatballs, patties, Salisbury steaks, sausage and beef/soy mixed and beef/veal mixed products. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**CN00021244** Perishable Food - Bread and Bread Products. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendor.registration.state.pa.us](http://www.vendor.registration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** Deliveries are for the time period of July, August, and September, 2006. Bid opening date/time is 6/9/06 at 2 p.m.  
**Contact:** Debbie Jones, 610-313-1025

**FRESH FRUIT & VEGETABLES** Fresh Fruit and Vegetables. Bids will be done on a monthly basis for deliveries beginning August 1, 2006 through June 30, 2007. Bid package available from Purchasing Office at the institution.

**Department:** Corrections  
**Location:** State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** August 1, 2006 TO June 30, 2007.  
**Contact:** Mary Lou Neverosky, Purchasing Agent II, 570/773-2158, Ext. 419

**CN00021189** Perishable Foods - Meat and Meat Products. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendor.registration.state.pa.us](http://www.vendor.registration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** Deliveries are for the time period of July, August, and September, 2006. Bid opening date/time is 6/12/06 at 2 p.m.  
**Contact:** Debbie Jones, 610-313-1025

**CN00021231** Perishable Foods - Poultry and Poultry Products. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendor.registration.state.pa.us](http://www.vendor.registration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** Deliveries are for the time period of July, August, and September, 2006. Bid opening date/time is 6/12/06 at 2 p.m.  
**Contact:** Debbie Jones, 610-313-1025 Phone: 610-313-1025 Publication Date: 7/1/2006

**SEAFOOD-FY06-HOU** Fish and seafood to include, but not be limited to, haddock and cod, breaded and/or unbreaded; minced clams; crabmeat and other seafood as required. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale PA 16698-1000  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**FROZENS-FY06-QBC** Vendor shall supply frozen food items to include, but not be limited to, frozen vegetables, frozen entrees such as pizza; pierogies; waffles; frozen potato products such as tater tots, french fries; frozen eggs, etc. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PG-0060** The State Correctional Institution at Pine Grove will be soliciting bids for produce. Bid proposals will be issued on a monthly basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Pine Grove, 189 Fyock Rd., Indiana, PA 15701  
**Duration:** August 1, 2006 through to July 30, 2007  
**Contact:** Sherre Benninghoff, 724-465-9630

**BEEF-FY06-QBC** Vendor shall supply beef and beef products to include, but not be limited to, beef cubes, beef roast, cubed steak, wafer steak, ground beef, meatballs, patties, salisbury steaks, sausage and beef/soy mixed and beef/veal mixed products. Bids will be solicited on a monthly or quarterly basis with deliveries scheduled weekly, monthly or as needed. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

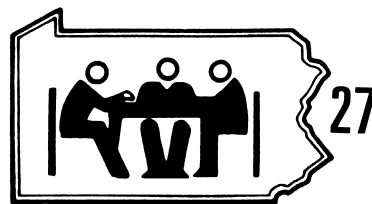
**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**MILK/DAIRY-QBC-FY06** Milk and Milk products, to include, but not be limited to: skim milk, 2%, chocolate, in both 5-gal containers and half-pints. Cheese, to include but not be limited to, American, Swiss, Cheddar, Cottage, etc. Bids will be solicited monthly or quarterly with deliveries scheduled as needed, except milk will be bid semi-annually with vendors selected by lottery. MBE/WBE vendors are encouraged to request bid packets. Vendor must be registered with the State of Pennsylvania and have a valid SAP vendor # to request bid packets.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, 4395 Quehanna Highway, Karthaus PA 16845  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Peggy Baughman, PA2, 814-378-1000

**PRODUCE-2006 FRESH FRUITS & VEGETABLES:** Purchase orders shall cover the months of August 2006 through June 2007 with issuance of bid proposals made on a monthly or more frequent basis. Delivery of the product(s) specified shall be made approximately two days each week, or as needed and requested by the Institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institution contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, R. R. 10, Route 119 South, Greensburg, PA 15601-8999  
**Duration:** August 1, 2006 to June 30, 2007  
**Contact:** Gena M. Hainesworth, 724-837-4397



### Lodging/Meeting Facilities

**ADV#285** Indiana University of Pennsylvania, a member of the Pennsylvania State System of Higher Education, is seeking qualified vendors to respond to a Request for Proposal to provide hotel services for the University. Requests for copies of the RFP package should be made in writing referencing ADV #285 and directed to the attention of Sherry Brown, Purchasing Services, IUP, Robertshaw Building, 650 S. 13th Street, Indiana, PA 15705; Fax 724-357-2670; email [sbrown@iup.edu](mailto:sbrown@iup.edu). Interested vendors should submit their requests to be placed on the bidders list no later than June 14, 2006. Bid packages will be mailed to vendors after June 15, 2006. The University encourages responses from small and disadvantaged, minority and women-owned firms.

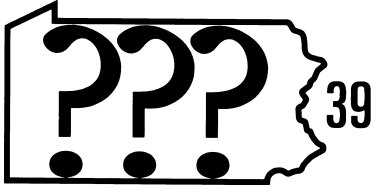
**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Robertshaw Building, 650 South 13th Street, Indiana, PA 15705  
**Duration:** Three Years  
**Contact:** Sherry S. Brown, 724-357-2301



### Medical Services

**SP1345071004** Vendor to supply rehabilitative services (including O.T., P.T., Speech Therapy, Etc.) to resident veterans of Southeastern Veterans' Center. Services to be performed on-site. Please fax or e-mail all requests for bids. Fax Number IS 610/948-2461.

**Department:** Military Affairs  
**Location:** Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475,  
**Duration:** July 1, 2006 through June 30, 2007  
**Contact:** Patricia M. Urban, P.A.I, 610/948-2448



### Miscellaneous

**CN00021259** The Bid is for Panic Bars to replace existing door opening mechanism's for Petry Building #17 located at the Harrisburg State Hospital Grounds, Harrisburg PA 17105. The Opening Bid date is 06/20/2006 at 2:00 PM. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendor-registration.state.pa.us](http://www.vendor-registration.state.pa.us) or by calling the toll free number 1-866-775-2868. 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. Please provide the following information when requesting bids: Name of Vendor, Address, Phone Number, Point of Contact (and their phone number) and Vendor Number. All Bids must arrive prior to the Bid opening date and time to be considered, and become property of the Commonwealth once submitted.

**Department:** Public Welfare  
**Location:** Petry Bldg. # 17 on the grounds of Harrisburg State Hospital, Harrisburg, PA 17105  
**Duration:** Supply Materials  
**Contact:** Basima Shunnara, 717 346-1183

**SWIF-LBP-05-003** Total Document Shredding/Destruction. Vendor shall be responsible for total document destruction for various locations of State Workers' Insurance Fund. For detailed specifications, please send a request via e-mail to [bpartyka@state.pa.us](mailto:bpartyka@state.pa.us) or request by fax to 570-963-4261.

**Department:** Labor and Industry  
**Location:** State Workers' Insurance Fund, 100 Lackawanna Avenue, Scranton, PA 18503 in addition to 3 District Offices  
**Duration:** August 1, 2006 through July 31, 2007  
**Contact:** Barbara Partyka, Purchasing Agent, 570-963-4614

**PGC-2880** Agency is seeking contractor(s) to erect eight-foot galvanized steel woven wire deer enclosure fencing in four (4) areas of the state. Maps, specifications, directions, etc. are available through agency.

**Department:** Game Commission  
**Location:** Pennsylvania Game Commission, Bureau of Administrative Services, Division of Automotive & Procurement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797  
**Duration:** July 1 through December 22, 2006  
**Contact:** Diane Shultz or Barb Kline, 717/787-6594

[Pa.B. Doc. No. 06-1248. Filed for public inspection June 30, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*





# Title 58—RECREATION

## PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 405, 421, 441, 443, 465, 494 AND 501]

### Temporary Regulations

Under the Pennsylvania Gaming Control Board's (Board) Resolution Nos. 2005-3 REG, 2005-4 REG, 2005-5 REG, 2006-2 REG and 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005, July 21, 2005, September 28, 2005, February 2, 2006, and March 16, 2006, 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. Accordingly, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, July 21, 2005, September 28, 2005, February 2, 2006, and March 16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005), 35 Pa.B. 4543 (August 6, 2005), 35 Pa.B. 6407 (November 19, 2005), 36 Pa.B. 910 (February 18, 2006) and 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4, 405.3, 421.2, 441.9, 443.5, 465.9, 465.10, 494.8 and 501.8. The amendments are effective as of June 15, 2006. The temporary regulations of the Board in Chapters 401, 405, 421, 441, 443, 465, 494 and 501 are amended by amending §§ 401.4, 405.3, 421.2, 441.9, 443.5, 465.9, 465.10, 494.8 and 501.8 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 Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the June 15, 2006, public meeting. The amendments to the temporary regulations pertain to definitions, the Bureau of Investigations and Enforcement, general licensing requirements, employees, slot machine licenses, hearings and appeals and prohibitions on check cashing.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 401, 405, 421, 441, 443, 465, 494 and 501, are amended by amending §§ 401.4, 405.3, 421.2, 441.9, 443.5, 465.9, 465.10, 494.8 and 501.8, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective June 15, 2006.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,  
Chairperson

**Fiscal Note:** 125-32. 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:

\* \* \* \* \*

##### *Slot machine—*

(i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board which, upon insertion of a coin, bill, ticket, token, gaming voucher, coupon or similar object therein or upon payment of any consideration, including the use of electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance, or both, may deliver or entitle the person playing or operating the contrivance, terminal, machine or other device to receive cash, billets, tickets, tokens, gaming vouchers or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically from the machine or manually. A slot machine:

\* \* \* \* \*

#### CHAPTER 405. BUREAU OF INVESTIGATION AND ENFORCEMENT

##### § 405.3. Office of Enforcement Counsel.

(a) The Office of Enforcement Counsel has been established within the Bureau which has the following powers and duties:

\* \* \* \* \*

(2) Make recommendations and objections relating to the issuance of licenses, certifications, permits and registrations on behalf of the Bureau.

\* \* \* \* \*

(5) Appear on behalf of the Bureau of Licensing or the Bureau at administrative hearings and other proceedings before the Board.

\* \* \* \* \*

##### Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

#### CHAPTER 421. GENERAL PROVISIONS

##### § 421.2. Licenses, registrations, certifications and permits.

(a) Licenses that may be issued by the Board include:

\* \* \* \* \*

(8) Horsemen's permit, which authorizes the approved permittee to act on behalf of a registered horsemen's organization.

\* \* \* \* \*

(d) Registrations that may be issued by the Board include:

\* \* \* \* \*

(3) Junket enterprise representative registration, which authorizes individuals to represent licensed junket enterprises.

(4) Horsemen's organization registration, which authorizes approved horsemen's organizations to receive allocated funds under section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

**Subpart C. SLOT MACHINE LICENSING**

**CHAPTER 441. SLOT MACHINE LICENSING**

**§ 441.9. Responsibilities of licensed organizations.**

\* \* \* \* \*

(b) *Specific.* If a Category 1 license is issued to a legal business entity in an organization, any legal business entity within the organization that has been approved or issued a Category 1 license shall be responsible for, in particular, but not limited to, complying with:

\* \* \* \* \*

(3) Distribution allocations received from the Pennsylvania Race Horse Development Fund under section 1406 of the act.

(i) Funds designated for purses under section 1406(a)(1)(i) of the act (relating to distributions from Pennsylvania Race Horse Development Fund) shall be deposited into an account established by and for the benefit of the horsemen within 36 hours of receipt from the Commonwealth.

(ii) Funds designated for health and pension benefits under section 1406(a)(1)(iii) of the act shall be deposited into an account established pursuant to the rules and regulations of the horsemen's organization within 36 hours of receipt from the Commonwealth.

**CHAPTER 443. CATEGORIES OF LICENSURE**

**§ 443.5. Category 3 slot machine license.**

\* \* \* \* \*

(b) To be eligible to receive a Category 3 slot machine license, an applicant shall comply with Chapter 441 (relating to slot machine licenses) and submit the following:

\* \* \* \* \*

(4) A plan detailing how the applicant, as part of its operational plan, will monitor the gaming area to ensure compliance with Chapter 513 (relating to underage gaming) and that only the following persons are permitted to enter the gaming area:

- (i) Registered guests.
- (ii) Patrons of one or more of the amenities.
- (iii) Authorized employees.
- (iv) Other persons authorized by the Board.

\* \* \* \* \*

**Subpart E. SLOT MACHINE TESTING, CERTIFICATION AND CONTROL**

**CHAPTER 465. ACCOUNTING AND INTERNAL CONTROLS**

**§ 465.9. Licensed facility.**

\* \* \* \* \*

(d) Each slot machine licensee shall, in accordance with section 1207(13) of the act (relating to regulatory authority of Board), provide for and maintain onsite facilities for

use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as, and be located reasonably proximate to, the gaming floor and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department, and the Pennsylvania State Police at the facility including the following:

\* \* \* \* \*

(e) Any key or alternative locking mechanism securing access to the onsite facilities shall be under the exclusive custody and control of the Board, the Department or the Pennsylvania State Police respectively.

(f) Each slot machine licensee shall provide additional accommodations within the licensed facility as shall be requested by the Board, the Department or the Pennsylvania State Police to accommodate periodic audit, compliance or investigative reviews at the licensed facility.

(g) Each slot machine licensee shall provide adequate parking spaces reasonably proximate to the onsite facilities, clearly marked for the Board, the Department or Pennsylvania State Police use only.

(h) Each slot machine licensee shall equip its licensed facility with communication systems necessary to insure an effective level of communication between the licensed facility and the Board, the Department, the Pennsylvania State Police, any applicable local law enforcement agency and any relevant emergency first responders.

**§ 465.10. Surveillance system; surveillance department control; surveillance department restrictions.**

\* \* \* \* \*

(c) The surveillance system required in this section must include the following:

(1) Light sensitive cameras with lenses of sufficient magnification to allow the operator to read information on a slot machine reel strip and credit meter and equipped with 360° pan, tilt and zoom capabilities, without camera stops, to effectively and clandestinely monitor in detail and from various vantage points, the following:

\* \* \* \* \*

(ii) The operations conducted at and in the cashier's cage and any satellite cage.

\* \* \* \* \*

(vii) Other areas designated by the Board.

\* \* \* \* \*

(e) In addition to other requirements imposed by this section, a slot machine licensee's surveillance system must be required to continuously record, during the appropriate times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

\* \* \* \* \*

(2) The main bank, vault, satellite cage and other areas as required by the Board.

\* \* \* \* \*

(4) The count procedures conducted in the count room.

(5) Any armored car collection or delivery.

(6) Automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machines whenever the machines are opened for replenishment or other servicing.

(7) The entrances and exits to the licensed facility, the gaming floor, the cashier's cage and the count room.

\* \* \* \* \*

(j) The surveillance recordings required under subsection (e) shall be retained for a minimum of 30 days. All other surveillance recordings shall be retained for 7 days. All surveillance recordings shall be made available for review upon request by the Board or the Pennsylvania State Police. In addition, any recording determined by Board agents or the Pennsylvania State Police as being of potential evidentiary value shall be stored in accordance with Board or Pennsylvania State Police directives or turned over to Board agents or the Pennsylvania State Police upon request. At the request and expense of the slot machine licensee, a copy of any recording turned over to the Board or the Pennsylvania State Police may be made available to the slot machine licensee.

\* \* \* \* \*

(l) In accordance with § 465.3(d)(5), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the facility as well as the number and the configuration of the slot machines on the gaming floor and must at all times provide for adequate and effective surveillance of activities inside and outside the licensed facility.

\* \* \* \* \*

**Subpart H. PRACTICE AND PROCEDURE  
CHAPTER 494. HEARING PROCEDURE**

**§ 494.8. Rehearing or reconsideration.**

\* \* \* \* \*

(d) This section does not apply to proceedings resulting in any final order, determination or decision of the Board involving the approval, issuance, denial or conditioning of all licensed entity applications which are subject to the appellate requirements of section 1204 of the act (relating to licensed entity application appeals from board).

(e) This section supersedes 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

**Subpart I. COMPULSIVE AND PROBLEM GAMBLING**

**CHAPTER 501. COMPULSIVE AND PROBLEM GAMING REQUIREMENTS**

**§ 501.8. Prohibition on check cashing.**

(a) Except as otherwise permitted in this section, a licensed gaming entity or any person acting on behalf of a licensed gaming entity, may not cash any check payable to an individual, including Social Security, unemployment insurance, disability payment, public assistance payment, or payroll check to enable that individual to take part in gaming.

(b) A licensed gaming entity may accept a personal check, wire transfer or cash equivalent, such as a recognized traveler's check, cashier's check or money order.

[Pa.B. Doc. No. 06-1249. Filed for public inspection June 30, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD  
[58 PA. CODE CH. 436]**

**Temporary Regulations; Horsemen's Organizations**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 436, entitled horsemen's organizations, is added to Subpart B, entitled licensing, registering, certifying and permitting.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 15, 2006, public meeting. The temporary regulations pertain to horsemen's organizations.

(b) The temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 436.1—436.7 to read as set forth in Annex A.

(c) The temporary regulations are effective June 15, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-27. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart B. REGISTERING, CERTIFYING AND PERMITTING****CHAPTER 436. HORSEMEN'S ORGANIZATIONS**

Sec.	
436.1.	Definitions.
436.2.	Horsemen's organization registration.
436.3.	Permitting of officers, directors, representatives and fiduciaries.
436.4.	Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.
436.5.	Fiduciaries.
436.6.	Health and pension benefit plans.
436.7.	Enforcement.

**§ 436.1. Definitions.**

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

*Fiduciary*—A person who is entrusted by the horsemen's organization or its members to hold or manage any funds received for horsemen under section 1406 of the act (relating to distributions from the Pennsylvania Race House Development Fund) or who exercises control or

discretionary authority over selection or management of a health or pension benefit plan, disposition of its assets or distribution of its funds.

*Health benefits*—Any plan, fund or program which is maintained by a horsemen's organization and that provides healthcare benefits to horsemen at licensed racetracks, their families and employees, and others designated by the rules and eligibility requirements of the organization consistent with the act.

*Horsemen*—A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior calendar year and meets the membership requirements of the horsemen's organization to participate in the receipt of benefits therefrom.

*Horsemen's organization*—A trade association which represents the majority of horsemen at a licensed racetrack and which exists for the purpose, in whole or in part, of negotiating a horsemen's contract and resolving grievances, disputes or other matters with management of a licensed racing entity, as defined by section 1103 of the act (relating to definitions).

*Horsemen's organization officer*—Any officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a horsemen's organization, and any member of its board of directors or similar governing body.

*Horsemen's organization representative*—Any person, compensated or not, who is authorized to represent a horsemen's organization or any member thereof in any matter relating to horsemen's agreements with the licensed racing entity, or who undertakes on behalf of a horsemen's organization or any member thereof to promote, facilitate or otherwise influence the relations between a horsemen's organization and the licensed racing entity.

*Pension benefits*—Any plan, fund or program which is maintained by a horsemen's organization and that funds a program which provides retirement income to horsemen at licensed racetracks, their families and employees, and any others so designated by the rules and eligibility requirements of the organization consistent with the act.

**§ 436.2. Horsemen's organization registration.**

(a) Each horsemen's organization or affiliate representing horsemen shall register with the Board in accordance with this section.

(b) Each horsemen's organization shall file a completed Horsemen's Organization Registration Statement with the registration fee established by the Board.

(c) Horsemen's organization applicants and registrants shall be subject to the general application and licensing requirements of Chapters 421 and 423 (relating to general provisions; and applications).

(d) Horsemen's organization registrations shall be valid for 4 years from the date on which the registration is approved by the Board. Renewals shall be valid for 4 years and shall be filed no later than 120 days prior to the expiration of the current registration period. A registration for which a completed renewal application and fee has been received by the Board will continue in effect unless the Board sends written notification to the horsemen's organization that the Board has denied renewal of the registration.

**§ 436.3. Permitting of officers, directors, representatives and fiduciaries.**

(a) Every officer, director or representative of a horsemen's organization who is currently elected or appointed and authorized to act on behalf of the horsemen's organization, or any individual authorized to act in a fiduciary capacity on behalf of horsemen shall be permitted in accordance with this section.

(b) Every officer, director or representative of a horsemen's organization who is currently elected or appointed and authorized to act on behalf of the horsemen's organization, or any individual authorized to act in a fiduciary capacity on behalf of horsemen shall file a completed Horsemen's Permit Application Form with the licensing fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application and licensing requirements of Chapters 421 and 423 (relating to general provisions; and applications).

(d) Permits issued under this section shall be valid for 1 year from the date on which the permit is approved by the Board. Renewals shall be valid for 1 year and shall be filed at least 60 days prior to the expiration of the current permit. A permit for which a completed renewal application and fee has been received by the Board will continue in effect unless the Board sends written notification to the permittee that the Board has denied renewal of the permit.

(e) If a current officer, director or representative of a horsemen's organization is denied a permit required by this section, that officer, director or representative shall be precluded from engaging in any activity of the horsemen's organization involving gaming funds allocated to, received by, or distributed from the horsemen's organization.

(f) A person who is a third-party provider of a health or pension benefit plan to a horsemen's organization shall be exempt from the requirements of this section. A licensed attorney or accountant representing a horsemen's organization who does not meet the conditions in subsection (a) shall also be exempt this section.

**§ 436.4. Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.**

(a) Horsemen's organizations, officers, directors, representatives and fiduciaries shall ensure that all funds allocated to the horsemen and horsemen's organizations are used for the benefit of all horsemen of this Commonwealth.

(b) Horsemen's organizations shall maintain adequate records of receipts and distributions of all funds allocated to them under the act.

(c) By March 30 of each calendar year, each horsemen's organization shall file with the Board two copies of its audited financial statements together with any management letters or reports written thereon as prepared by its independent auditor. These filings shall be made available for public inspection during the normal operating hours of the Board.

**§ 436.5. Fiduciaries.**

Fiduciaries shall:

(1) Ensure that all funds received for the benefit of the horsemen are distributed pursuant to the act.

(2) Manage all health and pension benefit plans for the exclusive benefit of participants and beneficiaries.

(3) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.

(4) Comply with any limitations on certain plans' investments in particular securities and properties.

(5) Fund benefits in accordance with applicable law and plan rules.

(6) File quarterly reports with the Board within 20 days of the end of each calendar quarter. The reports must detail the expenditure of funds designated by the act for the benefit of horsemen and be in a format and manner designated by the Board.

(7) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

**§ 436.6. Health and pension benefit plans.**

(a) Contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization must:

(1) Be submitted to the Board for review at least 90 days prior to the proposed effective date of the contract.

(2) Not be effective until approved by the Board.

(b) Administrative and overhead costs incurred by the horsemen's organization for the administration of health and pension benefit plans must be reasonable. Administrative costs that do not exceed 15% of the statutory allocation are considered reasonable.

**§ 436.7. Enforcement.**

The Office of Enforcement Counsel may initiate proceedings against any person, including any horsemen's organization, for violations of any provisions of the act or this chapter.

[Pa.B. Doc. No. 06-1250. Filed for public inspection June 30, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD  
[58 PA. CODE CH. 437]**

**Temporary Regulations; Vendor Key Employee Qualifiers and Key Employees**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Sections 437.11 and 437.12 are added to Chapter 437, entitled vendor registration and certification, under Subpart B, entitled licensing, registering, certifying and permitting.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft

regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

#### *Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

#### *Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

#### *Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

#### *Findings*

The Board finds that:

- (1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.
- (2) A 10-day public comment period was held prior to the adoption of the temporary regulations.
- (3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

#### *Order*

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

- (a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 15, 2006, public meeting. The temporary regulations pertain to vendor key employee qualifiers and key employees.
- (b) The temporary regulations of the Board, 58 Pa. Code Chapter 437, are amended by adding §§ 437.11 and 437.12 to read as set forth in Annex A.

(c) The temporary regulations are effective June 15, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-28. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 58. RECREATION**

#### **PART VII. GAMING CONTROL BOARD**

#### **Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING**

#### **CHAPTER 437. VENDOR REGISTRATION AND CERTIFICATION**

#### **§ 437.11. Key employee qualifier certification.**

(a) Key employee qualifiers of certified vendors or applicants thereof, including natural persons and entities, shall obtain a key employee qualifier certification from the Board.

(b) Key employee qualifier applicants for certification and certified key employee qualifiers are subject to the requirements and waiver provisions of § 435.2 (relating to key employee qualifier license).

(c) Key employee qualifier certifications issued under this section are subject to renewal every 4 years. Applications for renewal shall be submitted to the Board at least 60 days prior to the expiration of the key employee qualifier certification. The application for renewal must include an update of the information contained in the initial and any prior renewal applications and the payment of any renewal fee required by the Board. A key employee qualifier certification for which a completed renewal application and fee has been received by the Board will continue in effect unless the Board sends written notification to the certified key employee qualifier that the Board has denied the key employee qualifier certification.

#### **§ 437.12. Key employee certification.**

(a) Key employees of certified vendors or applicants thereof, including natural persons and entities, shall obtain a key employee certification from the Board.

(b) Key employee applicants for certification and certified key employees are subject to the requirements and waiver provisions of § 435.3 (relating to key employee license).

(c) Key employee certifications issued under this section are subject to renewal every 4 years. Applications for renewal shall be submitted to the Board at least 60 days prior to the expiration of the key employee certification. The application for renewal must include an update of the information contained in the initial and any prior renewal applications and the payment of any renewal fee required by the Board. A key employee certification for which a completed renewal application and fee has been received

by the Board will continue in effect unless and until the Board sends written notification to the certified key employee that the Board has denied the key employee certification.

[Pa.B. Doc. No. 06-1251. Filed for public inspection June 30, 2006, 9:00 a.m.]

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**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CH. 441]**

**Temporary Regulations; Slot Machine Licensing Hearings**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts a temporary regulation to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulation will be added to Part VII (relating to Gaming Control Board). Section 441.19, entitled slot machine licensing hearings, is added to Chapter 441, entitled slot machine licenses, under Subpart C, entitle slot machine licensing.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulation is exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulation.

(3) The adoption of the temporary regulation provided by this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulation, the draft regulation as amended by resolution at the June 15, 2006, public meeting. The temporary regulations pertain to slot machine licensing hearings.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 441, are amended by adding § 441.19 to read as set forth in Annex A.

(c) The temporary regulation is effective June 15, 2006.

(d) The temporary regulation shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulation shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulation with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-29. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart C. SLOT MACHINE LICENSING**

**CHAPTER 441. SLOT MACHINE LICENSES**

**§ 441.19. Licensing hearings for slot machine licenses.**

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

*Licensing hearing*—A hearing before the Board in which an applicant for an initial grant of a permanent slot machine license or a Conditional Category 1 slot machine license will have an opportunity to present to the Board:

- (1) Evidence concerning its eligibility for a license.
- (2) Evidence concerning its suitability for a license.
- (3) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).
- (4) For applicants seeking licensure under section 1304 of the Act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria set forth in the act.
  - (b) A schedule of licensing hearings will be published by the Executive Director for all slot machine license applicants.
  - (c) Applicants shall be scheduled for licensing hearings in the following order:
    - (1) Applicants seeking licensure under section 1315, of the act (relating to conditional category 1 licenses).
    - (2) Applicants seeking licensure under section 1305 of the act (relating to Category 3 slot machine license).
    - (3) Applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license).
    - (4) Applicants seeking licensure under section 1302 of the act (relating to Category 1 slot machine license).
  - (d) The Board will allot each applicant a specified time for its presentation. The length of the presentations will be established at the prehearing conferences.
  - (e) At the licensing hearing, the applicant shall appear before the Board and at all times have the burden to establish and demonstrate, by clear and convincing evidence, its eligibility and suitability for licensure and to address the criteria identified in section 1325(c) of the act.
  - (f) For the purposes of this section, an applicant's demonstration of eligibility shall include a showing of:
    - (1) Compliance with section 1302, 1303, 1304 or 1305 of the act, as applicable.
    - (2) Compliance with the application requirements in § 441.4 (relating to slot machine license application).
    - (3) Compliance with the license fee payment bond or letter of credit requirements in § 441.10 (relating to license fee payment bond or letter of credit requirements).
    - (4) Compliance with the diversity requirements in Chapter 481 (relating to general provisions) and section 1325(b) of the act.
  - (g) For the purposes of this section, an applicant's demonstration of suitability shall include a showing of:
    - (1) Good character, honesty and integrity in compliance with the standards in § 441.6 (relating to character requirements).
    - (2) Financial fitness in compliance with the standards in § 441.5 (relating to financial fitness requirements).
    - (3) Operational viability, including:
      - (i) The quality of the proposed licensed facility, and temporary facility, if applicable, including the number of slot machines proposed and the ability of the proposed licensed facility to comply with statutory, regulatory and technical standards applicable to the design of the proposed licensed facility and the conduct of slot machine operations therein.

(ii) The projected date of the start of operations of the proposed licensed facility and any accessory uses such as hotel, convention and restaurant space proposed in conjunction therewith. Applicants shall provide the Board with a time line on the deliverability of any proposed temporary or phased permanent licensed facilities and the accessory uses proposed in conjunction therewith.

(iii) The ability of the applicant's proposed licensed facility to generate and sustain an acceptable level and growth of revenue.

(h) For the purposes of this section, an applicant's demonstration of how it addresses the criteria identified in section 1325(c) of the act shall include:

(1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and the facility's centrality to its anticipated market service area.

(2) The potential for new job creation and economic development which are expected to result from granting a license to an applicant.

(3) The applicant's good faith plan to recruit, train and upgrade diversity in all employment classifications in the facility.

(4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.

(5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, vendors and suppliers it may employ directly or indirectly.

(6) The potential for enhancing tourism which is expected to result from granting a license to the applicant.

(7) The history and success of the applicant in developing tourism facilities ancillary to gaming development in other locations if applicable to the applicant.

(8) The degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular.

(9) The record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations.

(10) The degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care, child care, public transportation, affordable housing and social services, will be mitigated.

(11) The record of the applicant and its developer regarding compliance with:

(i) Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws.

(ii) State and local labor relations and employment laws.

(12) The record of the applicant in dealing with its employees and their representatives at other locations.



(13) The applicant's business probity, experience and ability.

(14) Any areas of deficiency in the applicant's application previously identified by the Bureau of Licensing or Chief Enforcement Counsel that have not been resolved.

(i) The applicant's demonstration of how it addresses section 1325(c) of the act and subsection (h) may include information relating to its affiliates, intermediaries, subsidiaries or holding companies.

(j) No later than 30 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application, the applicant shall file with the Board a memorandum identifying all evidence it intends to use in support of its presentation before the Board. At the same time, Category 1 and Category 3 applicants shall serve the memorandum on the other applicants in the same category. At the same time, Category 2 applicants shall serve the memorandum on all other applicants whose proposed facility meets the same location criteria as the applicant's proposed facility as specified in subsection (o)(1)(i)—(iii). The memorandum shall include the following:

(1) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(2) Identification of each standard and criterion set forth in subsections (f)—(i) to which the evidence will relate.

(3) As to each criterion identified, whether the evidence will be presented through oral testimony or, the proffer of documents, or both. If any portion of the evidence will be presented through oral testimony, the notice must include the name, address and telephone number of each testifying witness, the identified criteria about which the witness will testify and a detailed summary of the witness' testimony. If any portion of the evidence will be presented through the proffer of documents, including reports and exhibits, the memorandum must include a copy of each document to be proffered and the name, address and telephone number of the persons who prepared the document.

(4) If any person identified in paragraph (3) will testify as an expert, the person's qualifications, including the person's education, experience and training, and a listing of the other jurisdictions where the person has been qualified as an expert witness, within the last 5 years, shall be attached to the notice. A copy of the results or reports of any tests, experiments, examinations, studies or documents prepared or conducted by the expert or about which the expert will testify or which will be relied upon by the expert to render an opinion shall be attached to the notice.

(k) The Board will serve on all applicants within that category any expert reports developed for and requested by the Board that pertains to the applicants.

(l) Applicants, at the time of filing, shall provide the Board with an electronic version, in a format prescribed by the Board, of the reports and exhibits provided in paper form.

(m) If an applicant designates any submitted report or exhibit as confidential under § 401.4 (relating to definitions) or section 1206(f) of the act (relating to Board minutes and records), the applicant shall:

(1) Clearly and conspicuously indicate that the report or exhibit is confidential in both the paper and electronic format and provide these exhibits separately from the nonconfidential exhibits.

(2) Request that the confidential information be presented to the Board in closed deliberations, under section 1206(a) of the act and provide an explanation of the need for the designation of confidentiality and closed deliberations or authorize the release of the report or exhibit in compliance with section 1206(f) of the act.

(n) Applicants are prohibited from relying upon or introducing evidence, including witnesses' testimony, reports or exhibits, not identified pursuant to subsections (j) or (o).

(o) For Category 2 applicants only, in addition to the applicant's presentation of evidence to the Board relative to its eligibility and suitability for a license, an applicant may, during its licensing hearing, present evidence which sets forth a comparison between the applicant and other applicants within the same category with respect to the standards and criteria in subsections (f)—(i).

(1) Comparisons shall be limited to:

(i) For applicants seeking to locate a licensed facility in a city of the first class, other applicants for a licensed facility in a city of the first class.

(ii) For applicants seeking to locate a licensed facility in a city of the second class, other applicants for a licensed facility in a city of the second class.

(iii) For applicants seeking to locate a licensed facility in a revenue-or tourism-enhanced location, other applicants for a licensed facility in a revenue-or tourism-enhanced location.

(2) If an applicant desires to present comparative evidence under to this subsection, the applicant shall, no later than 20 days prior to the commencement of the first scheduled licensing hearing in the category of license for which the applicant has filed an application, file a separate written notice evidencing the intent with the Board identifying each other applicant about whom the applicant desires to present evidence. A copy of the notice shall also be served on the applicants about whom the evidence will be presented and on the Chief Enforcement Counsel. The notice must include:

(i) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(ii) Identification of the standards and criteria in subsections (f)—(i) to which the evidence will relate.

(iii) As to each criterion identified, a copy of any document or evidence that will be used to support the comparison to be presented in compliance with subsection (j).

(3) An applicant served with notice under to paragraph (2) may present, during its licensing hearing, comparative evidence concerning it and the applicant from whom notice was received with respect to the standards and criteria in subsections (f)—(i). The applicant so served shall have 10 days following services to file a reply notice with the Board which shall contain the information required by paragraph (2). A complete copy of the reply notice shall be served on the applicant who initially served notice under paragraph (2) and on the Chief Enforcement Counsel.

(4) If the applicant plans to present evidence to the Board concerning another applicant in closed deliberations, the applicant shall provide notice to the other applicant and provide any report or exhibit relied upon to the other applicant. The other applicant may be represented in the closed deliberations.

(p) At the discretion of the Board, an applicant's presentation may include:

(1) Oral presentation.

(2) Documentary evidence submissions, including reports, photographs, audiovisual presentations, exhibits or testimony of witnesses.

(q) The Board, its designee and Chief Enforcement Counsel may:

(1) Examine or question the applicant and any witnesses called by the applicant or the Board regarding their testimony and any aspect of the applicant's application and relevant background.

(2) Recall the applicant and other witnesses called by the applicant or the Board during the licensing hearing for further questioning.

(r) A person who testifies at the licensing hearing shall be sworn and testify under oath.

(s) At its discretion, the Board may terminate, recess, reconvene and continue the licensing hearing.

(t) Each Category 1 and Category 3 applicant may file a brief up to 25 pages in length within 10 days of the completion of the hearing with respect to all applications within its category. Each Category 2 applicant may file a brief up to 25 pages in length within 10 days of the completion of the hearing with respect to all applications that meet the same location criteria as the applicant as specified in subsection (o)(1)(i)—(iii). At the prehearing conferences, applicants in any category may waive the opportunity to file briefs.

(u) At the conclusion of the presentation of all testimony and evidence, the Board will cause the record to be transcribed. The transcript and all evidence shall become part of the evidentiary record for the Board's consideration. For good cause shown, the Board may seal portions of the record.

(v) Following submission of the applicants' briefs, all applicants will have an opportunity to make final remarks in the form of oral argument before the Board in a manner and time prescribed by the Board. At the prehearing conferences, applicants in any category may waive the opportunity for oral argument.

(w) With the exception of Conditional Category 1 licenses, upon the conclusion of the licensing hearings and upon review of the evidentiary record in its entirety, the Board will consider, approve, condition or deny the approval of all initial, permanent slot machine license applications for each and every category of slot machine license collectively and together in a comprehensive statewide manner in accordance with section 1301 of the act (relating to authorized slot machine licenses). A final order for initial, permanent slot machine licenses accompanied by the Board's written decision will be served on the applicants for slot machine licenses.

(x) An applicant may appeal the denial of a slot machine license to the Pennsylvania Supreme Court as provided in the act.

(y) This subsection pertains exclusively to intervention in a licensing hearing for a slot machine license under this section and is not applicable to other hearings before the Board. The right to intervene in a hearing under this section is within the sole discretion of the Board.

(1) A person wishing to intervene in a licensing hearing for a slot machine license may file a petition in accordance with this subsection.

(2) A person may file a petition to intervene under this subsection if the person has an interest in the proceeding which is substantial, direct and immediate and if the interest is not adequately represented in a licensing hearing.

(3) Petitions to intervene in a licensing hearing may be filed no later than 45 days prior to the commencement of the first scheduled licensing hearing, in the category of license for which the applicant, in whose hearing the petitioner seeks to intervene, has filed an application unless, in extraordinary circumstances for good cause shown, the Board authorizes a late filing. At the same time the petitioner files its petition with the Board, a complete copy of the petition to intervene shall be served on the Chief Enforcement Counsel and the applicant in whose licensing hearing the petitioner seeks to intervene.

(4) Petitions to intervene must set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention, the position of the petitioner in the proceeding and a copy of the written statement to be offered under paragraph (6). The petitioner shall fully and completely advise the applicant and the Board of the specific issues of fact or law to be raised or controverted and cite provisions or other authority relied on.

(5) The applicant may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition. If made, answers shall be filed within 10 days after the date the petition is filed with the Board, unless for cause the Board prescribes a different time. A complete copy of the answer to the petition to intervene shall be served on the Chief Enforcement Counsel and the petitioner who seeks to intervene.

(6) Except when the Board determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a licensing hearing will be limited to the presentation of evidence through the submission of written statements attested to under oath. The written statements shall be part of the evidentiary record.

(z) This section supersedes any conflicting provisions of Subpart H (relating to practice and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

[Pa.B. Doc. No. 06-1252. Filed for public inspection June 30, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CHS. 461, 465 AND 466]**

**Temporary Regulations; Slot Machine Testing, Accounting and Internal Controls and Slot Computer Systems**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapters 461 and 466, entitled slot machines and associated equipment and Slot computer systems, are added to Subpart E, entitled slot machine testing, certification and control.

Sections 465.12—465.19 are added to Chapter 465, entitled accounting and internal controls, under Subpart E, entitled slot machine testing, certification and control.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to, or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

- (1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.
- (2) A 10-day public comment period was held prior to the adoption of the temporary regulations.
- (3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The Board acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 15, 2006, public meeting. The temporary regulations pertain to slot machine testing, accounting and internal controls and slot computer systems.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 461, 465 and 466, are amended by amending §§ 461.1 and 461.2 and by adding §§ 461.3—461.21, §§ 465.12—465.19 and § 466.1 to read as set forth in Annex A.

(c) The temporary regulations are effective June 15, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-31. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart E. SLOT MACHINE TESTING, APPROVAL AND CONTROL**

**CHAPTER 461. SLOT MACHINES AND ASSOCIATED EQUIPMENT**

**§ 461.1. Definitions.**

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

*Double-up*—An optional wager on a slot machine in which the player has a mathematically equal probability of winning or losing the wager.

*Modification*—A change or alteration in a slot machine or associated equipment that affects the manner or mode of play or operation of the slot machine or associated equipment.

(i) The term includes a change to control or graphics programs and to the theoretical hold percentage.

(ii) In the case of slot machines, the term does not include:

(A) A conversion.

(B) Replacement of one approved component with an identical component.

(iii) In the case of a wide-area progressive system, the term includes:

(A) A change in a system name or theme.

(B) A change in the odds to win the progressive payout.

- (C) A change in the reset amount.
- (D) A change in the progressive rate.
- (E) A change in the wager necessary to win the progressive payout.

*Progressive*—A slot machine that offers a jackpot that may increase in value based upon wagers as the slot machine is played. Progressive slot machines may stand alone, be linked at a licensed facility or be part of a wide area progressive system.

*Randomness*—The observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

*Skill*—The application of intelligence and specific knowledge to achieve the best result when a slot machine offers a choice of options during game play.

*Slot Lab*—The Gaming Laboratory Operations Bureau of the Board.

*Strategy choice*—A particular play option on a slot machine that requires the use of skill to consistently achieve the best result.

*Theme*—A concept, subject matter and methodology of design.

*Wager*—Placing at risk in a slot machine a coin, bill, ticket, gaming voucher, coupon, or similar object or, upon payment of any consideration, including the use of cashless funds transfer systems and external bonusing systems.

#### § 461.2. Protocol requirements.

In accordance with section 1324 of the act (relating to protocol information), manufacturer licensees and supplier licensees shall be required to enable all slot machine terminals to communicate with the Department's central control computer for the purpose of transmitting auditing program information and activating and disabling slot machine terminals.

#### § 461.3. Testing and approval generally.

(a) In accordance with section 1320 of the act (relating to slot machine testing and certification standards), the Board will determine the manner and scope in which slot machine terminals are to be tested and approved prior to operation and use in a licensed facility in this Commonwealth.

(b) All slot machines operated in this Commonwealth must be approved by the Board.

(c) The Board has the authority to require one or more of the following procedures with respect to testing and certifying a slot machine:

(1) An abbreviated testing and approval process in accordance with § 461.4(f) (relating to submission for testing and approval).

(2) Testing and approval in accordance with § 461.4(h).

(3) Utilize the services of slot machine testing facility to conduct the testing until a slot machine testing facility is created by the Board.

(d) On or before July 5, 2007, the Board will establish and maintain an independent slot machine testing facility. The cost of establishment and operation of the facility shall be paid by each manufacturer licensee in accordance with a schedule adopted by the Board.

(e) The Board will require payment of all costs for the testing and approval of all slot machines and associated equipment through procedures prescribed by the Board.

(f) The Board will require a manufacturer licensee seeking approval of a slot machine or associated equipment to pay all costs of transportation, inspection and testing.

#### § 461.4. Submission for testing and approval.

(a) A slot machine or associated equipment identified in subsection (b) (collectively referred to as "products" or "equipment, device or software"), or a modification thereto, may not be offered for sale, lease or distribution for ultimate use by a slot machine licensee in this Commonwealth unless a prototype identical in all mechanical, electrical, electronic and other respects has been tested and approved by the Board. When an applicant for, or holder of, a slot machine license develops software or a system that is functionally equivalent to any of the slot systems enumerated in subsection (b), that software or system shall be subject to the testing and approval process of this subpart to the same extent as if the software or system were developed by an applicant for, or holder of, a manufacturer license. Any reference in this subpart to the responsibilities of a manufacturer applies to an applicant for, or holder of, a slot machine license developing software or systems subject to testing and approval under this subpart.

(b) For the purposes of this section, slot machines and associated equipment which shall be submitted for testing and Board approval include:

(1) Slot machines, including bill validators and printers.

(2) Slot monitoring systems, to the extent the system interfaces with slot machines and related systems.

(3) Casino management systems, to the extent the system interfaces with slot machines and related systems.

(4) Player tracking systems, to the extent the system interfaces with slot machines and related systems.

(5) Progressive systems, including wide area progressive systems.

(6) Gaming voucher systems.

(7) External bonusing systems.

(8) Cashless funds transfer systems.

(9) Machines performing gaming voucher, coupon or jackpot payout transactions.

(10) Coupon systems, to the extent the system interfaces with slot machines and related systems.

(11) Other associated equipment as required by the Board.

(c) Slot machine prototypes and associated equipment prototypes, and any modifications thereto, which are subject to testing and approval under this section will be evaluated by the Board for overall operational integrity and compliance with the act, this subpart and any technical standards adopted by the Board. In addition, with regard to any slot machine, or modification thereto, the Board will test for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(d) The Board may periodically prescribe for completion by an applicant for, or holder of, a manufacturer license a standard product submission checklist, together with

supplemental product specific submission checklists, to facilitate the examination and analysis of a prototype or modification.

(e) The Board may periodically prescribe certification requirements, to be executed by the chief engineer of the applicant for, or holder of, a manufacturer license or the engineer in charge of the division of the manufacturer responsible for producing the product submitted, unless otherwise noted, to obtain sufficient assurances from the manufacturer that the product was properly and completely tested by the manufacturer prior to its submission to the Board.

(f) Notwithstanding the terms of subsection (c), the Board may utilize an abbreviated testing and approval process in accordance with section 1320 of the act (relating to slot machine testing and certification standards).

(g) When an applicant for, or holder of, a manufacturer license seeks to utilize, during the applicable period, the abbreviated testing and approval process for a slot machine prototype, associated equipment prototype or any modification thereto, it shall submit to the Board's Slot Lab the following:

(1) A prototype of the equipment, device or software accompanied by a written request for abbreviated testing and approval which identifies the jurisdiction within the United States upon which the applicant for, or holder of, a manufacturer license proposes the Board rely ("named jurisdiction"). The manufacturer shall transport the equipment, device or software at its own expense and deliver it to the offices of the Board's Slot Lab.

(2) A certification executed by the chief engineer of the applicant for, or holder of, a manufacturer license or the engineer in charge of the division of the manufacturer responsible for producing the equipment, device or software submitted ("professional") asserting that:

(i) The specific prototype or modification is identical in all mechanical, electrical, electronic and other respects to one which has been tested and approved by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction.

(ii) The manufacturer is licensed in good standing in the named jurisdiction and that the subject product has all regulatory approvals prerequisite to sale or distribution in the named jurisdiction.

(iii) In the professional's opinion, the testing standards of the named jurisdiction are comprehensive and thorough and provide similar adequate safeguards as those required by this subpart.

(iv) In the professional's opinion, the equipment, device or software complies with the act, this subpart and any technical standards adopted by the Board including requirements related to the central control computer.

(3) An executed copy of a current product submission checklist, and any product specific supplemental submission checklists applicable to the submitted equipment, device or software unless a substantially similar checklist was filed with the named jurisdiction and is included in the submission package required by paragraph (4).

(4) Copies of the submission package, and any amendments thereto, filed with the named jurisdiction, copies of any correspondence, review letters or approvals issued by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction and, as applicable, a copy of the final regulatory approval issued by the named jurisdiction.

(5) The manufacturer shall disclose with specificity to the Board any conditions or limitations placed by the named jurisdiction on the operation or placement of the equipment, device or software at the time of approval or subsequently thereafter.

(6) When a slot machine prototype, or a modification thereto is submitted, the manufacturer shall submit a complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(7) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Board's Slot Lab to conduct the abbreviated testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(8) Additional documentation requested by the Board.

(h) When an applicant for, or holder of, a manufacturer license seeks Board approval of a slot machine prototype, associated equipment prototype, or any modification thereto for which the abbreviated testing process in subsection (f) is not applicable, it shall submit to the Board's Slot Lab the following:

(1) A prototype of the equipment, device or software accompanied by a written request for testing and approval. The manufacturer shall transport the equipment, device or software at its own expense and deliver it to the offices of the Board's Slot Lab in accordance with instructions provided.

(2) Certifications required under subsection (e) providing assurances from the manufacturer that the product was properly and completely tested and emulated by the manufacturer prior to its submission to the Board and that the product, device or software complies with the act, this subpart and any technical standards adopted by the Board, including any applicable requirements related to the central control computer.

(3) An executed copy of a current product submission checklist, and any product specific supplemental submission checklists applicable to the submitted equipment, device or software.

(4) A complete, comprehensive and technically accurate description of the equipment, device or software, accompanied by applicable diagrams, schematics and specifications, together with documentation with regard to the manner in which the product was tested and emulated by the manufacturer prior to its submission to the Board.

(5) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Board's Slot Lab to conduct the testing and approval process contemplated by the act, this subpart and any technical standards adopted by the Board. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(6) In the case of a slot machine prototype, the following additional information shall be submitted:

(i) A copy of all executable software, including data and graphics information, on electronically readable, unalterable media.

(ii) A copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a slot machine, on electronically readable, unalterable media.

(iii) A copy of all graphical images displayed on the slot machine including reel strips, rules, instructions and paytables.

(iv) A mathematical explanation of the theoretical return to the player, listing all assumptions, all steps in the formula from the first principles through to the final results of all calculations including bonus pays and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy.

(v) Hardware block diagrams of the major subsystems.

(vi) A complete set of schematics for all subsystems.

(vii) A wiring harness connection diagram.

(viii) A technical and an operator manual.

(ix) A description of all security methodologies incorporated into the design of the slot machine including, when applicable, encryption methodology for all alterable media, auto-authentication of software and recovery capability of the slot machine for power interruption.

(x) For all meters required by this subpart or any technical standards adopted by the Board, a cross reference of product meters to the required meters, if necessary.

(xi) A description of all tower light functions indicating the corresponding condition.

(xii) A description of all error conditions and the corresponding action required by the operator.

(xiii) A description of the use and function of all available dip switch settings or configurable options.

(xiv) A description of the pseudo random number generator or generators used to determine game outcome, including a detailed explanation of operational methodology, and a description of the manner by which the pseudo random number generator and random number selection process is impervious to outside influences, interference from electro-magnetic, electro-static, and radio frequencies, and influence from ancillary equipment via data communications. Test results in support of representations shall be submitted. For the purposes of this section, "game outcome" means the results of a wager.

(xv) Any specialized hardware, software or testing equipment, inclusive of technical support and maintenance, needed to complete the evaluation, which may include an emulator for a specified microprocessor, PCs, extender cables for CPU boards, target reel strips and door defeats. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(xvi) A compiler, or reasonable access to a compiler, for the purpose of building applicable code modules.

(xvii) All program storage media including eproms, eeproms, and any type of alterable media for all slot machine software.

(xviii) Technical specifications for any microprocessor or microcontroller.

(xix) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to com-

municate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(xx) Additional documentation as requested by the Board.

(7) In the case of a modification to a slot machine prototype, including a change in theme, the following additional information shall be submitted:

(i) A complete, comprehensive and technically accurate description of the proposed modification to the slot machine prototype, accompanied by applicable diagrams, schematics and specifications.

(ii) When a change in theme is involved, a copy of all graphical images displayed on the slot machine including reel strips, rules, instructions and paytables.

(iii) When a change in the manner in which the theoretical payout percentage is achieved is involved, a mathematical explanation of the theoretical return to the player, listing all assumptions, all steps in the formula from the first principles through to the final results of all calculations including bonus pays and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy.

(iv) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(v) Additional documentation as requested by the Board.

(8) In the case of a slot monitoring system, casino management system, player tracking system, wide area progressive system, gaming voucher system, external bonusing system, cashless funds transfer system, automated gaming voucher, coupon redemption or jackpot payout machine, coupon system or any other equipment or system required to be tested and approved under subsection (b):

(i) A technical and an operator manual.

(ii) A description of all security methodologies incorporated into the design of the system to include, when applicable, password protection, encryption methodology and its application, auto-authentication, network redundancy, back-up and recovery procedures.

(iii) A complete schematic or network diagram of the system's major components accompanied by a description of each component's functionality and a software object report. The description must disclose the functions performed by each component.

(iv) A description of the data flow, in narrative and in schematic form, including specifics with regard to data cabling and, when appropriate, communications methodology for multi-site applications.

(v) A list of all computer operating systems and third party software incorporated into the system together with a description of their interoperability.

(vi) System software and hardware installation procedures.

(vii) A list of all system reports available.

(viii) When applicable, features for each system which may include patron and employee card functions, promotions, reconciliation procedures and patron services.

(ix) A description of any interoperability testing including test results for each submitted system's connection to, as applicable, slot machines, voucher, coupon redemption and jackpot payout machines, computerized systems for counting money, vouchers and coupons. This list must identify the tested products by manufacturer, model and software identification and version number.

(x) A narrative describing the method used to authenticate software.

(xi) When requested by the Board, all source code.

(xii) When applicable, a complete, comprehensive and accurate description, accompanied by applicable diagrams, schematics and specifications, of the creation of a voucher and the redemption options available.

(xiii) When applicable, a complete, comprehensive and technically accurate description, accompanied by applicable diagrams, schematics and specifications, of the creation of a coupon and the redemption options available.

(xiv) Any specialized hardware, software or other equipment, inclusive of technical support and maintenance applicable thereto, required by the Board's Slot Lab to conduct the testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(xv) Additional documentation requested by the Board.

(9) In the case of a modification to any of the systems identified in paragraph (8), the following additional information shall be submitted:

(i) A complete, comprehensive and technically accurate description of the proposed modification to the system, accompanied by applicable diagrams, schematics and specifications.

(ii) A brief narrative disclosing the purpose for the modification.

(iii) Additional documentation as requested by the Board.

(i) At the conclusion of any testing of a prototype or modification by the Board's Slot Lab, but prior to a decision to approve a prototype or modification, the Board may require a trial period of scope and duration it deems appropriate to assess the operation of the prototype or modification in a live gaming environment. The conduct of the test period shall be subject to compliance by the licensed manufacturer, any applicable licensed supplier, and the slot machine licensee with specific terms and conditions as required by the Board, which may include development and implementation of product specific accounting and internal controls, periodic data reporting to the Board and compliance with any technical standards on trial periods or the prototype or modification adopted by the Board. The Board may authorize the receipt of compensation by a licensed manufacturer or licensed supplier during the trial period. The Board may order termination of the trial period if it determines that the licensed manufacturer, any applicable licensed supplier or the slot machine licensee conducting the trial period has not complied with the terms and conditions required by the Board or that the product is not performing as expected.

(j) At the conclusion of any testing of a prototype or modification, the Board's Slot Lab will report to the Board the results of its testing. Upon receipt of the Slot Lab's report, the Board will approve, approve with conditions or reject the submitted prototype or modification, require additional testing or a trial period under subsection (i). Board approval of a prototype or modification does not constitute a guarantee of the prototype or modification's safety.

(k) A slot machine licensee is prohibited from installing in its licensed facility any slot machine or associated equipment, or modification thereto, required to be tested and approved under subsection (b) unless the equipment, device or software has been approved by the Board. A slot machine licensee may not modify, alter or tamper with any approved slot machine or associated equipment.

(l) Notwithstanding subsection (k), when a modification to a slot machine prototype or associated equipment prototype is required on an emergency basis to prevent cheating or malfunction, upon the written request of a licensed manufacturer in the manner prescribed by the Board, which request must expressly detail the name and employer of any persons to be involved in the installation of a modification and the manner in which it is to be effected, the Board may, in writing, authorize installation of a modification prior to the completion of the testing and approval process required by this subpart. Within 15 days of receipt of any authorization to install an emergency modification, the manufacturer shall submit the modification for full testing and approval in accordance with this subpart.

(m) Concurrent with the initial receipt of slot machines, an applicant for, or holder of, a slot machine license shall file a slot machine master list as required by § 463.5 (relating to slot machine master list).

(n) The testing of equipment, devices or software under this subpart may require the dismantling of the product and testing that may result in damage to, or destruction of, one or more systems or components. Once submitted for testing, equipment, devices or software will not be returned to the manufacturer unless otherwise determined by the Board.

#### **§ 461.5. Slot machine conversions.**

(a) Definition. The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

*Conversion*—A change or alteration to a slot machine that does not affect the manner or mode of play or operation of the slot machine.

(b) *Records of conversion.* A slot machine licensee shall:

(1) Maintain complete and accurate records of all conversions.

(2) Give prior notice of a slot machine conversion to the Board's Slot Lab in writing in the manner prescribed by the Board.

(3) Notice the Department in accordance with § 463.6 (relating to notice to central computer system).

#### **§ 461.6. Revocations.**

If subsequent to the approval of a slot machine prototype, associated equipment prototype, or modification thereto, the Board determines that the equipment, device or software approved by the Board meets either of the following criteria, the Board may take action it deems appropriate, including revocation of the approval or imposition of additional conditions:

(1) The equipment, device or software is not in compliance with the act, this subpart or technical standards adopted by the Board.

(2) With regard to any slot machine, or modification thereto, the equipment, device or software is not compatible with, or compliant with the central control computer and protocol specifications approved by the Department or is unable to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

**§ 461.7. Slot machine minimum design standards.**

(a) A slot machine is any mechanical or electrical contrivance, terminal, machine or other device as defined in § 401.4 (relating to definitions).

(b) A slot machine is prohibited from being set to pay out less than the theoretical payout percentage, which shall be no less than 85% but not equal or exceed 100%. The theoretical payout percentage for the total value of slot machine wagers will be calculated using the following criteria:

(1) The defined set of all symbols that will be displayed using spinning reels or video displays or both.

(2) The finite set of all possible combinations which shall be known as the cycle of the game. All possible combinations in a slot machine cycle shall be independent of each other and of all possible combinations from cycles in other slot machines.

(3) The value of each winning combination that corresponds with the set from paragraph (2) which, whether by reason of skill or application of the element of chance, or both, may deliver or entitle the person playing the slot machine to a jackpot.

(4) A payout of merchandise or anything of value provided a cash equivalent award for the merchandise is offered. The value of the cash equivalent will contribute to the calculation of the theoretical payout percentage.

(5) A payout in the form of an annuity will contribute to the calculation of the theoretical payout percentage by dividing the initial or reset amount of the jackpot payout by the number of years over which the jackpot will be paid.

(6) The odds of any winning combination may not exceed 50 million to 1.

(c) The calculation of the theoretical payout percentage will not include:

(1) The amount of any progressive jackpot in excess of the initial or reset amount.

(2) A cash or noncash complimentary issued under § 465.8 (relating to complimentary services or items).

(3) A payout of merchandise or anything of value when a cash equivalent award is not offered.

(d) A play offered by a slot machine may not have a theoretical payout percentage which is less than, when calculated to one hundredth of a percentage point, the theoretical payout percentage for any other play offered by that slot machine which is activated by a slot machine wager in a lesser amount than the slot machine wager required for that play. Notwithstanding the foregoing, the theoretical payout percentage of one or more particular plays may be less than the theoretical payout percentage of one or more plays which require a lesser wager provided that:

(1) The aggregate total of the decreases in the theoretical payout percentage for plays offered by the slot machine is not more than 1/2 of 1%.

(2) The theoretical payout percentage for every play offered by the slot machine is equal to or greater than the theoretical payout percentage for the play that requires the lowest possible wager that will activate the slot machine.

(e) In addition to the requirements of subsections (b), (c) and (d), the volatility of a slot machine must verify that the theoretical payout percentage equals or exceeds the minimum payout requirement of 85% within 10 million plays. The criteria used to calculate the volatility must be in accordance with technical standards applicable to volatility adopted by the Board.

(f) The selection from the set of all possible combinations of symbols shall be made applying a pseudo random number generator. At a minimum, each pseudo random number generator must adhere to the following criteria:

(1) The random selection process must meet a 95% confidence interval.

(2) As determined by the Board, it must pass a standard chi-squared test for goodness of fit.

(3) Each possible slot machine combination which produces winning or losing slot machine outcomes must be available for random selection at the initiation of each play.

(4) A slot machine payout percentage that may be affected by reason of skill must meet the theoretical payout requirements of this subpart when evaluated by the Board using a method of play that will provide the greatest return to the player.

(5) Once a random selection process has occurred, the slot machine must:

(i) Display an accurate representation of this randomly selected outcome.

(ii) Not make a secondary decision which affects the result shown to the person playing the slot machine.

(g) A slot machine is prohibited from automatically altering any function of the slot machine based on internal computation of the hold percentage.

(h) The available winning combinations and applicable rules of play for a slot machine shall be available at all times the slot machine is idle to the patron playing the slot machine. The award schedule of available winning combinations may not include possible aggregate awards achievable from free plays. A slot machine that includes a strategy choice must provide mathematically sufficient information for a patron to use optimal skill. Information regarding a strategy choice need not be made available for any strategy decisions whenever the patron is not required, in addition to the initial wager, to make an additional wager and, when as a result of playing a strategy choice, the patron can not lose any credits earned thus far during that game play.

(i) Unless otherwise authorized by the Board, each slot machine approved for use in a licensed facility must be equipped with the following meters. The meters must comply with any technical standards adopted by the Board. The required meters must continuously and automatically increment in units equal to the denomination of the slot machine or, in the case of a slot machine configured for multidomination play, must display the required information in dollars and cents.



(1) *Coin in*. The slot machine must have a meter that accumulates the total value of all wagers, whether the wager results from the insertion of currency, gaming vouchers, coupons, downloaded credits, credits won or any other means. This meter must:

(i) Not include subsequent wagers of intermediate winnings accumulated during game play sequence such as those acquired from "double up" games.

(ii) For multi-game and multi-denomination/multi-game slot machines, monitor the information necessary, on a per pay table basis, to calculate a weighted average actual payout percentage.

(2) *Coin out*. The slot machine must have a meter that accumulates the total value of all amounts directly paid by the slot machine as a result of winning wagers, whether the payout is made directly from the printer by issuance of a gaming voucher, directly to a credit meter or by any other means. This meter may not record amounts awarded as the result of an external bonusing system or a progressive payout.

(3) *Attendant paid jackpots*. The slot machine must have a meter that accumulates the total value of credits paid by an attendant resulting from a single winning alignment or combination, the amount of which is not capable of being paid by the slot machine itself. This meter may not record amounts awarded as the result of an external bonusing system or a progressive payout. This meter is to record only amounts specifically listed in the manufacturer's par sheet.

(4) *Attendant paid cancelled credits*. The slot machine must have a meter that accumulates the total value of all amounts paid by an attendant resulting from a player initiated cash-out that exceeds the physical or configured capability of the slot machine.

(5) *Bill in*. The slot machine must have a meter that accumulates the total value of currency accepted. The slot machine must also have a specific meter for each denomination of currency accepted that records the number of bills accepted for each denomination.

(6) *Voucher in—cashable/value*. The slot machine must have a meter that accumulates the total value of all cashable gaming vouchers accepted by the slot machine.

(7) *Voucher in—cashable/count*. The slot machine must have a meter that accumulates the total number of cashable gaming vouchers accepted by a slot machine.

(8) *Voucher out—cashable/value*. The slot machine must have a meter that accumulates the total value of all cashable gaming vouchers issued by the slot machine.

(9) *Voucher out—cashable/count*. The slot machine must have a meter that records the total number of all cashable gaming vouchers issued by a slot machine.

(10) *Voucher out—noncashable/value*. The slot machine must have a meter that accumulates the total value of all noncashable gaming vouchers issued by the slot machine.

(11) *Voucher out—noncashable/count*. The slot machine must have a meter that records the total number of all noncashable gaming vouchers issued by the slot machine.

(12) *Cashable electronic in*. The slot machine must have a meter that accumulates the total value of cashable credits electronically transferred to the slot machine by means of an external connection between the slot machine and a cashless funds transfer system.

(13) *Noncashable electronic in*. The slot machine must have a meter that accumulates the total value of noncash-

able credits electronically transferred to the slot machine by means of an external connection between the slot machine and a cashless funds transfer system.

(14) *Coupon in—cashable/value*. The slot machine must have a meter that accumulates the total value of all cashable coupons accepted by the slot machine.

(15) *Coupon in—cashable/count*. The slot machine must have a meter that accumulates the total number of all cashable coupons accepted by the slot machine.

(16) *Coupon in—noncashable/value*. The slot machine must have a meter that accumulates the total value of all noncashable coupons accepted by the slot machine.

(17) *Coupon in—noncashable/count*. The slot machine must have a meter that accumulates the total number of noncashable coupons accepted by the slot machine.

(18) *Slot machine paid external bonus payout*. The slot machine must have a meter that accumulates the total value of additional amounts awarded as a result of an external bonusing system and paid by the slot machine.

(19) *Attendant paid external bonus payout*. The slot machine must have a meter that accumulates the total value of additional amounts awarded as a result of an external bonusing system and paid by a slot attendant.

(20) *Slot machine paid progressive payout*. The slot machine must have a meter that accumulates the total value of credits paid as a result of progressive awards paid directly by the slot machine. This meter may not record awards paid as a result of an external bonusing system.

(21) *Attendant paid progressive payout*. The slot machine must have a meter that accumulates the total value of credits paid by a slot attendant as a result of progressive awards that are not capable of being paid by the slot machine. This meter must not include awards paid as a result of an external bonusing system.

(22) *Additional requirements*. Other meters as may be required by technical standards adopted by the Board.

(j) Unless otherwise authorized by the Board, each slot machine approved for use in a licensed facility must be equipped with the following noncumulative meters:

(1) *Credits wagered*. The slot machine must have a meter, visible from the front exterior of a slot machine, known as a credit wagered meter that advises the patron of the total value of amounts wagered in a particular game or round of slot play.

(2) *Win meter*. The slot machine must have a meter, visible from the front exterior of the slot machine, known as a win meter that advises the patron of the total value of amounts won in the immediately concluded game or round of slot play.

(3) *Credits paid*. The slot machine must have a meter, visible from the front exterior of the slot machine, known as a credits paid meter that advises the patron of the total value of the last: cash out initiated by the patron, win paid directly by the slot machine, attendant paid jackpot or attendant paid cancelled credit.

(4) *Credit meter*. The slot machine must have a meter, visible from the front exterior of the slot machine and specifically labeled as a credit meter, which advises the patron as to the number of credits or monetary value available for wagering on the slot machine. The credit meter need not distinguish between cashable credits and noncashable credits.

(k) Each slot machine must have a meter which stores the number of games played, in the manner and for a duration specified in this subpart or in technical standards adopted by the Board, since the following events:

- (1) Power reset.
- (2) Door close.
- (3) Game initialization (random access memory (RAM) clear).

(l) Each slot machine must be equipped with a device, mechanism or method for retaining the total value of all meters required under subsection (i) for 72 hours subsequent to a power loss.

(m) The required meters on each slot machine must be accessible and legible without access to the interior of the slot machine.

(n) Each slot machine must be equipped with a tower light capable of effectively communicating the status of the slot machine in accordance with technical standards on tower lights and error conditions adopted by the Board.

(o) Each slot machine must be equipped with a device, mechanism or method for detecting, displaying and communicating to a slot monitoring system error conditions. The error conditions detected, displayed and communicated by a slot machine, and the method to be utilized to clear the message with regard to the error condition, must be in accordance with technical standards on tower lights and error conditions adopted by the Board.

(p) Each slot machine must, in accordance with section 1324 of the act (relating to protocol information), comply with the comprehensive protocol specifications necessary to enable the slot machine to communicate with the Department's central control computer as that protocol is amended or supplemented, for the purpose of transmitting auditing program information, real time information retrieval and slot machine activation and disabling.

(q) A slot machine must lock up and preclude further play whenever a jackpot occurs that is not able to be paid completely by the slot machine and requires a hand pay. When the jackpot occurs, the slot machine can offer a predetermined number of double-up wagers before the slot machine locks up.

(r) A slot machine must be configured to not accept more than \$3,000 in currency before a wager must be made or play initiated unless otherwise authorized by the Board.

(s) Printers incorporated into a slot machine must be:

(1) Designed to allow the slot machine to detect and report a low paper level, paper out, presentation error, printer failure and paper jams.

(2) Mounted inside a lockable compartment within the slot machine.

(t) Seating made available by a slot machine licensee for use during slot play must be fixed and stationary in nature. Slot seating must be installed in a manner that effectively precludes its ready removal by a patron but permits controlled removal, for example for Americans With Disabilities Act of 1990 (ADA) purposes (42 U.S.C.A. §§ 12101—12213), by slot operations department personnel.

(u) Unless a slot machine licensee's slot monitoring system is configured to automatically record all of the information required by this subsection, the slot machine

licensee shall be required to physically house in each slot machine the following entry authorization logs:

(1) A machine entry authorization log that documents each time a slot machine or any device connected thereto which may affect the operation of the slot machine is opened. The log must contain, at a minimum, the date, time, purpose for opening the slot machine or device and the signature and license number of the person opening and entering the slot machine or device. Each log must have recorded thereon a sequence number and the manufacturer's serial number or the asset number corresponding to the slot machine in which it is housed.

(2) A progressive entry authorization log that documents each time a progressive controller not housed within the cabinet of the slot machine is opened. The log must contain, at a minimum, the date, time, purpose for accessing the progressive controller and the signature and license number of the person accessing the progressive controller. Each log must be maintained in the progressive controller unit and have recorded thereon a sequence number and the manufacturer's serial number of the progressive controller.

(v) The Board may waive one or more of the slot machine minimum design standards in this section or technical standards adopted by the Board applicable to slot machine design, upon a determination that a slot machine prototype or modification as configured nonetheless meets the operational integrity standards of the act, this subpart and technical standards adopted by the Board.

#### § 461.8. Gaming vouchers.

(a) A gaming voucher is an instrument that upon insertion into a slot machine bill validator entitles the patron inserting the gaming voucher to cashable or noncashable credits on a slot machine corresponding to the value printed on the gaming voucher. The design specifications for a gaming voucher, the expiration terms applicable thereto, the voucher verification methodologies utilized, and any limitation on the value of a gaming voucher must be in compliance with technical standards on gaming vouchers adopted by the Board.

(b) A slot machine licensee may utilize a gaming voucher system. A gaming voucher system is the collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of gaming vouchers and the redemption of gaming vouchers by slot machines, automated gaming voucher redemption machines, the cashiers' cage or in other locations, and in alternative manners, as approved by the Board. A gaming voucher system must comply with technical standards on gaming voucher systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a gaming voucher system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Except as provided in subsection (n) with regard to employee redemption of gaming vouchers, each gaming voucher shall be redeemed by a patron for a specific value of cash, slot machine credits, or, at the request of the patron, a check issued by the slot machine licensee in the amount of the gaming voucher surrendered. Notwithstanding the forgoing, a slot machine licensee may not permit a gaming voucher that is presented for redemption to be redeemed if it knows, or has reason to know, that the gaming voucher:

(1) Is materially different from the sample of the gaming voucher approved by the Board.

- (2) Was previously redeemed.
- (3) Was printed as a test gaming voucher.
- (e) Prior to issuing a gaming voucher, each slot machine licensee shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the Board under § 465.3 (relating to internal control systems and audit protocols) and address:
  - (1) Procedures for assigning a slot machine's asset number and identifying other redemption locations in the system, and enabling and disabling voucher capabilities for slot machines and redemption locations.
  - (2) Procedures for issuance, modification and termination of a unique system account for each user in accordance with technical standards adopted by the Board.
  - (3) Procedures used to configure and maintain user passwords in accordance with technical standards adopted by the Board.
  - (4) Procedures for restricting special rights and privileges, such as administrator and override capabilities, in accordance with technical standards adopted by the Board.
  - (5) The duties and responsibilities of the information technology, internal audit, slot operations and slot accounting departments, respectively, and the level of access for each position with regard to the gaming voucher system.
  - (6) A description of physical controls on all critical hardware such as locks and surveillance, including the location and security protocols applicable to each piece of equipment as approved by the Board.
  - (7) Procedures for the backup and timely recovery of critical data in accordance with any technical standards adopted by the Board.
  - (8) Logs used to document and maintain the details of any Board approved hardware and software modifications upon implementation.
- (f) The system of internal controls required to be submitted and approved by the Board under subsection (e) must also include the procedures to be applied in the following instances:
  - (1) The slot machine licensee chooses to pay a patron the value of a gaming voucher notwithstanding the fact that its gaming voucher system is inoperable rendering it unable to determine the validity of the gaming voucher at the time of payment.
  - (2) The slot machine licensee chooses to pay a patron the value of a gaming voucher notwithstanding the fact that the gaming voucher system failed to verify and electronically cancel the gaming voucher when it was scanned.
  - (g) At the end of each gaming day, the gaming voucher system must generate reports, as approved by the Board, which reports are provided to the slot accounting department, either directly by the system or through the information technology department, and contain the following information, at a minimum:
    - (1) All gaming vouchers that have been issued. Reports with regard to slot machine activity must include the asset number of the slot machine and the serial number, value, date and time of issuance of each gaming voucher.
    - (2) All gaming vouchers that have been redeemed and canceled by redemption location, including the asset

number of the slot machine or location if other than a slot machine, the serial number, value, date and time of redemption for each voucher, the total value of all gaming vouchers redeemed at slot machines, and the total value of all gaming vouchers redeemed at locations other than slot machines.

- (3) The unredeemed liability for gaming vouchers.
- (4) The readings on gaming voucher related slot machine meters and a comparison of the readings to the number and value of issued and redeemed gaming vouchers, as applicable.
- (5) Exception reports and audit logs.
- (h) The slot machine licensee shall immediately report to the Board, in a manner prescribed by the Board, any evidence that a gaming voucher has been counterfeited, tampered with, or altered in any way which would affect the integrity, fairness, reliability or suitability of the gaming voucher.
  - (i) Upon presentation of a gaming voucher for redemption at a slot machine, the total value of which gaming voucher cannot be completely converted into an equivalent value of credits that match the denomination of the slot machine, the slot machine must perform one of the following procedures:
    - (1) Automatically issue a new gaming voucher containing the value that cannot be completely converted.
    - (2) Not redeem the gaming voucher and immediately return the gaming voucher to the patron.
    - (3) Allow for the additional accumulation of credits on an odd cents meter or a meter that displays the value in dollars and cents.
  - (j) A slot machine licensee that utilizes a system or a slot machine that does not print a test gaming voucher that is visually distinguishable from a valid gaming voucher whenever the slot machine is tested on the gaming floor must have in place internal controls approved by the Board under § 465.3 for the issuance of test currency from the cashiers' cage and the return and reconciliation of the test currency and any gaming vouchers printed during the testing process.
  - (k) Notwithstanding the requirements of subsection (d), if a patron requests to redeem a gaming voucher by mail, the slot machine licensee may effectuate the redemption. However, the gaming vouchers may only be redeemed by a cage supervisor in accordance with internal controls approved by the Board under § 465.3, which includes the following:
    - (1) Procedures for using the gaming voucher system to verify the validity of the serial number and value of the voucher, which, if valid, must be immediately canceled electronically by the system.
    - (2) Procedures for the issuance of a check containing the value of the voucher.
    - (l) Gaming vouchers redeemed at cashiering locations shall be transferred to the slot accounting department on a daily basis. Gaming vouchers redeemed by slot machines shall be counted in the count room and forwarded to the slot accounting department upon the conclusion of the count process. Gaming vouchers redeemed at automated gaming voucher redemption machines shall be forwarded to slot accounting upon the conclusion of the cashiers' cage reconciliation process. Slot accounting department representatives with no incompatible functions shall perform, at a minimum, the following:

(1) On a daily basis:

(i) Compare gaming voucher system report data to any count room system report data available for that gaming day to ensure proper electronic cancellation of the gaming voucher.

(ii) Calculate the unredeemed liability for gaming vouchers, either manually or by means of the gaming voucher system.

(2) On a weekly basis, compare appropriate slot machine meter readings to the number and value of issued and redeemed gaming vouchers per the gaming voucher system. Meter readings obtained through a slot monitoring system may be utilized to complete this comparison.

(m) A slot machine licensee shall provide written notice to the Board's Slot Lab of any adjustment to the value of any gaming voucher. The notice shall be made prior to, or concurrent with, the adjustment.

(n) Employees of a slot machine licensee who are authorized to receive gaming vouchers as gratuities may redeem the gaming vouchers only at the cashiers' cage. Gaming vouchers valued at more than \$100 shall be redeemed at the cashiers' cage only with the approval of the supervisor of the cashier conducting the redemption transaction.

(o) Each gaming voucher system must be configured to alert the slot machine licensee to any malfunction. Following any malfunction of a system, the slot machine licensee shall immediately notify the Board and may not utilize the system until the malfunction has been successfully eliminated. Notwithstanding the foregoing, the Board may permit, in accordance with approval procedures the Board prescribes, a slot machine licensee to utilize the system prior to its being successfully restored, for a period not to exceed 72 hours, provided that:

(1) The malfunction is limited to a single storage media device, such as a hard disk drive.

(2) In addition to the malfunctioning storage media device, the system contains a backup storage media device not utilized in the normal operation of the system. The backup device must immediately and automatically replace the malfunctioning device to permit a complete and prompt recovery of all information in the event of an additional malfunction.

(3) Continued use of the malfunctioning system would not inhibit the ability to perform a complete and prompt recovery of all information, and would not otherwise harm or affect the normal operation of the system.

(p) Other than a modification to a gaming voucher system required on an emergency basis to prevent cheating or malfunction and approved by the Board under § 461.4(l), a modification to a gaming voucher system may not be installed without the gaming voucher system having undergone the testing and approval process required under § 461.4.

(q) The Board may waive one or more requirements of this section or technical standards applicable to gaming voucher systems adopted by the Board upon a determination that the nonconforming gaming voucher system nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

#### § 461.9. Coupons.

(a) A coupon is an instrument issued by a slot machine licensee under which cashable or noncashable slot machine credits are provided directly or indirectly to a

patron with or without regard to the identity of the patron or patron's level of gaming activity.

(b) A slot machine licensee may issue coupons. A coupon system is the collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of coupons, the acceptance of a coupon by a slot machine or its redemption at an automated coupon redemption machine, cashiers' cage or such other locations, and in an alternative manner approved by the Board. A coupon system must comply with any technical standards on coupon systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a coupon system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Each coupon shall be designed and manufactured with sufficient graphics or other security measures, to permit, to the greatest extent possible, the proper verification of the coupon. Each coupon must contain, at a minimum, the following information:

(1) The name or trade name of the slot machine licensee, and if the slot machine licensee is affiliated with a casino licensee in any other jurisdiction with an identical or similar name or trade name, the name of the Pennsylvania location must be evident on the coupon.

(2) The value of the coupon, in both numbers and words.

(3) A unique serial number, which is automatically generated by the system in accordance with this subpart and technical standards adopted by the Board.

(4) The locations where the coupon may be redeemed and restrictions regarding redemption.

(5) An indication of the date on which the coupon becomes invalid.

(6) A bar code or magnetic strip which enables the system to establish the validity of the coupon and its value in accordance with this subpart and any technical standards adopted by the Board.

(e) Prior to issuing a coupon, each slot machine licensee shall establish a system of internal controls for the issuance and redemption of coupons. The internal controls shall be submitted to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(f) The Board may waive one or more requirements of this section or technical standards applicable to coupon systems adopted by the Board upon a determination that the nonconforming coupon system nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

#### § 461.10. Automated gaming voucher and coupon redemption machines.

(a) Automated gaming voucher and coupon redemption machines may be located on or proximate to the gaming floor of a licensed facility and must be subject to surveillance coverage under § 465.10 (relating to surveillance system; surveillance department control; surveillance department restrictions). Each automated gaming voucher and coupon redemption machine must have imprinted, affixed or impressed on the outside of the machine a unique asset identification number.

(b) A slot machine licensee is prohibited from utilizing an automated gaming voucher and coupon redemption machine that has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(c) Each automated gaming voucher and coupon redemption machine must have the capability of establishing the validity of the gaming voucher or coupon by comparing the instrument's unique serial number, automatically generated by the respective gaming voucher or coupon system in accordance with this subpart and technical standards adopted by the Board with electronic records within the gaming voucher system or coupon system.

(d) The methods utilized to comply with subsection (c) shall be submitted to and approved by the Board in the context of the testing of a gaming voucher system or coupon system.

(e) An automated gaming voucher and coupon redemption machine may function as a bill breaker changing bills of one denomination into bills of a smaller denomination.

(f) Each automated gaming voucher and coupon redemption machine must contain a lockable gaming voucher, coupon and currency storage box which retains the gaming vouchers, coupons or currency accepted by the machine. Each gaming voucher, coupon and currency storage box located inside the machine must also have imprinted, affixed or impressed thereon the asset identification number of the corresponding machine.

(g) Each automated gaming voucher and coupon redemption machine must have, at a minimum, the following:

(1) One lock securing the compartment housing and the storage box and one lock securing the storage box within the compartment, the keys to which must be different from each another. The key to the compartment housing the storage box shall be controlled by the slot operations department. The key to the lock securing the storage box within the compartment shall be controlled by the slot accounting department.

(2) One lock securing the compartment housing the currency cassettes, the key to which shall be controlled by the slot accounting department.

(3) One lock securing the compartment housing the coin storage container, the key to which shall be controlled by the slot accounting department.

(4) One lock securing the contents of the storage box, the key to which must be different from the keys referenced in paragraphs (1)—(3). This key shall be controlled by an employee of the slot accounting department other than the employee controlling the keys referenced in paragraphs (1)—(3).

(h) Each automated gaming voucher and coupon redemption machine must be designed to resist forced illegal entry. The slot machine licensee must secure the input/output ports on an automated gaming voucher and coupon redemption machine.

(i) Each automated gaming voucher and coupon redemption machine's currency cassettes must be designed to preclude access to its interior and must render itself inoperable if unauthorized access occurs. The key to each currency cassette shall be controlled by the slot accounting department.

(j) Access controls relating to the operating system or applications of the automated gaming voucher and coupon redemption machine, and ancillary systems, applications and equipment associated with the reconciliation thereof, must employ security measures that require authentication of the user and recording and maintaining of data regarding access and any modifications made. Authentication must be in accordance with this subpart and technical standards adopted by the Board.

(k) A gaming voucher or coupon accepted by an automated gaming voucher and coupon redemption machine shall be cancelled immediately upon exchange in a manner that effectively prevents its subsequent redemption by the cashiers' cage, another automated gaming voucher and coupon redemption machine or its acceptance in a slot machine bill validator. The methods utilized to comply with this requirement shall be in accordance with this subpart and technical standards adopted by the Board.

(l) Each automated gaming voucher and coupon redemption machine must be designed to be impervious to outside influences, interference from electro-magnetic, electro-static and radio frequencies and influence from ancillary equipment.

(m) Each automated gaming voucher and coupon redemption machine must include a means to protect against transaction failure and data loss due to power loss.

(n) Each automated gaming voucher and coupon redemption machine must detect, display and record electronically the following error conditions: power reset; door open; door just closed; and system communication loss. These error conditions may be automatically cleared by the automated gaming voucher and coupon redemption machine when the condition no longer exists and upon completion of a new transaction.

(o) Each automated gaming voucher and coupon redemption machine must detect, display and record electronically the error conditions in paragraphs (1)—(4). These error conditions must disable the automated gaming voucher and coupon redemption machine and prohibit new transactions and may only be cleared by either the slot accounting department or slot operations department.

(1) Failure to make payment, if the gaming voucher or coupon is not returned and no receipt is issued.

(2) Failure to make complete payment if a receipt for the unpaid amount is not issued.

(3) Bill validator failure.

(4) Printer failure due to printer jam or lack of paper.

(p) Each automated gaming voucher and coupon redemption machine must be designed to evaluate whether sufficient funds are available before stacking the voucher and completing the transaction.

(q) Each automated gaming voucher and coupon redemption machine must be capable of maintaining synchronization between its real time clock and that of the gaming voucher system and coupon system.

(r) Each automated gaming voucher and coupon redemption machine must be equipped with electronic digital storage meters which accumulate the following information. The information must be readily available through system reports. Where a value is maintained, the value must be in dollars and cents.

(1) *Physical coin out.* Each automated gaming voucher and coupon redemption machine must have a meter that

accumulates the total value, by denomination, of all coins paid by the automated gaming voucher and coupon redemption machine.

(2) *Voucher in—value.* Each automated gaming voucher machine must have a meter that accumulates the value of all cashable gaming vouchers accepted.

(3) *Voucher in—count.* Each automated gaming voucher machine must have a meter that accumulates the number of all cashable gaming vouchers accepted.

(4) *Coupon in—value.* Each automated coupon redemption machine must have a meter that accumulates the value of all cashable coupons accepted.

(5) *Coupon in—count.* Each automated coupon redemption machine must have a meter that accumulates the number of all cashable coupons accepted.

(6) *Bill in.* Each automated gaming voucher and coupon redemption machine must have a meter that accumulates the value of all currency accepted by the automated gaming voucher and coupon redemption machine. Each automated gaming voucher and coupon redemption machine must also have specific meters for each denomination of currency accepted that records the number of bills accepted.

(7) *Bill out.* Each automated gaming voucher and coupon redemption machine must have a meter that accumulates the total value of currency dispensed. Each automated gaming voucher and coupon redemption machine must also provide for specific meters for each denomination of currency dispensed that record the number of bills dispensed.

(8) *Additional requirements.* Other meters as may be required by technical standards adopted by the Board.

(s) An automated gaming voucher and coupon redemption machine must have the capacity to record and retain, in an automated transaction log, all critical transaction history for at least 30 days. Transaction history must include records with regard to the date, time, amount and disposition of each complete and incomplete transaction, error conditions, logical and physical access and attempted access to the automated gaming voucher and coupon redemption machine. If an automated gaming voucher and coupon redemption machine is capable of redeeming multiple vouchers and coupons in a single transaction, the transaction history must include a breakdown of the transaction with regard to gaming vouchers and coupons.

(t) Each automated gaming voucher and coupon redemption machine or ancillary systems, applications and equipment associated with the reconciliation thereof, must be capable of producing the following reports upon request:

(1) *Gaming voucher transaction report.* This report must include the disposition (paid, partial pay, unpaid) of gaming vouchers accepted by an automated gaming voucher and coupon redemption machine which must include the validation number, the date and time of redemption, amount requested and the amount dispensed. This information must be available by reconciliation period which may be by day, shift or drop cycle.

(2) *Coupon transaction report.* This report must include the disposition (paid, partial pay, unpaid) of coupons accepted by an automated gaming voucher and coupon redemption machine which must include the unique serial number, the date and time of redemption, amount re-

quested and the amount dispensed. This information must be available by reconciliation period which may be by day, shift or drop cycle.

(3) *Reconciliation report.* This report must include the following information:

- (i) Report date and time.
- (ii) Unique asset identification number of the machine.
- (iii) Total cash balance of the currency cassettes.
- (iv) Total count of currency accepted by denomination.
- (v) Total dollar amount of vouchers accepted.
- (vi) Total count of gaming vouchers accepted
- (vii) Total dollar amount of coupons accepted.
- (viii) Total count of coupons accepted.

(4) *Gaming voucher, coupon and currency storage box report.* This report must be generated, at a minimum, whenever a gaming voucher, coupon and currency storage box is removed from an automated gaming voucher and coupon redemption machine. The report must include the following information:

- (i) Report date and time.
- (ii) Unique asset identification number of the machine.
- (iii) Unique identification number for each storage box in the machine.
- (iv) Total value of currency dispensed.
- (v) Total number of bills dispensed by denomination.
- (vi) Total dollar value of gaming vouchers accepted.
- (vii) Total count of gaming vouchers accepted.
- (viii) Total dollar value of coupons accepted.
- (ix) Total count of coupons accepted.

(x) Details required to be included in the gaming voucher transaction report required by paragraph (1) and the coupon transaction report required in paragraph (2).

(5) *Transaction report.* This report must include all critical patron transaction history including the date, time, amount and disposition of each complete and incomplete transaction. If an automated gaming voucher and coupon redemption machine is capable of redeeming multiple vouchers or coupons in a single transaction, the transaction history must include a breakdown of the transaction with regard to gaming vouchers and coupons accepted.

(u) The Board may waive one or more requirements of this section or technical standards applicable to automated gaming voucher and coupon redemption machines adopted by the Board upon a determination that the machine as configured nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

#### **§ 461.11. Automated gaming voucher and coupon redemption machines: accounting controls.**

Prior to commencing use of either an automated gaming voucher redemption machine, an automated coupon redemption machine, bill breaker or some combination thereof, each slot machine licensee shall establish a comprehensive system of internal controls addressing the distribution of currency or coin, or both, to the machines, the removal of any gaming vouchers, coupons or currency accepted by the machines and the reconciliations associated therewith. The internal controls shall be submitted

to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

**§ 461.12. Progressive slot machines.**

(a) A progressive slot machine is a slot machine that offers a jackpot that may increase in value based upon wagers as the slot machine is played. A progressive slot machine may stand alone, be linked or interconnected with other progressive slot machines. Progressive slot machines located at a licensed facility that are linked or interconnected with progressive slot machines at another licensed facility are collectively referred to as a wide area progressive system.

(b) Each slot machine that offers a progressive jackpot which may increase in value based upon wager and is adjusted and displayed by a device other than the approved program that controls the operation of the slot machine, referred to herein as a progressive controller, must have the following features:

(1) For each progressive jackpot offered by the slot machine, a mechanical, electrical or electronic device, to be known as a progressive meter, visible from the front of the slot machine, which may increase in value based upon wagers, and which advises the player of the amount which can be won if the slot machine symbols that award the progressive jackpot appear as a result of activation of play of the slot machine.

(2) A slot machine paid progressive payout meter in accordance with § 461.7(i) (relating to slot machine minimum design standards).

(3) A slot attendant paid progressive payout meter in accordance with § 461.7(i).

(4) A cumulative progressive payout meter that continuously and automatically records the total value of progressive jackpots paid directly by the slot machine or by a slot attendant.

(5) A key and key switch to reset the progressive meters or other reset mechanism as may be approved by the Board.

(6) A key locking the compartment housing the progressive meters or other means by which to preclude unauthorized alterations to the progressive meters. This key or alternative security method must be different than the key or reset mechanism in paragraph (5).

(7) Dual key control by the security department and slot accounting department, or alternative key controls as the Board approves, of the compartment housing the microprocessor or other unit that controls the progressive meters. The compartment shall be in a location approved by the Board.

(c) Each slot machine that is connected to a common progressive meter for the purpose of offering the same progressive jackpot on two or more slot machines must:

(1) Have the same probability of hitting the combination that will award the progressive jackpot as every other linked slot machine connected to the common progressive meter.

(2) Require that the same amount in wager be invested to entitle the player to a chance at winning the progressive jackpot and that each increase in wager increment the progressive meter by the same rate of progression as every other linked slot machine connected to the common progressive meter.

(3) Have its program or progressive controller that controls the common display for the progressive meter

housed in a location and subject to dual key controls as may be approved by the Board.

(d) Notwithstanding the provision of subsection (c):

(1) Two or more linked slot machines offering the same progressive jackpot may be of different denominations or have different wagers, or both, required to win the progressive jackpot, provided that:

(i) The probability of winning the progressive jackpot is directly proportional to the wager required to win that jackpot.

(ii) A notice approved by the Board indicating the proportional probability of hitting the progressive jackpot on a linked progressive system is conspicuously displayed on each linked slot machine.

(2) The probability of winning a progressive jackpot offered on linked slot machines may vary among the machines when necessary to enable a slot machine licensee or, as applicable, a slot system operator, to institute a change in the probability which is otherwise permitted by this subpart, if the change is completed expeditiously in accordance with procedures that have been filed with and approved by the Board.

(e) A slot machine licensee seeking to utilize a linked slot machine shall submit to the Board for approval the location and manner of installing any progressive meter display mechanism.

(f) A slot machine that offers a progressive jackpot may not be placed on the gaming floor until the slot machine licensee or, as applicable, the slot system operator, has submitted to the Board, in a manner the Board directs, and the Board has approved, the following:

(1) The initial and reset amounts at which the progressive meters will be set.

(2) The proposed system for controlling the keys and applicable logical access controls to the slot machines.

(3) The proposed rate of progression for each progressive jackpot.

(4) The proposed limit for the progressive jackpot, if any.

(5) The calculated probability of winning each progressive jackpot. The probability may not exceed 50 million to 1. Notwithstanding the foregoing, this paragraph does not apply to a jackpot with a probability that may exceed 50 million to 1 during the game cycle due solely to the intervening occurrence of free play awards between the activation of a play and the award of the jackpot.

(g) Progressive meters may not be turned back to a lesser amount unless one of the following occurs:

(1) The amount indicated has been actually paid to a winning patron.

(2) The progressive jackpot amount won by the patron has been recorded in accordance with a system of internal controls approved under § 465.3 (relating to internal control systems and audit protocols).

(3) The progressive jackpot has, with prior Board approval, been transferred to another progressive slot machine or wide area progressive system in accordance with this subpart.

(4) The change is necessitated by a slot machine or meter malfunction, in which case:

(i) For progressive jackpots governed by subsection (b), an explanation shall be entered on the progressive slot

summary required by this subpart and the Board shall be notified of the resetting in writing in a manner the Board directs.

(ii) For progressive jackpots governed by subsection (m), an explanation shall be entered on the machine entry authorization log required under this subpart unless the slot machine automatically addresses the malfunction in a manner approved by the Board.

(h) Once an amount appears on a progressive meter, the probability of hitting the combination that will award the progressive jackpot may not be decreased unless the progressive jackpot has been won by a patron or the progressive jackpot has been transferred to another progressive slot machine or wide area progressive system or removed in accordance with subsection (j).

(i) When a progressive slot machine has a progressive meter with digital limitations on the meter, the slot machine licensee shall set a limit on the progressive jackpot not to exceed the display capability of the progressive meter.

(j) A slot machine licensee or, as applicable, a slot system operator, may limit, transfer or terminate a progressive jackpot offered on a gaming floor only in accordance with the following procedures:

(1) Establish a payout limit for a progressive jackpot provided that the payout limit is greater than the then current payout amount on the progressive jackpot meter. The slot machine licensee shall notice the Board, in a manner the Board directs, of the imposition of a payout limit on a progressive meter or a modification thereto concurrent with the setting of the payout limit.

(2) May terminate a progressive jackpot concurrent with the winning of the progressive jackpot provided its slot machine program or progressive controller was configured prior to the winning of the progressive jackpot to establish a fixed reset amount with no progressive increment.

(3) May immediately and permanently remove one or more linked slot machines from a gaming floor, provided that:

(i) When the slot machine is part of a wide area progressive system offered at multiple licensed facilities, the slot machine licensee shall retain at least one linked slot machine offering the same progressive jackpot on its gaming floor.

(ii) When the progressive jackpot is only offered in a single licensed facility, at least two linked slot machines offering the same progressive jackpot must remain on the gaming floor.

(4) May transfer a progressive jackpot amount on a stand alone progressive slot machine or the common progressive jackpot on an entire link of progressive slot machines with a common progressive meter, including a wide area progressive system, from a gaming floor provided the progressive jackpot is:

(i) Transferred in its entirety.

(ii) Transferred to either of the following:

(A) The progressive meter for a progressive slot machine or wide area progressive system with the same or greater probability of winning the progressive jackpot, the same or lower wager requirement to be eligible to win the progressive jackpot, and the same type of progressive jackpot (cash, annuity, annuity/cash option or a combination/alternate jackpot). However, if no other progressive slot machine or wide area progressive system

meets all of these qualifications, the Board may authorize a transfer of the jackpot to the progressive meter of the most similar progressive slot machine or wide area progressive system available if the Board finds the transfer would be in the public interest.

(B) The progressive meters of two separate progressive slot machines or wide area progressive systems, provided that each progressive slot machine or wide area progressive system to which the jackpot is transferred individually satisfies the requirements of clause (A).

(iii) Notice of intent to transfer the progressive jackpot is conspicuously displayed on the front of each slot machine for at least 30 days.

(iv) Notice of intent to transfer the progressive jackpot is provided in writing to the Board, in a manner the Board directs, at least 30 days prior to the transfer of the progressive jackpot.

(5) May immediately and permanently remove a progressive jackpot on a stand alone progressive slot machine, the common progressive jackpot on an entire link of progressive slot machines with a common progressive meter or an entire wide area progressive system from a gaming floor provided notice of intent to remove the progressive jackpot is:

(i) Conspicuously displayed on the front of each slot machine for at least 30 days.

(ii) Provided in writing to the Board, in a manner the Board directs, at least 30 days prior to the removal of the progressive jackpot.

(k) The amount indicated on the progressive meter or meters and coin in meter on each slot machine governed by subsection (b) shall be recorded on a progressive slot summary report at least once every 7 calendar days and each report shall be signed by the preparer. If not prepared by the slot accounting department, the progressive slot summary report shall be forwarded to the slot accounting department by the end of the gaming day on which it is prepared. A representative of the slot accounting department shall be responsible for calculating the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the slot operations department as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation must include the date, asset number of the slot machine, the amount of the adjustment and the signatures of the slot accounting department member requesting the adjustment and of the slot operations department member making the adjustment.

(2) The adjustment shall be effectuated within 48 hours of the meter reading.

(l) Except as otherwise authorized by this section, a slot machine offering a progressive jackpot that is removed from the gaming floor shall be returned to or replaced on the gaming floor within 5 gaming days. The amount on the progressive meters on the returned or replacement machine may not be less than the amount on the progressive meters at the time of removal. If the slot machine is not returned or replaced, any progressive meter amount at the time of removal shall, within 5 days of the slot machine's removal, be added to a slot machine approved by the Board which slot machine offers the same or a greater probability of winning the progressive jackpot and requires the same wager or less than the



wager required to win the progressive jackpot on the slot machine that was removed. This subsection does not apply to the temporary removal by a slot machine licensee, for a period not to exceed 30 days, of all linked slot machines that are part of a particular wide area progressive system, provided that the progressive jackpot offered by the temporarily removed slot machines remains available on slot machines that are part of the same wide area progressive system in another licensed facility.

(m) Each slot machine that offers a progressive jackpot controlled by a slot machine program with a fixed initial and reset amount, rate of progression and progressive jackpot limit which cannot be changed by the slot machine licensee must limit the progressive jackpot to an amount which is less than \$1,200.

(n) A progressive jackpot governed by subsection (m) is not subject to subsections (j)(4), (k) or (l).

(o) Where a slot machine is located adjacent to any linked progressive slot machine, the slot machine licensee shall conspicuously display on the slot machine a notice advising patrons that the slot machine is not participating in the progressive jackpot of the adjacent link.

(p) The Board may waive one or more of the requirements of this section or technical standards applicable to progressive slot machines adopted by the Board upon a determination that the progressive slot machine or wide area progressive slot system as configured meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.13. Wide area progressive systems.**

(a) Two or more slot machine licensees may, with the prior written approval of the Board, operate linked progressive slot machines that are interconnected between participating licensed facilities. The slot machines participating in the link shall be collectively referred to as a wide area progressive system.

(b) A wide area progressive system shall at all times be installed and operated in accordance with the relevant requirements of the act, this subpart and technical standards adopted by the Board.

(c) Each wide area progressive system shall be operated and administered by participating slot machine licensees in accordance with the terms and conditions of a written agreement executed by the participating slot machine licensees and approved by the Board. The agreement shall be referred to as a slot system agreement. Slot system agreements must be approved in writing by the Board prior to implementation and comply with the act, this subpart and technical standards on wide area progressive systems adopted by the Board.

(d) Nothing herein prevents the slot machine licensees participating in a slot system agreement from delegating, in whole or in part, the operation and administration of a wide area progressive system to a licensed manufacturer provided that the slot system agreement is executed by the licensed manufacturer and its express terms are determined by the Board to be in compliance with the act, this subpart and technical standards on wide area progressive systems adopted by the Board. The person or persons designated in a slot system agreement as being responsible for the operation and administration of a wide area progressive system shall be referred to as the slot system operator.

(e) An agreement between a licensed manufacturer and a slot machine licensee under which a licensed manufact-

urer sells, leases or services a wide area progressive system will not constitute a slot service agreement unless the agreement also covers operation and administration of the wide area progressive system.

(f) Slot system agreements must address:

(1) Details with regard to the terms of compensation for the slot system operator. In specific, the agreement must address to what extent, if any, the slot system operator is receiving compensation based, directly or indirectly, on an interest, percentage or share of a slot machine licensee's revenue, profits or earnings from the operation of the wide area progressive system

(2) Responsibility for the funding and payment of all jackpots, fees and gross terminal revenue taxes associated with the operation of the wide area progressive system.

(3) Control and operation of the computer monitoring room required under this subpart.

(4) Other requirements requested by the Board, including those required to comply with technical standards on wide area progressive systems adopted by the Board.

(g) Each wide area progressive system shall be controlled and operated from a computer monitoring room approved by the Board. The computer monitoring room must:

(1) Be under the sole possession and control of, and maintained and operated by, employees of the slot system operator designated in the slot system agreement for that system. The employees shall be licensed or permitted as the Board deems appropriate based on an analysis of specific duties and responsibilities.

(2) Have its monitoring equipment subjected to surveillance coverage either by the surveillance system of a slot machine licensee participating in the slot system agreement or by a dedicated surveillance system maintained by the slot system operator. Surveillance coverage must be in accordance with technical standards adopted by the Board.

(3) Be accessible through a locked door. The door must be alarmed in a manner that audibly signals the surveillance monitoring room for the surveillance system elected under paragraph (2).

(4) Have a computer monitoring room entry log. The log must be:

(i) Kept in the computer monitoring room.

(ii) Maintained in a book with bound numbered pages that cannot be readily removed.

(iii) Signed by each person entering the computer monitoring room who is not an employee of the slot system operator expressly employed in the computer monitoring room on his assigned shift. Each entry must contain the following:

(A) The date and time of entering and exiting the room.

(B) The name, department or employer, when applicable, license number of the person entering and exiting the room and of the person authorizing the entry.

(C) The reason for entering the computer monitoring room.

(5) Reside within a licensed facility or other location approved by the Board.

(h) The Board may waive one or more of the requirements of this section or technical standard applicable to

wide area progressive system adopted by the Board upon a determination that the nonconforming wide area progressive system nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.14. Slot monitoring systems.**

(a) A slot monitoring system is the collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, authorize, report and audit data with regard to activity at slot machines, inclusive of slot machine meter readings, error conditions, slot machine security, accounting, player tracking and productivity analysis.

(b) A slot monitoring system must comply with the act, this subpart and technical standards on slot monitoring systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a slot monitoring system which has not had any interface between it and slot machines and related systems tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) The Board may waive one or more of the requirements of this section or technical standards applicable to slot monitoring systems adopted by the Board upon a determination that the slot monitoring system as configured nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.15. Casino management systems.**

(a) A casino management system is the collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, report and audit data with regard to activity at slot machines, inclusive of slot machine level accounting transactions, player tracking and productivity analysis.

(b) A casino management system must comply with the act, this subpart and technical standards on casino management systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a casino management system which has not had any interface between it and slot machines and related systems tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) The Board may waive one or more of the requirements of this section or technical standards applicable to casino management systems adopted by the Board upon a determination that the casino management system as configured nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.16. Player tracking systems.**

(a) A player tracking system is the collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, authorize, report and audit data with regard to player activity at slot machines. Player activity may be tracked generally or on an individual player basis.

(b) A player tracking system must comply with the act, this subpart and technical standards on player tracking systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a player tracking system which has not had any interface between it and slot machines and related systems tested

and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) The Board may waive one or more of the requirements of this section or technical standards applicable to player tracking systems adopted by the Board upon a determination that the player tracking system as configured nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.17. External bonusing systems.**

(a) An external bonusing system is the collective hardware, software, communications technology and other ancillary equipment used in conjunction with slot machines to deliver randomly selected player incentives (bonus awards) to active slot machine players and to effect the accurate metering of the bonus award event on the slot machine.

(b) The combination of the slot machine theoretical payout percentage plus the bonus awards generated by an external bonusing system cannot equal or exceed 100% of the theoretical payout for a slot machine on which the external bonus award is available.

(c) A slot machine must satisfy the minimum theoretical payout percentage required under this subpart without the contribution of any external bonus award available on the slot machine.

(d) An external bonusing system must comply with the act, this subpart and technical standards on external bonusing systems adopted by the Board.

(e) A slot machine licensee is prohibited from utilizing an external bonusing system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(f) The Board may waive one or more of the requirements of this section or technical standards applicable to external bonusing systems adopted by the Board upon a determination that the external bonusing system as configured nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.18. Cashless funds transfer systems.**

(a) A cashless funds transfer system is the collective hardware, software, communications technology and other ancillary equipment used to facilitate the electronic transfer of cashable or noncashable credits to a patron at a slot machine in connection with a promotional program.

(b) A cashless funds transfer system must comply with the act, this subpart and technical standards on cashless funds transfer systems adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a cashless funds transfer system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Prior to utilizing a cashless funds transfer system, each slot machine licensee shall establish a system of internal controls applicable to the cashless funds transfer system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of its cashless funds transfer system and include the following:

- (1) An overview of the system design.
- (2) System access controls and restrictions.

- (3) Override policies and restrictions.
- (6) Backup and recovery procedures.
- (7) Logical and physical access controls and restrictions.
- (8) Network security.
- (9) Procedures for handling customer disputes.

(e) Each transfer of electronic credits to a slot machine under this section shall be initiated by a patron using an access control approved by the Board. Access controls must require the use of a unique access code for each patron. The access code shall be selected by and only available to the patron.

(f) A record of each transfer of electronic credits to a slot machine under this section shall be maintained by the slot machine licensee and be identified by, at a minimum, the date, time and the asset number of the slot machine to which the transfer occurred and an identification number assigned to the patron who initiated the transaction. The identification number assigned to each patron for the purposes of this section must be different from the unique access code selected by that patron as part of an access control.

(g) On at least a monthly basis, each slot machine licensee using a cashless funds transfer system shall provide a statement to each patron who has participated in the system that month. The statement must include, at a minimum, the patron's beginning monthly balance, credits earned, credits transferred to a slot machine under this section and the patron's monthly ending balance. With the written authorization of the patron, the mailing of a monthly statement may be omitted or be issued electronically to the patron. Notwithstanding the foregoing, a monthly statement is not required for transfers of temporary electronic credits or transfers of electronic credits from a temporary anonymous account.

(h) A slot machine licensee shall notice the Board's Slot Lab in writing of any adjustment to the amount of any credit transferred to a slot machine by means of a cashless funds transfer system. The notice shall be made on or before the date of adjustment.

(i) The Board may waive one or more of the requirements of this section or technical standards applicable to cashless funds transfer systems adopted by the Board upon a determination that the nonconforming cashless funds transfer system nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.19. Remote system access.**

(a) In emergency situations or as an element of technical support, an employee of a licensed manufacturer may perform analysis of, or render technical support with regard to, a slot machine licensee's slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system, wide area progressive system, gaming voucher system or other Board approved system from a remote location.

(b) Remote system access shall be performed in accordance with any technical standards on remote system access adopted by the Board.

(c) A slot machine licensee authorizing access to a system by a licensed manufacturer under this section shall be responsible for implementing a system of access protocols and other controls over the physical integrity of any system and any remote access process sufficient to

insure appropriately limited access to software and the system wide reliability of data.

**§ 461.20. Server supported slot systems.**

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

*Server supported slot machine*—A slot machine connected to, and administered by, a server supported slot system.

*Slot machine server*—A computer configured to receive, store, authenticate and download to server supported slot machines Board-approved slot machine games and other approved software. A slot machine server may also be used to effect changes in a server supported slot machine's configuration.

*Server supported slot system*—A system comprised of one or more server supported slot machines connected to a slot machine server and its ancillary computer network for the ultimate purpose of downloading Board-approved slot machine games and other approved software to server supported slot machines. Results from the play or operation of a server supported slot machine connected to a server supported slot system must be determined solely by the individual slot machine and not by the slot machine server or other ancillary computer network.

(b) A server supported slot system, and server supported slot machines to which it is connected, must comply with the act, this subpart and technical standards on server supported slot systems, slot machine servers and server supported slot machines adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a server supported slot system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Prior to utilizing a server supported slot system, each slot machine licensee shall establish a system of internal controls applicable to a server supported slot system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of its server supported slot system.

(e) The Board may waive one or more of the requirements of this section or technical standards applicable to server supported slot systems, slot machine servers and server supported slot machines adopted by the Board upon a determination that the nonconforming server supported slot system, slot machine server or server supported slot machine nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

**§ 461.21. Server based slot systems.**

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

*Server based slot machine*—A slot machine accessing a server based slot system.

*Slot machine server*—A computer configured to receive, store and authenticate Board-approved slot machine games and other approved software.

*Server based slot system*—A system comprised of one or more server based slot machines connected to a slot machine server and its ancillary computer network for

the ultimate purpose of facilitating access by a server based slot machine to Board-approved slot machine games and other approved software residing on the slot machine server. Results from the play or operation of a server based slot machine must be determined solely by the slot machine server and not by the individual slot machine.

(b) A server based slot system, and any server based slot machines accessing the system, must comply with the act, this subpart and technical standards on server based slot systems, slot machine servers and server based slot machines adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing a server based slot system which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Prior to utilizing a server based slot system, each slot machine licensee shall establish a system of internal controls applicable to a server based slot system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of its server based slot system.

(e) The Board may waive one or more of the requirements of this section or technical standards applicable to server based slot systems, slot machine servers and server based slot machines adopted by the Board upon a determination that the nonconforming server based slot system, slot machine server or server based slot machine nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

#### **CHAPTER 465. ACCOUNTING AND INTERNAL CONTROLS**

##### **§ 465.12. Slot machine licensee's organization.**

(a) Each slot machine licensee's system of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465.3 (relating to internal control systems and audit protocols), include organization charts depicting appropriate segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Each slot machine licensee shall be permitted, except as otherwise provided in this section, to tailor its organizational structure to meet the needs or policies of its own particular management philosophy. The proposed organizational structure of each slot machine licensee shall be approved by the Board in the absence of a conflict between the organizational structure and the following criteria. The criteria are designed to maintain the integrity of the slot machine operation. Each slot machine licensee's organization charts must provide for:

(1) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility.

(2) The segregation of incompatible functions, duties and responsibilities so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of his or her duties.

(3) The performance of all functions, duties and responsibilities in accordance with sound financial practices by competent, qualified personnel.

(4) The areas of responsibility which are not so extensive as to be impractical for one person to monitor.

(5) A chief executive officer. For the purposes of this section, a chief executive officer means the person located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business, including the direct or indirect supervisor of the departments required by subsection (b), regardless of the form of business association of the slot machine licensee or applicant or the particular title which that person or any other person holds. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

(b) In addition to satisfying the requirements of subsection (a), each slot machine licensee's system of internal controls must include, at a minimum, the following departments and supervisory positions, each of which shall be categorized as mandatory and cooperate with, yet perform independently of, all other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that is not required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor provided the organizational structure is consistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are as follows:

(1) A surveillance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

(i) The clandestine surveillance of the operation of, and gaming conducted at, slot machines.

(ii) The clandestine surveillance of the operation of automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines.

(iii) The clandestine surveillance of the operation of the cashiers' cage and any satellite cage.

(iv) The audio and video recording of activities in the count room in conformance with 18 Pa.C.S. §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act), and the video recording of movements of cash and slot cash storage boxes.

(v) The detection of cheating, theft, embezzlement and other illegal activities within the licensed facility.

(vi) The detection of the presence of any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act (relating to regulation requiring exclusion of certain persons), who may be excluded or ejected from the licensed facility under section 1515 of the act (relating to repeat offenders excludable from the gaming floor and licensed gaming facilities) or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act (relating to list of persons self-excluded from gaming activities).

(vii) The video recording of those locations, persons, activities or transactions required under § 465.10(e) (relating to surveillance system; surveillance department con-

trol; surveillance department restrictions) and of any illegal and unusual activities monitored by the surveillance department.

(viii) The provision of immediate notice to appropriate supervisors, the Bureau and the Pennsylvania State Police upon detecting, and also upon commencing video recording of, any person who is engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement or other illegal activities, including any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.

(ix) The clandestine surveillance of any slot computer system or equipment designated for coverage by the Board in conjunction with the approval of a slot machine system, including a slot monitoring system, casino management system, wide area progressive system, gaming voucher system and any communication equipment with the central control computer.

(2) An internal audit department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of internal audit. The director of internal audit shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee.

(3) An information technology department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the information technology director. The information technology director shall be licensed as a key employee and be responsible for the quality, reliability and accuracy of the slot computer systems used by the slot machine licensee regardless of whether data, software or systems are located within or outside the licensed facility. The information technology director shall further be responsible for the security and physical integrity of, and the accountability and maintenance of, the following:

(i) Access codes and other security controls used to insure appropriately limited access to computer software and the system wide reliability of data.

(ii) Computer tapes, disks or other electronic storage media containing data relevant to the slot machine licensee's operations.

(iii) Computer hardware, communications equipment and software used in the conduct of the slot machine licensee's operations.

(iv) The computerized slot monitoring system utilized by the slot machine licensee. Specifically, the information technology director shall ensure that:

(A) Each slot machine located on the gaming floor is connected electronically to the slot machine licensee's computerized slot monitoring system and to the Commonwealth's central control computer in accordance with section 1323 (relating to central control computer system).

(B) The security features of the computerized slot monitoring system prohibit, at a minimum, the deletion, creation or modification of any data unless a permanent record is created that sets forth:

(I) The original information.

(II) Any modification to the original information.

(III) The identity of the employee making the modification.

(VI) If applicable, the identity of each employee authorizing the modification.

(C) Any computerized jackpot payout system utilized by the slot machine licensee is configured to require that any modification of \$100 or more to the original amount recorded on a computerized jackpot payout or system override is authorized by two slot accounting department employees, one of whom is in a position of greater authority than the individual preparing the jackpot payout.

(D) Procedures and controls are in place that define and limit interaction between both the slot operations department and slot accounting department and the computerized slot monitoring system including access to system menus, the establishment of slot machine profile parameters, and the ability of each department to access, delete, create or modify information contained in the slot monitoring system.

(4) A slot operations department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of slot operations. The director of slot operations shall be licensed as a key employee and be responsible for the operation of, and conduct of gaming at, slot machines within the licensed facility.

(5) A security department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of security. The security department shall be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

(i) The physical safety of natural persons.

(ii) The physical safeguarding of assets.

(iii) The protection of the property of both the patron and the slot machine licensee from illegal activity.

(iv) In collaboration with the human resources department or its functional equivalent, the design, implementation and enforcement of a system for the issuance of access badges.

(v) The design, implementation and enforcement of a system for the issuance of temporary access credentials.

(vi) The recording of any unusual incidents within the licensed facility in which the security department is involved. Each incident shall be recorded by security department personnel in a book with bound numbered pages that cannot be readily removed or be maintained in an electronic format that the Board approves. The log shall be stored and retained in accordance with § 465.7 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded:

(1) The assignment number.

(2) The date and time.

(3) The nature of the incident.

(4) The persons involved in the incident.

(5) The security department employees assigned to cover the incident.

(vii) The identification and removal of any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under

section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.

(viii) The performance of all duties and responsibilities required under the system of internal controls submitted and approved under § 465.3.

(ix) Providing immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed facility of a person possessing a firearm or handgun in violation of § 465.14 (relating to firearms; possession within a licensed facility).

(6) A slot accounting department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of slot accounting. The director of slot accounting shall be licensed as a key employee and be responsible for all slot accounting functions including the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms, and the control and supervision of the cashiers' cage, any satellite cage and the count room. In addition to the requirement that the director of slot accounting be licensed as a key employee, the supervisor of the cashiers' cage shall, on all shifts, be licensed as a key employee.

(c) The supervisors of the surveillance and internal audit departments required by subsection (b) shall comply with the following reporting requirements:

(1) Each supervisor shall report directly to the chief executive officer of the slot machine licensee regarding administrative matters and daily operations. However, a slot machine licensee may allow each of these supervisors to report directly to a management executive of the licensee other than the chief executive officer if that executive reports directly to the chief executive officer.

(2) Each supervisor shall report directly to one of the following persons or entities regarding matters of policy, purpose, responsibility and authority, which persons or entities shall also control the hiring, termination and salary of each supervisor:

(i) The independent audit committee of the slot machine licensee's board of directors.

(ii) The independent audit committee of the board of directors of any holding or intermediary company of the slot machine licensee which has authority to direct the operations of the slot machine licensee.

(iii) The senior surveillance or internal audit executives of any holding or intermediate company included in subparagraph (ii) if the most senior executive in the reporting line reports directly to the independent audit committee of the board of directors of the holding or intermediary company.

(iv) For slot machine licensees or holding companies which are not corporate entities, the noncorporate equivalent of any of the persons or entities listed in subparagraphs (i)—(iii).

(d) The slot machine licensee's personnel shall be trained in all policies, procedures and internal controls relevant to each employee's individual function. Special instructional programs shall be developed by the slot machine licensee in addition to any on-the-job instruction sufficient to enable all members of the departments required by this section to be thoroughly conversant in, and knowledgeable of, the required manner of performance of all transactions relating to their functions.

(e) Notwithstanding any other provision to the contrary, a slot machine licensee may, with the prior approval of the Board, designate and assign more than one person to serve jointly as the supervisor of a department required by this section. Each person approved to serve as a joint supervisor of such a department shall be located at the licensed facility and shall be individually and jointly accountable and responsible for the operations of that department.

(f) In the event of a vacancy in the chief executive officer position or any mandatory department supervisory position required by subsection (b), the following apply:

(1) The slot machine licensee shall notify the Board within 5 days from the date of vacancy. The notice must be in writing and indicate the following information:

(i) The vacant position.

(ii) The date on which the position became vacant.

(iii) The date on which it is anticipated that the vacancy will be filled on a permanent basis.

(2) The slot machine licensee shall designate a person to assume the duties and responsibilities of the vacant position within 30 days after the date of vacancy. The person may assume the duties and responsibilities of the vacant position on a temporary basis, provided that:

(i) The person does not also function as the department supervisor for any other mandatory department required by this section.

(ii) The person's areas of responsibility will not be so extensive as to be impractical for one person to monitor.

(iii) The position shall be filled on a permanent basis within 120 days of the original date of vacancy.

(3) Within 5 days of filling any vacancy under paragraph (2), the slot machine licensee shall notify the Board thereof. The notice must be in writing and indicate the following:

(i) The position.

(ii) The name of the person designated.

(iii) The date that the vacancy was filled.

(iv) An indication of whether the position has been filled on a temporary or permanent basis.

(4) The notices required by this subsection shall be directed to the Board's Bureau of Licensing.

**§ 465.13. Access badges and temporary access credentials.**

(a) Each slot machine licensee shall establish procedures, in writing, for readily and effectively identifying each person permitted, during the normal course of performing his duties, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that persons wear, in a visible location, an access badge.

(2) The procedures must also include a methodology for updating the access badge procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing access by employees of licensed manufacturers, licensed suppliers and registered and certified vendors.

(b) Each slot machine licensee shall also establish procedures, in writing, for readily and effectively identifying each person permitted, under temporary or emergency circumstances, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that the persons wear, in a visible location, a temporary access credential.

(2) The procedures must also include a methodology for updating the temporary access credential procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing temporary or emergency access by licensed manufacturers, licensed suppliers and registered and certified vendors.

(c) The procedures required in subsection (a) are to be designed, implemented and enforced by the security department in collaboration with the human resources department or its functional equivalent. The procedures in subsection (b) are to be designed, implemented and enforced by the security department. Procedures addressing both access badges and temporary credentials shall be retained in the security department and shall be made immediately available to the Board and the Pennsylvania State Police upon request. The slot machine licensee shall cooperate with the Board in making amendments to its procedures to improve the effectiveness of its access badge and temporary credential systems.

**§ 465.14. Firearms; possession within a licensed facility.**

(a) Individuals, including security department personnel, are prohibited from possessing any firearm or handgun within a licensed facility without the express written approval of the Board, in accordance with the authorization procedures as the Board determines, notwithstanding the following general prohibitions:

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office may possess a firearm or handgun within the licensed facility.

(2) An on duty officer or agent of any local, State or Federal law enforcement agency having primary jurisdiction over the licensed facility may possess a firearm or handgun in all areas of the licensed facility except the gaming floor or restricted areas servicing the slot operations where that officer or agent is acting in his official capacity. Officers or agents possessing firearms or handguns within a licensed facility under this section shall notify the Board and the Pennsylvania State Police Gaming Enforcement Office of their presence in the licensed facility. Notification shall be made immediately upon entry into the licensed facility or prior to arrival at the licensed facility, if feasible. Notification is not required if exigent circumstances exist.

(b) A slot machine licensee may not employ off duty law enforcement officers to provide security related services on the gaming floor, in restricted areas within the licensed facility or in any manner in connection with the conduct of slot machine operations.

(c) To obtain approval for the possession of a firearm or handgun within a licensed facility, an individual shall be required to demonstrate to the Board that the individual:

(1) Has received an adequate course of training in the possession and use of the firearm or handgun.

(2) Is the holder of a valid license for the possession of the firearm or handgun.

(3) Has a compelling need for the possession of the firearm or handgun within the licensed facility.

(d) Each slot machine licensee shall cause to be posted in a conspicuous location at each entrance to the licensed facility signs that may be easily read stating: The possession by any person of any firearm or handgun within this licensed facility without the express written permission of the Pennsylvania Gaming Control Board is prohibited.

**§ 465.15. Security department minimum staffing.**

In accordance with § 465.3(d)(5) (relating to internal control systems and audit protocols), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its security department. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number and configuration of slot machines on the gaming floor and must at all times provide for adequate and effective security of the gaming floor and any restricted areas servicing the gaming operation.

**§ 465.16. Cashiers' cage.**

(a) Each establishment shall have on, immediately adjacent or reasonably proximate to the gaming floor, a physical structure known as a cashiers' cage to house the cashiers and to serve as the central location in the licensed facility for:

(1) The custody of the cage inventory comprised of cash (currency or coin) and the forms, documents, and records normally associated with the operation of a slot cage.

(2) The initial financial consolidation of all transactions relating to slot machine activity.

(3) Other functions normally associated with the operation of a cashiers' cage.

(b) The cashiers' cage must be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein. The design and construction must include:

(1) Manually triggered silent alarm systems located at the cashiers' window, vault and in any ancillary office space adjacent or proximate thereto. The systems must be connected directly to the monitoring room of the surveillance department and to the security department.

(2) A double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked. In addition, the following apply:

(i) The first door leading from the gaming floor of the double door entry and exit system must be controlled by the security department, the surveillance department or, in the alternative, a Board-approved computerized access system designed and administered to provide a functionally equivalent level of security. The second door of the double door entry and exit system must be controlled by the cashiers' cage.

(ii) The system must have surveillance coverage which shall be monitored by the surveillance department.

(iii) Any entrance to the cashiers' cage that is not a double door entry and exit system shall be an alarmed emergency exit door only.

(3) Separate manual locks on each door of the double door entry and exit system, the keys to which shall be different from each other.

(c) Each establishment may also have one or more satellite cages separate and apart from the cashiers' cage, established to maximize security, efficient operations or patron convenience. A satellite cage may perform any of the functions of the cashiers' cage and must be equipped with an alarm system in compliance with subsection (b)(1). The functions which are conducted in a satellite cage shall be subject to the accounting controls applicable to a cashiers' cage set forth in this subpart.

(d) Each slot machine licensee shall maintain immediately available to the Board and the Pennsylvania State Police a current list, with license numbers, of all persons possessing the combination or keys to the locks securing the double door entry and exit system restricting access to the cashiers' cage and any satellite cage and the vault as well as a list of all persons possessing the ability to activate or deactivate alarm systems for the cashiers' cage, any satellite cage and vault.

**§ 465.17. Accounting controls for the cashiers' cage.**

(a) The assets for which slot cashiers are responsible shall be maintained on an imprest basis. At the end of each shift, slot cashiers assigned to the outgoing shift shall record on a cashiers' count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory. Each cashiers' count sheet shall be signed by the preparing cashier attesting to the accuracy of the information thereon.

(b) At the opening of every shift, in addition to the imprest funds normally maintained by slot cashiers, each slot machine licensee shall have on hand in the cashiers' cage or readily available thereto, a reserve cash bankroll adequately funded to pay winning patrons.

(c) The cashiers' cage and any satellite cage shall be physically segregated by personnel and function as follows:

(1) Slot cashiers shall operate with individual imprest inventories of cash and their functions include the following:

(i) The receipt of cash and cash equivalents from patrons in exchange for cash.

(ii) The receipt of personal checks for gaming and nongaming purposes from patrons in exchange for cash, subject to limitations on the amount required by the Board.

(iii) The receipt of cash, cash equivalents, checks issued by the slot machine licensee, annuity jackpot checks, wire transfers and cashless funds transfers from patrons to establish a customer deposit.

(iv) The receipt of customer deposit forms from patrons in exchange for cash.

(v) The preparation of jackpot payout slips in accordance with this subpart and technical standards adopted by the Board.

(vi) The receipt of gaming vouchers from patrons, or from authorized employees who received gaming vouchers as gratuities, in exchange for cash.

(vii) The issuance, receipt and reconciliation of imprest funds used by slot attendants, including an imprest change/pouch payout fund.

(viii) The issuance of cash to automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines in exchange for proper documentation.

(2) Main bank cashier functions include the following:

(i) The receipt of cash, cash equivalents, gaming vouchers, jackpot payout slips and personal checks received for gaming and nongaming purposes from slot cashiers in exchange for cash.

(ii) The receipt of cash from the count rooms.

(iii) The receipt of personal checks accepted for gaming and nongaming purposes from slot cashiers for deposit.

(iv) The preparation of the overall cage reconciliation and accounting records.

(v) The preparation of the daily bank deposit for cash, cash equivalents and personal checks.

(vi) The issuance, receipt and reconciliation of imprest funds used by slot attendants.

(vii) The receipt from slot cashiers of documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashiers' cage.

(viii) The responsibility for the reserve cash bankroll.

(ix) The receipt of unsecured currency and unsecured gaming vouchers and preparation of reports thereon.

(d) At the end of each gaming day a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms, records and documents required by this subpart and recording of transactions.

**§ 465.18. Bill validators and slot cash storage boxes.**

(a) Each slot machine shall be equipped with a bill validator configured to accept any combination of currency, gaming vouchers, coupons and other instruments authorized by the Board for incrementing credits on a slot machine.

(b) Access to the bill validator shall be controlled by at least one lock, the key to which shall be controlled by the slot operations department.

(c) Each bill validator in a slot machine shall have contained in it a secure tamper resistant container known as a slot cash storage box in which shall be deposited all currency, gaming vouchers, coupons and Board-approved instruments inserted into the bill validator.

(d) The slot cash storage box shall be secured to the bill validator by two separate locks, the keys to which shall be different from each other, one of which may be the lock to the belly door or main door of the slot machine and a second of which is the lock on the release mechanism on the slot cash storage box. The key to the belly door or main door of the slot machine shall be maintained and controlled by the slot operations department. The key to the lock securing the release mechanism on the slot cash storage box shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure with regard to this key which includes documentation of this transfer.

(e) Each slot cash storage box must:

(1) Have at least one lock securing the contents of the slot cash storage box, the key to which shall be maintained and controlled by the slot accounting department.

(2) Have a slot opening through which currency, gaming vouchers and coupons can be inserted into the slot cash storage box.

(3) Have a mechanical arrangement or device that prohibits removal of currency, gaming vouchers and cou-



pons from the slot opening whenever the slot cash storage box is removed from the bill validator.

(4) Be fully enclosed, except for openings that may be required for the operation of the bill validator or the slot cash storage box. However, the location and size of the openings may not affect the security of the slot cash storage box, its contents or the bill validator, and shall be approved by the Board.

(5) Have an asset number that is permanently imprinted, affixed or impressed on the outside of the slot cash storage box which corresponds to the asset number of the slot machine to which the bill validator has been attached. In lieu of the asset number, a slot machine licensee may develop and maintain, with prior Board approval, a system for assigning a unique identification number to its slot cash storage boxes. The system must ensure that each slot cash storage box can readily be identified, either manually or by computer, when in use with, attached to, and removed from a particular bill validator. Each unique identification number must be permanently imprinted, affixed or impressed on the outside of each slot cash storage box that does not otherwise bear an asset number. The asset number or unique identification number must be conspicuous and clearly visible to persons involved in removing or replacing the slot cash storage box in the bill validator and through the slot machine licensee's surveillance system. Notwithstanding the foregoing, emergency slot cash storage boxes may be maintained without the unique numbers, provided the word emergency is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the asset number of the slot machine to which the bill validator is attached.

(6) Be designed and installed in a manner that renders the slot machine inoperable in the event of the removal or absence of the slot cash storage box.

**§ 465.19. Transportation of slot cash storage boxes to and from bill validators; storage.**

(a) Each slot machine licensee shall place on file with the Board, in the manner prescribed by the Board, a schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room. Each slot machine licensee shall also maintain immediately available to the Board and the Pennsylvania State Police, a current list, with license numbers, of the employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, a change in the areas to be dropped or the transportation route to the count room shall be noticed to the Board in advance in a manner prescribed by the Board.

(b) Slot cash storage boxes removed from bill validators shall be transported directly to, and secured in, the count room or a trolley storage area located immediately adjacent thereto, configured and secured in a manner approved by the Board, by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the slot accounting department.

(1) Upon its removal from a bill validator, a slot cash storage box shall be placed immediately in an enclosed trolley which is secured by two separately keyed locks.

The key to one lock shall be maintained and controlled by the slot accounting department. The key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled, at a minimum, by a sign-out and sign-in procedure. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.

(2) Prior to the movement of any trolley containing slot cash storage boxes from the gaming floor into the count room, the drop team supervisor shall verify that the number of slot cash storage boxes being transported from the gaming floor equals the number of slot cash storage boxes scheduled to be collected that day.

(3) A slot cash storage box being replaced by an emergency slot cash storage box shall be transported to, and secured in, the count room by a minimum of three employees, at least one of which is a member of the slot accounting department and at least one of which is a member of the security department.

(c) Slot cash storage boxes not contained in a bill validator, including emergency slot cash storage boxes which are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the Board, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the slot accounting department and the key to the second lock shall be maintained and controlled by a security department. Access to the security department's key shall be limited to a supervisor of that department.

(d) Notwithstanding subsection (b), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the slot cash storage boxes to be counted. Any key transferred from the custody of the security department to the count room supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and the return of any empty emergency drop boxes and slot cash storage boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure which includes documentation of this transfer.

**§ 465.20. Acceptance of tips or gratuities from patrons.**

A key employee or gaming employee who serves in a supervisory position is prohibited from soliciting or accepting, and no other gaming employee may solicit, any tip or gratuity from any patron of the slot machine licensee where he is employed. The slot machine licensee may not permit any practices prohibited by this section.

**CHAPTER 466. SLOT COMPUTER SYSTEMS**

Sec.  
466.1. Slot computer systems generally.

**§ 466.1. Slot computer systems generally.**

(a) All aspects of a slot machine licensee's slot computer system shall be located within the licensed facility unless otherwise approved by the Board in accordance with technical standards adopted by the Board.

(b) For the purposes of this section, a slot computer system must include all aspects of a computer system which the act, this subpart or technical standards

adopted by the Board either require or permit to be utilized by a slot machine licensee in the conduct of, or monitoring of, slot machine operations including hardware, software and network interfaces used in connection with the operation of a slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system and gaming voucher system. However, a slot computer system will not be construed to include the following:

- (1) A slot machine or bill validator.
  - (2) A wide area progressive slot system.
  - (3) Other computer systems or applications that the Board determines are not slot computer systems.
- (c) The Board may waive one or more of the requirements of this section or technical standard applicable to slot computer systems adopted by the Board upon a determination that the nonconforming system protocols nonetheless meet the integrity requirements of the act, this subpart and technical standard adopted by the Board.

[Pa.B. Doc. No. 06-1253. Filed for public inspection June 30, 2006, 9:00 a.m.]

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**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CH. 493]**  
**Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P.L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board), Subpart H, Practice and Procedure, Chapter 493, Pleadings.

*Purpose and Background*

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment in this Commonwealth and to carry out the policy and purposes of the Board.

To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published draft regulations on its website, [www.pgcb.state.pa.us](http://www.pgcb.state.pa.us) on December 15, 2005. A 30-day public comment period was provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not be subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P.S. §§ 745.1—745.15).

*Financial Impact*

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering Act 71 will be reimbursed by the licensed gaming entities as

specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and to the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals and or licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

*Statutory Authority*

Section 1203 of 4 Pa.C.S. provides the Board authority to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203, the Board may adopt temporary regulations that are exempted from the Regulatory Review Act and sections 201—205 of the CDL. Section 1203 of 4 Pa.C.S. provides that the Board's authority to adopt regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 30-day public comment period was held prior to the adoption of the temporary regulations. All comments received by the Board were reviewed and considered.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The following temporary regulation of the Board, 58 Pa. Code Chapter 493, is amended by adding § 493.13 to read as set forth in Annex A.

(b) The Chairperson of the Board shall certify this order and deposit the regulation with the Legislative Reference Bureau as required by law.

(c) The temporary regulation shall take effect on May 4, 2006.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-22. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart H. PRACTICE AND PROCEDURE**

**§ 493.13. Intervention.**

(a) The right to intervene in a proceeding before the Board or a presiding officer is within the sole discretion of the Board.

(b) A person wishing to intervene in a proceeding may file a petition with the Clerk which shall be served on all named parties in accordance with this section. When a petition to intervene is filed with the Clerk, it will be referred to the Board which will issue a determination as soon as practicable.

(c) A person may file a petition to intervene if:

(1) The person has an interest in the proceeding which is substantial, direct and immediate.

(2) The interest is not adequately represented by a party to the proceeding.

(3) The person may be bound by the action of the Board in the proceeding.

(d) Petitions to intervene may be filed at any time following the filing of an application, petition, complaint, or other document seeking Board action, but no later than 30 days prior to the date set for a hearing unless, in extraordinary circumstances for good cause shown, the Board authorizes a later filing.

(e) Petitions to intervene must set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention and the position of the petitioner in the proceeding. The petitioner shall fully advise the parties and the Board of the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the petition or complaint initiating the proceeding, and citing by appropriate reference provisions or other authority relied on.

(f) Petitions to intervene must conform to the service and notice requirements of this section.

(g) A participant may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition. If made, answers shall be filed within 10 days after the date of service of the petition, unless for cause the Board prescribes a different time.

(h) Except when the Board determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a proceeding will be limited to the presentation of evidence through the submission of written statements attested to under oath. The written statements shall be part of the evidentiary record.

(i) Petitions to intervene in licensing hearings for slot machine licenses shall be governed by § 441.19(x) (relating to licensing hearing for slot machine licenses).

(j) This section supersedes 1 Pa. Code §§ 35.27—35.32, and 35.36.

[Pa.B. Doc. No. 06-1254. Filed for public inspection June 30, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CH. 513]**  
**Temporary Regulations; Underage Gaming**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming),

enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 513, entitled underage gaming, is added to Subpart J, entitled exclusion of persons.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 15, 2006, public meeting. The temporary regulations pertain to underage gaming.

(b) The temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 513.1—513.4 to read as set forth in Annex A.

(c) The temporary regulations are effective June 15, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
Chairperson

**Fiscal Note:** 125-30. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART VII. GAMING CONTROL BOARD**  
**Subpart J. EXCLUSION**  
**CHAPTER 513. UNDERAGE GAMING**

Sec.  
513.1. Definitions.  
513.2. Exclusion requirements.  
513.3. Responsibilities of licensees, permittees, registrants and certificate holders.  
513.4. Enforcement.

**§ 513.1. Definitions.**

(a) The following words and phrases, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Fully executed gaming transaction*—Any activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed gaming facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

*Winnings*—Any money or thing of value received from, or being owed by a slot machine licensee as a result of a fully executed gaming transaction.

**§ 513.2. Exclusion requirements.**

(a) An individual under 18 years of age may not enter or be on the gaming floor of a licensed facility.

(b) An individual under 21 years of age, whether personally or through an agent, may not operate, use, play or place a wager on, a slot machine in a licensed facility.

(c) An individual under 21 years of age may not be rated as a player or receive any complimentary service, item or discount as a result of, or in anticipation of, gaming activity.

(d) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, any winnings or recover any losses arising as a result of any gaming activity.

(e) Winnings incurred by an individual under 21 years of age shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(f) For the purposes of this section, winnings issued to, found on or about or redeemed by an individual under 21 years of age shall be presumed to constitute winnings and thus be subject to remittance to the Board.

**§ 513.3. Responsibilities of licensees, permittees, registrants and certification holders.**

(a) A person holding a license, permit, registration or certification issued by the Board is prohibited from permitting or enabling an individual to engage in conduct that violates § 513.2(a), (b), (c) or (d) (relating to exclusion requirements).

(b) A slot machine licensee may be subject to Board imposed administrative sanctions if a person engages in conduct that violates § 513.2(a), (b), (c) or (d) at its licensed facility. Under § 513.2(e), winnings obtained by a slot machine licensee from or held on account of a person under 21 years of age shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(c) A person holding a license, permit, registration or certificate issued by the Board who violates a provision of this chapter may be held jointly or severally liable for the violation.

(d) Each slot machine licensee shall establish procedures that are designed to prevent violations of this chapter. Each slot machine licensee shall submit to the Board a copy of its procedures 30 days prior to initiation of gaming activities at its licensed facility. The licensee may not commence operations until the Board approves its procedures. Any amendments to these procedures must receive approval of the Board prior to their implementation.

**§ 513.4. Enforcement.**

In any prosecution or other proceeding against a person for a violation of this chapter, it shall be no defense that the person believed an individual to be 21 years of age or older.

[Pa.B. Doc. No. 06-1255. Filed for public inspection June 30, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CH. 461a]**  
**Technical Standards; Slot Machines**

This statement of policy applies to manufacturer applicants and licensees and slot machine applicants and licensees.

*Purpose*

The purpose of this statement of policy is to provide guidelines for the technical standards for use by manufacturer applicants and licensees and slot machine applicants and licensees in slot machine design, slot machine tower lights and error conditions, the use of gaming vouchers by licensed facilities, wide area progressive systems at licensed facilities and the use of remote

computer access to slot machines at licensed facilities. This statement of policy supplements the regulations in Chapter 461 (relating to slot machine testing and certification requirements).

*Scope*

This statement of policy applies to manufacturer applicants or licensees and slot machine applicants and licensees.

*Authority*

This statement of policy is adopted under the authority of 4 Pa.C.S. Part II (relating to gaming).

*Background*

This statement of policy is necessary to establish and provide notice of the technical standards approved by the Board under Chapter 461.

*Fiscal Impact*

This statement of policy will have no appreciable fiscal impact upon the Commonwealth.

*Contact Person*

Further information is available by contacting the Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060.

*Effective Date*

This statement of policy will take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS A. DECKER,  
*Chairperson*

(*Editor's Note:* Title 58 of the Pa. Code is amended by adding a statement of policy in §§ 461a.1—461a.5 to read as set forth in Annex A.)

**Fiscal Note:** 125-33. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart E. SLOT MACHINE TESTING, APPROVAL AND CONTROL**

**CHAPTER 461a. TECHNICAL STANDARDS—STATEMENT OF POLICY**

Sec.

- 461a.1. Slot machine minimum design standards.
- 461a.2. Slot machine tower lights and error conditions.
- 461a.3. Gaming vouchers.
- 461a.4. Wide area progressive systems.
- 461a.5. Remote computer access.

**§ 461a.1. Slot machine minimum design standards.**

(a) Slot machine volatility shall be calculated based on a 95% confidence interval. Volatility calculations must utilize the following when calculating the lowest payout percentage available for each slot machine game:

(1) The aggregate variance is the sum of the probability of every winning combination multiplied by the square of the corresponding payout.

(2) The standard deviation is the square root of the difference between the aggregate variance of paragraph (1) and the square of the lowest payout percentage.

(3) The volatility index is 1.96 multiplied by the standard deviation calculated in paragraph (2).

(4) The approach percentage is the difference between the lowest payout percentage and 84.999%.

(5) The volatility, calculated as the number of plays to equal or exceed the minimum payout requirement of 85%, is the square of the quotient obtained when the volatility index found in paragraph (3) is divided by the approach percentage found in paragraph (4).

(6) The volatility calculated in paragraph (5) may not exceed 10,000 plays.

(b) Each slot machine approved for use in a licensed facility must be configured to wager credits available for play in the following order:

- (1) Noncashable credits.
- (2) Cashable credits.

**§ 461a.2. Slot machine tower lights and error conditions.**

(a) Unless otherwise authorized by the Board, each slot machine must have a tower light located on top of the slot machine cabinet. The tower light must be used to identify the slot machine's default denomination and the operational status of the slot machine and any device connected thereto that may affect the operation of the slot machine. The slot machine tower light must be visible to the player of the slot machine and to the surveillance department from all sides of the slot machine cabinet, unless the slot machine cabinet is against a wall or is in another location approved by the Board that results in the partial obstruction of the tower light.

(b) A slot machine tower light must consist of two separate lights, one on top of the other, that function in accordance with this section.

(1) At any point in time, each of the two lights may be in one of five states as follows:

- (i) "Off" means the light is off.
- (ii) "On" means the light is on continually.
- (iii) "Slow flash" means the light is flashing regularly at a 500 millisecond interval.
- (iv) "Medium flash" means the light is flashing regularly at a 250 millisecond interval.
- (v) "Fast flash" means the light is flashing regularly at a 125 millisecond interval.

(2) The top light of the two lights must be white. The color of the bottom light must indicate the default denomination of the slot machine to which it is attached:

- (i) Red means a dime denomination slot machine or any denomination below a dime.
- (ii) Yellow means a quarter denomination slot machine.
- (iii) Orange means a half-dollar denomination slot machine.
- (iv) Blue means \$1 denomination slot machine.
- (v) Pink means a \$2 denomination slot machine.
- (vi) Green means a \$5 denomination slot machine.
- (vii) Purple means a \$20 or higher denomination slot machine.

(c) For the purposes of this subsection, there shall be three separate methods by which a slot machine is placed in an unplayable state.

(1) "Administrative mode" means that a member of the slot operations department has placed the slot machine in an unplayable state to access the set up or recall functions of the slot machine.

(2) "Disabled mode" means that a member of the slot operations department or the slot machine licensee's slot monitoring system has placed the slot machine in an unplayable state for any reason other than those included in administrative mode.

(3) "Tilt mode" means that the slot machine placed itself in an unplayable state due to malfunction or error condition and the slot machine cannot be returned to a playable state without intervention by a member of the slot operations department.

(d) Each of the following combinations of light states must be displayed by a slot machine tower light to indicate the corresponding slot machine operating condition:

(1) White light off with colored light:

(i) Off means that the slot machine is idle and the slot machine door is closed.

(ii) Medium flash means the slot machine is idle and the slot machine door is open.

(iii) Fast flash means the slot machine is idle and the drop compartment door is open.

(2) White light on with colored light:

(i) Off means a patron is requesting change and the slot machine door is closed.

(ii) On means that the slot machine is in disabled mode.

(iii) Medium flash means either:

(A) A patron is requesting change and the slot machine door is open.

(B) The slot machine is in disabled mode and the slot machine door is open.

(iv) Fast flash means the slot machine is in disabled mode and the drop compartment door is open.

(3) White light slow flash with colored light:

(i) Off means that the slot machine is in tilt mode and the slot machine door is closed.

(ii) Slow flash means either:

(A) The slot machine is displaying a hand-paid jackpot combination and the slot machine door is closed.

(B) The slot machine is displaying a hand-paid jackpot combination while in tilt mode and the slot machine door is closed.

(iii) Medium flash means either:

(A) The slot machine is displaying a hand-paid jackpot combination and the slot machine door is open.

(B) The slot machine is in tilt mode and the slot machine door is open.

(iv) Fast flash means the slot machine is in tilt mode and the drop compartment door is open.

(4) White light fast flash with colored light:

(i) Off means the slot machine is in administrative mode and the slot machine door is closed.

(ii) Medium flash means the slot machine is in administrative mode and the slot machine door is open.

(iii) Fast flash means the slot machine is in administrative mode and the drop compartment door is open.

(e) Any combination of light states capable of display by a slot machine tower light that is not assigned a particular slot machine operating condition by subsection

(d) may be used by the slot machine licensee for its own internal signals. However, the slot machine licensee shall be required to conform the light states displayed by its slot machine tower lights to any amendments or modifications in the Board's approved technical standards.

(f) A slot machine must detect, display by means of a tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1)—(3) in both idle state and during game play. These error conditions may be automatically cleared by the slot machine upon completion of a new play sequence.

(1) Power reset.

(2) Door open.

(3) Door just closed.

(g) A slot machine must detect, display by means of tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1)—(8) in both idle state and during game play. These error conditions must disable the slot machine and prevent game play and may only be cleared by a slot attendant.

(1) Low RAM battery.

(2) Printer failure.

(3) Printer mechanism paper jam. A paper jam condition must be monitored at all times during the print process.

(4) Presentation error.

(5) Program error or defective program storage media.

(6) Reel spin error of any type. The specific reel number must be identified. If a tilt occurs while the reels are spinning, the slot machine must spin the reels at a slow speed.

(7) Removal of control program storage media.

(8) Uncorrectable RAM error, either RAM defective or corrupted.

(h) A slot machine must detect, display by means of tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1) and (2) in both idle state and during game play. These error conditions need not disable the slot machine and game play may continue if an alternative method is available to complete the transaction or the condition does not prohibit the transaction from being completed. These error conditions may only be cleared by a slot attendant.

(1) Printer mechanism paper level is low.

(2) Printer mechanism out of paper. a slot attendant.

(i) A description of the slot machine error code corresponding to each error condition must be affixed inside each slot machine unless the displayed slot machine error code is self-explanatory.

(j) The Board may waive one or more of the technical standards applicable to tower lights and error conditions adopted by the Board upon a determination that the nonconforming communication methodology nonetheless meets the operational integrity requirements of the act, this part and any technical standards adopted by the Board.

#### § 461a.3. Gaming vouchers.

(a) A gaming voucher must expire in not less than 180 from the date of issuance.

(b) Each gaming voucher must be designed and manufactured with sufficient graphics or other security measures, to permit, to the greatest extent possible, the proper verification of the voucher. Notwithstanding the foregoing, each gaming voucher must contain the following information:

(1) The name or trade name of the slot machine licensee, and if the slot machine licensee is affiliated with a casino licensee in any other jurisdiction with an identical or similar name or trade name, the name of the Pennsylvania location must be evident on the voucher.

(2) The date and time of issuance.

(3) The value of the voucher, in both numbers and words.

(4) A unique serial number, which is automatically generated by the system in accordance with this part and technical standards adopted by the Board.

(5) The asset number of the slot machine dispensing the voucher.

(6) At least one anticounterfeiting measure, which appears on one or both sides of the voucher.

(7) The locations where the voucher may be redeemed and any restriction regarding redemption.

(8) A bar code or magnetic strip which enables the system to identify the numeric information in paragraphs (1)—(5) when the voucher is subsequently presented for redemption.

(c) A gaming voucher system may not be configured to issue a gaming voucher exceeding \$10,000.

(d) Any system of internal controls over the issuance and redemption of gaming vouchers must provide for the following:

(1) Upon the presentation of a gaming voucher for redemption, the slot cashier or slot machine shall use the gaming voucher system to verify the validity of the serial number and value of the voucher, and if valid, the system must immediately cancel the voucher electronically and permit the redemption of the voucher for the value printed thereon. Prior to the redemption of a gaming voucher, the complete serial number of the unredeemed gaming voucher must only be available to the system.

(2) The slot machine licensee shall maintain a record of all transactions in the gaming voucher system for at least 210 days from the date of the transaction.

(3) Notwithstanding paragraph (2), the slot machine licensee shall maintain an unredeemed gaming voucher record containing the information required in subsection (b)(1)—(5), for gaming vouchers that were issued but not redeemed prior to expiration. The record shall be stored in the system for a period of time approved by the Board, which must be at least 1 year from the date of issuance of the gaming voucher, provided that:

(i) Any unredeemed gaming voucher record removed from the system after 1 year shall be stored and controlled in a manner approved by the Board.

(ii) Any unredeemed gaming voucher record removed from the system is subject to the standard record retention provisions of this part.

(e) Each gaming voucher system must perform the following functions to control logical access to the system:

(1) Generate daily monitoring logs of user access, security incidents and unusual transactions, and immediately

notify the information technology department of critical security incidents and unusual transactions.

(2) Be capable of assigning rights and privileges to each user, including:

(i) The secure administration of a unique system account for each user to provide an adequate segregation of duties.

(ii) Adequate password parameters such as lockout, minimum length and expiration interval.

(3) Use appropriate access permissions to restrict unauthorized users from viewing, changing or deleting critical files and directories.

(4) Utilize encryption for files and directories containing critical or sensitive data, which must include the unredeemed gaming voucher record. Notwithstanding the foregoing, in lieu of utilizing encryption for files and directories containing critical or sensitive data, the slot machine licensee shall design and implement internal controls to restrict users from viewing the contents of such files and directories, which internal controls shall provide for the following:

(i) The effective segregation of duties and responsibilities with regard to the system in the information technology department.

(ii) The automatic monitoring and recording by the system of access by any person to the files and directories.

(f) Each gaming voucher system must perform the following functions to control system operations:

(1) Generate daily monitoring logs and alert messages for system performance, hardware problems and software errors.

(2) Authenticate the identity of a slot machine or other redemption location from which a transmission of data is received.

(3) Ensure that all data sent through a transmission is completely and accurately received.

(4) Detect the presence of corrupt or lost data packets and, as necessary, reject the transmission.

(5) Utilize an appropriate cryptographic system for critical transmissions of data, such as:

(i) Transmissions that include a gaming voucher serial number.

(ii) Slot machine meter information.

(iii) Other information used in the calculation or verification of gross revenue.

(g) Each gaming voucher system must perform the following functions to control the integrity of data:

(1) Cause a unique serial number to be generated for each gaming voucher which series number must:

(i) Be comprised of at least 18 numbers, symbols or characters.

(ii) Contain at least three numbers, symbols or characters, randomly generated in a manner approved by the Board, designed to prevent a person from being able to predict the serial number of any other gaming voucher.

(iii) Contain at least one number, symbol or character unique to gaming vouchers, to visually differentiate gaming vouchers from coupons.

(iv) Be printed in at least two locations on each gaming voucher.

(2) Validate the data type and format of all inputs to critical fields and reject any corrupt data.

(3) Provide for the automatic and independent recordation of critical data upon gaming voucher generation and redemption including the details required to be printed on a gaming voucher under this part.

(4) Provide for verification of the information contained on a gaming voucher presented for redemption and the unredeemed gaming voucher record to a source that separately records and maintains transaction data, such as an automated transaction log, or other compensating procedure as approved by the Board. The procedure must:

(i) Independently verify the accuracy of the gaming voucher serial number and value prior to redeeming the gaming voucher.

(ii) Not be used to satisfy other requirements of this chapter.

(5) Segregate all security critical system programs, files and directories from other programs and files and directories contained in the system.

(h) Each gaming voucher system must be equipped with the following to address continuity:

(1) Data redundancy, such as disk mirroring, which writes a complete and duplicate copy of all data on the primary disk to a secondary disk as it occurs, to permit a complete and prompt recovery of all information in the event of any malfunction.

(2) Environmental protection, such as an uninterruptible power supply, and fireproof and waterproof materials designed to protect critical hardware from a natural disaster.

(3) A backup capability, which enables the slot machine licensee to create periodic backup copies of files and data on a removable storage device, such as magnetic tape, which is separate from the devices required in accordance with paragraph (1).

(i) The Board may waive one or more of the technical standards applicable to gaming vouchers adopted by the Board upon a determination that the gaming voucher system as configured nonetheless meets the operational integrity requirements of the act, this part and any technical standards adopted by the Board.

#### **§ 461a.4. Wide area progressive systems.**

(a) Each slot system agreement providing for the operation and administration of a wide area progressive system must identify and describe with specificity the duties, responsibilities and authority of each participating slot machine licensee and each slot system operator including:

(1) Details with regard to the terms of compensation for the slot system operator. In specific, the agreement must address to what extent, if any, the slot system operator is receiving compensation based, directly or indirectly, on an interest, percentage or share of a slot machine licensee's revenue, profits or earnings from the operation of the wide area progressive system.

(2) Responsibility for the funding and payment of all jackpots, fees and gross terminal revenue taxes associated with the operation of the wide area progressive system.

(3) Control and operation of the computer monitoring room required under § 461.13 (relating to wide area progressive systems).

(4) A description of the process by which significant decisions with regard to the operation of the wide area progressive system are approved and implemented by the participating slot machine licensees and slot system operator.

(5) When applicable, terms satisfactory to the Board with regard to apportionment of responsibility for establishing and servicing any trust agreement associated with any annuity jackpot offered by the wide area progressive system.

(6) Responsibility for generating, filing and maintaining the records and reports required under the act, this part and technical standards adopted by the Board.

(7) Other requirements of the Board, including those required to comply with technical standards on wide area progressive systems adopted by the Board.

(b) A slot system agreement submitted to the Board for approval must be accompanied by a proposed system of internal controls addressing:

(1) Transactions directly or indirectly relating to the payment of progressive jackpots including the establishment, adjustment, transfer or removal of a progressive jackpot amount and the payment of any fees or taxes associated therewith.

(2) The name, employer, position and gaming license status of any person involved in the operation and control of the wide area progressive system.

(c) The Board will review the persons identified in subsection (b)(2) and determine, based on an analysis of specific duties and responsibilities, which persons will be licensed to what level in this Commonwealth. The Board will advise the slot system operator of its findings. The participating slot machine licensees and any participating licensed manufacturer shall comply with the Board's licensing instructions.

(d) A slot system operator may not commence operation and administration of a wide area progressive system pursuant to the terms of a slot system agreement until the agreement itself and the internal controls required under subsection (b) have been approved in writing by the Board and any licensing requirements under subsection (c) have been complied with.

(e) When a slot system agreement involves payment to a licensed manufacturer, functioning as a slot system operator, of an interest, percentage or share of a slot machine's licensee's revenue, profits or earnings from the operation of a wide area progressive system, the Board may only approve the slot system agreement when it determines that the total amounts paid to the licensed manufacturer under the terms of the agreement are commercially reasonable for the operational and administrative services provided. Nothing herein limits the Board's consideration of the slot system agreement to its revenue sharing provisions.

(f) In evaluating a proposed location for a computer monitoring room, the Board may consider the level of physical and system security offered by the proposed location and the accessibility of the location to the audit, investigative and technical staffs of the Board, the Department and Pennsylvania State Police.

(g) Each party to a slot system agreement shall only be liable for acts, omissions and violations of the act, this part or any technical standards adopted by the Board related to its own individual duties and responsibilities



under the slot system agreement, unless the slot system agreement specifically provides for joint and several liability.

(h) The Board may waive one or more of the technical standards applicable to wide area progressive systems adopted by the Board upon a determination that the wide area progressive system as configured nonetheless meets the operational integrity requirements of the act, this part and any technical standards adopted by the Board.

**§ 461a.5. Remote computer access.**

(a) In emergency situations or as an element of technical support, an employee of a licensed manufacturer may perform analysis of, or render technical support with regard to, a slot machine licensee's slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system, wide area progressive system, gaming voucher system or other approved system from a remote location. Any remote access to these systems shall be performed in accordance with the following procedures:

(1) Only an employee of a licensed manufacturer who is licensed as a gaming employee or key employee in this Commonwealth may remotely access a system sold, leased or otherwise distributed by that licensed manufacturer for use at a licensed facility.

(2) The slot machine licensee shall establish a unique system account for each employee of a licensed manufacturer identified by his employer as potentially required to perform technical support from a remote location. Any system access afforded pursuant to this section must:

(i) Be restricted in a manner that requires the slot machine licensee's information technology department to receive prior notice from the licensed manufacturer of its intent to remotely access a designated system.

(ii) Require the slot machine licensee to take affirmative steps, on a per access basis, to activate the licensed manufacturer's access privileges.

(iii) Be designed to appropriately limit the ability of any person authorized under this section to deliberately or inadvertently interfere with the normal operation of the system or its data.

(3) A log shall be maintained by both the licensed manufacturer and the slot machine licensee's information technology department. Each of the two logs must contain, at a minimum, the following information:

(i) The system accessed, including manufacturer and version number.

(ii) The type of connection (that is, leased line, dial in modem or private WAN).

(iii) The name and license number of the employee remotely accessing the system.

(iv) The name and license number of the information technology department employee activating the licensed manufacturer's access to the system.

(v) The date, time and duration of the connection.

(vi) The reason for the remote access including a description of the symptoms or malfunction prompting the need for remote access to the system.

(vii) Any action taken or further action required.

(4) Communications between the licensed manufacturer and any of the systems identified in subsection (a)

shall occur using a dedicated and secure communication facility such as a leased line approved in writing by the Board.

(b) Any modification of, or remedial action taken with respect to, an approved system must be processed and approved by the Board either in accordance with the emergency modification provisions of § 461.4(l) (relating to submission for testing and approval) or as a standard modification submitted under § 461.4(h).

(c) If an employee of a licensed manufacturer is no longer employed by, or authorized by, that manufacturer to remotely access a system pursuant to this section, the licensed manufacturer shall immediately notify the Board's slot lab and each slot machine licensee that has established a unique system account for that employee of the change in authorization and shall timely verify with each slot machine licensee that any access privileges previously granted have been revoked.

(d) The Board may waive one or more of the technical requirements applicable to remote computer access adopted by the Board upon a determination that the nonconforming remote access procedures nonetheless meet the integrity requirements of the act, this part and any technical standards adopted by the Board.

[Pa.B. Doc. No. 06-1256. Filed for public inspection June 30, 2006, 9:00 a.m.]

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**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CH. 466a]**  
**Slot Computer Systems**

This statement of policy applies to the operation of Category 1, Category 2 and Category 3 facilities and to manufacturer applicants and licensees.

*Purpose*

The purpose of this statement of policy is to provide guidelines for the technical standards for use by slot machine licensees and manufacturer applicants and licensees for the use of slot computer systems at licensed facilities. This statement of policy defines the Board's current expectations as to the specifications for slot computer systems.

*Scope*

This statement of policy applies to slot machine licensees and manufacturer applicants and licensees.

*Authority*

This statement of policy is adopted under the authority of 4 Pa.C.S. Part II (relating to gaming).

*Background*

This statement of policy is necessary to establish and provide notice of the technical standards approved by the Board to govern the use of slot computer systems under Subpart E, entitled slot machine testing, certification and control.

*Fiscal Impact*

This statement of policy will have no appreciable fiscal impact on the Commonwealth.

*Contact Person*

Further information is available by contacting the Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA, 17106-9060.

*Effective date*

This statement of policy will take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS A. DECKER,  
*Chairperson*

(*Editor's Note:* Title 58 of the Pa. Code is amended by adding a statement of policy in § 466a.1 to read as set forth in Annex A.)

**Fiscal Note:** 125-34. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart E. SLOT MACHINE TESTING, APPROVAL AND CONTROL****CHAPTER 466a. TECHNICAL STANDARDS—STATEMENT OF POLICY****§ 466a.1. Slot computer systems.**

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

*Computer access or logical access*—The ability of a person or process to obtain information from, or execute an action in, a slot computer system in accordance with privileges established by a slot machine licensee. The privileges shall be specified by an approved level of computer access.

*Firewall*—

(i) Dedicated computer hardware, software and the related security policy that protects a slot computer system, its software and data from access by other computer systems and users not specifically authorized to access the slot computer system, its software or data through procedures such as monitoring and analyzing all data packets on a real-time basis and automatically rejecting all unauthorized communications.

(ii) The term includes, without limitation, logging and reporting, automatic alarms and a user interface for controlling the firewall.

*Level of computer access*—

(i) The particular privileges granted to a person in a slot computer system by a slot machine licensee, such as read, modify and execute.

(ii) The privileges shall vary by slot computer system program, process, library or directory, according to the following:

(A) Position title and job code, for an employee of the slot machine licensee.

(B) Responsibilities and functions authorized to be performed, for any person not employed by the slot machine licensee.

*Slot computer system*—All aspects of a computer system which the act, this part or any technical standards adopted by the Board either require or permit to be utilized by a slot machine licensee in the conduct of, or monitoring of, slot machine operations including hardware, software and network interfaces used in connection with the operation of a slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system and

gaming voucher system. A slot computer system may not be construed to include the following:

(i) A slot machine or bill validator.

(ii) A wide area progressive slot system.

(iii) A computer system that does not constitute a slot computer system and is connected to a slot computer system in accordance with subsection (f) and through a firewall which has the ability to:

(A) Maintain a list of each device, person or process authorized to obtain computer access to the slot computer system.

(B) Generate daily monitoring logs to inform the slot machine licensee of any unsuccessful attempts by a device, person or process to obtain computer access to the slot computer system.

(C) Authenticate the identity of each device, person and process from which communication is recorded before granting computer access to the slot computer system to the device, person or process.

(iv) Other computer systems or applications that the Board determines are not slot computer systems.

(b) *Authorized locations.*

(1) All aspects of a slot machine licensee's production slot computer system shall be located within the licensed facility. For the purposes herein, a production slot computer system shall be defined as the slot machine licensee's primary slot computer system comprised of a collection of hardware and software used to process or monitor, in real time, slot machine activity. A production slot computer system includes any segregated testing component.

(2) With the written approval of the Board, a slot machine licensee's back-up slot computer system, or any portion thereof, may reside in a computer located in a secure location, referred to herein as a "remote computer," under the custody and control of an affiliate, intermediary, subsidiary or holding company licensed by the Board, referred to herein as a "host entity." For the purposes herein, a back-up system may consist of either a mirrored back-up system which duplicates the production system by recording all slot related operations on a real time basis and is designed to become the production system whenever needed or a periodic back-up system which consists of regularly scheduled recording of selected data which may include a complete image of the production system or any portion thereof. At a minimum, a slot machine licensee requesting authorization to allow a back up slot computer system to reside outside the licensed facility shall establish that:

(i) Communications between the remote computer and the slot machine licensee's slot computer system occur using a dedicated and secure communication medium, such as a leased line.

(ii) The remote computer automatically performs the following functions:

(A) Generates daily monitoring logs and real time alert messages to inform the slot machine licensee and host entity of any system performance problems and hardware problems.

(B) Generates daily monitoring logs and real time alert messages to inform the slot machine licensee of any software errors.

(C) Generates daily monitoring logs to inform the slot machine licensee of any unsuccessful attempts by a device, person or process to obtain computer access.

(D) Authenticates the identity of every device, person and process from which communications are received before granting computer access to the device, person or process.

(E) Ensures that data sent through a transmission is completely and accurately received.

(F) Detects the presence of corrupt or lost data and, as necessary, rejects the transmission.

(3) Unless a remote computer is used exclusively to maintain the slot computer system of the slot machine licensee, it shall be partitioned in a manner approved by the Board and include the following:

(i) A partition manager that complies with the following requirements:

(A) The partition manager must be comprised of hardware or software, or both, and perform all partition management tasks for a remote computer, including creating the partitions and allocating system resources to each partition.

(B) The slot machine licensee and host entity shall jointly designate and each shall identify the security officer who shall be responsible for administering the partition manager and maintaining access codes to the partition manager. The security officer shall be an employee of the slot machine licensee or host entity and shall be licensed as a key employee in this Commonwealth.

(C) Special rights and privileges in the partition manager such as administrator shall be restricted to the information technology director and the security officer of the slot machine licensee or host entity who shall be licensed as key employees in this Commonwealth.

(D) Access to the partition manager shall be limited to employees of the information technology departments of the slot machine licensee and host entity.

(E) Software-based partition managers contained in a remote computer shall be functionally limited to performing partition management tasks for the remote computer, while partition managers using hardware and software that are not part of a remote computer may be utilized to perform other functions for a remote computer that are approved by the Board.

(ii) A separate and distinct partition established for the slot machine licensee's slot computer system that complies with the following requirements:

(A) The partition shall be limited to maintaining the software and data of the slot machine licensee for which the partition has been established.

(B) The security officer of the slot machine licensee for which the partition has been established shall be licensed as a key employee in this Commonwealth and shall be responsible for maintenance of access codes to the partition.

(C) Special rights and privileges in the partition such as administrator shall be restricted to the security officer and the information technology director of the slot machine licensee for which the partition has been established.

(iii) Separate and distinct operating system software, application software and computer access controls for the partition manager and each separate partition.

(c) The Board may permit a slot machine licensee to establish a partition, within a computer that contains its slot computer system, for its affiliate, intermediary, subsidiary or holding company provided that:

(1) A partition manager comprised of hardware or software, or both, is utilized to perform all partition management tasks, including creating the partitions and allocating system resources to each partition.

(2) A security officer is designated within the information technology department of the slot machine licensee to be responsible for administering the partition manager and maintaining access codes to the partition manager. Special rights and privileges in the partition manager such as administrator shall be restricted to the security officer and the information technology director of the slot machine licensee.

(3) Special rights and privileges in any partition which has been established for the benefit of an affiliate, intermediary, subsidiary or holding company shall be restricted to the security officer and information technology director of the affiliate, intermediary, subsidiary or holding company.

(d) The Board may permit a slot machine licensee to maintain back-up or duplicate copies of the software and data of its slot computer system, or any portion thereof, in removable storage media devices, such as magnetic tapes or disks, in a secure location within a licensed facility or other secure location outside the licensed facility as approved by the Board for the purposes of disaster recovery.

(e) Notwithstanding the provisions of subsection (b), upon the declaration of a disaster affecting the slot computer system by the chief executive officer of the slot machine licensee and with the prior written approval of the Board, a slot machine licensee may maintain the software and data of its slot computer system, or any portion thereof, in a computer located in a secure location outside the licensed facility.

(f) A slot machine licensee may locate software or data not related to a slot computer system, such as food and beverage related software or data, in a computer located outside the licensed facility. With the written approval of the Board, a slot machine licensee may connect the computer to a slot computer system, provided that:

(1) Logical access to computer software and data of the slot computer system is appropriately limited.

(2) Communications with all portions of the slot computer system occur using a dedicated and secure communications medium, such as a leased line.

(3) The slot machine licensee complies with other connection specific requirements required by the Board.

(g) The Board may waive one or more of the technical requirements applicable to slot computer systems adopted by the Board upon a determination that the nonconforming system protocols nonetheless meet the integrity requirements of the act, this part and technical standards adopted by the Board.

[Pa.B. Doc. No. 06-1257. Filed for public inspection June 30, 2006, 9:00 a.m.]

# Title 61—REVENUE

## DEPARTMENT OF REVENUE

[61 PA. CODE CH. 1001]

### Pennsylvania Gaming Cash Flow Management; Temporary Regulations

The Department of Revenue (Department) is adopting temporary regulations to facilitate the implementation of its responsibilities under the Pennsylvania Race Horse Development and Gaming Act (act) (4 Pa.C.S. §§ 1101—1904). Under section 1501(c) of the act (relating to responsibility and authority of department), the Department proposes to add Chapter 1001 (relating to Pennsylvania gaming cash flow management) to read as set forth in Annex A.

Section 1203 of the act (relating to temporary regulations) and section 1501 of the act authorize the Department to promulgate temporary regulations exempt from review under the Regulatory Review Act (71 P.S. §§ 745.1—745.15) and sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL). The act went into effect July 5, 2004, requiring that the temporary regulations be adopted within 2 years (July 5, 2006). The temporary regulations will expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of regulations as generally provided by law.

#### *Purpose and Background*

The act legalized the operation of slot machines at a number of venues across this Commonwealth. The newly created Pennsylvania Gaming Control Board (Board) will have primary responsibility for regulatory oversight of gaming activity in this Commonwealth and is separately promulgating regulations in 58 Pa. Code (relating to recreation).

The act requires that the Department adopt temporary regulations by July 5, 2006, to facilitate prompt implementation of its responsibilities as defined by the act. In developing the temporary regulations, the Department has conferred with the Board, the Pennsylvania State Police and the Treasury Department.

In adopting the temporary regulations, the Department has considered the comments and recommendations of other Commonwealth agencies and other persons.

#### *Summary*

The Department has several important responsibilities in connection with the implementation and control of slots gaming.

The temporary regulations have been created to address the Department's responsibilities relating to cash flow management for accurate accounting and collection of the different earmarked revenues due the Commonwealth from slot machine gaming operations.

#### *Paperwork*

The temporary regulations will require minimal paperwork for the public or the Commonwealth.

The Department will annually publish notices in the *Pennsylvania Bulletin* by July 1 to announce the annual inflation adjustment of the distributions to municipalities.

#### *Affected Parties*

Licensed entities, manufacturers and suppliers of gaming supplies in this Commonwealth, as well as the manufacturer of the Central Control Computer System will be affected by these temporary regulations.

#### *Fiscal Impact*

The Department has determined that the overall implementation expenses will be minimal for implementing the statute and temporary regulations.

#### *Statutory Authority*

Sections 1203 and 1501 of the act provide the Department the authority to promulgate temporary regulations for the expedited implementation of the act.

#### *Regulatory Review*

Under sections 1203 and 1501 of the act, the Department has the authority to promulgate temporary regulations that are exempt from review under the Regulatory Review Act and sections 201—205 of the CDL.

The temporary regulations were submitted to the Office of Attorney General, who determined that their review for form and legality was not required under the act.

#### *Contact Person*

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

#### *Findings*

The Department finds that:

(1) Proposed rulemaking in advance of the temporary regulations is not required under sections 1203 and 1501 of the act, nor the proposed rulemaking requirements of sections 201 and 202 of the CDL are applicable, the temporary regulations are exempt from those requirements under section 204(3) of the CDL because publishing proposed rulemaking in advance of the temporary regulations would be impractical and contrary to the public interest.

(2) The adoption of the temporary regulations in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

#### *Order*

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

(a) The regulations of the Department, 61 Pa. Code, are amended by adding §§ 1001.1—1001.11 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel 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 approving temporary regulations shall take effect upon publication in the *Pennsylvania Bulletin* and shall expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of regulations as generally provided by law.

GREGORY C. FAJT,  
*Secretary*

**Fiscal Note:** 15-436. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 61. REVENUE

## PART IX. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT

## CHAPTER 1001. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT

## GENERAL PROVISIONS

Sec.	
1001.1.	Scope.
1001.2.	Purpose.
1001.3.	Definitions.
1001.4.	Calculations of credit against tax and Race Horse Improvement Daily Assessment.
1001.5.	Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.
1001.6.	Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).
1001.7.	Deposits of license, permit and other fees.
1001.8.	State Gaming Fund transfers.
1001.9.	State Gaming Economic Development Tourism Fund transfers.
1001.10.	Pennsylvania Race Horse Development Fund transfers.
1001.11.	Property Tax Relief Fund transfers.

## GENERAL PROVISIONS

## § 1001.1. Scope.

This chapter establishes procedures for the administration and distribution of all net slot machine revenue under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

## § 1001.2. Purpose.

The purpose of this chapter is to notify prospective licensed entities, as well as the general public, of the procedures and requirements for distributing net slot machine revenue.

## § 1001.3. Definitions.

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

*Act*—The Pennsylvania Race Horse Development and Gaming Act of 2004 (Act 71) (4 Pa.C.S. §§ 1101–1904).

*Annual minimum distribution*—Other than for a Category 3 licensee, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

*Banking day*—The part of any day that the Federal Reserve has established for a bank to be opened to the public for carrying on substantially all of its banking functions.

*Board*—The Pennsylvania Gaming Control Board of the Commonwealth.

*CCS*—The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. This includes distinguishing between daily deposits made by licensed gaming entities of taxes due on play of slot machines and all other transfers of moneys to Commonwealth accounts not considered a daily deposit under this chapter.

*Collection Account*—A Department bank account authorized by the Treasury for the collection of taxes and other payments received from licensed gaming entities and which is maintained and reconciled by the Department.

*Concentration Account*—A Treasury bank account used for the deposit and disbursement of all recognized Commonwealth moneys and which is maintained and reconciled by the Treasury Department.

*Credit against tax*—Credit established if the tax rate imposed by section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution) upon slot machine daily gross terminal revenue is increased at any time during the term of 10 years following the initial issuance of the slot machine license.

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

*EFT*—Electronic funds transfer.

*Fund*—A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated for the purpose of carrying on specific activities or attaining certain objectives established for the receipt of gross terminal revenue distributions under the act.

*Gross terminal revenue*—As defined in section 1103 of the act (relating to definitions).

*Licensed gaming entity*—As defined in section 1103 of the act.

*Manufacturers*—As defined in section 1103 of the act.

*Pennsylvania Gaming Economic Development and Tourism Fund*—The fund established under section 1407 of the act (relating to Pennsylvania Gaming Economic Development and Tourism Fund).

*Pennsylvania Race Horse Development Fund*—The fund established under section 1405 of the act (relating to Pennsylvania Race Horse Development Fund).

*Property Tax Relief Fund*—The fund established under section 1409 of the act (relating to Property Tax Relief Fund).

*Race Horse Improvement Daily Assessment*—The amount each operating licensed gaming entity shall pay daily to the Department, according to Department calculations.

*State Gaming Fund*—The fund established under section 1403 of the act.

*Suppliers*—As defined in section 1103 of the act.

*Treasury*—The Treasury Department of the Commonwealth.

## § 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.

(a) *Credit against tax*. The amount of the credit must be equal to the difference between the tax calculated at the rate in effect when a license was issued to the licensed gaming entity and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend beyond the 10-year period following the initial issuance of the license.

(b) *Race Horse Improvement Daily Assessment*. The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund). This assessment shall be multiplied by 18% of daily gross terminal revenue for all active and operating Category 1 licensed gaming entities that are conducting live racing. The amount may not exceed 12% of that day's gross terminal

revenue for that licensed gaming entity, and shall be subject to the daily assessment cap established under section 1405 (c) of the act.

**§ 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.**

(a) This section applies to all transfers of moneys to and from the State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race Horse Development Fund, Treasury and any other fund as specified in this chapter.

(b) *Deposits and transfers to Treasury by licensed gaming entities.*

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS. A licensed gaming entity shall make deposits with Treasury on the same banking day as the date of the Department's notice to the licensed gaming entity and by the times specified by the Department.

(2) Payments shall be electronically transferred by the licensed gaming entities and available to the Commonwealth by the deadline established by the Department for each banking day. Moneys shall be deposited in the Department's Collection Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of deposits to the Department's Collection Account under this chapter and will share information, as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

(5) The administration of assessments will be as follows.

(i) *Proration of assessment.* Upon imposition of the annual minimum distribution amount, as specified in section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution), regardless of whether the minimum is subject to the budgetary limitations of section 1403 of the act, the required minimum shall be prorated for that portion of the municipality's fiscal year that the Board determines that the licensed gaming entity was actually in operation.

(ii) *Limitation of assessment.* Upon imposition of the minimum distribution upon the licensed gaming entity, the required minimum shall be paid in accordance with the administrative procedures of this section.

(iii) *Delegation of payment authority.* At the direction of the Board, the licensed gaming entity shall authorize the Department to remit payments previously collected from the licensed gaming entity, on behalf of the licensed gaming entity, under section 1403(c)(3) of the act, when the licensed gaming entity is charged with remitting payments to municipalities.

(iv) *Distributions of local share assessments to municipalities.* If a licensed gaming entity fails to reach the requisite annual minimum distribution as required under the act within 5 banking days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity of the shortfall and the amount to

be remitted. A licensed gaming entity shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 banking days following the end of the municipality's fiscal year. The licensed gaming entity shall remit the required payment to the Department for distribution in accordance with the act. Distributions specified in this chapter shall be made by the licensed gaming entity to the Department or the respective municipality, no later than 15 banking days from the Department's notice of the shortfall.

(v) *Distributions of local share assessments to counties.* The Department will make distributions in accordance with section 1403(c)(2) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap set forth in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the Department in accordance with section 1403(c)(2) of the act.

(6) The Department reserves the right, upon notice served upon the licensed gaming entity and the Board, to temporarily disable the licensed gaming entity's slot machines through the CCS until the Department receives verification that the required deposit has been made.

**§ 1001.6. Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).**

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gaming entity shall deposit \$5 million in the Department's Collection Account. Upon transfer of the \$5 million deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity. The account established shall also be used to recognize and account for all future deposits required from the licensed gaming entity by the Department for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity shall maintain a minimum account balance with Treasury of \$5 million.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treasury by EFT or other methods of funds transfer in accordance with § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(d) If the account balance with Treasury of a licensed gaming entity falls below the \$5 million minimum deposit amount, as a result of the licensed gaming entity's failure to make replenishments as directed by the Department, the Department will request that the Board utilize its reserved right to draw amounts from any other source of the licensed gaming entity and deposit the draw amount in the account specified by subsection (a) as necessary, to maintain the required minimum account balance. To fulfill the licensed gaming entity's obligations under this section, nothing prohibits the Board from drawing against any source of the licensed gaming entity, with the exception of any licensed gaming entity account that holds gross terminal revenue, to be deposited with Treasury in accordance with § 1001.5.

(e) *Reimbursement of Commonwealth expenses.*

(1) The Department will issue to the licensed gaming entity, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General, the Penn-

sylvania State Police and any other Commonwealth entity charged with administrative duties under the act, under budgets approved by the Board. Expenses not included in budgets approved by the Board may not be assessed against the account of the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity shall be charged back to the licensed gaming entity and deducted from the licensed gaming entity's account, as specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity, shall be borne by each licensed gaming entity on a prorata basis, determined by dividing the amount of the individual licensed gaming entity's gross terminal revenue by the total amount of gross terminal revenue of all licensed gaming entities. The allocation of expenses under this subsection, and not specifically allocated under paragraph (2) shall be subject to amendment by the Board.

**§ 1001.7. Deposits of license, permit and other fees.**

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. The fees deposited will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

**§ 1001.8. State Gaming Fund transfers.**

(a) *Application of section.* This section applies to the transfers of moneys to and from the State Gaming Fund.

(b) *Establish restricted receipt accounts.* The Governor's Budget Office has the authority to establish restricted receipt accounts as required to facilitate transfers of moneys to and from the State Gaming Fund.

(c) *Quarterly distributions.* Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act (relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties) and the following provisions:

(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury. Payments shall be made payable to the board of county commissioners of the county, or in the case of home rule charter counties, to the chief executive officer of the county, or in the case of counties of the first class coterminous with cities of the first class, to the city treasurer, on behalf of the agency designated as recipient of the payment or disbursement to be credited to the account of the recipient agency for use as specified in the documentation.

(2) The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by July 1 of each year.

(3) The Department will make distributions quarterly, no later than 30 days following the end of each calendar quarter.

(d) *Tax and credit against tax.*

(1) Determinations of gross terminal revenue and the calculations of taxes due will be determined daily by the Department based on the actual calculations by the CCS.

(2) Each banking day, the Department will notify each licensed gaming entity and Treasury of the amount of tax due to the Commonwealth.

(3) Each banking day, each licensed gaming entity shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed by § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(4) The Department will enter into an agreement with each licensed gaming entity setting forth the terms and conditions of any credit against tax as claimed by the licensed gaming entity.

(5) Taxes due as determined by the Department shall remain payable by the licensed gaming entity to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department) regardless of any discrepancies between the licensed gaming entity's daily calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed daily payments due will be addressed by the Department through adjustments it makes to its calculation of future daily payment due amounts. The Department may make adjustments to its calculation of future daily payment due amounts after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any daily remittance due that is caused by the imposition of the tax on nonbanking days as well as holidays shall be remitted by the licensed gaming entity on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(e) *Imposition of a penalty.* Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account or to any other fund of the Commonwealth, shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity. Payments made by a licensed gaming entity toward delinquent amounts, including penalties, shall be allocated to the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P. S. § 3310-209).

**§ 1001.9. State Gaming Economic Development Tourism Fund transfers.**

(a) Department personnel will notify the respective licensed gaming entity and Treasury of the amounts the licensed gaming entity shall be required to deposit in the Department's Collection Account. Deposits shall be made on the same banking day as the date of the notice by the Department.

(b) Moneys shall be transferred by the licensed gaming entity by EFT or other method the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(c) System problems or failures, such as power outages and states of emergency, will not excuse the licensed

gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of the problems.

(d) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

**§ 1001.10. Pennsylvania Race Horse Development Fund transfers.**

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Eighteen percent of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)—(iii) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

(c) Procedures concerning Pennsylvania Race Horse Development transfers are as follows:

(1) Department personnel will notify the respective licensed gaming entity and Treasury of the actual amount each licensed gaming entity shall be required to deposit in the Department's Collection Account as determined by the CCS. Deposits shall be made on the same banking day as the date of the notice by the Department.

(2) Moneys shall be transferred by the licensed gaming entity by EFT or other method as the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a

timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits to its Concentration Account.

(d) The Department will notify each active and operating Category 1 licensee, Treasury and Office of the Budget of the amounts each active and operating Category 1 licensee will receive. A Category 1 licensee will receive from Treasury a weekly payment from the Pennsylvania Race Horse Development Fund in accordance with the act. The deposits required under section 1406(a)(1)(ii) will be deducted by the Department before making the payment to each active and operating licensee and transferred to the appropriate state fund, under section 1406 of the act.

(1) Payments shall be electronically transferred by the Commonwealth and shall be available to the licensee by the deadline established by the Department.

(2) Both Treasury and the Department will maintain records of distributions under this chapter and will share information, as practicable, to assist each agency in its reconciliation process.

(e) For purposes of the calculations and distributions of section 1406(a) of the act, live racing will be determined annually, and as a Category 1 licensed gaming entity commences live racing in accordance with section 1303(b) of the act (relating to additional Category 1 slot machine license requirements).

**§ 1001.11. Property Tax Relief Fund transfers.**

The Department will determine the appropriate amount of moneys to be transferred into the Property Tax Relief Fund. The moneys will be transferred only after all amounts of funding have been met concerning the transfers of money to the other Funds specified in section 1408 of the act (relating to transfers from State Gaming Fund).

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