

PENNSYLVANIA BULLETIN

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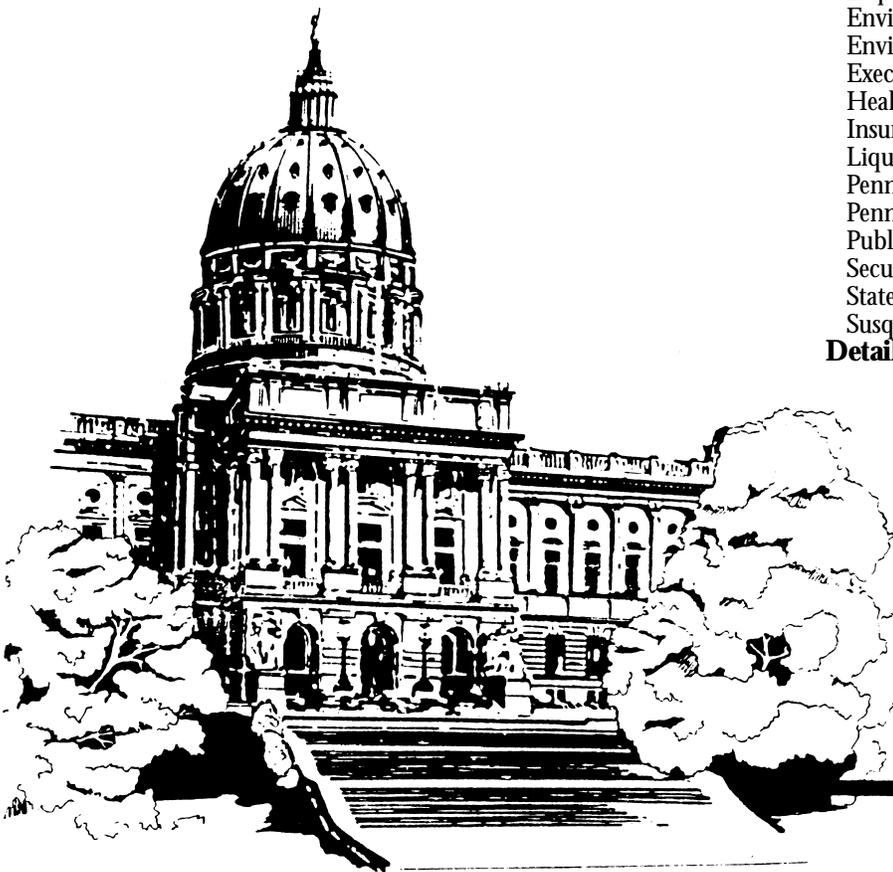
Saturday, July 8, 2006 • Harrisburg, PA

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**Latest Pennsylvania Code Reporter
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No. 380, July 2006

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE GENERAL ASSEMBLY

Recent Actions during the 2006 Regular Session of the General Assembly

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

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2006 GENERAL ACTS ENACTED—ACT 047 through 049					
047	Jun 15	HB2304	PN3228	60 days	Canon-McMillan Alumni Bridge—designa- tion
048	Jun 23	HB1834	PN3169	Immediately	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—electronic access to driver records to confirm organ donor status
049	Jun 23	SB0986	PN1317	60 days	Second Class Township Code—personal property disposition

*denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

ROBERT W. ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 06-1259. Filed for public inspection July 7, 2006, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200]

Proposed New Rule 229.2 Governing Petitions to Transfer Structured Settlement Payment Rights; Proposed Recommendation No. 214

The Civil Procedural Rules Committee is proposing that new Rule 229.2 governing petitions to transfer structured settlement payment rights be promulgated as set forth in this recommendation.

The recommendation is published in full in the *Pennsylvania Bulletin*, the advance reports of *West's Atlantic and Pennsylvania Reporters*, the *Pennsylvania Law Weekly*, the *Philadelphia Legal Intelligencer* and the *Pittsburgh Legal Journal*. The recommendation is also published electronically as part of the Home Page of the Administrative Office of Pennsylvania Courts at <http://www.aopc.org>.

The proposed recommendation has not been submitted to the Supreme Court of Pennsylvania for review but rather is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court. All communications should be sent not later than August 31, 2006 to:

Harold K. Don, Jr.,
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

(a) Words used in this rule, which are defined by the Structured Settlement Protection Act, shall have the meaning set forth in the Act.

Official Note: See Section 2 of the Act, 40 P. S. § 4002, which defines numerous terms including "best interests," "dependents," "payee," "structured settlement obligor," and "structured settlement payment rights."

(b) A petition to transfer structured settlement payment rights shall be filed in the county in which the payee is domiciled.

Official Note: See Section 4 of the Act, 40 P. S. § 4004, providing that the court of common pleas of the judicial district in which the payee is domiciled shall have jurisdiction over the petition.

(c) The parties to the petition shall be the payee and the transferee.

(d) The petition shall be verified by the transferee and shall contain:

(1) the payment provisions of the structured settlement agreement and the payment rights that the payee seeks to transfer,

(2) separate paragraphs which in bold type sets forth

(i) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses and charges, and

(ii) the following statement setting forth the interest rate: "Based on the net amount that the payee will receive from this transaction (\$ _____) and the amounts and timing of the structured settlement payments that would be assigned, the payee is, in effect, paying interest at a rate of _____ % per year."

(3) three attachments:

(i) a Payee's Affidavit in Support of Petition, in the form prescribed by subdivision (f) as Attachment 1,

(ii) an initial order of court scheduling the hearing, in the form prescribed by subdivision (g), and

(iii) a final order of court granting the petition, in the form prescribed by subdivision (h).

Official Note: These three attachments are in addition to any other documents which are required to support the findings set forth in Section 3 of the Act, 40 P. S. § 4003.

Subdivision (d) requires that two documents be verified. As the two documents contain different information, each must be verified by a different person. The petition to transfer structured settlement payment rights must be verified by the transferee. The Payee's Affidavit in Support of Petition must be verified by the payee. The transferee is not required to verify the information set forth in the Payee's Affidavit.

(e) If the petition and Payee's Affidavit in Support of Petition meet the requirements of this rule and contain factual allegations which, if established, will support the findings set forth in Section 3 of the Act, 40 P. S. § 4003, the court shall enter an order scheduling a hearing date.

(f) The Payee's Affidavit in Support of Petition shall be substantially in the following form:

(Caption)

Payee's Affidavit in Support of
Petition to Transfer Structured Settlement Rights

I state that the information below is true and correct:

1. Payee's name, address and age: _____

2. Marital Status:

_____ Never Married; _____ Married;
_____ Separated; _____ Divorced

If married or separated, name of spouse: _____ .

3. Minor children and other dependents:

Names, ages, and places of residence: _____

4. Income:

(a) Payee's monthly income and sources: _____

(b) If presently married, spouse's monthly income and sources: _____

5. Child support, alimony or alimony pendente lite

Obligation to pay: ____ Yes ____ No

If yes, describe the obligations and state whether there are arrearages: _____

6. Previous petitions to transfer

Have you previously filed a petition to transfer structured settlement payment rights?

____ Yes ____ No

If yes, for each petition that you filed,

(a) state the name of the court, the term and number, and the court ruling: _____

(b) if you received money, itemize the manner in which the money was used and attach receipts and cancelled checks: _____

7. Prior approval of this structured settlement

Has any court or responsible administrative authority previously approved the structured settlement that is the subject of this petition? ____ Yes ____ No

8. Reasons for transfer

Describe in detail your reasons for the proposed transfer, including an explanation as to why a sale of a lesser amount of the structured settlement amount will not better serve your interests: _____

9. Payment of debts

If you seek the transfer in order to pay debts, lists each debt, including the name of the creditor and the amount presently owed:

Debt	Creditor	Amount Owed
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Verification

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

DATE: _____

 Signature

(g) The proposed initial order of court shall be substantially in the following form:

(CAPTION)

Initial Order of Court

On this ____ day of _____, _____, it is ordered that a hearing on this Petition to Transfer Structured Settlement Payment Rights will be held on _____, in Courtroom _____ at _____ o'clock. Within seven (7) days, the transferee shall notify the structured settlement obligor and the annuity issuer of the hearing date. The payee shall bring income tax returns for the prior two (2) years to the hearing. The payee, the payee's spouse, and any person receiving child support payments, alimony, or alimony pendente lite should attend the hearing.

BY THE COURT:

 J.

(h) The proposed final order of court shall be substantially in the following form:

(CAPTION)

Final Order of Court

On this ____ day of _____, _____, it is ordered that the Petition for Court Approval for Transfer of Structured Settlement Payment Rights is granted.

The court specifically finds that the payee has established that the transfer is in the best interests of the payee or the payee's dependents. The court also finds the remaining requirements of the Structured Settlement Protection Act, 40 P. S. § 4001 et seq., have been met.

The payee shall receive from the transferee, as of _____, the amount of \$ _____, from which no funds are owed for counsel fees, administrative fees, or other costs, fees or expenses.

BY THE COURT:

 J.

Explanatory Comment

In 2000, the General Assembly passed the Structured Settlement Protection Act, Act of February 11, 2000, P. L. 1, 40 P. S. § 4001 et seq., providing for, inter alia, the court of common pleas to permit the transfer of structured settlement payment rights only upon an express finding that the transfer is in the best interests of the payee. While the Act requires the disclosure of information to the payee concerning the transfer, it does not specify what factual allegations or other information must be included in the petition to enable the trial court to make its determination. New Rule 229.2 is intended to provide the additional information necessary for a trial court to determine whether a petition to transfer structured settlement payment rights satisfies the best interest standard.

Subdivision (c) of the proposed rule identifies the parties to the petition as the payee and the transferee. The transferee is required to verify the petition and, in doing so, must set forth the circumstances surrounding the proposed transfer of structured settlement payment rights. The petition must show that the requirements of the Act have been satisfied, i.e., the proper disclosures have been made to the payee. In contrast, the payee is required through the Payee's Affidavit in Support of Petition to provide the necessary information to enable the trial to determine whether the transfer is in the best interests of the payee. The court will enter an order

scheduling a hearing date only if the petition and the payee's affidavit meet the requirements of the rule and contain factual allegations, which, if established, satisfy the requirements of Section 3 of the Act, 40 P. S. § 4003.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-1260. Filed for public inspection July 7, 2006, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

Rules Governing Exemption from Levy and Attachment Upon Enforcement of a Money Judgment; Proposed Recommendation No. 215

The Civil Procedural Rules Committee is proposing the promulgation of new Rule 3111.1 and the amendment of other rules of civil procedure governing exemption from levy and attachment upon enforcement of a money judgment. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than August 31, 2006 to:

Harold K. Don, Jr.,
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY

JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3111. Service of the writ on garnishee; effect.

* * * * *

(b) Service of the writ upon the garnishee shall attach all property of the defendant which may be attached under these rules which is in the possession of the garnishee. It shall also attach all property of the defendant which may be attached under these rules and which comes into the garnishee's possession thereafter until judgment against the garnishee even though no such property of the defendant was in the garnishee's possession at the time of service.

Official Note: For limitations on the power to attach tangible personal property see Rule 3108(a).

See Rule 3111.1 providing that certain funds on deposit in a bank or other financial institution may not be attached.

* * * * *

Rule 3111.1. Exemptions from levy and attachment.

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach the defendant's funds on deposit with the bank or other financial institution in an account in which

(1) funds are deposited electronically on a recurring basis and are identified as being funds that are exempt from execution, levy or attachment under Pennsylvania or federal law, or

Official Note: Examples of state and federal laws are set forth in the note to Rule 3123.1.

See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

(2) the funds on deposit, not including any otherwise exempt funds, do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123. The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemption.

Rule 3123.1. Claim for exemption or immunity of property; prompt hearing.

* * * * *

Official Note: Pennsylvania and Federal law provide numerous exemptions of property from execution, including the following:

Exemptions under Pennsylvania Law

* * * * *

3. Certain retirement funds and accounts, 42 Pa.C.S. § 8124(b):

* * * * *

Retirement or annuity funds provided for under the Internal Revenue Code, 42 Pa.C.S. § 8124(b)(1)(ix).

Cities of the Second Class A Employees Retirement System Annuity, 53 P. S. § 30577.

Third Class City Code Pension Funds for certain employees, 53 P. S. § 39351.

* * * * *

Rule 3146. Judgment against garnishee upon default or admission in answer to interrogatories.

* * * * *

(b)(1) [The] **Subject to paragraph (2) of this subdivision, the** prothonotary, on praecipe of the plaintiff, shall enter judgment against the garnishee for the property of the defendant admitted in the answer to interrogatories to be in the garnishee's possession, subject to any right therein claimed by the garnishee, but no money judgment entered against the garnishee shall exceed the amount of the judgment of the plaintiff against the defendant together with interest and costs. The entry of judgment shall not bar the right of the plaintiff to proceed against the garnishee as to any further property or to contest any right in the property claimed by the garnishee.

(2) If the garnishee is a bank or other financial institution, the prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of this subdivision as to funds of any account of the defendant that is identified in the garnishee's answer to interrogatories nos. 7 or 8.

* * * * *

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

FORMS

Rule 3252. Writ of execution; money judgments.

(a) The writ of execution shall include a notice to the defendant, a summary of major exemptions, and a claim for exemption, and shall be substantially in the following form [:]:

(Caption)

WRIT OF EXECUTION

NOTICE

* * * * *

WRIT OF EXECUTION

Commonwealth of Pennsylvania)
County of _____)

To the Sheriff of _____ County:

To satisfy the judgment, interest and costs against _____,
(Name of Defendant)

defendant,

(1) you are directed to levy upon the property of the defendant and to sell his interest therein;

(2) you are also directed to attach the property of the defendant not levied upon in the possession of _____, as
(Name of Garnishee)

garnishee, _____ and
(Specifically describe property)
to notify the garnishee that

(a) an attachment has been issued;

(b) except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;

(c) the attachment shall not include any funds in an account of the defendant with a bank or other financial institution

(i) in which funds are deposited electronically on a recurring basis and are identified as being funds that are exempt from execution, levy or attachment under Pennsylvania or federal law. A list of exempt funds is set forth in the Note to Rule 3123.1, or

(ii) that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

Rule 3253. Interrogatories in attachment.

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

[Caption]

"To _____:
(Garnishee)

"You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

* * * * *

"7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account."

"8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account."

Explanatory Comment

Numerous federal and state statutes provide that funds paid to individuals pursuant to the statutes are exempt from execution, levy and attachment. Perhaps the premier statute in this regard is the Social Security Act which provides, 42 U.S.C. § 407:

§ 407. Assignment; amendment of section

(a) The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

* * * * *

Section 407 provides that not only are future payments exempt from execution but so too are the funds once they have been deposited in the recipient's account in a bank or other financial institution.

The Pennsylvania Rules of Civil Procedure do not presently accommodate these provisions. The writ of execution under Rule 3252, paragraph 2(b), provides that "the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof." The writ contains no exception for funds of the defendant which are exempt from execution. In addition, the defendant is required to claim the exemption by filing a claim under Rule 3123.1.

The proposed amendments to the execution rules address this problem. Under the amended rules, the judgment creditor rather than the defendant has the burden of raising an issue with respect to exempt payments within the scope of new Rule 3111.1. The defendant need not file a claim for exemption as exempt funds are not attached.

The amendments are as follows:

1. New Rule 3111.1 is to be promulgated, explicitly stating that certain funds of the defendant on deposit in a bank or other financial institution are exempt from execution. Social security payments are not named. Rather, the rule speaks in terms of "funds on deposit" which "are deposited electronically on a recurring basis and are identified as being funds that are exempt from execution, levy or attachment under Pennsylvania or federal law." A note cross-refers to a note to Rule 3123.1 which contains a list of statutes providing for the exemption of certain funds from execution.

2. The form of the writ of execution set forth in Rule 3252 is amended by incorporating the language of new Rule 3111.1(1). New paragraph 2(c) of the writ advises the garnishee that the attachment does not include the defendant's funds in an account which exempt funds are deposited electronically on a recurring basis.

3. Rule 3253 governing interrogatories to the garnishee is amended by adding new interrogatory no. 7. This interrogatory inquires of a bank or other financial institution as garnishee whether the defendant had "funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that are exempt from execution, levy or attachment under Pennsylvania or federal law." The garnishee is then required to "identify each account."

4. The usual practice under Rule 3146(b) is that "the prothonotary, on praecipe of the plaintiff, shall enter judgment against the garnishee for the property of the defendant admitted in the answer to interrogatories to be in the garnishee's possession." It is proposed that Rule 3146(b) be amended by adding new paragraph (2) providing that if the answer of a bank or other financial institution to interrogatory no. 7 identifies one or more accounts as containing exempt funds, "the prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of this subdivision as to funds of any account of the defendant that is identified in the garnishee's answer" to the interrogatory.

5. Section 8123 of the Judicial Code, 42 Pa.C.S. § 8123, provides for a \$300 monetary exemption. This exemption is treated separately in new Rule 3111.1(2), in new paragraph (2)(c)(ii) of the writ of execution prescribed by Rule 3252 and in a new interrogatory to the garnishee under Rule 3253, interrogatory no. 8. The proposed amendments provide a similar procedure for the \$300 monetary exemption as for recurring electronic deposits described above. The \$300 monetary exemption is exempt from attachment, the writ of execution notifies the garnishee that the \$300 or less in an account of the defendant is not attached and interrogatory no. 8 inquires of the garnishee concerning the funds of the defendant on deposit in accounts with the garnishee. As the \$300 amount is exempt from attachment, the defendant need not claim it under Rule 3123.1 governing claim of exemption.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-1261. Filed for public inspection July 7, 2006, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CARBON COUNTY

Adoption of Local Rule of Criminal Procedure 117—Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail and Local Rule of Criminal Procedure 150—Bench Warrants; No. CP-13-AD- 000004-2006 (Old No. 103 MI 00)

Administrative Order No. 13-2006

And Now, this 21st day of June, 2006, pursuant to Pa.R.Crim.P. 117 and 150, it is hereby

Ordered and Decreed, that effective August 1, 2006, the Carbon County Court of Common Pleas *Adopts* new Local Rule of Criminal Procedure CARB.R.Crim.P. 117 governing coverage for issuing warrants, conducting preliminary arraignments and summary trials and setting and accepting bail and Local Rule of Criminal Procedure CARB.R.Crim.P. 150 governing bench warrants.

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

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

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

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

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

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

6. Keep continuously available for public inspection copies of this Administrative Order and Rule in the Clerk of Court's Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

1. All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays, excluding holidays, from 8:30 A.M. to 4:30 P.M., prevailing time.

2. Continuous coverage for the issuance of search warrants and arrest warrants, for warrants issued pursuant to Pa.R.Crim.P. 430 in a summary case, for the issuance of emergency orders under the Protection From Abuse Act, and for those services set forth in Pa.R.Crim.P. 117 (A)(2)(a), (b), (c) and (d) (e.g., for the holding of preliminary arraignments and summary trials, and for the setting and accepting of bail and collateral) shall be in accordance with the traditional on-call system as presently established. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty.

3. Magisterial District Judges, the Clerk of Courts and the Warden, or in his absence, the Deputy Warden or

Sergeant in charge of the Carbon County Correctional Facility, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

Rule 150 Bench Warrants.

1. When an individual is committed to the Carbon County Correctional Facility pursuant to a bench warrant, he/she shall be detained pending a bench warrant hearing. The Warden, or his designee, shall notify the Carbon County District Court Administrator, District Attorney, Public Defender or Private Counsel (if known), Sheriff, and Carbon County Pretrial Services within 12 hours of the fact of such commitment.

2. Upon receipt of notice, the District Court Administrator shall promptly schedule a bench warrant hearing for bench warrants issued by a Common Pleas Judge.

3. The Carbon County Correctional Facility shall arrange to have the committed prisoner available for video conference at the appointed hour.

4. A court reporter shall be assigned to each hearing.

5. If the bench warrant hearing does not occur within 72 hours of commitment or by the close of the next business day if the 72 hours expires on a non-business day, the Carbon County Correctional Facility shall release said individual by operation of law.

[Pa.B. Doc. No. 06-1262. Filed for public inspection July 7, 2006, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 117; No. 1 AD 2006

Order

And Now, this 22nd day of June, 2006, pursuant to Rule 105 of the Pennsylvania Rules of Criminal Procedure, it is hereby ordered that Local Rule 117 is hereby adopted to read as follows.

The Clerk of Courts is directed as follows:

1. Seven certified copies of the Local Rules shall be filed with the Administrative Office of Pennsylvania Courts.

2. Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. One certified copy of the Local Rules shall be sent to the State Criminal Procedural Rules Committee.

4. One certified copy shall be sent to the Fayette County Law Library and to the Editor of the *Fayette Legal Journal*.

F.C.R.Crim.P. No. 117 shall be effective August 1, 2006.

By the Court

CONRAD B. CAPUZZI,
President Judge

Rule 117 Coverage: Issuing Warrants: Preliminary Arraignments and Summary Trials: and Setting and Accepting Bail

(A) All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays from 8:00 AM to 4:30 PM.

(B) On-call Magisterial District Judge(s) shall be available for continuous coverage in Protection from Abuse Act cases, the issuance of warrants, accepting bail, and for providing the services set forth in Pa.R.Crim.P No. 117(A)(2)(a), (b), (c), and (d). The President Judge shall establish the schedule of on-call duty in accordance with the traditional system presently utilized.

(C) Magisterial District Judges, the Clerk of Courts and Warden of the Fayette County Prison or his designee, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

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

[Pa.B. Doc. No. 06-1263. Filed for public inspection July 7, 2006, 9:00 a.m.]

LEHIGH COUNTY

Adoption of Appendix to Local Rules of Civil Procedure Entitled "Requirements for Special Service Checklist"; No. 2006-J-41

Order

Now, this 20th day of June, 2006, *It Is Ordered* that the following Appendix 1 to the Lehigh County Rules of Civil Procedure entitled "Requirements for Special Service Checklist" be, and the same is, promulgated herewith, to become effective thirty (30) days after publication in the *Pennsylvania Bulletin*; and that the present Appendix 1 to the Lehigh County Rules of Civil Procedure is revoked, effective at the same time.

The Court Administrator of Lehigh County is directed to:

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

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

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

4. File one (1) copy with the Clerk of Courts of the Lehigh County Court of Common Pleas.

5. Forward one (1) copy for publication in the *Lehigh County Law Journal*.

By the Court

WILLIAM H. PLATT,
President Judge

REQUIREMENTS FOR SPECIAL SERVICE CHECKLIST

)
)
) File Number:
)
)

Counsel for the moving party has attempted the following efforts marked with an "X":

Prerequisites:

_____ Attempted Sheriff service to all known addresses

- _____ Examination of motor vehicle records
- _____ PennDOT's Form DL-503 (form may be obtained from PennDOT's website)
- _____ Inquiry of postal authority
- _____ Examination of local phone directories

Discretionary Efforts:

- _____ Examination of local tax records
- _____ Examination of voter registration records
- _____ Inquiry of relatives, neighbors, friends and employers of defendant(s)
- _____ Other: _____

The court will not consider a motion for special service pursuant to Pa.R.C.P. 430 (a) until an affidavit is submitted to Chambers indicating that all prerequisites have been attempted, and at least one discretionary effort.

Appendix 1

[Pa.B. Doc. No. 06-1264. Filed for public inspection July 7, 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 20, 2006, Michael Levine is suspended from the Bar of this Commonwealth

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. 06-1265. Filed for public inspection July 7, 2006, 9:00 a.m.]

Notice of Transfer to Inactive Status

Notice is hereby given that Martin Luther Carter having been transferred to disability inactive status in the State of Connecticut by Order of the Superior Court of Connecticut, Judicial District of New London, dated March 9, 2006, the Supreme Court of Pennsylvania issued an Order on June 20, 2006, transferring Martin Luther Carter, to inactive status, effective immediately, pursuant to Rule 301(c) Pa.R.D.E (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

The Disciplinary Board of the Supreme Court of Pennsylvania

[Pa.B. Doc. No. 06-1266. Filed for public inspection July 7, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 4]

Academic Standards and Assessment for Career Education and Work

The State Board of Education (Board) amends Chapter 4 (relating to academic standards and assessment) to read as set forth in Annex A.

Chapter 4 sets forth requirements for academic standards and assessment certification of professional personnel in public schools. This final-form rulemaking establishes academic standards for career education and work as provided in § 4.12(a)(5) (relating to academic standards).

Statutory Authority

The Board takes this action under section 2603-B of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B) and other sections of the code.

Background

This final-form rulemaking defines the academic standards for Career Education and Work to be achieved by students enrolled at various grade levels in the public schools of this Commonwealth. Academic standards for Career Education and Work are organized into four areas; (1) career awareness and preparation; (2) career acquisition (getting a job); (3) career retention and advancement, and (4) entrepreneurship. Specific standards describe what students should know and be able to do by the end of third, fifth, eighth and eleventh grade.

Summary of Public Comments and Responses to Proposed Rulemaking

The proposed rulemaking was published at 35 Pa.B. 6118 (November 5, 2005). The proposed rulemaking was also published on the Department of Education (Department) website at www.pde.state.pa.us. The Board accepted formal written comments during a 30-day public comment period after publication of the proposed rulemaking.

The Board received comments from the Independent Regulatory Review Commission (IRRC), the Education Law Center and The Education Trust.

Following is a summary of the comments and the Board's response to those comments.

General

Comment: IRRC suggested that the Board consider adding language to help to ensure that students with disabilities will have the opportunity to be adequately prepared for the workforce.

Response: While the Board concurs with the intent of this recommendation, it does not agree that the academic standards, which describe what students should know and be able to do, are the proper place to impose requirements for the instruction of students with disabilities. The academic standards specify what is taught in public schools, not how it is to be taught. Nor do the academic standards address the rights of individual groups of students such as those with disabilities. Those rights are outlined in other chapters of the Board's regulations.

Comment: The Education Law Center included a number of comments relative to other chapters of Board regulations that address vocational and career education and prekindergarten.

Response: The comments regarding prekindergarten are not relevant to this final-form rulemaking. The recommendations regarding the addition of regulatory requirements for the instruction of students with disabilities in career education programs are not within the scope of the academic standards. The academic standards for career education and work address what all students, not only those enrolled in vocational education programs, are to know and be able to do.

Comment: The Education Law Center recommended that a statement be included in the introduction that the standards be used to guide Individualized Education Program teams and that the standards cannot be used as the basis for excluding a student with a disability from career or vocational education programs.

Response: These academic standards apply to all public school students, including those with disabilities. It appears from the comments made by the Education Law Center that it believes these standards apply only to students enrolled in vocational education programs. This is not true. Public schools, including vocational and technical schools, are to provide instruction to all students that addresses these academic standards. Schools may provide instruction through a course or a series of courses or by integrating the academic content into existing courses.

§ 13.1. Career Awareness and Preparation.

Comment: The Education Trust suggested that the standards be used to help inform students to understand the connection among career development, their own unique career growth process, the curriculum being taught and the academic development decisions they make. The Education Trust also recommended that the standards address the personalization of career awareness and demonstrating career knowledge.

Response: The Board added two standards to this section as recommended by The Education Trust.

Comment: The Education Law Center recommended adding the term "area vocational technical schools (AVTS)" to standards 13.1.5.C and 13.1.8.C. It also suggested adding to standard 13.1.8.C that students examine the option to attend an AVTS for high school.

Response: Standard 13.1.5.C already refers to career and technical centers, which is the current name used for what were previously called AVTSs. To improve clarity, the Board amended the listing for career and technical centers to indicate that they were formerly called AVTSs and that career and technical education programs are also offered in comprehensive high schools. The Board does not believe the recommended language for standard 13.1.8.C is necessary, as schools already provide orientation programs to students regarding options to enroll in career and technical education programs.

Comment: The Education Law Center recommended that the term "disability accommodations" be added to standard 13.1.5.D.

Response: The Board does not believe the addition of the term "disability accommodations" is necessary, as this would fall under the existing category of working conditions.

Comment: The Education Law Center recommended that the term “vocational rehabilitation centers” be added to standard 13.1.11.E.

Response: The Board added the term to the list of career preparation opportunities.

Comment: The Education Law Center suggested adding the term “accommodations required, if any” to standard 13.1.8.F.

Response: The Board does not believe that the addition of this term is necessary, as the list is not designed to be all-inclusive.

§ 13.2. Career Acquisition (Getting a Job).

Comment: The Education Law Center suggested that the Americans With Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101—12210) be included in the list of laws and regulations included in standards 13.2.3.8.E and 13.2.3.11.E. It also recommended that the term “self advocacy” be included in standards 13.2.3.3.E, 13.2.3.5.E and 13.2.3.8.E.

Response: The Board has added the ADA to standards 13.2.3.8.E and 13.2.3.11.E. The Board also added the term “self-advocacy” to grades 8 and 11 for standard 13.2.3.*.E. The Board does not believe instruction or standards on self-advocacy is appropriate for grades 3 or 5.

§ 13.3. Career Retention and Advancement.

Comment: IRRC suggested that standards 13.3.3.F and 13.3.5.F that require “students to identify changes that occur at both home and school” be clarified as to what type of changes students should identify and the relevance of these to Career Retention and Advancement.

Response: The Board revised these standards to improve their clarity as to what is expected of students.

Comment: The Education Law Center recommended that language be added to standard 13.3.*.B. for each grade level that would provide students with the knowledge and skills to identify each member of a work team’s individual strengths and weaknesses and how accommodating a member’s disabilities will enhance the member’s contribution.

Response: The Board believes the recommendation is unrealistic in terms of both the ability of classroom teachers to provide effective instruction on this recommendation or that these skills are appropriate for all age levels of students.

Comment: The Education Law Center suggested including ADA accommodations in standard 13.3.8.F.

Response: The Board has inserted ADA accommodations as suggested.

XXXIX. Glossary

Comment: IRRC identified the terms “Child Labor Laws,” “non-traditional careers,” “O*NET” and “traditional careers” included in the Glossary that were used differently in the proposed standards.

Response: The Board will request that the Legislative Reference Bureau edit the final-form rulemaking so that the terms “child labor laws,” “nontraditional careers” and “O*NET” follow a consistent format. The definition of “traditional careers” was retained in the Glossary.

Comment: The Education Law Center suggested adding “Americans with Disabilities Act” to the list of terms in the Glossary.

Response: The Board added the term “Americans with Disabilities Act (Pub. L. No. 101-336)” to the Glossary.

Fiscal Impact and Paperwork Requirements

Costs to implement this final-form rulemaking may include curriculum development and the professional development of teachers. These costs may vary by school district. Curriculum development is an ongoing activity for schools and is typically part of their normal budgeting. Costs associated with aligning curricula with these standards at the local level will be minimized by technical assistance in curriculum development provided by the Department and intermediate unit staff using existing resources.

Professional development of teachers is an ongoing activity for schools and is addressed in the normal budgeting of school districts and the Department. Specific programs designed to support the implementation of these standards will minimize any financial impact on school districts.

Professional development is provided through Governor’s Institutes for Teachers and is included within current year appropriations. In addition, the act of November 23, 1999 (P. L. 529, No. 48) (Act 48) establishes a requirement for all educators to engage in continuing professional education. Act 48 also requires the Department to provide 40 hours of professional development annually at no cost to teachers. Online professional development courses may be developed on the Career Education and Work academic standards.

Effective Date

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

Sunset Date

In accordance with its policy and practice respecting all regulations promulgated by it, the Board will review the effectiveness of Chapter 49 after 4 years. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 17, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6118, to IRRC and the Chairpersons of the House and Senate Committees on Education 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 Board 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.

Contact Person

The official responsible for information on this final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787 or TDD (717) 787-7367.

Findings

The Board finds that:

(1) Public notice of the intention to adopt this final-form 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 final-form rulemaking is necessary and appropriate for the administration of the code.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 4, are amended by adding Appendix E to read as set forth in Annex A.

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

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

(d) This order is effective upon final-form publication in the Pennsylvania Bulletin.

JAMES E. BUCKHEIT, Executive Director

(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 6-296 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 4. ACADEMIC STANDARDS AND ASSESSMENT

APPENDIX E

Academic Standards for Career Education and Work

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THE ACADEMIC STANDARDS

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- A. Abilities and Aptitudes
B. Personal Interests
C. Nontraditional Workplace Roles
D. Local Career Preparation Opportunities
E. Career Selection Influences
F. Preparation for Careers
G. Career Plan Components
H. Relationship Between Education and Career

Career Acquisition (Getting a Job) 13.2.

- A. Interviewing Skills
B. Resources
C. Career Acquisition Documents
D. Career Planning Portfolios
E. Career Acquisition Process

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C. Group Interaction
D. Budgeting
E. Time Management
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XXXVII. INTRODUCTION

The Academic Standards for Career Education and Work reflect the increasing complexity and sophistication that students experience as they progress through school. Career Education and Work Standards describe what students should know and be able to do at four grade levels (3, 5, 8 and 11) in four areas:

- 13.1 Career Awareness and Preparation
• 13.2 Career Acquisition (Getting a Job)
• 13.3 Career Retention and Advancement
• 13.4 Entrepreneurship

Pennsylvania's economic future depends on having a well-educated and skilled workforce. No student should leave secondary education without a solid foundation in Career Education and Work. It is the rapidly changing workplace and the demand for continuous learning and innovation on the part of the workers that drive the need to establish academic standards in Career Education and Work.

Through a comprehensive approach, Career Education and Work Standards complement all disciplines and other academic standards. If Pennsylvania's students are to succeed in the workplace, there are certain skills that they need to obtain prior to graduation from high school. These skills have been identified in the Career Education and Work Standards, but it is up to individual school districts to decide how they are to be taught. Districts can implement integration strategies within existing disciplines or can implement stand-alone courses to specifically address these standards.

A glossary is included to assist the reader in understanding terminology contained in the standards.

13.1. Career Awareness and Preparation			
13.1.3. GRADE 3	13.1.5. GRADE 5	13.1.8. GRADE 8	13.1.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>A. Recognize that individuals have unique interests.</p> <p>B. Identify current personal interests.</p> <p>C. Recognize that the roles of individuals at home, in the workplace and in the community are constantly changing.</p> <p>D. Identify the range of jobs available in the community.</p> <p>E. Describe the work done by school personnel and other individuals in the community.</p>	<p>A. Describe the impact of individual interests and abilities on career choices.</p> <p>B. Describe the impact of personal interest and abilities on career choices.</p> <p>C. Relate the impact of change to both traditional and nontraditional careers.</p> <p>D. Describe the range of career training programs in the community such as, but not limited to:</p> <ul style="list-style-type: none"> • Two-and-four year colleges • Career and technical education programs at centers (formerly AVTS) and high schools • CareerLinks • Community/recreation centers • Faith-based organizations • Local industry training centers • Military • Registered apprenticeship • Vocational rehabilitation centers • Web-based training <p>E. Describe the factors that influence career choices, such as, but not limited to:</p> <ul style="list-style-type: none"> • Geographic location • Job description • Salaries/benefits • Work schedule • Working conditions 	<p>A. Relate careers to individual interests, abilities and aptitudes.</p> <p>B. Relate careers to personal interests, abilities and aptitudes.</p> <p>C. Explain how both traditional and nontraditional careers offer or hinder career opportunities.</p> <p>D. Explain the relationship of career training programs to employment opportunities.</p> <p>E. Analyze the economic factors that impact employment opportunities, such as, but not limited to:</p> <ul style="list-style-type: none"> • Competition • Geographic location • Global influences • Job growth • Job openings • Labor supply • Potential advancement • Potential earnings • Salaries/benefits • Unemployment 	<p>A. Relate careers to individual interests, abilities and aptitudes.</p> <p>B. Analyze career options based on personal interests, abilities, aptitudes, achievements and goals.</p> <p>C. Analyze how the changing roles of individuals in the workplace relate to new opportunities within career choices.</p> <p>D. Evaluate school-based opportunities for career awareness/preparation, such as, but not limited to:</p> <ul style="list-style-type: none"> • Career days • Career portfolio • Community service • Cooperative education • Graduation/senior project • Internship • Job shadowing • Part-time employment • Registered apprenticeship • School-based enterprise <p>E. Justify the selection of a career.</p>

13.1. Career Awareness and Preparation			
13.1.3. GRADE 3	13.1.5. GRADE 5	13.1.8. GRADE 8	13.1.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
F. Explore how people prepare for careers.	F. Investigate people's rationale for making career choices.	F. Analyze the relationship of school subjects, extracurricular activities and community experiences to career preparation.	F. Analyze the relationship between career choices and career preparation opportunities, such as, but not limited to: <ul style="list-style-type: none"> • Associate degree • Baccalaureate degree • Certificate/licensure • Entrepreneurship • Immediate part/full time employment • Industry training • Military training • Professional degree • Registered apprenticeship • Tech Prep • Vocational rehabilitation centers
G. Explain why education and training plans are important to careers.	G. Identify the components of a career plan, such as, but not limited to: <ul style="list-style-type: none"> • Beginnings of career portfolio • Career goals • Individual interests and abilities • Training/education requirements and costs 	G. Create an individualized career plan including, such as, but not limited to: <ul style="list-style-type: none"> • Assessment and continued development of career portfolio • Career goals • Cluster/pathway opportunities • Individual interests and abilities • Training/education requirements and financing 	G. Assess the implementation of the individualized career plan through the ongoing development of the career portfolio.
H. Explain how workers in their careers use what is learned in the classroom.	H. Connect personal interests and abilities and academic strengths to personal career options.	H. Choose personal electives and extra curricular activities based upon personal career interests, abilities and academic strengths.	H. Review personal high school plan against current personal career goals and select postsecondary opportunities based upon personal career interests.
13.2. Career Acquisition (Getting a Job)			
13.2.3. GRADE 3	13.2.5. GRADE 5	13.2.8. GRADE 8	13.2.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
A. Identify appropriate speaking and listening techniques used in conversation.	A. Apply appropriate speaking and listening techniques used in conversation.	A. Identify effective speaking and listening skills used in a job interview.	A. Apply effective speaking and listening skills used in a job interview.

13.2. Career Acquisition (Getting a Job)			
13.2.3. GRADE 3	13.2.5. GRADE 5	13.2.8. GRADE 8	13.2.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>B. Discuss resources available in researching job opportunities, such as, but not limited to:</p> <ul style="list-style-type: none"> • Internet • Magazines • Newspapers <p>C. Compose a personal letter.</p> <p>D. Identify the importance of developing a plan for the future.</p>	<p>B. Identify and review resources available in researching job opportunities, such as, but not limited to:</p> <ul style="list-style-type: none"> • Internet • Magazines • Newspapers <p>C. Compose and compare a business and a personal letter.</p> <p>D. Identify individualized career portfolio components, such as, but not limited to:</p> <ul style="list-style-type: none"> • Achievements • Awards/recognitions • Career exploration results • Career plans • Community service involvement/projects • Interests/hobbies • Personal career goals • Selected school work • Self inventories 	<p>B. Evaluate resources available in researching job opportunities, such as, but not limited to:</p> <ul style="list-style-type: none"> • CareerLinks • Internet (i.e. O*NET) • Networking • Newspapers • Professional associations • Resource books (that is <i>Occupational Outlook Handbook, PA Career Guide</i>) <p>C. Prepare a draft of career acquisition documents, such as, but not limited to:</p> <ul style="list-style-type: none"> • Job application • Letter of appreciation following an interview • Letter of introduction • Request for letter of recommendation • Resume <p>D. Develop an individualized career portfolio including components, such as, but not limited to:</p> <ul style="list-style-type: none"> • Achievements • Awards/recognitions • Career exploration results • Career plans • Community service involvement/projects • Interests/hobbies • Personal career goals • Selected school work • Self inventories 	<p>B. Apply research skills in searching for a job.</p> <ul style="list-style-type: none"> • CareerLinks • Internet (i.e. O*NET) • Networking • Newspapers • Professional associations • Resource books (that is <i>Occupational Outlook Handbook, PA Career Guide</i>) <p>C. Develop and assemble, for career portfolio placement, career acquisition documents, such as, but not limited to:</p> <ul style="list-style-type: none"> • Job application • Letter of appreciation following an interview • Letter of introduction • Postsecondary education/training applications • Request for letter of recommendation • Resume <p>D. Analyze, revise and apply an individualized career portfolio to chosen career path.</p>

13.2. Career Acquisition (Getting a Job)			
13.2.3. GRADE 3	13.2.5. GRADE 5	13.2.8. GRADE 8	13.2.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>E. Discuss the importance of the essential workplace skills, such as, but not limited to:</p> <ul style="list-style-type: none"> • Dependability • Health/safety • Team building • Technology 	<p>E. Apply to daily activities, the essential workplace skills, such as, but not limited to:</p> <ul style="list-style-type: none"> • Commitment • Communication • Dependability • Health/safety • Personal initiative • Scheduling/time management • Team building • Technical literacy • Technology 	<p>E. Explain, in the career acquisition process, the importance of the essential workplace skills/knowledge, such as, but not limited to:</p> <ul style="list-style-type: none"> • Commitment • Communication • Dependability • Health/safety • Laws and regulations (that is Americans With Disabilities Act, child labor laws, Fair Labor Standards Act, OSHA, Material Safety Data Sheets) • Personal initiative • Self-advocacy • Scheduling/time management • Team building • Technical literacy • Technology 	<p>E. Demonstrate, in the career acquisition process, the application of essential workplace skills/knowledge, such as, but not limited to:</p> <ul style="list-style-type: none"> • Commitment • Communication • Dependability • Health/safety • Laws and regulations (that is Americans With Disabilities Act, child labor laws, Fair Labor Standards Act, OSHA, Material Safety Data Sheets) • Personal initiative • Self-advocacy • Scheduling/time management • Team building • Technical literacy • Technology
13.3. Career Retention and Advancement			
13.3.3. GRADE 3	13.3.5. GRADE 5	13.3.8. GRADE 8	13.3.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>A. Identify attitudes and work habits that contribute to success at home and school.</p> <p>B. Identify how to cooperate at both home and school.</p> <p>C. Explain effective group interaction terms, such as, but not limited to:</p> <ul style="list-style-type: none"> • Compliment • Cooperate • Encourage • Participate 	<p>A. Explain how student attitudes and work habits transfer from the home and school to the workplace.</p> <p>B. Explain the importance of working cooperatively with others at both home and school to complete a task.</p> <p>C. Identify effective group interaction strategies, such as, but not limited to:</p> <ul style="list-style-type: none"> • Building consensus • Communicating effectively • Establishing ground rules • Listening to others 	<p>A. Determine attitudes and work habits that support career retention and advancement.</p> <p>B. Analyze the role of each participant's contribution in a team setting.</p> <p>C. Explain and demonstrate conflict resolution skills:</p> <ul style="list-style-type: none"> • Constructive criticism • Group dynamics • Managing/leadership • Mediation • Negotiation • Problem solving 	<p>A. Evaluate personal attitudes and work habits that support career retention and advancement.</p> <p>B. Evaluate team member roles to describe and illustrate active listening techniques:</p> <ul style="list-style-type: none"> • Clarifying • Encouraging • Reflecting • Restating • Summarizing <p>C. Evaluate conflict resolution skills as they relate to the workplace:</p> <ul style="list-style-type: none"> • Constructive criticism • Group dynamics • Managing/leadership • Mediation • Negotiation • Problem solving

13.3. Career Retention and Advancement			
13.3.3. GRADE 3	13.3.5. GRADE 5	13.3.8. GRADE 8	13.3.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>D. Explain how money is used.</p> <p>E. Discuss how time is used at both home and school.</p> <p>F. Identify the changes in family and friend's roles at home, at school and in the community.</p> <p>G. Define and describe the importance of lifelong learning.</p>	<p>D. Explain budgeting.</p> <p>E. Develop a personal schedule based on activities and responsibilities at both home and school.</p> <p>F. Describe the impact of role changes at home, school, and at work, and how the role changes impact career advancement and retention.</p> <p>G. Describe how personal interests and abilities impact lifelong learning.</p>	<p>D. Analyze budgets and pay statements, such as, but not limited to:</p> <ul style="list-style-type: none"> • Charitable contributions • Expenses • Gross pay • Net pay • Other income • Savings • Taxes <p>E. Identify and apply time management strategies as they relate to both personal and work situations.</p> <p>F. Identify characteristics of the changing workplace including Americans With Disabilities Act accommodations, and explain their impact on jobs and employment.</p> <p>G. Identify formal and informal lifelong learning opportunities that support career retention and advancement.</p>	<p>D. Develop a personal budget based on career choice, such as, but not limited to:</p> <ul style="list-style-type: none"> • Charitable contributions • Fixed/variable expenses • Gross pay • Net pay • Other income • Savings • Taxes <p>E. Evaluate time management strategies and their application to both personal and work situations.</p> <p>F. Evaluate strategies for career retention and advancement in response to the changing global workplace.</p> <p>G. Evaluate the impact of lifelong learning on career retention and advancement.</p>
13.4. Entrepreneurship			
13.4.3. GRADE 3	13.4.5. GRADE 5	13.4.8. GRADE 8	13.4.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>A. Define entrepreneurship.</p> <p>B. Describe the character traits of successful entrepreneurs, such as, but not limited to:</p> <ul style="list-style-type: none"> • Adaptability • Creative thinking • Ethical behavior • Leadership • Positive attitude • Risk-taking 	<p>A. Identify the risks and rewards of entrepreneurship.</p> <p>B. Discuss the entrepreneurial character traits of historical or contemporary entrepreneurs.</p>	<p>A. Compare and contrast entrepreneurship to traditional employment, such as, but not limited to:</p> <ul style="list-style-type: none"> • Benefits • Job security • Operating costs • Wages <p>B. Evaluate how entrepreneurial character traits influence career opportunities.</p>	<p>A. Analyze entrepreneurship as it relates to personal career goals and corporate opportunities.</p> <p>B. Analyze entrepreneurship as it relates to personal character traits.</p>

13.4. Entrepreneurship			
13.4.3. GRADE 3	13.4.5. GRADE 5	13.4.8. GRADE 8	13.4.11. GRADE 11
<i>Pennsylvania's public schools shall teach, challenge and support every student to realize his maximum potential and to acquire the knowledge and skills needed to:</i>			
<p>C. Describe age-appropriate entrepreneurial opportunities, such as, but not limited to:</p> <ul style="list-style-type: none"> • Bake sale • Crafts • Lemonade stand • Pet care 	<p>C. Discuss the steps entrepreneurs take to bring their goods or services to market, such as, but not limited to:</p> <ul style="list-style-type: none"> • Marketing • Production • Research and development • Selection of goods and services 	<p>C. Identify and describe the basic components of a business plan, such as, but not limited to:</p> <ul style="list-style-type: none"> • Business idea • Competitive analysis • Daily operations • Finances/budget • Marketing • Productive resources (human, capital, natural) • Sales forecasting 	<p>C. Develop a business plan for an entrepreneurial concept of personal interest and identify available resources, such as, but not limited to:</p> <ul style="list-style-type: none"> • Community based organizations (that is chambers of commerce, trade/technical associations, Industrial Resource Centers) • Financial institutions • School-based career centers • Small Business Administration services (that is SCORE, Small Business Development Centers, Entrepreneurial Development Centers) • Venture capital

Academic Standards for Career Education and Work

XXXIX. GLOSSARY

Americans With Disabilities Act (Pub. L. No. 101-336):

The Americans With Disabilities Act is a Federal civil rights law that prohibits discrimination and for ensuring equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, transportation and requiring the establishment of TDD/telephone relay services.

Aptitudes:

Capacity to learn and understand.

Associate degree:

A postsecondary degree typically earned within a 2-year time frame.

Baccalaureate degree:

A postsecondary degree, also known as a bachelor's degree, typically earned within a 4-year time frame from a college or university.

Benefits:

Something of value that an employee receives in addition to a wage or salary. Examples include health and life insurance, vacation leave, retirement plans, and the like.

Budget:

A financial plan that summarizes anticipated income and expenditures over a period of time.

Business plan:

A prepared document detailing the past, present and future of an organization.

Career and technical centers:

Schools that educate secondary students and adults through academic instruction, job preparation and acquisition of occupational skills leading to credentials or employment, or both, in specific industries. The centers also provide opportunities for transition to postsecondary education and continuing education.

Career cluster:

A grouping of related occupations, which share similar skill sets.

Career days:

Special events that allow students to meet with employers, career development specialists, community-based organization representatives and postsecondary educators. Events are designed to encourage students to gain information about careers and job opportunities.

Career plan:

A document developed by the student that identifies a series of educational studies and experiences to prepare them for postsecondary education or work, or both, in a selected career cluster or area.

Career portfolio:

An ongoing, individualized collection of materials (electronic or hard copy) that documents a student's educational performance, career exploration and employment experiences over time. While there is no standard format that a career portfolio must take, it typically includes a range of work, containing assignments by the teacher/counselor and selections by the student. It serves as a guide for the student to transition to postsecondary education or the workplace, or both.

Career retention and advancement:

Career retention is the process of keeping a job. Career advancement is the process of performing the necessary requirements to progress in a career.

CareerLinks:	A cooperative system that provides one-stop delivery of career services to job seekers, employers and other interested individuals.
Certificate/licensure:	A document, issued by associations, employers, educational institutions, government, and the like, confirming that one has fulfilled the requirements and is able to perform to a specified level of proficiency within a career field.
Child labor laws:	Legislation governing the employment of children under the age of 18.
Competitive analysis:	A tool that allows a business to identify its competitors and evaluate their respective strengths and weaknesses.
Cooperative education:	A structured method of instruction whereby students alternate or coordinate their high school studies with a job in a field related to their academic or career objectives.
Entrepreneurs:	Individuals who engage in the process of organizing, managing and assuming the risk of a business or enterprise.
Entrepreneurship:	The process of organizing, managing and assuming the risks of a business or enterprise.
Fair Labor Standards Act:	A Federal law that defines overtime and wage requirements (26 U.S.C.A. §§ 201—219).
Fixed/variable expenses:	Fixed expenses are regular in their timing and amount, and include things such as rent, mortgage, car payment and insurance. Variable expenses are irregular in their timing and amount, and include such things as food, clothing, home and car maintenance, entertainment and gifts.
Global influences:	Political and cultural changes, which impact the world and its economy.
Gross pay:	The amount earned before deductions, such as taxes, insurance and retirement/pension plan.
Industrial Resource Centers:	Nonprofit corporations, which provide assistance to improve the competitive position of small-to-medium sized manufacturers.
Internship:	A work experience with an employer for a specified period of time to learn about a particular industry or occupation, which may or may not include financial compensation. The workplace activities may include special projects, a sample of tasks from different jobs or tasks from a single occupation.
Job shadowing:	Typically as part of career exploration activities in late middle and early high school, a student follows an employee for 1 or more days to learn about a particular occupation or industry. Job shadowing is intended to help students explore a range of career objectives and to possibly select a career pathway.
Labor supply:	The number of persons either working or unemployed and actively seeking work.
Marketing:	The process or technique of promoting, selling and distributing a product or service.
Material Safety Data Sheets:	Federally mandated listings of all hazardous materials that will impact the health and safety of the workers and that are required to be posted in the workplace.
Mediation:	Third-party intervention between conflicting parties to promote reconciliation, settlement or compromise.
Net pay:	The amount remaining after deductions, such as taxes, insurance and retirement/pension plan.
Networking:	The act of exchanging information, contacts and services.
Nontraditional careers:	Fields of work for which individuals from one gender comprise less than 25% of the individuals employed in each occupation or field of work.
O*NET:	Occupational Information Network—is a free public access online web-based system provided by the United States Department of Labor, which includes comprehensive up-to-date occupational information including skills, knowledge, abilities and tasks for more than 950 occupations.
Operating costs:	The funds necessary to operate a business, not including the cost of goods sold. This is also referred to as overhead.
OSHA:	The Occupational Safety and Health Administration—A National agency with representatives in each state who monitor health and safety issues in the workplace.
Professional associations:	Organizations of people having common interests.
Professional degree:	A title conferred on students by a college, university or professional school upon completion of a program of study.

Registered apprenticeship:	A formal program registered with the United States Department of Labor's Bureau of Apprenticeship and Training and with the Pennsylvania Apprenticeship Council. This program must follow strict guidelines as to the types of training and amount of training time an apprentice receives and leads directly into occupations requiring the training for entry.
Resume:	A summary of one's personal qualifications, education/training and employment experience.
Salaries/benefits:	Financial compensation paid regularly for services (See "benefits" for definition).
Sales forecasting:	Predicting the number of services or units likely to be sold over a specified period of time.
School-based career centers:	Specialized areas in schools equipped with resources and materials used to research postsecondary and occupational opportunities.
School-based enterprise:	The production of goods or services as part of a school program.
SCORE:	Service Corps of Retired Executives—A Small Business Administration Federally-sponsored program to assist small-to-medium sized companies.
Self inventories:	Evaluations of an individual's strengths, weaknesses and interests, as it relates to career planning.
Tech Prep:	The name given to programs that offer at least 4 years of sequential course work at the secondary and postsecondary levels to prepare students for technical careers. The curricula are designed to build student competency in academic subjects, as well as to provide broad technical preparation in a career area.
Technical literacy:	The ability of individuals to use existing and emerging technologies, equipment, language, materials and manuals to participate intelligently in performing tasks related to everyday life, school or job.
Time management strategies:	Scheduling techniques used to effectively and efficiently direct or control activities.
Traditional careers:	Fields of work for which individuals from one gender comprise more than 25% of the individuals employed in each occupation or field of work.
Unemployment:	Measurement of the number of people who are not working and who are actively seeking work.
Venture capital:	Public or private funds invested in a potentially profitable business enterprise despite risk of loss.
Vocational rehabilitation centers:	Educational facilities that provide life skills and occupational training services for individuals with special needs.
Wages:	Payments of money for labor or services according to contract and on an hourly, daily or piecework basis.
Web-based training:	Instruction that is available online.
Work habits:	Acquired behaviors that individuals regularly perform in completing tasks related to chores, school or job.
Working conditions:	The environment in which an individual is employed.

[Pa.B. Doc. No. 06-1267. Filed for public inspection July 7, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 20, 1181, 2380, 2390,
3130, 3140, 3270, 3280, 3290, 3680, 3700,
6400 AND 6500]

Licensure/Approval Appeal Procedure

The Department of Public Welfare (Department), under the authority of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Articles IX and X of the Public Welfare Code (code) (62 P. S. §§ 901—922 and 1001—1087), proposes to amend Chapters 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 and 6500 to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The purpose of this proposed rulemaking is to replace the uncodified regulation at 7 Pa.B. 3266 (November 5, 1977), Chapter 9003 (relating to licensure/approval appeal procedure), with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP) for facilities and agencies certified by the Department.

The proposed rulemaking is needed to update and simplify the certification appeal process in the Department. The uncodified regulation at 7 Pa.B. 3266 is unnecessary and duplicative of GRAPP. GRAPP is entirely adequate for certification appeals. The Department has already begun a chapter-by-chapter replacement of the uncodified regulation at 7 Pa.B. 3266 with GRAPP in §§ 2600.12 and 3800.12 (relating to appeals).

Background

In comparing the uncodified regulation at 7 Pa.B. 3266 to the GRAPP, there are some notable differences. Among them is the fact that the uncodified regulation at 7 Pa.B. 3266 is largely unknown to the private bar, whereas the GRAPP is well known.

The regulation at 7 Pa.B. 3266 has been replaced already in some Department regulations, such as Chapters 2600 and 3800 (relating to personal care homes; and child residential and day treatment facilities). Therefore, there are currently differing appeal procedures within the types of facilities certified by the Department. GRAPP would provide consistency in the appeal process by having one uniform set of appeal procedures for certification appeals.

GRAPP gives a provider agency 10 days to appeal in 1 Pa. Code § 35.20 (relating to appeals from actions of the staff), whereas § 9003.6 (relating to time limit on right of appeal) of the regulation at 7 Pa.B. 3266 gives a provider agency 30 days to appeal.

GRAPP does not specify a time frame in which the appeal is to be sent to the Department's Bureau of Hearings and Appeals (Bureau), whereas § 9003.11.B (relating to steps in the appeal process) of the regulation at 7 Pa.B. 3266 requires the appeal to be delivered to the Bureau in 3 days.

Section 9003.11.F of the uncodified regulation at 7 Pa.B. 3266 indicates that the hearing should be scheduled within 90 days after the appeal has been taken, whereas GRAPP does not specify a time frame. However, neither regulation requires a decision within any specified time period.

Section 9003.13.1.C.3 (relating to decision of the hearing officer) of the uncodified regulation at 7 Pa.B. 3266 gives the Department the authority to close a facility for reasons unrelated to licensure/approval, whereas the GRAPP does not give the Department this authority. Therefore, GRAPP provides greater protection to service providers from arbitrary action by the Department.

However, the uncodified regulation at 7 Pa.B. 3266 and the GRAPP have many similarities. Both regulations include the provider's right to appeal, provide for the conduct of hearings and making decisions and provide for the same rules of evidence. In addition, the list of appealable decisions is substantially the same in both regulations.

Requirements

This proposed rulemaking replaces the uncodified regulation at 7 Pa.B. 3266 with GRAPP for all facilities and agencies certified by the Department.

The following is a summary of specific changes to the affected sections.

Section 20.2 (relating to applicability), as it applies to family day care homes, is amended by replacing the uncodified regulation at 7 Pa.B. 3266 with GRAPP.

The following sections are amended by replacing the uncodified regulation at 7 Pa.B. 3266 with GRAPP: §§ 20.82, 1181.561, 2380.12, 2390.12, 3130.82, 3140.17, 3270.12, 3280.12, 3290.13, 3680.14, 3700.72, 6400.12 and 6500.13 and Chapter 1181, Appendix N.

Affected Individuals and Organizations

Agencies and facilities receiving certification under Chapter 20 are: adult training facilities certified under Chapter 2380; vocational facilities certified under Chapter 2390; county children and youth social service programs certified under Chapter 3130 and Chapter 3140; child day care centers certified under Chapter 3270; group child day care homes certified under Chapter 3280; family day care homes certified under Chapter 3290; private children and youth social service agencies certified under Chapter 3680; foster family care agencies certified under Chapter 3700; psychiatric outpatient clinics under Chapter 5200; partial hospitalization under Chapter 5210; private psychiatric hospitals under Chapter 5300; community residential rehabilitation services for the mentally ill under Chapter 5310; requirements for long-term structured residence licensure under Chapter 5320; community homes for individuals with mental retardation certified under Chapter 6400; family living homes certified under Chapter 6500; and intermediate care facilities for the mentally retarded under Chapter 6600.

Although not all of the previous chapters are being amended in this proposed rulemaking, the Department finds that the previous facilities are within the scope of Chapter 20 since they are certified under Article IX or Article X of the code. See § 20.2(a). The Department proposes to amend the chapters which specifically refer to either Chapter 9003 or Chapter 30 (which was reserved

for the codification of Chapter 9003). Upon final adoption, the appeal procedures for Chapters 5200, 5210, 5300, 5310, 5320 and 6600 will be subject to GRAPP under § 20.82 (relating to written request for appeal).

Accomplishments and Benefits

GRAPP is the officially codified and recognized practice and procedures for administrative agencies within the Commonwealth. There are currently unequal and differing appeal procedures within the types of facilities certified by the Department. GRAPP time frames would provide consistency in the appeal process across all Department-certified human service programs. The uncodified regulation at 7 Pa.B. 3266 has been superseded already in some Departmental regulations previously noted. Currently, attorneys for appellants providing multiple types of human services would have to be versed in both the uncodified regulation at 7 Pa.B. 3266 and GRAPP to represent their clients' best interest.

The existence of a special certification appeal regulation imposes an unnecessary burden on appellants' counsel because its applicability is limited to some, but not all, of the Department's certification appeals. Since most attorneys experienced in administrative law will have familiarity with GRAPP, but not the uncodified regulation at 7 Pa.B. 3266, considerations of efficiency and fairness to appellants imply that the consistency achieved by repeal of the uncodified regulation at 7 Pa.B. 3266 is in the public interest.

Fiscal Impact

The proposed rulemaking will save provider agencies and county agencies attorney's fees, since their attorneys will not have to familiarize themselves with the uncodified regulation at 7 Pa.B. 3266 and, instead, will be able to rely upon GRAPP.

The Department will no longer have to individually copy and mail out the regulation at 7 Pa.B. 3266 to providers, increasing efficiency through a decrease in printing and mailing costs, because GRAPP is codified and generally available.

There will be no fiscal impact on the general public anticipated as a result of this proposed rulemaking.

Paperwork Requirements

There will be a reduction in paperwork by eliminating the printing and mailing of the uncodified regulation at 7 Pa.B. 3266.

Effective Date

This proposed rulemaking will be effective 30 calendar days after 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 Robinson, Director, Human Services Licensing Management and Research, Box 2675 Health and Welfare Building, Harrisburg, PA 17105, rerobinson@state.pa.us within 30-calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-504 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 20, 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: 14-504. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART I. DEPARTMENT OF PUBLIC WELFARE

Subpart C. LICENSING/APPROVAL

CHAPTER 20. LICENSURE OR APPROVAL OF FACILITIES AND AGENCIES

GENERAL PROVISIONS

§ 20.2. Applicability

* * * * *

(b) This chapter does not apply to family day care homes that are registered under the authority of Article X of the Public Welfare Code [(62 P. S. §§ 1001—1080), **except for appeals as provided in § 20.82 (relating to written request for appeal).**

* * * * *

APPEALS

§ 20.82. Written request for appeal.

The legal entity may appeal a Departmental decision specified in § 20.81 (relating to decisions that may be appealed) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and [**§ 9003 of the DPW Manual to be codified at Chapter 30 (relating to licensure or approval appeal procedures)**] 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1181. NURSING FACILITY CARE

Subchapter D. NURSING HOME REFORM—STATEMENT OF POLICY

APPEALS OF ADVERSE DETERMINATIONS

§ 1181.561. Process to appeal adverse determinations in the preadmission screening program.

* * * * *

[(e) The Department is planning to recodify its regulations to consolidate all regulations with respect to hearings and appeals in a new Chapter 30 (relating to licensure or approval appeal procedures). The appeals process for adverse determinations in the OBRA-87 preadmission screening process will be consolidated as part of that recodification. In the meantime, while the sources of hearing authority may be different for Program beneficiaries and others, the Department will administer the appeals process for both groups using the procedural model in Chapter 275 to assure uniformity and expedite the adjudications.]

APPENDIX N. RIGHT TO APPEAL AND FAIR HEARING

* * * * *

II. STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES

* * * * *

[The Department is planning to recodify its regulations to consolidate all regulations with respect to hearings and appeals in 55 Pa. Code Chapter 30. In the meantime, while the sources of hearing authority may be different for Program beneficiaries and others, the Department shall administer the appeals process for both groups using the procedural model in Chapter 275, in order to assure uniformity and expedite the adjudications.]

* * * * *

PART IV. ADULT SERVICES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2380. ADULT TRAINING FACILITIES

GENERAL REQUIREMENTS

§ 2380.12. Appeals.

Appeals related to the Department's approval or licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and [Chapter 9003 of the Department of Public Welfare's Manual (relating to Licensure/Approval Appeal Procedure), published at 7 Pa.B. 3267 (November 5, 1977), to be codified at Chapter 30] 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

CHAPTER 2390. VOCATIONAL FACILITIES

GENERAL REQUIREMENTS

§ 2390.12. Appeals.

Appeals related to the Department's approval or licensure shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and [Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

PART V. CHILDREN, YOUTH AND FAMILIES MANUAL

Subpart C. ADMINISTRATION AND FISCAL MANAGEMENT

ARTICLE II. COUNTY-ADMINISTERED SERVICES

CHAPTER 3130. ADMINISTRATION OF COUNTY CHILDREN AND YOUTH SOCIAL SERVICE PROGRAMS

REQUIREMENTS FOR FOSTER CARE PROGRAMS AND CHILD CARE FACILITIES OPERATED BY A COUNTY AGENCY

§ 3130.82. Appeals.

[(a)] The county agency has the right to appeal the Department's decisions related to licensure or approval under [Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

[(b) To appeal the Department's decision, the county agency shall file a written appeal with the Director, Office of Hearings and Appeals, Department of Public Welfare, Post Office Box 2675, Harrisburg, Pennsylvania 17105.

(c) The appeal shall be postmarked no later than 30 calendar days following the date of notice regarding the agency's licensure or approval status.]

CHAPTER 3140. PLANNING AND FINANCIAL REIMBURSEMENT REQUIREMENTS FOR COUNTY CHILDREN AND YOUTH SOCIAL SERVICE PROGRAMS

Subchapter A. PRELIMINARY PROVISIONS PLAN REQUIREMENTS

§ 3140.17. Review of county plans and budgets.

* * * * *

(e) The county may appeal the Department's determination reached in accordance with subsection (c) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and [Chapters 30 and] Chapter 275 (relating to [appeal and fair hearing; and] appeal and fair hearing and administrative disqualification hearings).

Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3270. CHILD DAY CARE CENTERS

GENERAL REQUIREMENTS

§ 3270.12. Appeals.

(a) Appeals related to the Department's approval or licensure decisions shall be made under [Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure/approval/appeal procedures)] 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

* * * * *

**CHAPTER 3280. GROUP CHILD DAY CARE HOMES
GENERAL REQUIREMENTS**

§ 3280.12. Appeals.

(a) Appeals related to the Department's approval or licensure decisions shall be made under [**Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to the licensure/approval/appeal procedures)] 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).**

* * * * *

**CHAPTER 3290. FAMILY CHILD DAY CARE HOMES
GENERAL REQUIREMENTS**

§ 3290.13. Appeals.

(a) Appeals related to the Department's registration decisions shall be made under [**Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).**

* * * * *

**Subpart E. RESIDENTIAL AGENCIES, FACILITIES
AND SERVICES**

ARTICLE I. LICENSING/APPROVAL

**CHAPTER 3680. ADMINISTRATION OF PRIVATE
CHILDREN AND YOUTH SOCIAL SERVICES
AGENCY**

**GENERAL RESPONSIBILITIES OF THE LEGAL
ENTITY**

§ 3680.14. Appeals.

(a) The legal entity has the right to appeal the Department's decisions related to licensure or approval under [**Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).**

* * * * *

**CHAPTER 3700. FOSTER FAMILY CARE AGENCY
REQUIREMENTS FOR FFCA APPROVAL OF
FOSTER FAMILIES**

§ 3700.72. Foster family approval appeals.

* * * * *

(b) Foster parents who wish to appeal an FFCA decision to disapprove or provisionally approve the foster family shall submit to the FFCA a written appeal [**postmarked no later than 15 calendar days from the date of the written notice**]. The appeals are subject to [**Title 9003 of the DPW Manual to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 2 Pa.C.S. §§ 501—508**

and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

* * * * *

PART VIII. MENTAL RETARDATION MANUAL

**Subpart E. RESIDENTIAL
AGENCIES/FACILITIES/SERVICES**

ARTICLE I. LICENSING/APPROVAL

**CHAPTER 6400. COMMUNITY HOMES FOR
INDIVIDUALS WITH MENTAL RETARDATION**

GENERAL REQUIREMENTS

§ 6400.12. Appeals.

Appeals related to the Department's licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and [**Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).**

CHAPTER 6500. FAMILY LIVING HOMES

GENERAL REQUIREMENTS

§ 6500.13. Appeals.

Appeals related to the Department's licensure or waiver decisions shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and [**Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures)] 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).**

[Pa.B. Doc. No. 06-1268. Filed for public inspection July 7, 2006, 9:00 a.m.]

SECURITIES COMMISSION

[64 PA. CODE CHS. 203, 205, 207, 209, 210, 303,
504, 602, 603, 604, 609 AND 1001]

**Rescission of Forms and Other Technical Amend-
ments**

The Securities Commission (Commission), under sections 203(d), (o) and (p), 205, 206, 301, 303, 504, 603(a) and 609 of the Pennsylvania Securities Act of 1972 (act) (70 P. S. §§ 1-203(d), (o) and (p), 1-205, 1-206, 1-301, 1-303, 1-504, 1-603(a) and 1-609) and section 4 of the Takeover Disclosure Law (70 P. S. § 74), proposes to amend regulations concerning the act and the Takeover Disclosure Law (70 P. S. §§ 71—85) to read as set forth in Annex A.

Summary and Purpose of Regulations

The Commission proposes to amend § 203.041 (relating to limited offerings) by rescinding Form E and adding language to refer to Form E.

The Commission proposes to amend § 203.151 (relating to proxy materials) by rescinding Form 203-O and adding language to refer to Form 203-O.

The Commission proposes to amend § 203.161 (relating to debt securities of nonprofit organizations) by rescinding Form 203-P and adding language to refer to Form 203-P.

The Commission proposes to amend § 205.021 (relating to registration by coordination) by rescinding Form R and adding language to refer to Form R.

The Commission proposes to amend § 207.101 (relating to effective period of registration statement) by rescinding Form 207-J and adding language to refer to Form 207-J.

The Commission proposes to amend § 209.010 (relating to required records; report on sales of securities and use of proceeds) by rescinding Form 209 and adding language to refer to Form 209.

The Commission proposes to amend § 210.010 (relating to retroactive registration of certain investment company securities) by rescinding Form 210 and adding language to refer to Form 210.

The Commission proposes to amend § 303.051 (relating to surety bonds) by rescinding Form U-SB.

The Commission proposes to amend § 504.060 (relating to rescission offers) by rescinding Form RO and adding language to refer to Form RO.

The Commission proposes to amend § 602.022 (relating to denial for abandonment) by adding "investment adviser representative" to the list the Commission may order denied for abandonment.

The Commission proposes to amend § 603.011 (relating to filing requirements) by adding language to state that forms are available on the Commission's website at www.psc.state.pa.us.

The Commission proposes to rescind § 604.013 (relating to interim guidelines for the registration of associated persons—statement of policy), an interim guideline for the registration of associated persons.

The Commission proposes to rescind § 604.014 (relating to interim guidelines for the qualification and examination of associated persons—statement of policy), an interim guideline for the qualification and examination of associated persons.

The Commission proposes to rescind § 604.015 (relating to interim guidelines for the effectiveness of registration of associated persons—statement of policy), an interim guideline for the effectiveness of registration of associated persons.

The Commission proposes to amend § 604.016 (relating to 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) by changing "associated persons" to "investment adviser representatives" and updating delegated authority.

The Commission proposes to amend § 604.020 (relating to 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) by changing "associated persons" to "investment adviser representatives."

The Commission proposes to amend § 609.010 (relating to use of prospective financial statements) by updating the citation referencing accredited investors to conform to the Federal act.

The Commission proposes to amend § 1001.010 (relating to takeover offeror report regarding participating broker-dealers) by rescinding Form TDL-1 and adding language to refer to Form TDL-1.

Persons Affected by this Proposed Rulemaking

No groups will be adversely affected by this proposed rulemaking. These regulatory actions will streamline the regulatory process and clarify regulations.

Fiscal Impact

The proposed rulemaking is cost neutral.

Paperwork

No additional paperwork will be required.

Effective Date

The proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as final-form amendments.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 20, 2006, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance. 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 Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Availability in Alternative Formats

This proposed rulemaking may be made available in alternative formats upon request. The Commission also will receive comments on this proposed rulemaking in alternative formats. TDD users should use the AT&T Relay Center, (800) 854-5984. To make arrangements for alternative formats, contact Simon J. Dengel, ADA Coordinator, (717) 787-6828.

Contact Person

Interested persons are invited to send comments concerning the proposed rulemaking to Michael J. Byrne, Chief Counsel, Securities Commission, Eastgate Office Building, 1010 North Seventh Street, Harrisburg, PA 17102-1410, (717) 783-5130 within 30 days of publication of this proposed rulemaking.

JEANNE S. PARSONS,
Secretary

Fiscal Note: 50-120. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 64. SECURITIES
PART I. SECURITIES COMMISSION
Subpart B. REGISTRATION OF SECURITIES
CHAPTER 203. EXEMPT TRANSACTIONS

§ 203.041. Limited offerings.

(a) The notice required by section 203(d) of the act (70 P. S. § 1-203(d)) shall be filed with the Commission within the time period specified by that section on the [following] form, designated by the Commission as Form E [:] in accordance with the General Instructions thereto.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 203-3—203-9, serial pages (262379) to (262380), (297475) to (297476) and (317571) to (317573).)

* * * * *

§ 203.151. Proxy materials.

* * * * *

(c) Except for transactions described in subsection (b), notice shall be given to the Commission for a transaction requiring the filing of proxy materials with the Commission under section 203(o) of the act by filing the [following] form designated by the Commission as Form 203-O in accordance with the General Instructions thereto together with the exemption filing fee specified in section 602(b.1)(v) of the act (70 P. S. § 1-602(b.1)(v)) [:].

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 203-15—203-18, serial pages (317579) to (317582).)

* * * * *

§ 203.161. Debt securities of nonprofit organizations.

(a) A person proposing to offer debt securities under section 203(p) of the act (70 P. S. § 1-203(p)) shall complete and file with the Commission two copies of the [following notice] form, designated by the Commission as Form 203-P in accordance with the General Instructions thereto not later than 5 business days before the issuer receives from any person an executed subscription agreement or other contract to purchase the securities being offered or the issuer receives consideration from any person therefor, whichever is earlier.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 203-20—203-24, serial pages (317584) to (317588).)

* * * * *

CHAPTER 205. REGISTRATION BY COORDINATION

§ 205.021. Registration by coordination.

* * * * *

(b) In addition to filing the information and form required in subsection (a), issuers in offerings being made in reliance on SEC Regulation A promulgated under section 3(b) of the Securities Act of 1933 (15 U.S.C.A. § 77c(b)) shall execute and file with the Commission

within the specified time period the form, designated by the Commission as Form R [, which follows subsection (d)] in accordance with the General Instructions thereto.

* * * * *

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 205-2—205-11, serial pages (317598) to (317600), (287531) to (217536) and (317601).)

CHAPTER 207. GENERAL REGISTRATION PROVISIONS

§ 207.101. Effective period of registration statement.

* * * * *

(d) Except with respect to an open-end or closed-end investment company, face amount certificate company or unit investment trust, as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64), the effective period of a section 205 registration statement may be extended beyond the initial 1-year effectiveness period specified in subsection (a)(1) in increments of 1-year periods up to a maximum of 3 years from the initial effectiveness date of the registration statement in this Commonwealth by filing the [following] form designated as Form 207-J in accordance with the General Instructions thereto with the Commission prior to the expiration of the currently effective period of registration. The provisions of this section are not available if the issuer, during the 3 year period from the initial effectiveness date of the registration statement in this Commonwealth, is required to file a new registration statement with Securities and Exchange Commission.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 207-6 and 207-7, serial pages (317608) and (297501).)

CHAPTER 209. BOOKS, RECORDS AND ACCOUNTS

§ 209.010. Required records; report on sales of securities and use of proceeds.

* * * * *

(c) The form for reports required in subsection (b), except for subsection (b)(2), shall be filed with the Commission on the [following] form, designated by the Commission as Form 209 [:] in accordance with the General Instructions thereto.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 209-3 and 209-4, serial pages (317613) to (317614).)

CHAPTER 210. RETROACTIVE REGISTRATION

§ 210.010. Retroactive registration of certain investment company securities.

(a) An open-end or closed-end investment company, face amount certificate company or unit investment trust, as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80b-21), which, during the effective period of registration under section 205 or 206 of the act (70 P. S. §§ 1-205 or 1-206) sold securities in this Commonwealth in excess of the aggregate amount registered for sale in this Commonwealth

under section 205 or 206, may apply to the Commission on Form 210 [following this section] in accordance with the General Instructions thereto to register the securities retroactive to the date of the initial registration.

* * * * *

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 210-2—210-5, serial pages (317616), (200123) to (200124) and (317617).)

**Subpart C. REGISTRATION OF
BROKER-DEALERS, AGENTS, INVESTMENT
ADVISERS AND INVESTMENT ADVISER
REPRESENTATIVES AND NOTICE FILINGS BY
FEDERALLY-COVERED ADVISERS**

CHAPTER 303. REGISTRATION PROCEDURE

§ 303.051. Surety bonds.

* * * * *

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 303-17—303-20, serial pages (268825) to (268828).)

* * * * *

Subpart E. ENFORCEMENT

**CHAPTER 504. TIME LIMITATIONS ON
RIGHTS OF ACTION**

§ 504.060. Rescission offers.

(a) A person proposing to make an offer under section 504(d) or (e) of the act (70 P. S. § 1-504(d) or (e)) shall follow the procedure for the registration of securities by qualification, as described in sections 206 and 207 of the act (70 P. S. §§ 1-206 and 1-207). The forms required to be filed and time periods for Commission action shall be those applicable to registration by qualification, except that it shall be noted [in Item 4 of Form 206] at the top of Form R that the offer is a rescission offer. The Commission may, upon petition by the proposed offeror, waive or modify any requirement for the registration if it finds the requirement burdensome and not necessary for the protection of investors.

(b) Compliance with the procedures in subsection (a) is waived:

(1) For a person making a rescission offer for possible violations of the act if the securities which are the subject of the rescission offer were sold to and purchased by no more than 35 persons in this Commonwealth during 12 consecutive [months, the] months. The person making the rescission offer [files Commission Form RO] shall file the form designated by the Commission as Form RO in accordance with the General Instructions requesting waiver of the procedures in subsection (a) accompanied by disclosure materials prepared to satisfy the [anti-fraud] antifraud provisions of section 401(b) of the act (70 P. S. § 1-401(b)) which will be given to each rescission offeree, and the waiver request is not denied within one of the following time periods:

* * * * *

[(f) The following form has been designated by the Commission as Form RO:]

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which ap-

pears in 64 Pa. Code pages 504-4—504-9, serial pages (317644) to (317646), (262465) to (262466) and (317647).)

Subpart F. ADMINISTRATION

CHAPTER 602. FEES

§ 602.022. Denial for abandonment.

The Commission may order an application for registration of securities or an application for registration as a broker-dealer, investment adviser, [or] agent or investment adviser representative denied upon the failure of the applicant, within 60 days after written notice warning [such] the applicant that an application will be denied and deemed abandoned, to respond to any request for additional information required under the act or the provisions thereunder or otherwise to complete the showing required for action upon the application; or the applicant may with the consent of the Commission withdraw the application. Upon denial for abandonment, there shall be no refund of any filing fee paid prior to the date of abandonment.

CHAPTER 603. ADMINISTRATIVE FILES

§ 603.011. Filing requirements.

* * * * *

(h) Required forms will be available on the Commission's website at www.psc.state.pa.us. In addition, forms are available in paper format from the Commission.

**CHAPTER 604. INTERPRETATIVE OPINIONS OF
COMMISSION—STATEMENT OF POLICY**

**§ 604.013. [Interim guidelines for the registration
of associated persons—statement of policy] (Re-
served).**

[(a) An application for initial registration as an associated person of an investment adviser shall contain the information requested in and shall be made on Uniform Application for Securities Industry Registration or Transfer (Form U-4), or a successor form. The associated person and the investment adviser shall complete and file with the Commission one copy of Form U-4 and exhibits accompanied by the requisite filing fee in section 602(d.1) of the act (70 P. S. § 1-602(d.1)), and passing results of the examinations required by § 303.032 (relating to qualification of and examination requirement for investment advisers and associated persons).

(b) Every investment adviser for whom associated persons are to be registered shall obtain from the associated person and maintain the following information with respect to each associated person:

(1) Name, address, date of birth, social security number and the starting date of employment or other association with the investment adviser.

(2) Complete educational background and a complete statement of the associated person's principal business, occupation or employment for the preceding 10 years, including reason for leaving each prior employment.

(3) A record of any denial of registration, disciplinary action taken or sanction imposed by a Federal or State agency, by a National securities exchange or a National securities association, or by

a foreign country governing or regulating any aspect of the business of securities, commodities or banking.

(4) A record of convictions for a felony or misdemeanor, except minor traffic offenses, of which the associated person has been the subject.

(c) Every investment adviser shall ensure that each applicant for registration as an associated person is familiar with the sections of the act and regulations governing associated persons and investment advisers. Further, the investment adviser shall have taken appropriate steps to verify the items and attachments contained in Form U-4.

(d) An associated person and an investment adviser shall take all necessary steps to ensure that material information contained in Form U-4 remains current and accurate. In the event that a material statement made in the Form U-4 becomes incorrect or incomplete, the associated person and the investment adviser shall file with the Commission an amendment to Form U-4 within 30 days of the occurrence of the event which requires the filing of the amendment.]

§ 604.014. [Interim guidelines for the qualification and examination of associated persons—statement of policy] (Reserved).

[(a) No individual may be registered as an associated person unless the person has:

(1) Received a passing grade on the following:

(i) The securities examination for registered representatives or supervisors (Series 2, 7, 8 or 24), or successor examinations thereto, administered by the National Association of Securities Dealers, Inc., within 2 years prior to the date of filing an application for registration, or has previously passed the Series 2, 7, 8 or 24 and has not had a lapse in employment as an investment adviser or associated person or principal or agent of a broker-dealer for a period exceeding 2 years.

(ii) The Uniform Investment Adviser Law Examination (Series 65), or a successor examination thereto, administered by the National Association of Securities Dealers, Inc., within 2 years prior to the date of filing an application for registration, or has previously passed the Series 65, and has not had a lapse in employment as an investment adviser or associated person or principal or agent of a broker-dealer for a period exceeding 2 years.

(2) Satisfied the experience requirement of § 303.032(a)(3) (relating to qualification of and examination requirement for investment advisers and associated persons).

(b) The requirements of subsection (a) do not apply if the conditions in paragraphs (1)—(3) are met:

(1) The individual was identified on a filing on Schedule D of the Uniform Application for Investment Adviser Registration (Form ADV) with the Commission that was current between February 19, 1989 and February 19, 1991.

(2) The individual did not have a lapse in employment with an investment adviser in excess of a period of 2 years after February 19, 1989.

(3) The individual had met the examination and experience requirements in effect prior to February 9, 1991, or the requirements had been waived.]

§ 604.015. [Interim guidelines for the effectiveness of registration of associated persons—statement of policy] (Reserved).

[The Director of the Division of Licensing and Compliance and the Chief of the Licensing Section have the authority to order effective associated person registrations under section 303(a)(ii) of the act (70 P. S. § 1-303(a)(ii)) and to order effective applications to withdraw as an associated person under section 305(f) of the act (70 P. S. § 1-305(f)).]

§ 604.016. 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.

(a) Under § 606.041(b)(2) (relating to delegation and substitution), the Commission has delegated to the Director of the Division of Licensing [and Compliance and the Chief of the Licensing Section] the authority to waive the requirement of §§ 303.031 and 303.032 (relating to examination requirements for agents; and qualification of and examination requirements for investment advisers and [associated persons] investment adviser representatives) to take and pass the Series 63, Series 65 and Series 2 examinations administered by the National Association of Securities Dealers (collectively, the "examination") or successor examinations.

(b) Without otherwise restricting the discretionary authority granted to Commission staff by § 606.041, the staff persons will consider the factors listed in this subsection in determining whether a waiver from the examination requirements of § 303.031 or § 303.032 would be granted. These factors are set forth for illustrative purposes only and do not constitute the entire range of considerations that may form the basis for granting or denying a waiver request.

(1) Whether the applicant has disciplinary history for which staff persons would place the applicant under the Commission's Special [Associated Person] Investment Adviser Representative or Agent Review Program.

* * * * *

§ 604.020. 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.

* * * * *

(b) Section 301(c) of the act provides that "[i]t is unlawful for any person to transact business in this State as an investment adviser unless the person is so registered or registered as a broker-dealer under this act or unless the person is exempted. . ." Section 301(c) further provides that: [i]t is unlawful for any person to transact business in this State as an [associated person] investment adviser representative unless the person is so registered or exempted from registration. . ."

* * * * *

(f) Broker-dealers, investment advisers, broker-dealer agents (hereinafter, BD agents) and [**associated persons**] **investment adviser representatives** (hereinafter, IA reps) who use the Internet to distribute information on available products and services through Internet Communications directed generally to anyone having access to the Internet, will not be deemed to be "transacting business" in this Commonwealth for purposes of section 301(a) and (c) of the act based solely on that fact if all the following conditions are met:

* * * * *

CHAPTER 609. REGULATIONS, FORMS AND ORDERS

§ 609.010. Use of prospective financial statements.

* * * * *

(c) The use or distribution of prospective financial statements in connection with the following securities offerings is permissible if it complies with section 401 of the act (70 P. S. § 1-401):

* * * * *

(6) Offers and sales of securities made to accredited investors as that term is defined in [**§ 204.010(d)(5) Rule 501(a) (17 CFR 230.501(a) (relating to definitions and terms used in Regulation D) in Regulation D of the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77z-3).**

* * * * *

Subpart I. TAKEOVER OFFERORS

CHAPTER 1001. TAKEOVER DISCLOSURES

§ 1001.010. Takeover offeror report regarding participating broker-dealers.

(a) The Commission has determined that, to carry out the purposes of the Takeover Disclosure Law (70 P. S. §§ 71—85), it is necessary to require the offeror to file, as an exhibit to the registration statement filed under section 4 of the law (70 P. S. § 74), Commission Form TDL-1 in accordance with the **General Instructions thereto.**

[**(b) The Commission has designated the following form as Commission Form TDL-1.]**

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the form which appears in 64 Pa. Code pages 1001-2 and 1001-3, serial pages (317678) to (317679).)

[Pa.B. Doc. No. 06-1269. Filed for public inspection July 7, 2006, 9:00 a.m.]

**SUSQUEHANNA RIVER
BASIN COMMISSION**

[25 PA. CODE CHS. 803—805]

Review and Approval of Projects; Special Regulations and Standards; Hearings/Enforcement Actions

Summary: This document contains extensive amendments to project regulations concerning standards and hearings/enforcement actions. Because revisions are too

numerous to show within the original regulations, proposed Parts 803, 804 and 805 are being published here in their entirety, with an explanation of changes in the supplementary information section below. These regulations provide the procedural and substantive rules for Susquehanna River Basin Commission (SRBC) review and approval of water resources projects and the procedures governing hearings and enforcement actions. These amendments include additional due process safeguards, add new standards for projects, improve organizational structure, incorporate recently adopted policies and clarify language.

Dates: Comments on these proposed amendments may be submitted to the SRBC on or before September 1, 2006. The Commission has scheduled public hearings on the proposed rules as follows:

a. August 8, 2006, 6:30 p.m.—Owego Treadway Inn, Owego, NY

b. August 10, 2006, 8:30 a.m.—PA Bureau of Topographic and Geologic Survey, Middletown, PA

c. August 10, 2006, 6:30 p.m.—Kings College, Snyder Room, Wilkes-Barre, PA

Those wishing to testify are asked to notify the Commission in advance if possible at the regular or electronic addresses given as follows.

Addresses: Comments may be mailed to: Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391; rcairo@srbc.net.

For Further Information Contact: Richard A. Cairo, General Counsel/Secretary, (717) 238-0423; Fax: (717) 238-2436; e-mail: rcairo@srbc.net. Also, for further information on the proposed rule making action, visit the Commission's web site at www.srbc.net.

SUPPLEMENTARY INFORMATION:

Background

The SRBC adopted a final rule on May 11, 1995, published at 60 FR 31391, June 15, 1995 establishing: (1) the scope and procedures for review and approval of projects under Section 3.10 of the Susquehanna River Basin Compact, Pub. L. No. 91-575; 83 Stat. 1509 et seq. (the compact); (2) special standards under Section 3.4(2) of the compact governing water withdrawals and consumptive use of water; and (3) procedures for hearings and enforcement actions.

Need for Amendments

After 11 years of experience with these regulations, the SRBC has uncovered many provisions that require strengthening, reorganization and clarification. In addition, the Commission has since adopted several important policies relating to the management of the basin's water resources and the enforcement of these regulations. As a matter of sound legal practice, these policies need to be incorporated into the language of the regulations.

Highlights of Major Amendments

18 CFR PART 803—REVIEW AND APPROVAL OF PROJECTS

Subpart A—General Provisions

1. **Section 803.3 Definitions.**—A definition for "change in ownership" has been included because of modifications proposed in Section 803.4, related to certain grandfathered uses or withdrawals.

2. **Section 803.4 Projects requiring review and approval.**—This section reorganizes and expands what projects require review and approval and whether any exemptions apply. In part, this section consolidates provisions currently contained in various sections of the exist-

ing regulations. A significant addition is that to the extent that a consumptive water use project involves a withdrawal from ground or surface water, the withdrawal will also be subject to review.

Additionally, the current 100,000 gallons per day (gpd) threshold for withdrawals has been expanded to include any combination of ground or surface water withdrawals exceeding that threshold. This section also will end the recognition of "pre-compact" or "grandfathered" consumptive uses or withdrawals upon a change of ownership, and will end the practice under existing Section 803.31 of allowing the transfer of project approvals when a change of ownership occurs.

Exceptions are contained in the definition of the term "change of ownership" for the transfer of projects involving corporate reorganizations, transfers to certain family members, and transfers of agricultural land for so long as it continues to be used for agricultural purposes. (The existing project review and approval requirements are currently suspended for projects involving agricultural water use and the Commission intends to continue the suspension as its member jurisdictions actively pursue alternative consumptive use compliance options for agricultural operations in cooperation with the Commission.)

Subpart B—Application Procedure

3. Section 803.12 Constant-rate aquifer testing.—Requirements regarding constant-rate aquifer tests are set forth in a new section and expanded to incorporate a time limit for testing to occur.

4. Section 803.14 Contents of application.—This section is reorganized to include a comprehensive list of information that a project sponsor must provide when making application to the Commission.

5. Section 803.16 Completeness of application.—This section replaces Section 803.26 and sets out a procedure for dealing with incomplete project applications pursuant to existing Commission practice.

Subpart C—Standards for Review and Approval

6. Section 803.21 General standards.—This section covers the criteria for approval of a project by the Commission. Also, in accordance with current policy, provisions are added to allow the Commission to suspend the processing of a project application if a signatory party or a political subdivision of a signatory party exercising lawful authority over the project has disapproved the project, and to suspend an approval itself if a project sponsor fails to maintain such approvals.

7. Section 803.22 Standards for consumptive uses of water.—This section replaces the current Section 803.42. Several changes are made, including the removal of a specific low flow criterion (Q7-10) and inclusion of an approval by rule provision for certain consumptive use projects that obtain their water from public water supplies. These types of projects would no longer have to be individually approved by the Commission.

8. Section 803.23 Standards for water withdrawals.—This section consolidates existing Sections 803.43 (Standards for ground-water withdrawals) and 803.44 (Standards for surface water withdrawals) into a single section covering standards for all withdrawals, and clarifies the conditions or limitations that can be imposed on withdrawals to avoid adverse impacts on the environment or other users. Application standards for constant-rate aquifer tests for proposed groundwater withdrawals have been moved to Section 803.12. Monitoring requirements are moved to new Section 803.30 (Monitoring), where

details on measuring and recording, reporting, and monitoring methodology are set forth.

9. Section 803.24 Standards for diversions.—This section sets standards for the approval of diversions by incorporating a Commission policy applying to out-of-basin diversions of water and also sets standards for in-basin diversions. As permitted under the terms of Section 3.10 of the compact, this new section exempts "out-of-basin" diversions up to 20,000 gpd. In-basin diversions of any quantity continue to be subject to review and approval.

10. Section 803.25 Water conservation standards.—The water conservation standards currently set forth in Part 804, Subpart B, are moved to Section 803.25. While no substantive changes are being made now in these proposed revisions, the Commission considers water conservation to be a vital component of water resources management and will revisit these standards in the near future in close coordination with the member jurisdictions.

Subpart D—Terms and Conditions of Approval

11. Section 803.30 Monitoring.—This section consolidates existing provisions and Commission practice related to monitoring, removes triennial water quality monitoring requirements, sets a daily quantity measurement standard unless otherwise set by the Commission, certifies the accuracy of measurement devices every 5 years, sets quantity reporting as the requirement unless otherwise specified, and special reporting of violations and loss of measurement capabilities.

12. Section 803.31 Duration of approvals and renewals.—This section would be a modification of the existing Section 803.30. Approval durations are reduced to a general term of 15 years instead of 25 years, though exceptions for cause are provided. Other changes relate to the expiration and extension of approvals for uninitiated uses of water, the abandonment or discontinuance of a water use, and the renewal of expiring approvals.

13. Section 803.32 Reopening/modification.—The application process for reopening has been simplified for interested parties. Other changes address certain actions now currently imposed as docket conditions, such as:

a. Modify or revoke docket approvals for failure to comply with docket conditions, and failure to obtain or maintain approvals from other federal, state, or local agencies;

b. Require a project sponsor to provide a temporary source of water if interference occurs; and

c. Reopen any approval upon its own motion to make corrective modifications.

14. Section 803.34 Emergencies.—This section expands the current Section 803.27, dealing with the issuance of emergency certificates by the Executive Director. It incorporates the details of existing Commission policy and details the procedure for obtaining an emergency certificate to protect the public health, safety, and welfare, or to avoid substantial and irreparable injury.

15. Section 803.35 Fees.—This section makes it clear that project sponsors have an affirmative duty under the Commission's regulations to pay such fees as may be established by the Commission.

18 CFR PART 804—WATER WITHDRAWAL REGISTRATION

16. **Section 804.2 Time limits.**—The only substantive change in this part is the addition of language clarifying that compliance with a registration or reporting requirement, or both, of a member jurisdiction that is substantially equivalent to the Commission registration requirement shall be considered in compliance with the Commission requirement.

18 CFR PART 805—HEARINGS/ENFORCEMENT ACTIONS

Subpart A—Conduct of Hearings

17. **Section 805.1 (a) Public hearings.**—This section remains largely intact, with revisions to clarify the rules governing standard public hearings before the Commission on such matters as rulemaking, comprehensive plan additions, and project review.

18. **Section 805.2 Administrative appeals.**—This is a new section providing an administrative appeal procedure for persons aggrieved by any action or decision of the Commission or the Executive Director. Hearings under this section provide another administrative appeal option prior to an appeal to the United States District Court. Also included are provisions for stays and intervention of parties.

19. **Section 805.3 Hearing on administrative appeal.**—This section adds detailed procedures for hearings to be held on administrative appeals, currently contained in Section 805.2 for adjudicatory hearings. Included are the powers of the hearing officer, provisions for recording the hearing proceedings, provisions for staff and other expert testimony, provisions for the inclusion of written testimony, rules for assessing costs, and an in forma pauperis procedure.

Subpart B—Compliance and Enforcement

20. **Section 805.11 Duty to comply.**—New section affirming the existing duty of any person to comply with any provision of the compact or rules, regulations, orders, approvals, and conditions of approval.

21. **Section 805.12 Investigative powers.**—This new section sets forth the powers of agents or employees of the Commission to inspect or investigate facilities to determine compliance with any provisions of the compact or the regulations of the Commission. These requirements are currently set forth as conditions in docket approvals. Owners and operators of facilities are also directed to provide true and accurate information as requested by the Commission and are subject to the “falsification to authorities” statutes of the member jurisdictions.

22. **Section 805.13 Notice of Violation.**—This section provides a procedure for the issuance of a Notice of Violation to an alleged violator of any rule, regulation, order, approval, or docket condition, consistent with current Commission practice.

23. **Section 805.14 Orders.**—This is a section explicitly stating the authority of both the Executive Director and the Commission to issue various orders, including requiring a project to cease and desist any action or activity to prevent harm and enforce the provisions of the compact, regulations, docket conditions, or any rules or regulations of the Commission.

24. **Section 805.15 Show cause proceeding.**—This section establishes the basic procedural device for enforcement of Commission regulations and docket conditions through the imposition of penalties or other sanctions on

violators pursuant to Section 15.17 of the compact. To insure the integrity of this process, provisions are included to separate adjudicatory and prosecutorial functions of the Commission. The provisions of this section also preserve the opportunity for the alleged violator to present testimony for consideration prior to action by the commissioners.

25. **Section 805.18 Settlement by agreement.**—Subparagraph (b) incorporates the standard language of all Commission settlement agreements that the Commission may reinstitute a civil penalty action if the violator fails to carry out any of the terms of the settlement agreement.

List of Subjects in 18 CFR Parts 803, 804, and 805 Administrative practice and procedure, Water resources.

Accordingly for the reasons set forth in the preamble, 18 CFR Parts 803, 804, and 805 are proposed to be revised as follows:

PART 803—REVIEW AND APPROVAL OF PROJECTS

Subpart A—General Provisions

Sec.	
803.1	Scope.
803.2	Purposes.
803.3	Definitions.
803.4	Projects requiring review and approval.
803.5	Projects that may require review and approval.
803.6	Transferability of Project Approvals.
803.7	Concurrent project review by member jurisdictions.
803.8	Waiver/modification.

Subpart B—Application Procedure

803.10	Purpose of this subpart.
803.11	Preliminary consultations.
803.12	Constant-rate aquifer testing.
803.13	Submission of application.
803.14	Contents of application.
803.15	Notice of application.
803.16	Completeness of application.

Subpart C—Standards for Review and Approval

803.20	Purpose of this subpart.
803.21	General standards.
803.22	Standards for consumptive uses of water.
803.23	Standards for water withdrawals.
803.24	Standards for diversions.
803.25	Water conservation standards.

Subpart D—Terms and Conditions of Approval

803.30	Monitoring.
803.31	Duration of approvals and renewals.
803.32	Reopening/modification.
803.33	Interest on fees.
803.34	Emergencies.
803.35	Fees.

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

Subpart A—General Provisions

Section 803.1 Scope.

(a) This part establishes the scope and procedures for review and approval of projects under Section 3.10 of the Susquehanna River Basin Compact, Public Law 91-575, 84 Stat. 1509 et seq., (the compact) and establishes special standards under Section 3.4(2) of the compact governing water withdrawals and the consumptive use of water. The special standards established pursuant to Section 3.4(2) shall be applicable to all water withdrawals and consumptive uses in accordance with the terms of those standards, irrespective of whether such withdrawals and uses are also subject to project review under Section 3.10. This part, and every other part of 18 CFR Chapter VIII, shall also be incorporated into and made a part of the comprehensive plan.

(b) When projects subject to Commission review and approval are sponsored by governmental authorities, the Commission shall submit recommendations and findings to the sponsoring agency, which shall be included in any report submitted by such agency to its respective legislative body or to any committee thereof in connection with any request for authorization or appropriation therefor. The Commission review will ascertain the project's compatibility with the objectives, goals, guidelines and criteria set forth in the comprehensive plan. If determined compatible, the said project will also be incorporated into the comprehensive plan, if so required by the compact. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the Commission as a regional agency of the member jurisdictions, no expenditure or commitment shall be made by any governmental authority for or on account of the construction, acquisition or operation of any project or facility unless it first has been included by the Commission in the comprehensive plan.

(c) If any portion of this part, or any other part of 18 CFR Chapter VIII, shall, for any reason, be declared invalid by a court of competent jurisdiction, all remaining provisions shall remain in full force and effect.

(d) Except as otherwise stated in this part, this part shall be effective on _____ (date of adoption).

(e) When any period of time is referred to in this part, such period in all cases shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the law of the United States, such day shall be omitted from the computation.

(f) Any forms or documents referenced in this part may be obtained from the Commission at 1721 North Front Street, Harrisburg, PA 17102-2391, or from the Commission's website at <http://www.srb.net>.

Section 803.2 Purposes.

(a) The general purposes of this part are to advance the purposes of the compact and include, but are not limited to:

- (1) The promotion of interstate comity;
- (2) The conservation, utilization, development, management and control of water resources under comprehensive, multiple purpose planning; and
- (3) The direction, supervision and coordination of water resources efforts and programs of federal, state and local governments and of private enterprise.

(b) In addition, Sections 803.22, 803.23 and 803.24 of this part contain the following specific purposes: protection of public health, safety and welfare; stream quality control; economic development; protection of fisheries and aquatic habitat; recreation; dilution and abatement of pollution; the regulation of flows and supplies of ground and surface waters; the avoidance of conflicts among water users; the prevention of undue salinity; and protection of the Chesapeake Bay.

(c) The objective of all interpretation and construction of this part and all subsequent parts is to ascertain and effectuate the purposes and the intention of the Commission set out in this section. These regulations shall not be construed in such a way as to limit the authority of the Commission, the enforcement actions it may take, or the remedies it may prescribe.

Section 803.3 Definitions.

For purposes of Parts 803, 804 and 805, unless the context indicates otherwise, the words listed in this section are defined as follows:

Agricultural water use. A water use associated primarily with the raising of food, fiber or forage crops, trees, flowers, shrubs, turf, livestock and poultry. The term shall include aquaculture.

Application. A written request for action by the Commission including without limitation thereto a letter, referral by any agency of a member jurisdiction, or an official form prescribed by the Commission.

Basin. The area of drainage of the Susquehanna River and its tributaries into the Chesapeake Bay to the southern edge of the Pennsylvania Railroad bridge between Havre de Grace and Perryville, Maryland.

Change of Ownership. A change in ownership shall mean any transfer by sale or conveyance of the real or personal property comprising a project. A change of ownership shall not include:

(1) A corporate reorganization of the following types:

(i) Where property is transferred to a corporation by one or more persons solely in exchange for stock or securities of the same corporation, provided that immediately after the exchange the same person or persons are in control of the transferee corporation, that is, they own 80 percent of the voting stock and 80 percent of all other stock of the corporation.

(ii) Where such transfer is merely a result of a change of the name, identity, internal corporate structure or place of organization and does not affect ownership and/or control.

(2) Transfer of a project to the transferor's spouse or one or more lineal descendants, or any spouse of such lineal descendants, or to a corporation owned or controlled by the transferor, or the transferor's spouse or lineal descendants, or any spouse of such lineal descendants, for so long as the combined ownership interest of the transferor, the transferor's spouse and/or the transferor's lineal descendant(s) and their spouses, continues to be 51 percent or greater.

(3) Transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf, livestock, poultry or aquaculture, for so long as such agricultural use and its associated agricultural water use continues.

Commission. The Susquehanna River Basin Commission, as established in Article 2 of the compact, including its commissioners, officers, employees, or duly appointed agents or representatives.

Commissioner. Member or Alternate Member of the Susquehanna River Basin Commission as prescribed by Article 2 of the compact.

Compact. The Susquehanna River Basin Compact, P. L. 91-575; 84 Stat. 1509 et seq.

Comprehensive plan. The comprehensive plan prepared and adopted by the Commission pursuant to Articles 3 and 14 of the compact.

Consumptive use. The loss of water transferred through a manmade conveyance system or any integral part thereof (including such water that is purveyed through a public water supply or wastewater system), due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, injection of water or

wastewater into a subsurface formation from which it would not reasonably be available for future use in the basin, diversion from the basin, or any other process by which the water is not returned to the waters of the basin undiminished in quantity.

Diversion. The transfer of water into or out of the basin.

Executive Director. The chief executive officer of the Commission appointed pursuant to Article 15, Section 15.5, of the compact.

Facility. Any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery, and equipment acquired, constructed, operated, or maintained for the beneficial use of water resources or related land uses or otherwise including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful, or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale, or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; of the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them.

Governmental authority. A federal or state government, or any political subdivision, public corporation, public authority, special purpose district, or agency thereof.

Groundwater. Water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels or percolating through underground geologic formations, and regardless of whether the result of natural or artificial recharge. The term includes water contained in quarries, pits and underground mines having no significant surface water inflow, aquifers, underground water courses and other bodies of water below the surface of the earth. The term also includes a spring in which the water level is sufficiently lowered by pumping to eliminate the surface flow.

Member jurisdiction. The signatory parties as defined in the compact, comprised of the States of Maryland and New York, the Commonwealth of Pennsylvania, and the United States of America.

Member state. The States of Maryland and New York, and the Commonwealth of Pennsylvania.

Person. An individual, corporation, partnership, unincorporated association, and the like and shall have no gender and the singular shall include the plural. The term shall include a governmental authority and any other entity which is recognized by law as the subject of rights and obligations.

Pre-compact consumptive use. The maximum average daily quantity or volume of water consumptively used over any consecutive 30-day period prior to January 23, 1971.

Project. Any work, service, activity, or facility undertaken which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources which can be established and utilized independently, or as

an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation.

Project sponsor. Any person who owns, operates or proposes to undertake a project. The singular shall include the plural.

Public water supply. A system, including facilities for collection, treatment, storage and distribution, that provides water to the public for human consumption, that:

- (1) Serves at least 15 service connections used by year-round residents of the area served by the system; or
- (2) Regularly serves at least 25 year-round residents.

Surface water. Water on the surface of the earth, including water in a perennial or intermittent watercourse, lake, reservoir, pond, spring, wetland, estuary, swamp or marsh, or diffused surface water, whether such body of water is natural or artificial.

Water or waters of the basin. Groundwater or surface water, or both, within the basin either before or after withdrawal.

Water resources. Includes all waters and related natural resources within the basin.

Withdrawal. A taking or removal of water from any source within the basin.

Section 803.4 Projects requiring review and approval.

Except for activities relating to site evaluation or as otherwise allowed under Section 803.34, no person shall undertake any of the following projects without prior review and approval by the Commission. The project sponsor shall submit an application in accordance with Subpart B and shall be subject to the applicable standards in Subpart C.

(a) *Consumptive use of water.* The consumptive water use projects described below shall require an application to be submitted in accordance with Section 803.12, and shall be subject to the standards set forth in Section 803.22, and, to the extent that it involves a withdrawal from groundwater or surface water, shall also be subject to the standards set forth in Section 803.23. Except to the extent that they involve the diversion of the waters of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section.

(1) Except for projects previously approved by the Commission for consumptive use and projects that existed prior to January 23, 1971, any project involving a consumptive water use of an average of 20,000 gallons per day (gpd) or more in any consecutive 30-day period.

(2) With respect to projects previously approved by the Commission for consumptive use, any project that will involve an increase in a consumptive use above that amount which was previously approved.

(3) Any project that will involve an increase in a consumptive use that existed prior to January 23, 1971, by an average of 20,000 gpd or more in any consecutive 30-day period.

(4) Any project that involves a consumptive use that will adversely affect the purposes outlined in Section 803.2 of this part.

(5) Any project involving a consumptive use of an average of 20,000 gpd or more in any 30-day period, and undergoing a change of ownership.

(b) *Withdrawals.* The projects described below shall require an application to be submitted in accordance with Section 803.12, and shall be subject to the standards set forth in Section 803.23. Hydroelectric projects, except to the extent that such projects involve a withdrawal, shall be exempt from the requirements of this section regarding withdrawals; provided, however, that nothing in this paragraph shall be construed as exempting hydroelectric projects from review and approval under any other category of project requiring review and approval as set forth in this section, Section 803.23, or 18 CFR Part 801.

(1) Except for projects previously approved by the Commission and projects existing prior to the dates specified in paragraph (4) below, any project withdrawing a consecutive 30-day average of 100,000 gpd or more from a groundwater or surface water source, or a combination of such sources.

(2) With respect to projects previously approved by the Commission, any project that increases a withdrawal above that amount which was previously approved and any project that will add a source or increase withdrawals from an existing source which did not require approval prior to _____. (effective date of this regulation)

(3) Any project which involves a withdrawal from a groundwater or surface water source and which is subject to the requirements of Subsection (a) hereof regarding consumptive use.

(4) With respect to groundwater projects in existence prior to July 13, 1978, and surface water projects in existence prior to November 11, 1995, any project that will increase its withdrawal from any source or combination of sources, by a consecutive 30-day average of 100,000 gpd or more, above that maximum consecutive 30-day amount which the project was withdrawing prior to the said applicable date.

(5) Any project involving a withdrawal of a consecutive 30-day average of 100,000 gpd or more, from either groundwater or surface water sources, or in combination from both, and undergoing a change of ownership.

(c) *Diversions.* The projects described below shall require an application to be submitted in accordance with Section 803.12, and shall be subject to the standards set forth in Section 803.24. The project sponsors of out-of-basin diversions shall also comply with all applicable requirements of this part relating to consumptive uses and withdrawals. This requirement shall apply to diversions initiated on or after January 23, 1971.

(1) Any project involving the diversion of water into the basin and any project involving a diversion of an average of 20,000 gallons of water per day or more in any consecutive 30-day period out of the basin.

(2) With respect to diversions previously approved by the Commission, any project that will increase a diversion above that amount which was previously approved.

(3) Any project involving the diversion of water into the basin that existed prior to January 23, 1971, that will increase the diversion by any amount, and any project involving the diversion of water out of the basin that will increase the diversion an average of 20,000 gpd or more in any consecutive 30-day period.

(4) Any project involving the diversion of water into the basin and any project involving a diversion of an average of 20,000 gallons of water per day or more in any consecutive 30-day period out of the basin, and undergoing a change of ownership.

(d) Any project on or crossing the boundary between two member states.

(e) Any project in a member state having a significant effect on water resources in another member state.

(f) Any project which has been or is required to be included by the Commission in its comprehensive plan, or will have a significant effect upon the comprehensive plan.

(g) Any other project so determined by the commissioners or Executive Director pursuant to Section 803.5 or 18 CFR part 801. Such project sponsors shall be notified in writing by the Executive Director.

Section 803.5 Projects that may require review and approval.

(a) The following projects, if not otherwise requiring review and approval under Section 803.4, may be subject to Commission review and approval as determined by the Commission or the Executive Director:

(1) Projects that may affect interstate water quality.

(2) Projects within a member state that have the potential to affect waters within another member state. This includes, but is not limited to, projects which have the potential to alter the physical, biological, chemical or hydrological characteristics of water resources of interstate streams designated by the Commission under separate resolution.

(3) Projects that may have a significant effect upon the comprehensive plan.

(4) Projects not included in paragraphs (a)(1) through (a)(3) of this section, but which could have an adverse, adverse cumulative, or interstate effect on the water resources of the basin, provided that the project sponsor is notified in writing by the Executive Director.

(b) Determinations by the Executive Director may be appealed to the commissioners by filing an appeal with the Commission within 30 days after receipt of notice of such determination as set forth in part 805, Section 805.2.

Section 803.6 Transferability of Project Approvals

(a) Existing Commission approvals of projects undergoing a change in ownership as defined in Section 803.3 of this part may not be transferred to the new project sponsor(s). Such project sponsor(s) shall submit an application for approval as required by Section 803.4(a)(5), (b)(5) or (c)(4) of this part, and may operate such project under the terms and conditions of the existing approval, pending action by the Commission on the application, provided such project sponsor satisfies the requirements of Section 803.13(b) of this part.

(b) Existing Commission approvals of projects excluded from the definition of change of ownership in Section 803.3 of this part may be transferred to the new project sponsor(s), provided such project sponsor(s) notify the Commission in advance of the transfer of such project approval, which notice shall be on a form and in a manner prescribed by the Commission and under which the project sponsor(s) certify their or its intention to comply with all terms and conditions of the transferred approval and assume all other associated obligations.

Section 803.7 Concurrent project review by member jurisdictions.

(a) The Commission recognizes that agencies of the member jurisdictions will exercise their review authority and evaluate many proposed projects in the basin. The Commission will adopt procedures to assure compatibility between jurisdictional review and Commission review.

(b) To avoid duplication of work and to cooperate with other government agencies, the Commission may develop agreements of understanding, in accordance with the procedures outlined in this part, with appropriate agencies of the member jurisdictions regarding joint review of projects. These agreements may provide for joint efforts by staff, delegation of authority by an agency or the Commission, or any other matter to support cooperative review activities. Permits issued by a member jurisdiction agency shall be considered Commission approved if issued pursuant to an agreement of understanding with the Commission specifically providing therefor.

Section 803.8 Waiver/modification.

The Commission may, in its discretion, waive or modify any of the requirements of this or any other part of its regulations if the essential purposes set forth in Section 803.2 continue to be served.

Subpart B—Application Procedure

Section 803.10 Purpose of this subpart.

The purpose of this subpart is to set forth procedures governing applications required by Sections 803.4, 803.5, and 18 CFR part 801.

Section 803.11 Preliminary consultations.

(a) Any project sponsor of a project that is or may be subject to the Commission's jurisdiction is encouraged, prior to making application for Commission review, to request a preliminary consultation with the Commission staff for an informal discussion of preliminary plans for the proposed project. To facilitate preliminary consultations, it is suggested that the project sponsor provide a general description of the proposed project, a map showing its location and, to the extent available, data concerning dimensions of any proposed structures, anticipated water needs, and the environmental impacts.

(b) Preliminary consultation shall be optional for the project sponsor (except with respect to aquifer test plans, see Section 803.12) and shall not relieve the sponsor from complying with the requirements of the compact or with this part.

Section 803.12 Constant-rate aquifer testing.

(a) A project sponsor submitting an application pursuant to Section 803.13 seeking approval to withdraw or increase a withdrawal of groundwater shall perform a constant-rate aquifer test prior to submission of such application.

(b) The project sponsor shall prepare a constant-rate aquifer test plan for prior review and approval by Commission staff before testing is undertaken.

(c) Unless otherwise specified, approval of a test plan is valid for two years from the date of approval.

(d) Approval of a test plan shall not be construed to limit the authority of the Commission to require additional testing or monitoring at any time (both before an approval and after).

Section 803.13 Submission of application.

(a) Project sponsors of projects subject to the review and approval of the Commission under Section 803.4

shall, prior to the time the project is undertaken, submit an application to the Commission.

(b) Project sponsors submitting an application for approval due to a change in ownership of a project as required by Section 803.4(a)(5), (b)(5) or (c)(4) of this part shall be permitted to continue operation of the project under an existing Commission approval pending action on the application by the Commission, provided that:

(1) On or before the date of transfer under which a change of ownership occurs, such project sponsor(s) certify an intention to comply with the terms and conditions of the existing Commission approval and assume all associated obligations, including the requirements of the Commission and the compact, which certification shall be on a form and in a manner prescribed by the Commission; and

(2) The application(s) required for approval are submitted to the Commission within ninety (90) days of the date of the transfer.

(c) To be deemed administratively complete, the application must include all information required and the applicable fee.

Section 803.14 Contents of application.

(a) Applications shall include, but not be limited to, the following information and, where applicable, shall be submitted on forms and in the manner prescribed by the Commission.

(1) Identification of project sponsor including any and all proprietors, corporate officers or partners, the mailing address of the same, and the name of the individual authorized to act for the sponsor.

(2) Description of project and site in terms of:

(i) Project location.

(ii) Project purpose.

(iii) Proposed quantity of water to be withdrawn.

(iv) Proposed quantity of water to be consumed, if applicable.

(v) Constant-rate aquifer tests. The project sponsor shall provide the results of a constant-rate aquifer test with any application which includes a request for a groundwater withdrawal. The project sponsor shall obtain Commission approval of the test procedures prior to initiation of the constant-rate aquifer test.

(vi) Water use and availability.

(vii) All water sources and the date of initiation of each source.

(viii) Supporting studies, reports, and other information upon which assumptions and assertions have been based.

(ix) Plans for avoiding or mitigating for consumptive use.

(x) Copies of any correspondence with member jurisdiction agencies.

(3) Anticipated impact of the proposed project on:

(i) Surface water characteristics (quality, quantity, flow regimen, other hydrologic characteristics).

(ii) Threatened or endangered species and their habitats.

(iii) Existing water withdrawals.

(4) Project estimated completion date and estimated construction schedule.

(b) The Commission may also require the project sponsor to submit the following information related to the project, in addition to the information required in Subsection (a) of this section, as deemed necessary.

- (1) Description of project and site in terms of:
 - (i) Engineering feasibility.
 - (ii) Ability of project sponsor to fund the project or action.
 - (iii) Identification and description of reasonable alternatives, the extent of their economic and technical investigation, and an assessment of their potential environmental impact. In the case of a proposed diversion, the project sponsor should include information that may be required by Section 803.25 or any policy of the Commission relating to diversions.
 - (iv) Compatibility of proposed project with existing and anticipated uses.
 - (v) Anticipated impact of the proposed project on:
 - (A) Flood damage potential considering the location of the project with respect to the flood plain and flood hazard zones.
 - (B) Recreation potential.
 - (C) Fish and wildlife (habitat quality, kind and number of species).
 - (D) Natural environment uses (scenic vistas, natural and manmade travel corridors, wild and wilderness areas, wild, scenic and recreation rivers).
 - (E) Site development considerations (geology, topography, soil characteristics, adjoining and nearby land uses, adequacy of site facilities).
 - (F) Historical, cultural and archaeological impacts.
- (2) Governmental considerations:
 - (i) Need for governmental services or finances.
 - (ii) Commitment of government to provide services or finances.
 - (iii) Status of application with other governmental regulatory bodies.
- (3) Any other information deemed necessary by the Commission.

(c) A report about the project prepared for any other purpose, or an application for approval prepared for submission to a member jurisdiction, may be accepted by the Commission provided the said report or application addresses all necessary items on the Commission's form or listed in this section, as appropriate.

Section 803.15 Notice of application.

(a) The project sponsor shall, no later than 10 days after submission of an application to the Commission, notify each municipality in which the project is located, the county planning agency of each county in which the project is located, and each contiguous property owner that an application has been submitted to the Commission. The project sponsor shall also publish at least once in a newspaper of general circulation serving the area in which the project is located, a notice of the submission of the application no later than 10 days after the date of submission. All notices required under this section shall contain a sufficient description of the project, its purpose, requested water withdrawal and consumptive use amounts, location and address, electronic mail address, and phone number of the Commission.

(b) The project sponsor shall provide the Commission with a copy of the United States Postal Service return receipt for the municipal notification under (a) and a proof of publication for the newspaper notice required under (a). The project sponsor shall also provide certification on a form provided by the Commission that it has made such other notifications as required under paragraph (a) of this section, including a list of contiguous property owners notified under paragraph (a). Until these items are provided to the Commission, processing of the application will not proceed.

Section 803.16 Completeness of application.

(a) The Commission's staff shall review the application, and if necessary, request the project sponsor to provide any additional information that is deemed pertinent for proper evaluation of the project.

(b) An application deemed incomplete in accordance with Section 803.13(b) will be returned to the project sponsor, who shall have 30 days to cure the administrative deficiencies. An application deemed technically deficient may be returned to the project sponsor, who shall have a period of time prescribed by Commission staff to cure the technical deficiencies. Failure to cure either administrative or technical deficiencies within the prescribed time may result in termination of the application process and forfeiture of any fees submitted.

(c) The project sponsor has a duty to provide information reasonably necessary for the Commission's review of the application. If the project sponsor fails to respond to the Commission's request for additional information, the Commission may terminate the application process, close the file and so notify the project sponsor. The project sponsor may reapply without prejudice by submitting a new application and fee.

Subpart C—Standards for Review and Approval

Section 803.20 Purpose of this subpart.

The purpose of this subpart is to set forth general standards that shall be used by the Commission to evaluate all projects subject to review and approval by the Commission pursuant to Section 803.4 and Section 803.5, and to establish special standards applicable to certain water withdrawals, consumptive uses and diversions. This subpart shall not be construed to limit the Commission's authority and scope of review. These standards are authorized under Sections 3.4(2), 3.4(8), 3.4(9), and 3.10 of the compact and are based upon, but not limited to, the goals, objectives, guidelines and criteria of the comprehensive plan.

Section 803.21 General standards.

(a) A project shall not be detrimental to the proper conservation, development, management, or control of the water resources of the basin.

(b) The Commission may modify and approve as modified, or may disapprove, a project if it determines that the project is not in the best interest of the conservation, development, management, or control of the basin's water resources, or is in conflict with the comprehensive plan.

(c) Disapprovals—other governmental jurisdictions.

(1) The Commission may suspend the review of any application under this part if the project is subject to the lawful jurisdiction of any member jurisdiction or any political subdivision thereof, and such member jurisdiction or political subdivision has disapproved or denied the project. Where such disapproval or denial is reversed on appeal, the appeal is final, and the project sponsor

provides the Commission with a certified copy of the decision, the Commission shall resume its review of the application. Where, however, an application has been suspended hereunder for a period greater than three years, the Commission may terminate its review. Thereupon, the Commission shall notify the project sponsor of such termination and that the application fee paid by the project sponsor is forfeited. The project sponsor may reactivate the terminated docket by reapplying to the Commission, providing evidence of its receipt of all necessary governmental approvals and, at the discretion of the Commission, submitting new or updated information.

(2) The Commission may modify, suspend or revoke a previously granted approval if the project sponsor fails to obtain or maintain the approval of a member jurisdiction or political subdivision thereof having lawful jurisdiction over the project.

Section 803.22 Standards for consumptive uses of water.

(a) The project sponsors of all consumptive water uses subject to review and approval under Section 803.4 hereof shall comply with this section.

(b) *Mitigation.* All project sponsors whose consumptive use of water is subject to review and approval under Section 803.4 hereof shall mitigate such consumptive use. Except to the extent that the project involves the diversion of the waters out of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section. Mitigation may be provided by one, or a combination of the following:

(1) During low flow periods as may be designated by the Commission for consumptive use mitigation.

(i) Reduce withdrawal from the approved source(s), in an amount equal to or greater than the project's total consumptive use, and withdraw water from alternative surface water storage or aquifers or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 90 days without impact to surface water flows.

(ii) Release water for flow augmentation, in an amount equal to the project's total consumptive use, from surface water storage or aquifers, or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 90 days without impact to surface water flows.

(iii) Discontinue the project's consumptive use, except that reduction of project sponsor's consumptive use to less than 20,000 gpd during periods of low flow shall not constitute discontinuance.

(2) Use, as a source of consumptive use water, surface storage that is subject to maintenance of a conservation release acceptable to the Commission. In any case of failure to provide the specified conservation release, such project shall provide mitigation in accordance with paragraph (3), below for the calendar year in which such failure occurs, and the Commission will reevaluate the continued acceptability of the conservation release.

(3) Provide monetary payment to the Commission, for annual consumptive use, in an amount and manner prescribed by the Commission.

(4) Provide documentation to the Commission demonstrating that all requirements enumerated in the approval are satisfied within 90 days from the date of Commission action, unless specified otherwise. These items may include, but are not limited to:

(i) Installation of water conservation release structures.

(ii) Evaluation of water loss due to system leakage.

(iii) Installation of measuring devices.

(iv) Operational plans and/or designs.

(5) Implement other alternatives approved by the Commission.

(c) *Determination of manner of mitigation.* The Commission will, in its sole discretion, determine the acceptable manner of mitigation to be provided by project sponsors whose consumptive use of water is subject to review and approval. Such a determination will be made after considering the project's location, source characteristics, anticipated amount of consumptive use, proposed method of mitigation and their effects on the purposes set forth in Section 803.2 of this part, and any other pertinent factors. The Commission may modify, as appropriate, the manner of mitigation, including the magnitude and timing of any mitigating releases, required in a project approval.

(d) *Quality of water released for mitigation.* The physical, chemical and biological quality of water released for mitigation shall at all times meet the quality required for the purposes listed in Section 803.2, as applicable.

(e) *Approval by rule for consumptive uses.*

(1) Any project whose sole source of water for consumptive use is a public water supply withdrawal, may be approved under this subsection in accordance with the following, unless the Commission determines that the project cannot be adequately regulated under this approval by rule:

(i) *Notification of Intent:* No fewer than 90 days prior to construction or implementation of a project or increase above a previously approved quantity of consumptive use, the project sponsor shall:

(A) Submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the applicable application fee, along with any required attachments.

(B) Send a copy of the NOI to the appropriate agencies of the member state, and to each municipality and county in which the project is located.

(ii) Within 10 days after submittal of an NOI under (i), submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this permit by rule, which contains a sufficient description of the project, its purposes and its location. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

(2) *Metering, daily use monitoring and quarterly reporting.* The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in Section 803.30.

(3) *Standard conditions.* The standard conditions set forth in Section 803.21 above shall apply to projects approved by rule.

(4) *Mitigation.* The project sponsor shall comply with mitigation in accordance with Subsection 803.22(b)(2) or (b)(3).

(5) *Compliance with other laws.* The project sponsor shall obtain all necessary permits or approvals required for the project from other federal, state or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend or revoke any approval under this subsection if the project sponsor fails to obtain or maintain such approvals.

(6) The Commission will grant or deny approval to operate under this approval by rule and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

(7) Approval by rule shall be effective upon written notification from the Commission to the project sponsor, shall expire 15 years from the date of such notification, shall be deemed to rescind any previous consumptive use approvals, and shall be nontransferable.

(8) The Commission may, on a case-by-case basis, revoke or suspend an approval by rule hereunder if it determines that the project sponsor is not in compliance with the approval by rule or to avoid adverse impacts to the water resources of the basin or otherwise protect public health, safety, welfare or water resources.

Section 803.23 Standards for water withdrawals.

(a) The project sponsors of all withdrawals subject to review and approval under Section 803.4 hereof shall comply with the following standards, in addition to those required pursuant to Section 803.21.

(b) Limitations on withdrawals.

(1) The Commission may limit withdrawals to the amount (quantity and rate) of water that is needed to meet the reasonably foreseeable needs of the project sponsor.

(2) The Commission may deny an application, limit or condition an approval to insure that the withdrawal will not cause adverse impacts to the water resources of the basin. The Commission may consider, without limitation, the following in its consideration of adverse impacts: lowering of groundwater or stream flow levels; rendering competing supplies unreliable; affecting other water uses; causing water quality degradation that may be injurious to any existing or potential water use; affecting fish, wildlife or other living resources or their habitat; causing permanent loss of aquifer storage capacity; or affecting low flow of perennial or intermittent streams.

(3) The Commission may impose limitations or conditions to mitigate impacts, including without limitation:

(i) Limit the quantity, timing or rate of withdrawal or level of drawdown.

(ii) Require the project sponsor to provide, at its own expense, an alternate water supply or other mitigating measures.

(iii) Require the project sponsor to implement and properly maintain special monitoring measures.

(iv) Require the project sponsor to implement and properly maintain stream flow protection measures.

(v) Require the project sponsor to develop and implement an operations plan acceptable to the Commission.

(4) The Commission may require the project sponsor to undertake the following, to insure its ability to meet its present or reasonably foreseeable water needs from available groundwater or surface water without limitation:

(i) Investigate additional sources or storage options to meet the demand of the project.

(ii) Submit a water resource development plan that shall include, without limitation, sufficient data to address any supply deficiencies, identify alternative water supply options, and support existing and proposed future withdrawals.

Section 803.24 Standards for diversions.

(a) The project sponsors of all diversions subject to review and approval under Section 803.4 hereof shall comply with the following standards.

(b) For projects involving out-of-basin diversions, the following requirements shall apply.

(1) Project sponsors shall:

(i) Demonstrate that they have made good faith efforts to develop and conserve sources of water within the importing basin, and have considered other reasonable alternatives to the diversion.

(ii) Adhere to all Commission rules, regulations or orders of any kind issued under the authority of the compact.

(iii) Comply with the general standards set forth in Section 801.3, Section 803.21, and Section 803.22, and the applicable requirements of this part relating to consumptive uses and withdrawals.

(2) In deciding whether to approve a proposed diversion out of the basin, the Commission shall also consider and the project sponsor shall provide information related to the following factors:

(i) Any adverse effects and cumulative adverse effects the project may have on the ability of the Susquehanna River Basin, or any portion thereof, to meet its own present and future water needs.

(ii) The location, amount, timing, purpose and duration of the proposed diversion and how the project will individually and cumulatively affect the flow of any impacted stream or river, and the freshwater inflow of the Chesapeake Bay, including the extent to which any diverted water is being returned to the basin or the bay.

(iii) Whether there is a reasonably foreseeable need for the quantity of water requested by the project sponsor and how that need is measured against reasonably foreseeable needs in the Susquehanna River Basin.

(iv) The amount and location of water being diverted to the Susquehanna River Basin from the importing basin.

(v) The proximity of the project to the Susquehanna River Basin.

(vi) The project sponsor's pre-compact member jurisdiction approvals to withdraw or divert the waters of the basin.

(vii) Historic reliance on sources within the Susquehanna River Basin.

(3) In deciding whether to approve a proposed diversion out of the basin, the Commission may also consider, but is not limited to, the factors set forth in paragraphs (i) through (v) of this subsection. The decision whether to consider the factors in this subsection and the amount of information required for such consideration, if undertaken, will depend upon the potential for the proposed diversion to have an adverse impact on the ability of the Susquehanna River Basin, or any portion thereof, to meet its own present and future needs.

(i) The impact of the diversion on economic development within the Susquehanna River Basin, the member states or the United States of America.

(ii) The cost and reliability of the diversion versus other alternatives, including certain external costs, such as impacts on the environment or water resources.

(iii) Any policy of the member jurisdictions relating to water resources, growth and development.

(iv) How the project will individually and cumulatively affect other environmental, social and recreational values.

(v) Any land use and natural resource planning being carried out in the importing basin.

(c) For projects involving into-basin diversions, the following requirements shall apply.

(1) Project sponsors shall:

(i) Provide information on the source, amount, and location of the waterbody being diverted to the Susquehanna River Basin from the importing basin.

(ii) Provide information on the water quality classification, if any, of the Susquehanna River Basin stream to which diverted water is being discharged and the discharge location or locations.

(iii) Demonstrate that they have applied for or received all applicable withdrawal or discharge permits or approvals related to the diversion, and must demonstrate that the diversion will not result in water quality degradation that may be injurious to any existing or potential ground or surface water use.

Section 803.25 Water conservation standards.

Any project sponsor whose project is subject to Commission approval under this part proposing to withdraw water either directly or indirectly (through another user) from ground or surface water sources, or both, shall comply with the following requirements:

(a) *Public water supply.* As circumstances warrant, a project sponsor of a public water supply shall:

(1) Reduce distribution system losses to a level not exceeding 20 percent of the gross withdrawal.

(2) Install meters for all users.

(3) Establish a program of water conservation that will:

(i) Require installation of water conservation devices, as applicable, by all classes of users.

(ii) Prepare and distribute literature to customers describing available water conservation techniques.

(iii) Implement a water pricing structure which encourages conservation.

(iv) Encourage water reuse.

(b) *Industrial.* Project sponsors who use water for industrial purposes shall:

(1) Designate a company representative to manage plant water use.

(2) Install meters or other suitable devices or utilize acceptable flow measuring methods for accurate determination of water use by various parts of the company operation.

(3) Install flow control devices which match the needs of the equipment being used for production.

(4) Evaluate and utilize applicable recirculation and reuse practices.

(c) *Irrigation.* Project sponsors who use water for irrigation purposes shall utilize irrigation systems properly designed for the sponsor's respective soil characteristics, topography and vegetation.

(d) *Effective date.* Notwithstanding the effective date for other portions of this part, this section shall apply to all ground and surface water withdrawals initiated on or after January 11, 1979.

Subpart D—Terms and Conditions of Approval

Section 803.30 Monitoring.

The Commission, as part of the project review, shall evaluate the proposed methodology for monitoring consumptive uses, water withdrawals and mitigating flows, including flow metering devices, stream gages, and other facilities used to measure the withdrawals or consumptive use of the project or the rate of stream flow. If the Commission determines that additional flow measuring, metering or monitoring devices are required, these shall be provided at the expense of the project sponsor, installed in accordance with a schedule set by the Commission, be accurate to within 5 percent, and shall be subject to inspection by the Commission at any time.

(a) Project sponsors of projects that are approved under this part shall:

(1) Measure and record on a daily basis, or such other frequency as may be approved by the Commission, the quantity of all withdrawals, using meters or other methods approved by the Commission.

(2) Certify, at the time of installation and no less frequently than once every 5 years, the accuracy of all measuring devices and methods to within 5 percent of actual flow, unless specified otherwise by the Commission.

(3) Maintain metering or other approved methods so as to provide a continuous, accurate record of the withdrawal or consumptive use.

(4) Measure groundwater levels in all approved production wells, as specified by the Commission.

(5) Measure groundwater levels at additional monitoring locations, as specified by the Commission.

(6) Measure water levels in surface storage facilities, as specified by the Commission.

(7) Measure stream flows, passby flows or conservation releases, as specified by the Commission, using methods and at frequencies approved by the Commission.

(b) Reporting.

(1) Project sponsors whose projects are approved under this section shall report to the Commission on a quarterly basis on forms and in a manner prescribed by the Commission all information recorded under Subsection (a) above, unless otherwise specified by the Commission.

(2) Project sponsors whose projects are approved under this section shall report to the Commission:

(i) Violations of withdrawal limits and any conditions of approvals, within 5 days of such violation.

(ii) Loss of measuring or recording capabilities required under Subsection (a)(1) hereof, within 1 day after any such loss continues for 5 consecutive days.

Section 803.31 Duration of approvals and renewals.

(a) After _____ (date of regulations), approvals issued under this part shall have a duration equal to the term of any accompanying member jurisdiction license or permit regulating the same subject matter, but not longer than 15 years. If there is no such accompanying license or permit, or if no term is specified in such accompanying license or permit, the duration of a Commission approval issued under this part shall be no

longer than 15 years. A project approved by the Commission prior to May 11, 1995, which did not specify a duration, shall have a duration of 30 years commencing on the date of initial approval, except, if there is an accompanying member jurisdiction license or permit regulating the same subject matter and specifying a duration of no more than 25 years, then the duration of the Commission approval shall be equal to the duration of the initial member jurisdiction approval.

(b) Commission approval of a project shall expire 3 years from the date of such approval if the withdrawal, diversion or consumptive use has not been commenced, unless extended in writing by the Commission upon written request from the project sponsor submitted no later than 120 days prior to such expiration. The Commission may grant an extension, for a period not to exceed 2 years, only upon a determination that the delay is due to circumstances beyond the project sponsor's control and that there is a likelihood of project implementation within a reasonable period of time. The Commission may also attach conditions to the granting of such extensions, including modification of any terms of approval that the Commission may deem appropriate.

(c) If a withdrawal, diversion or consumptive use approved by the Commission for a project is discontinued for a period of 5 consecutive years, the approval shall be null and void, unless a waiver is granted in writing by the Commission, upon written request by the project sponsor demonstrating due cause, prior to the expiration of such period.

(d) If the Commission determines that a project has been abandoned, by evidence of nonuse for a period of time and under such circumstances that an abandonment may be inferred, the Commission may rescind the approval for such withdrawal, diversion or consumptive use.

(e) Project sponsors shall apply for renewal of an approval no later than one year prior to the expiration of such approval. Such applications for renewal shall be submitted and reviewed in accordance with the same procedures and standards as for newly proposed projects. If a complete application is submitted in accordance with this requirement, the existing approval will be deemed extended until such time as the Commission renders a decision on the application unless the Commission notifies the project sponsor otherwise in writing.

Section 803.32 Reopening/modification.

(a) Once approved, the Commission, upon its own motion, or upon application of the project sponsor or any interested party, may at any time reopen any project docket and make additional orders that may be necessary to mitigate or avoid adverse impacts or to otherwise protect the public health, safety, and welfare or water resources. Whenever an application for reopening is filed by an interested party, the burden shall be upon that interested party to show, by a preponderance of the evidence, that a substantial adverse impact or a threat to the public health, safety and welfare or water resources exists that warrants reopening of the docket.

(b) If the project sponsor fails to comply with any term or condition of a docket approval, the commissioners may issue an order suspending, modifying or revoking its approval of the docket. The commissioners may also, in their discretion, suspend, modify or revoke a docket approval if the project sponsor fails to obtain or maintain other federal, state or local approvals.

(c) For any previously approved project where interference occurs, the Commission may require a project sponsor to provide a temporary source of potable water at its expense, pending a final determination of causation by the Commission.

(d) The Commission, upon its own motion, may at any time reopen any project docket and make additional corrective modifications that may be necessary.

Section 803.33 Interest on fees.

The Executive Director may establish interest to be paid on all overdue or outstanding fees of any nature that are payable to the Commission.

Section 803.34 Emergencies.

(a) *Emergency certificates.* The other requirements of these regulations notwithstanding, in the event of an emergency requiring immediate action to protect the public health, safety and welfare or to avoid substantial and irreparable injury to any person, property, or water resources when circumstances do not permit a review and determination in the regular course of the regulations in this part, the Executive Director, with the concurrence of the chairperson of the Commission and the commissioner from the affected member state, may issue an emergency certificate authorizing a project sponsor to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review and determination by the Commission as otherwise required by this part.

(b) *Notification and application.* A project sponsor shall notify the Commission, prior to commencement of the project, that an emergency certificate is needed. If immediate action, as defined by this section, is required by a project sponsor and prior notice to the Commission is not possible, then the project sponsor must contact the Commission within one (1) business day of the action. Notification may be by certified mail, facsimile, telegram, mailgram, or other form of written communication. This notification must be followed within one (1) business day by submission of the following information:

(1) An emergency application form or copy of the state or federal emergency water use application if the project sponsor also is requesting emergency approval from either a state or federal agency.

(2) As a minimum, the application information shall contain:

- (i) Contact information.
- (ii) Justification for emergency action (purpose).
- (iii) Location map and schematic of proposed project.
- (iv) Desired term of emergency use.
- (v) Source(s) of the water.
- (vi) Quantity of water.
- (vii) Flow measurement system (such as metering).
- (viii) Use restrictions in effect (or planned).
- (ix) Description of potential adverse impacts and mitigating measures.
- (x) Appropriate fee.

(c) *Emergency certificate issuance.* The Executive Director shall:

(1) Review and act on the emergency request as expeditiously as possible upon receipt of all necessary information stipulated in Subsection (b)(2) above.

(2) With the concurrence of the chairperson of the Commission and the commissioner from the affected member state, issue an emergency certificate for a term not to extend beyond the next regular business meeting of the Commission.

(3) Include conditions in the emergency certificate which may include, without limitation, monitoring of withdrawal and/or consumptive use amounts, measurement devices, public notification, and reporting, to assure minimal adverse impacts to the environment and other users.

(d) *Post approval.* Actions following issuance of emergency certificates may include, but are not limited to, the following:

(1) The Commission may, by resolution, extend the term of the emergency certificate, upon presentation of a request from the project sponsor accompanied by appropriate evidence that the conditions causing the emergency persist.

(2) If the condition is expected to persist longer than the specified extended term, the project sponsor must submit an application to the Commission for applicable water withdrawal or consumptive use, or the emergency certificate will terminate as specified. If the project sponsor has a prior Commission approval for the project, the project sponsor must submit an application to modify the existing docket accordingly.

(e) *Early termination.* With the concurrence of the chairperson of the Commission and the commissioner from the affected member state, the Executive Director may terminate an emergency certificate earlier than the specified duration if it is determined that an emergency no longer exists and/or the certificate holder has not complied with one or more special conditions for the emergency withdrawal or consumptive water use.

(f) *Restoration/mitigation.* Project sponsors are responsible for any necessary restoration or mitigation of environmental damage or interference with another user that may occur as a result of the emergency action.

Section 803.35 Fees.

Project sponsors shall have an affirmative duty to pay such fees as established by the Commission.

PART 804—WATER WITHDRAWAL REGISTRATION

Sec.	
804.1	Requirement.
804.2	Time limits.
804.3	Administrative agreements.
804.4	Effective date.
804.5	Definitions.

Authority: Secs. 3.4(2) and (9), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

Section 804.1 Requirement.

In addition to any other requirements of Commission regulations, and subject to the consent of the affected member state to this requirement, any person withdrawing or diverting in excess of an average of 10,000 gpd for any consecutive 30-day period, from ground or surface water sources, as defined in Part 803 of this chapter, shall register the amount of this withdrawal with the Commission and provide such other information as requested on forms prescribed by the Commission.

Section 804.2 Time limits.

(a) Except for agricultural water use projects, all registration forms shall be submitted within one year after May 11, 1995, or within six months of initiation of the water withdrawal or diversion, whichever is later; provided, however, that nothing in this section shall limit the responsibility of a project sponsor to apply for and obtain an approval as may be required under Part 803 of this chapter. All registered withdrawals shall re-register with the Commission within five years of their initial registration, and at five-year intervals thereafter, unless the withdrawal is sooner discontinued. Upon notice by the Executive Director, compliance with a registration or reporting requirement, or both, of a member state, that is substantially equivalent to this requirement shall be considered compliance with this requirement.

(b) Project sponsors whose existing agricultural water use projects (i.e., projects coming into existence prior to March 31, 1997) withdraw or divert in excess of an average of 10,000 gpd for any consecutive 30-day period from a ground or surface water source shall register their use no later than March 31, 1997. Thereafter, project sponsors of new projects proposing to withdraw or divert in excess of 10,000 gpd for any consecutive 30-day period from a ground or surface water source shall be registered prior to project initiation.

Section 804.3 Administrative agreements.

The Commission may complete appropriate administrative agreements or informal arrangements to carry out this registration requirement through the offices of member jurisdictions. Forms developed by the Commission shall apprise registrants of any such agreements or arrangements, and provide appropriate instructions to complete and submit the form.

Section 804.4 Effective date.

This part shall be effective on May 11, 1995, and shall apply to all present and future withdrawals or diversions irrespective of when such withdrawals or diversions were initiated.

Section 804.5 Definitions.

Terms used in this part shall be defined as set forth in Section 803.3 of this chapter.

PART 805—HEARINGS/ENFORCEMENT ACTIONS

Subpart A—Conduct of Hearings

Sec.	
805.1	Public hearings.
805.2	Administrative appeals.
805.3	Hearing on administrative appeal.
805.4	Optional joint hearing.

Subpart B — Compliance and Enforcement

805.10	Scope of subpart.
805.11	Duty to comply.
805.12	Investigative powers.
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805.15	Show cause proceeding.
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805.17	Enforcement of penalties/abatement or remedial orders.
805.18	Settlement by agreement.

Authority: Secs. 3.5(9), 3.5(5), 3.8, 3.10, and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

Subpart A—Conduct of Hearings

Section 805.1 Public hearings.

(a) A public hearing shall be conducted in the following instances:

(1) Addition of projects or adoption of amendments to the comprehensive plan, except as otherwise provided by Section 14.1 of the compact.

(2) Rulemaking, except for corrective amendments.

(3) Consideration of projects, except projects approved pursuant to memoranda of understanding with member jurisdictions.

(4) Hearing requested by a member jurisdiction.

(5) As otherwise required by the compact or Commission regulations.

(b) A public hearing may be conducted by the Commission in any form or style chosen by the Commission when in the opinion of the Commission, a hearing is either appropriate or necessary to give adequate consideration to issues relating to public health, safety and welfare, or protection of the environment, or to gather additional information for the record or consider new information, or to decide factual disputes in connection with matters pending before the Commission.

(c) *Notice of public hearing.* At least 20 days before any public hearing required by the compact, notices stating the date, time, place and purpose of the hearing including issues of interest to the Commission shall be published at least once in a newspaper or newspapers of general circulation in the area affected. Occasions when public hearings are required by the compact include, but are not limited to, amendments to the comprehensive plan, drought emergency declarations, and review and approval of diversions. In all other cases, at least 10 days prior to the hearing, notice shall be posted at the office of the Commission (or on the Commission web site), mailed by first class mail to the parties who, to the Commission's knowledge, will participate in the hearing, and mailed by first class mail to persons, organizations and news media who have made requests to the Commission for notices of hearings or of a particular hearing. In the case of hearings held in connection with rulemaking, notices need only be forwarded to the directors of the *New York Register*, the *Pennsylvania Bulletin*, the *Maryland Register*, and the *Federal Register*, and it is sufficient that this notice appear only in the *Federal Register* at least 20 days prior to the hearing and in each individual state publication at least 10 days prior to any hearing scheduled in that state.

(d) *Standard public hearing procedure.*

(1) Hearings shall be open to the public. Participants to a public hearing shall be the project sponsor and the Commission staff. Participants may also be any person wishing to appear at the hearing and make an oral or written statement. Statements may favor or oppose the project/proposal, or may simply express a position without specifically favoring or opposing the project/proposal. Statements shall be made a part of the record of the hearing, and written statements may be received up to and including the last day on which the hearing is held, or within a reasonable time thereafter as may be specified by the presiding officer, which time shall be not less than 10 days nor more than 30 days, except that a longer time may be specified if requested by a participant.

(2) Participants (except the project sponsor and the Commission staff) are encouraged to file with the Commission at its headquarters written notice of their intention to appear at the hearing. The notice should be filed at least three days prior to the opening of the hearing.

(e) *Representative capacity.* Participants wishing to be heard at a public hearing may appear in person or be

represented by an attorney or other representative. A governmental authority may be represented by one of its officers, employees or by a designee of the governmental authority. Any individual intending to appear before the Commission in a representative capacity on behalf of a participant shall give the Commission written notice of the nature and extent of his/her authorization to represent the person on whose behalf he/she intends to appear.

(f) *Description of project.* When notice of a public hearing is issued, there shall be available for inspection at the Commission offices such plans, summaries, maps, statements, orders or other supporting documents which explain, detail, amplify, or otherwise describe the project the Commission is considering. Instructions on where and how the documents may be obtained will be included in the notice.

(g) *Presiding officer.* A public hearing shall be presided over by the Commission chair, the Executive Director, or any member or designee of the Commission. The presiding officer shall have full authority to control the conduct of the hearing and make a record of the same.

(h) *Transcript.* Whenever a project involving a diversion of water is the subject of a public hearing, and at all other times deemed necessary by the Commission or the Executive Director, a written transcript of the hearing shall be made. Other public hearings may be electronically recorded and a transcript made only if deemed necessary by the Executive Director or general counsel. A certified copy of the transcript and exhibits shall be available for review during business hours at the Commission's headquarters to anyone wishing to examine them. Persons wishing to obtain a copy of the transcript of any hearing shall make arrangements to obtain it directly from the recording stenographer at their expense.

(i) The Commission may conduct any public hearings in concert with any other agency of a member jurisdiction.

Section 805.2 Administrative appeals.

(a) A project sponsor or other person aggrieved by any action or decision of the Commission or Executive Director, may file a written appeal requesting a hearing. Such appeal shall be filed with the Commission within 30 days of that action or decision.

(b) The appeal shall identify the specific action or decision for which a hearing is requested, the date of the action or decision, the interest of the person requesting the hearing in the subject matter of the proposed hearing, and a summary statement setting forth the basis for objecting to or seeking review of the action or decision.

(c) Any request filed more than 30 days after an action or decision will be deemed untimely and such request for a hearing shall be considered denied unless upon due cause shown the Commission by unanimous vote otherwise directs. Receipt of requests for hearings, pursuant to this section, whether timely filed or not, shall be submitted by the Executive Director to the commissioners for their information.

(d) Hearings may be conducted by one or more members of the Commission, by the Executive Director, or by such other hearing officer as the Commission may designate.

(1) The petitioner or an intervener may also request a stay of the action or decision giving rise to the appeal pending final disposition of the appeal, which stay may be granted or denied by the Executive Director after consultation with the Commission chair and the member from the affected jurisdiction.

(2) The request for a stay shall include:

(i) Affidavits setting forth facts upon which issuance of the stay may depend.

(ii) An explanation of why affidavits have not accompanied the petition if no supporting affidavits are submitted.

(iii) The citations of applicable legal authority, if any.

(3) In addition to the contents of the request itself, the Executive Director, in granting or denying the request for stay, will consider the following factors:

(i) Irreparable harm to the petitioner or intervener.

(ii) The likelihood that the petitioner or intervener will prevail on the merits.

(iii) The likelihood of injury to the public or other parties.

(e) The Commission shall grant the hearing request pursuant to this section if it determines that an adequate record with regard to the action or decision is not available, the case involves a determination by the Executive Director or staff which requires further action by the Commission, or that the Commission has found that an administrative review is necessary or desirable. If the Commission denies any request for a hearing in a contested case, the party seeking such a hearing shall be limited to such remedies as may be provided by the compact or other applicable law or court rule.

(f) If administrative review is granted, the Commission shall refer the matter for hearing, to be held in accordance with Section 805.3, and appoint a hearing officer.

(g) Intervention.

(1) If a hearing is scheduled, a notice of intervention may be filed with the Commission by persons other than the petitioner no later than 10 days before the date of the hearing. The notice of intervention shall state the interest of the person filing such notice, and the specific grounds of objection to the action or decision or other grounds for appearance.

(2) Any person filing a notice of intervention whose legal rights may be affected by the decision rendered hereunder shall be deemed an interested party. Interested parties shall have the right to be represented by counsel, to present evidence and to examine and cross-examine witnesses. In addition to interested parties, any persons having information concerning the subject matter of any hearing scheduled hereunder for inclusion in the record may submit a verified written statement to the Commission. Any interested party may submit a request to examine or cross-examine any person who submits a written statement. In the absence of a request for examination of such person, all verified written statements submitted shall be included with the record and such statements may be relied upon to the extent determined by the Hearing Officer or the Commission.

(h) Notice of any hearing to be conducted pursuant to this section shall comply with the provisions of Section 15.4(b) of the compact relating to public notice unless otherwise directed by the Commission. In addition, both the petitioner and any interveners shall provide notice of their filings under this section to the list of additional interested parties compiled by the Commission under Section 803.14(a).

(i) Where a request for an appeal is made, the 90-day appeal period set forth in Section 3.10(6) and federal reservation (o) of the compact shall not commence until

the Commission has either denied the request for or taken final action on an administrative appeal.

Section 805.3 Hearing on administrative appeal.

(a) Unless otherwise agreed to by the Commission and the party requesting an administrative appeal under Section 805.2 above, the following procedures shall govern the conduct of hearing on an administrative appeal.

(b) *Hearing procedure.*

(1) The hearing officer shall have the power to rule upon offers of proof and the admissibility of evidence, to regulate the course of the hearing, to set the location or venue of the hearing, to hold conferences for the settlement or simplification of issues and the stipulation of facts, to determine the proper parties to the hearing, to determine the scope of any discovery procedures, to delineate the hearing issues to be adjudicated, and to take notice of judicially cognizable facts and general, technical, or scientific facts. The hearing officer may, with the consent of the parties, conduct all or part of the hearing or related proceedings by telephone conference call or other electronic means.

(2) The hearing officer shall cause each witness to be sworn or to make affirmation.

(3) Any party to a hearing shall have the right to present evidence, to examine and cross-examine witnesses, submit rebuttal evidence, and to present summation and argument.

(4) When necessary, in order to prevent undue prolongation of the hearing, the hearing officer may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses, or the extent of corroborative or cumulative testimony.

(5) The hearing officer shall exclude irrelevant, immaterial or unduly repetitious evidence, but the parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received provided it shall be founded upon competent, material evidence which is substantial in view of the entire record.

(6) Any party may appear and be heard in person or be represented by an attorney at law who shall file an appearance with the Commission.

(7) Briefs and oral argument may be required by the hearing officer and may be permitted upon request made prior to the close of the hearing by any party. They shall be part of the record unless otherwise ordered by the presiding officer.

(8) The hearing officer may, as he/she deems appropriate, issue subpoenas in the name of the Commission requiring the appearance of witnesses or the production of books, papers, and other documentary evidence for such hearings.

(9) A record of the proceedings and evidence at each hearing shall be made by a qualified stenographer designated by the Executive Director. Where demanded by the petitioner, or any other person who is a party to the appeal proceedings, or where deemed necessary by the Hearing Officer, the testimony shall be transcribed. In those instances where a transcript of proceedings is made, two copies shall be delivered to the Commission. The petitioner or other persons who desire copies shall obtain them from the stenographer at such price as may be agreed upon by the stenographer and the person desiring the transcript.

(c) *Staff and other expert testimony.* The Executive Director shall arrange for the presentation of testimony by the Commission's technical staff and other experts, as he/she may deem necessary or desirable, to be incorporated in the record to support the administrative action, determination or decision which is the subject of the hearing.

(d) *Written testimony.* If the direct testimony of an expert witness is expected to be lengthy or of a complex, technical nature, the presiding officer may order that such direct testimony be submitted to the Commission in sworn, written form. Copies of said testimony shall be served upon all parties appearing at the hearing at least 10 days prior to said hearing. Such written testimony, however, shall not be admitted whenever the witness is not present and available for cross-examination at the hearing unless all parties have waived the right of cross-examination.

(e) *Assessment of costs.*

(1) Whenever a hearing is conducted, the costs thereof, as herein defined, shall be assessed by the presiding officer to the petitioner or such other party as the hearing officer deems equitable. For the purposes of this section, costs include all incremental costs incurred by the Commission, including, but not limited to, hearing officer and expert consultants reasonably necessary in the matter, stenographic record, rental of the hall and other related expenses.

(2) Upon the scheduling of a matter for hearing, the hearing officer shall furnish to the petitioner a reasonable estimate of the costs to be incurred under this section. The project sponsor may be required to furnish security for such costs either by cash deposit or by a surety bond of a corporate surety authorized to do business in a member state.

(3) A party to an appeal under this section who desires to proceed *in forma pauperis* shall submit an affidavit to the Commission requesting the same and showing in detail the assets possessed by the party, and other information indicating the reasons why that party is unable to pay costs incurred under this section or to give security for such costs. The Commission may grant or refuse the request based upon the contents of the affidavit or other factors, such as whether it believes the appeal or intervention is taken in good faith.

(f) *Findings and report.* The hearing officer shall prepare a report of his/her findings and recommendations based on the record of the hearing. The report shall be served by personal service or certified mail (return receipt requested) upon each party to the hearing or its counsel. Any party may file objections to the report. Such objections shall be filed with the Commission and served on all parties within 20 days after the service of the report. A brief shall be filed together with objections. Any replies to the objections shall be filed and served on all parties within 10 days of service of the objections. Prior to its decision on such objections, the Commission may grant a request for oral argument upon such filing.

(g) *Action by the Commission.* The Commission will act upon the findings and recommendations of the presiding officer pursuant to law. The determination of the Commission will be in writing and shall be filed in Commission records together with any transcript of the hearing, report of the hearing officer, objections thereto, and all plans, maps, exhibits and other papers, records or documents relating to the hearing.

Section 805.4 Optional joint hearing.

(a) The Commission may order any two or more public hearings involving a common or related question of law or fact to be consolidated for hearing on any or all the matters at issue in such hearings.

(b) Whenever designated by a department, agency or instrumentality of a member jurisdiction, and within any limitations prescribed by the designation, a hearing officer designated pursuant to Section 805.2 may also serve as a hearing officer, examiner or agent pursuant to such additional designation and may conduct joint hearings for the Commission and for such other department, agency or instrumentality. Pursuant to the additional designation, a hearing officer shall cause to be filed with the department, agency, or instrumentality making the designation, a certified copy of the transcript of the evidence taken before him and, if requested, of his findings and recommendations. Neither the hearing officer nor the Susquehanna River Basin Commission shall have or exercise any power or duty as a result of such additional designation to decide the merits of any matter arising under the separate laws of a member jurisdiction (other than the compact).

Subpart B—Compliance and Enforcement

Section 805.10 Scope of subpart.

This subpart shall be applicable where there is reason to believe that a person may have violated any provision of the compact, or the Commission's rules, regulations, orders, approvals, docket conditions, or any other requirements of the Commission. The said person shall hereinafter be referred to as the alleged violator.

Section 805.11 Duty to comply.

It shall be the duty of any person to comply with any provision of the compact, or the Commission's rules, regulations, orders, approvals, docket conditions, or any other requirements of the Commission.

Section 805.12 Investigative powers.

(a) The Commission or its agents or employees, at any reasonable time and upon presentation of appropriate credentials, may inspect or investigate any person or project to determine compliance with any provisions of the compact, or the Commission's rules, regulations, orders, approvals, docket conditions, or any other requirements of the Commission. Such employees or agents are authorized to conduct tests or sampling; to take photographs; to perform measurements, surveys, and other tests; to inspect the methods of construction, operation, or maintenance; to inspect all measurement equipment; and to audit, examine, and copy books, papers, and records pertinent to any matter under investigation. Such employees or agents are authorized to take any other action necessary to assure that any project is constructed, operated and maintained in accordance with any provisions of the compact, or the Commission's rules, regulations, orders, approvals, docket conditions, or any other requirements of the Commission.

(b) Any person shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where a project is being constructed, operated, or maintained.

(c) Any person shall provide such information to the Commission as the Commission may deem necessary to determine compliance with any provisions of the compact, or the Commission's rules, regulations, orders, approvals, docket conditions, or any other requirements of the Commission. The person submitting information to the Commission shall verify that it is true and accurate to the best of the knowledge, information, and belief of the person submitting such information. Any person who knowingly submits false information to the Commission shall be subject to civil penalties as provided in the compact and criminal penalties under the laws of the member jurisdictions relating to unsworn falsification to authorities.

Section 805.13 Notice of Violation.

When the Executive Director or his/her designee issues a Notice of Violation (NOV) to an alleged violator, such NOV will:

(a) List the violations that are alleged to have occurred.

(b) State a date by which the alleged violator shall respond to the NOV.

Section 805.14 Orders.

(a) Whether or not an NOV has been issued, where exigent circumstances warrant, the Executive Director may issue an order directing an alleged violator to cease and desist any action or activity to the extent such action or activity constitutes an alleged violation, or may issue any other order related to the prevention of further violations, or the abatement or remediation of harm caused by the action or activity.

(b) If the project sponsor fails to comply with any term or condition of a docket approval, the commissioners may issue an order suspending, modifying or revoking approval of the docket. The commissioners may also, in their discretion, suspend, modify or revoke a docket approval if the project sponsor fails to obtain or maintain other federal, state or local approvals.

(c) The commissioners may issue such other orders as may be necessary to enforce any provision of the compact, the Commission's rules or regulations, orders, approvals, docket conditions, or any other requirements of the Commission.

(d) It shall be the duty of any person to proceed diligently to comply with any order issued pursuant to this section.

Section 805.15 Show cause proceeding.

(a) The Executive Director may issue an order requiring an alleged violator to appear before the Commission and show cause why a penalty should not be assessed in accordance with the provisions of this chapter and Section 15.17 of the compact. The order to the alleged violator shall:

(1) Specify the nature and duration of violation(s) that is alleged to have occurred.

(2) Set forth the date and time on which, and the location where, the alleged violator shall appear before the Commission.

(3) Set forth any information to be submitted or produced by the alleged violator.

(4) Identify the limits of the civil penalty that will be recommended to the Commission.

(5) Name the individual(s) who has been appointed as the enforcement officer(s) in this matter pursuant to Subsection (b) immediately below.

(b) Simultaneous with the issuance of the order to show cause, the Executive Director shall designate a staff member(s) to act as prosecuting officer(s).

(c) In the proceeding before the Commission, the prosecuting officer(s) shall present the facts upon which the alleged violation is based and may call any witnesses and present any other supporting evidence.

(d) In the proceeding before the Commission, the alleged violator shall have the opportunity to present both oral and written testimony and information, call such witnesses and present such other evidence as may relate to the alleged violation(s).

(e) The Commission shall require witnesses to be sworn or make affirmation, documents to be certified or otherwise authenticated and statements to be verified. The Commission may also receive written submissions or oral presentations from any other persons as to whether a violation has occurred and any resulting adverse consequences.

(f) The prosecuting officer(s) shall recommend to the Commission the amount of the penalty to be imposed. Based upon the record presented to the Commission, the Commission shall determine whether a violation(s) has occurred that warrants the imposition of a penalty pursuant to Section 15.17 of the compact. If it is found that such a violation(s) has occurred, the Commission shall determine the amount of the penalty to be paid, in accordance with Section 805.16.

Section 805.16 Civil penalty criteria.

(a) In determining the amount of any civil penalty or any settlement of a violation, the Commission shall consider:

(1) Previous violations, if any, of any provision of the compact, the Commission's rules or regulations, orders, approvals, docket conditions or any other requirements of the Commission.

(2) The intent of the alleged violator.

(3) The extent to which the violation caused adverse consequences to public health, safety and welfare or to water resources.

(4) The costs incurred by the Commission or any member jurisdiction relating to the failure to comply with any provision of the compact, the Commission's rules or regulations, orders, approvals, docket conditions or any other requirements of the Commission.

(5) The extent to which the violator has cooperated with the Commission in correcting the violation and remediating any adverse consequences or harm that has resulted therefrom.

(6) The extent to which the failure to comply with any provision of the compact, the Commission's rules or regulations, orders, approvals, docket conditions or any other requirements of the Commission was economically beneficial to the violator.

(7) The length of time over which the violation occurred and the amount of water used during that time period.

(b) The Commission retains the right to waive any penalty or reduce the amount of the penalty recommended by the prosecuting officer under Section 805.15(f) should it determine, after consideration of the factors in paragraph (a) of this section, that extenuating circumstances justify such action.

Section 805.17 Enforcement of penalties/abatement or remedial orders.

Any penalty imposed or abatement or remedial action ordered by the Commission or the Executive Director shall be paid or completed within such time period as shall be specified in the civil penalty assessment or order. The Executive Director and Commission counsel are authorized to take such additional action as may be necessary to assure compliance with this subpart. If a proceeding before a court becomes necessary, the penalty amount determined in accordance with Section 805.15(f) shall constitute the penalty amount recommended by the Commission to be fixed by the court pursuant to Section 15.17 of the compact.

Section 805.18 Settlement by agreement.

(a) An alleged violator may offer to settle an enforcement proceeding by agreement. The Executive Director shall submit to the Commission any offer of settlement proposed by an alleged violator. No settlement will be submitted to the Commission by the Executive Director unless the alleged violator has indicated, in writing, acceptance of the terms of the agreement and the intention to comply with all requirements of the settlement agreement, including advance payment of any settlement amount or completion of any abatement or remedial action within the time period provided or both. If the Commission determines not to approve a settlement agreement, the Commission may proceed with an enforcement action in accordance with this subpart.

(b) In the event the violator fails to carry out any of the terms of the settlement agreement, the Commission may reinstitute a civil penalty action and any other applicable enforcement action against the alleged violator.

PAUL O. SWARTZ,
Executive Director

Fiscal Note: 72-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART IV. SUSQUEHANNA RIVER BASIN

CHAPTER 803. REVIEW OF PROJECTS

§ 803.101. Incorporation by reference.

The regulations and procedures for review of projects as set forth in 18 CFR Part 803 [(1995)] (2006) (relating to review of projects) are incorporated by reference and made part of this title.

CHAPTER 804. SPECIAL REGULATIONS AND STANDARDS

§ 804.1. Incorporation by reference.

The regulations and procedures for special regulations and standards as set forth in 18 CFR Part 804 [(1995)] (2006) (relating to special regulations and standards) are incorporated by reference and made part of this title.

CHAPTER 805. HEARINGS AND APPEALS

§ 805.1. Incorporation by reference.

The regulations and procedures for hearings/enforcement actions as set forth in 18 CFR Part 805 [(1995)] (2006) (relating to hearings/enforcement actions) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 06-1270. Filed for public inspection July 7, 2006, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Office of Administration

The Executive Board approved a reorganization of the Office of Administration effective June 7, 2006.

The organization chart at 36 Pa.B. 3566 (July 8, 2006) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 06-1271. Filed for public inspection July 7, 2006, 9:00 a.m.]

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Office of the Budget

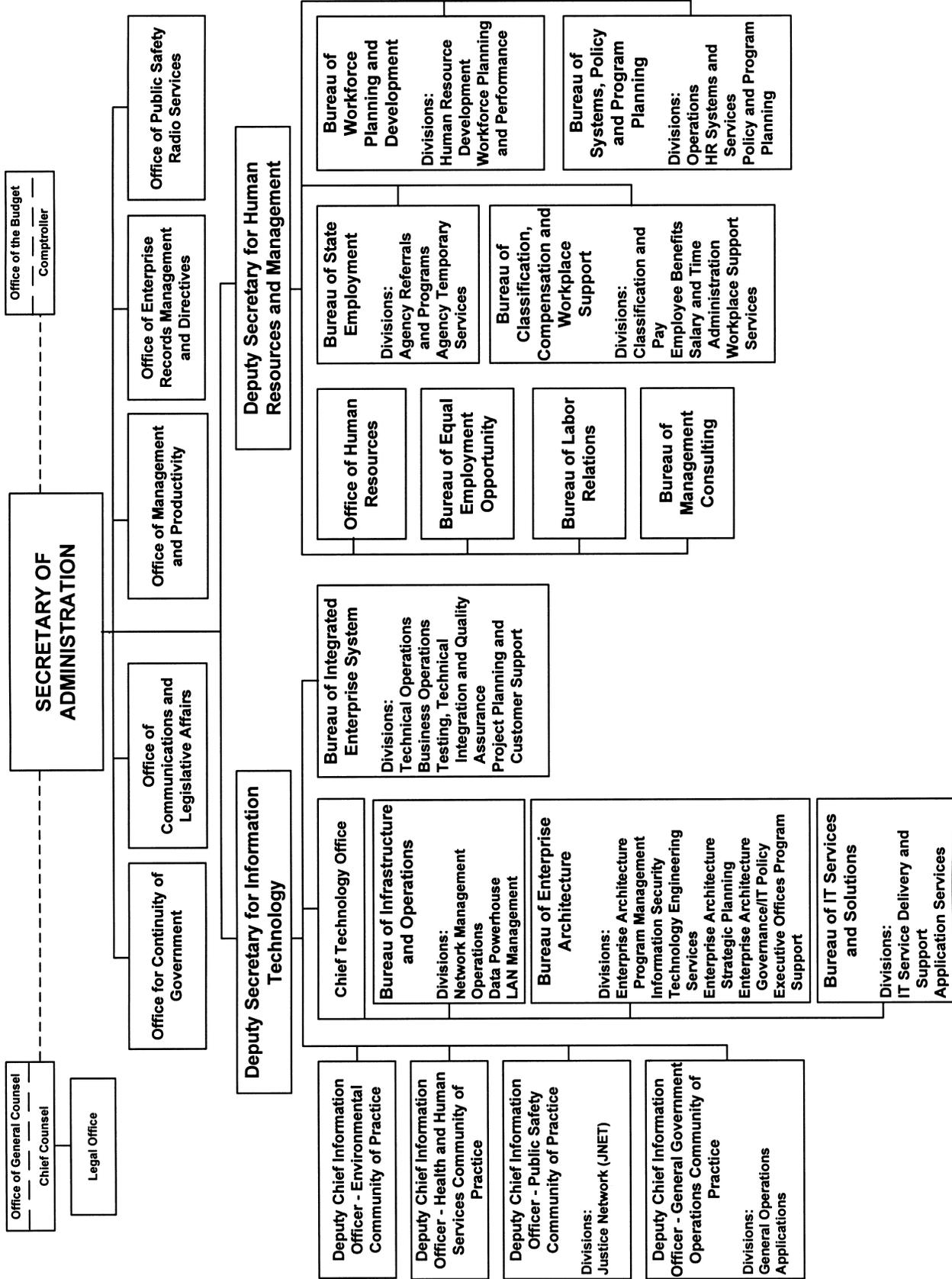
The Executive Board approved a reorganization of the Office of the Budget effective June 7, 2006.

The organization chart at 36 Pa.B. 3567 (July 8, 2006) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

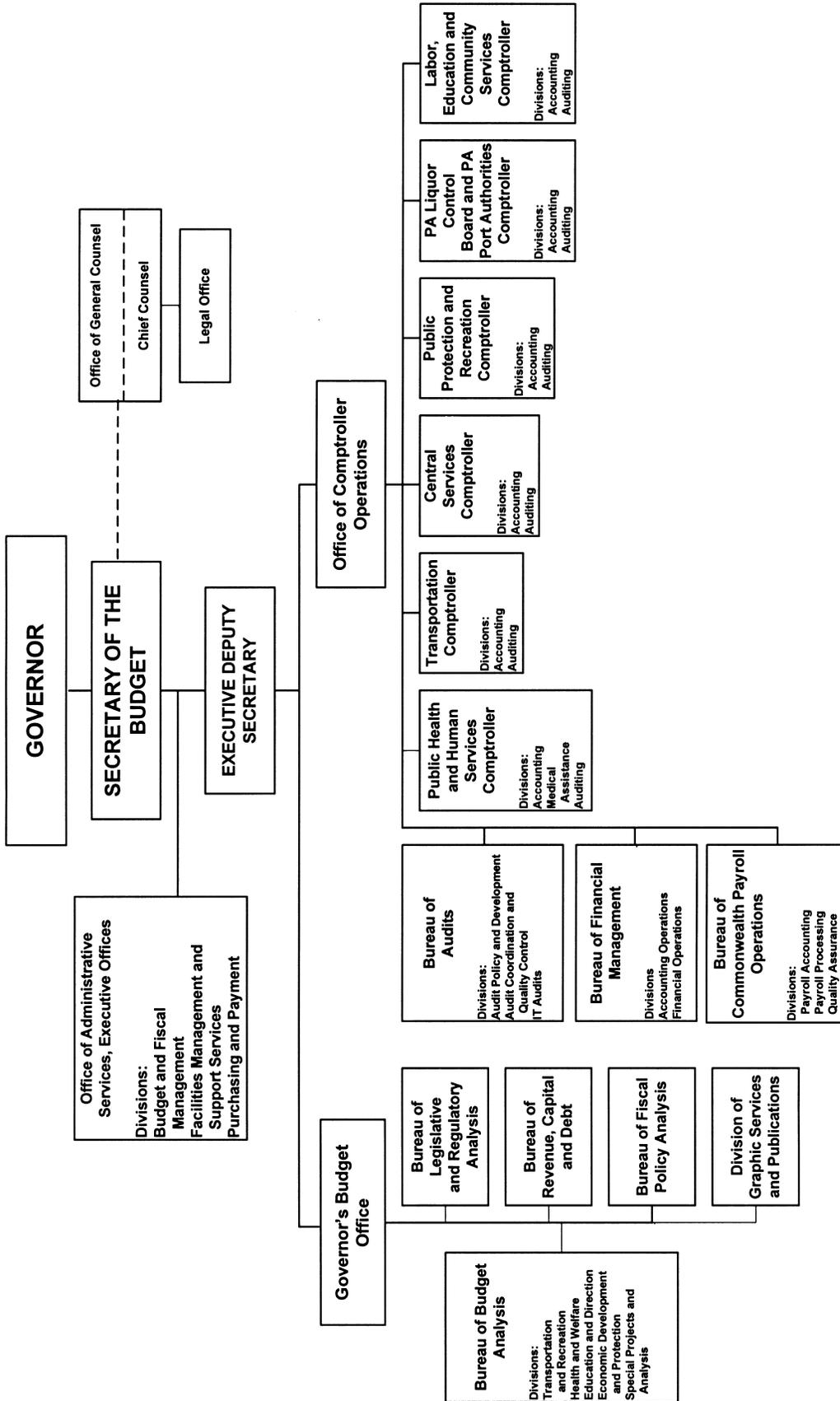
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 06-1272. Filed for public inspection July 7, 2006, 9:00 a.m.]

GOVERNOR'S OFFICE OF ADMINISTRATION



GOVERNOR'S OFFICE OF THE BUDGET



NOTICES

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, July 19, 2006. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ.

The conference among the Commissioners and staff will begin at 10:15 a.m. Topics of discussion will include: a presentation by a representative of the Philadelphia District of the United States Army Corps of Engineers on the work plan for a \$1 million grant to the District by the Assistant Secretary of the Army to enhance multijurisdictional use and management of the water resources of the Delaware Basin; a presentation by Dr. Anthony J. Broccoli of Rutgers University on climate change and sea level rise; a presentation by Robert Molzahn of the Water Resources Association of the Delaware River Basin and David Sayers of the Commission on a recommended policy for water transfers; and a presentation on the report and recommendations of the Commission's TMDL Implementation Advisory Committee on reducing loadings of PCBs to the Delaware Estuary.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed:

1. *City of Harrington D-88-27 CP-3*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 21 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1—4 in the Frederica Aquifer. The project is located in the Browns Branch Watershed in the City of Harrington, Kent County, DE.

2. *Joseph Jackewicz, Sr. D-91-53-2*. An application for the renewal of a ground and surface water withdrawal project to continue withdrawal of 219.8 mg/30 days to supply the applicant's agricultural irrigation system from replacement Well No. Townsend 3, eight existing wells and one existing surface water intake. The project is located in the Tidbury Creek, Cypress Branch and Double Run watersheds in the Town of Magnolia, Kent County, DE.

3. *Borough of Richland D-92-1 CP-2*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 5.2 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1—5 and new Well No. 6 in the Stonehenge, Millbach, Hardyston and Crystalline Rock formations. The project is located in the Mill Creek Watershed in Richland Borough, Lebanon County, PA.

4. *Evesham Municipal Utilities Authority D-98-15 CP-1*. An application for approval of a groundwater withdrawal project to continue to supply up to 149 mg/30 days of water to the applicant's distribution system through new Aquifer-Storage-Recovery Well No. 14 and existing wells Nos. 4—13 without an increase in existing allocation. The project is located in the Rancocas Creek

Watershed in Evesham Township, Burlington County, NJ. (*This was NAR'd as D-98-15 CP.*)

5. *Pennsylvania-American Water Company D-2003-32 CP*. An application for approval of a groundwater withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's public water supply distribution system from new Well No. DG-13 in the Brunswick Formation and to retain the existing withdrawal from all wells to 29.14 mg/30 days. The project is located in the Schuylkill River watershed in Amity Township, Berks County, PA.

6. *Horsehead Corporation D-67-196-2*. An application for a change of ownership and a docket modification for the discharge of noncontact cooling water. The discharges of approximately 0.15 mgd from Outfall 004 and 0.31 mgd from Outfall 005 are associated with recycling electric arc furnace dust and the production of metal powders. The discharges from Outfall 004 and Outfall 005 are to the Aquashicola Creek, a tributary to the Lehigh River. The facility is located in Palmerton Borough, Carbon County, PA.

7. *Delaware Department of Natural Resources and Environmental Control (DNREC) D-84-10 CP-4*. An application to amend the Commission's Comprehensive Plan and to revise Docket No. D-84-10 CP (Supplement No. 1), Water Supply Plan for northern New Castle County, DE. The applicant proposes to delete Churchman's Marsh and Thompson Station Reservoirs and the development of additional groundwater supplies at the Delaplane Manor well site from the Comprehensive Plan and incorporate into the Comprehensive Plan the projects identified in Tables 5.2 and 5.4 in the Eighth Progress Report of the Delaware Water Supply Coordinating Council, dated March 8, 2006.

8. *Bart Golf Club, Inc. D-92-24-2*. An application for renewal of a surface water withdrawal project to supply up to 11.0 mg/30 days of water for supplemental irrigation of the applicant's Hickory Valley Golf Club from an existing surface water intake located on Swamp Creek at the confluence of Schlegel Run. The allocation is a reduction from the previous allocation of 15 mg/30 days. The project is located in the Swamp Creek Watershed in New Hanover Township, Montgomery County, PA and is located in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Bridgeport Disposal, LLC D-93-63-2*. An application to update and renew an existing industrial wastewater treatment plant (IWTP) discharge docket. The former commercial hazardous waste treatment facility still includes an onsite biological treatment system and a groundwater and leachate treatment system. The docket renewal will reflect changes in operations since the facility ceased in 2001 to serve as a commercial hazardous waste treatment facility. The IWTP discharges approximately 0.47 mgd of treated wastewater through a subsurface diffuser to Raccoon Creek, a tributary to Water Quality Zone 4 of the Delaware River. The facility is located in Bridgeport, Gloucester County, NJ.

10. *Town of Smyrna D-93-72 CP-2*. An application to replace the withdrawal of water from Well No. 1A in the applicant's water supply system because it has become an unreliable source of supply. The applicant requests that the withdrawal from replacement Well No. 3 and existing Wells Nos. 1 and 2A be increased from 33.99 mg/30 days to 40 mg/30 days to meet projected increases in service area demand. The project is located in the Columbia/

Cheswold Formation in the Smyrna River Watershed in the Town of Smyrna, Kent County, DE.

11. *North Coventry Municipal Authority D-97-1 CP-2*. An application to expand the docket holder's existing wastewater treatment plant (WWTP) from 1.5 mgd to 2.01 mgd. The project includes the addition of new screening facilities, increased aeration, an additional clarifier and two new aerobic digesters. The WWTP discharges approximately 0.7 mgd to the Schuylkill River. The facility is located in North Coventry Township, Chester County, PA.

12. *Green-Waltz Water Company/Nestle Waters North America Inc. D-98-55-3*. An application for approval of a groundwater withdrawal project to supply up to 4.8 mg/30 days of water for bulk water supply to the applicant's bottling plant from new Spring Water Borehole B-2, in the Martinsburg Formation. The applicant has requested an increase in total allocation from 11.7 mg/30 days to 16.5 mg/30 days. The project is located in the Waltz Creek Watershed in Washington Township, Northampton County, PA.

13. *Ricci Bros. Sand Co., Inc., D-2005-10-1*. An application for approval of a surface water withdrawal project to supply up to 182.0 mg/30 days from four existing and one proposed surface water intakes for sand and gravel processing. The surface water intakes are located on a former mining pond which is in connection with and fed by groundwater. The intakes provide water to process the sand and gravel in a loop system which recycles approximately 90% of the water back to the pond. The allocation will be limited to 182.0 mg/30 days. The project is located in the Dividing Creek Watershed in Commercial and Downe Townships, Cumberland County, NJ.

14. *Green Walk Trout Hatchery D-2006-8-1*. An application for approval of a groundwater withdrawal project to supply up to 12.96 mg/30 days of water to the applicant's commercial trout hatchery from existing Wells Nos. W-2, W-5 and W-6. The total allocation will be limited to 12.96 mg/30 days. Groundwater withdrawals will be used to augment the flow of Greenwalk Creek and provide cold, oxygenated water to the applicant's trout stocking facility. The project is located in the Waltz Creek Watershed in Washington Township, Northampton County, PA.

15. *Bedminster Municipal Authority D-2006-10 CP-1*. An application for the construction of a new .06 mgd WWTP, a new sewer collection system and sewage pumping station and a force main to service a proposed 217-unit single family home subdivision. The Pennland Farm WWTP will discharge to an unnamed tributary of Deep Run Creek, which is a tributary to the Tohickon Creek, tributary to the Lower Delaware River Special Protection Waters. The facility will be located in Bedminster Township, Bucks County, PA.

16. *Tidewater Utilities, Inc. D-2006-12 CP-1*. An application for approval of a groundwater withdrawal project to supply up to 5.99 mg/30 days of water to meet the demands of the applicant's East District public water supply distribution system from new Wells MV-01, MV-02, VM-01 and VM-02R. The project is located in the Mt. Laurel Formation in the C & D Canal East Watershed in the Town of Middletown-Odessa, New Castle County, DE.

17. *Skytop Lodge Corporation D-2006-13-1*. An application for approval of an existing wastewater treatment plant located at Skytop Lodge. The existing WWTP is designed to discharge 0.075 mgd to the Brodhead Creek, which converges with the Delaware River at River Mile

213, within a reach classified as Outstanding Basin Waters. The facility is located in Barrett Township, Monroe County, PA.

18. *Blue Ridge Country Club D-2006-18-1*. An application for approval of a ground and surface water withdrawal project to supply up to 10.59 mg/30 days of water to the applicant's golf course irrigation system from existing Wells Nos. 1, 2, 4 and 5 and a constructed pond. The project is located in the Walcksville Member of the Catskill Formation in the Fireline Creek Watershed in Lower Towamensing Township, Carbon County, PA.

19. *Coolbaugh Township D-2006-23 CP-1*. An application for approval to upgrade and rerate an existing WWTP to add advanced secondary treatment and allow an increase from 0.049 mgd to 0.052 mgd. The plant discharges to the Tobyhanna Creek in the Lehigh River Watershed. The project is located in the drainage area of the Lower Delaware River Management Plan in Coolbaugh Township, Monroe County, PA. The WWTP will continue to serve a portion of Coolbaugh Township only and will discharge through the existing outfall, which is upstream from F. E. Walter Dam and Pocono Lake.

In addition to the public hearing on the dockets listed previously, the Commission's 1:30 p.m. business meeting will include a public hearing on a proposed resolution to ratify a Decree Party agreement for banking the 2006-2007 excess release quantity. The Commission also will consider action on: a resolution authorizing the Executive Director to enter into a contract for analysis of benthic macroinvertebrate samples from the Delaware River utilizing Clean Water Act Section 106 funds; a resolution authorizing the Executive Director to accept funds from the Federal Emergency Management Agency for the development of multijurisdictional flood mitigation plans in four New Jersey counties; a resolution to approve a Commission's records retention schedule; and a resolution authorizing the Executive Director to enter into a contract for landscape architectural services to develop the Ruth Patrick River Garden, utilizing funds provided by the William Penn Foundation.

The meeting will also include: adoption of the Minutes of the Commission's May 10, 2006, business meeting; announcements; a report on basin hydrologic conditions; a report by the Executive Director; a report by the Commission's General Counsel; and an opportunity for public dialogue.

In addition, supplemental notice is hereby provided for Doc. No. D-2002-34 CP, issued on September 3, 2003, by which the Commission approved a groundwater allocation for the New Castle County distribution system of the Artesian Water Company, Inc. (Artesian). The docket was reissued on May 18, 2005, as Doc. D-2002-34 CP-2 to accommodate a modification unrelated to this supplemental notice. Both the 2003 and 2005 dockets provided for multiple groundwater withdrawals from approximately 40 wells in the more than 1 dozen wellfields comprising Artesian's New Castle County distribution system. The purpose of this supplemental notice is to highlight the inclusion in Doc. D-2002-34 CP and continuation in Doc. D-2002-34 CP-2 of New Well No. 4 to supply up to 6.48 mg/30 days of water to the applicant's Artisan's Village public water supply distribution system. The addition of New Well No. 4 entailed no increase in the maximum combined withdrawal from the Artisan's Village wellfield, which remained unchanged by Doc. D-2002-34 CP, at 90.72 mg/30 days. Although a notice of application received (NAR) was published for the proposed new well on

September 11, 2002, the public notice issued in advance of the September 3, 2003, hearing did not highlight approval of the well. The modified docket issued by the Commission to Artesian Water Company in 2005 included no change associated with the Artisan's Village distribution system. Any person seeking a hearing to review the Commission's action in approving New Well No. 4 in the Artisan's Village wellfield may request a hearing in accordance with Article 6 of the Commission's Rules of Practice and Procedure, provided that the request is received by the Commission within 30 days of the date this notice appears in either the *Federal Register* or the *Pennsylvania Bulletin*, whichever date is later.

Draft dockets, the resolutions scheduled for public hearing on July 19, 2006, and the dockets associated with the supplemental notice provided previously will be posted on the Commission's website, www.drbc.net where they can be accessed through the Notice of Commission

Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at (609) 883-9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at (609) 883-9500, extension 203 or through the Telecommunications Relay Services (TRS) at 711 to discuss how the Commission can accommodate their needs.

PAMELA M. BUSH
Secretary

[Pa.B. Doc. No. 06-1273. Filed for public inspection July 7, 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 27, 2006.

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-23-06	Omega Bank, N. A. State College Centre County <i>To:</i> Omega Bank State College Centre County	State College	Approved
Application represents a conversion from a National banking association to a State-chartered bank and trust company.			

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-8-06	Allegheny Valley Bank of Pittsburgh Pittsburgh Allegheny County	4314 Penn Avenue Pittsburgh Allegheny County	Opened
6-19-06	Community First Bank Reynoldsville Jefferson County	120 Indiana Street Punxsutawney Jefferson County	Filed
6-21-06	Keystone Nazareth Bank & Trust Co. Bethlehem Northampton County	2400 Schoenersville Road Bethlehem Northampton County	Filed

SAVINGS INSTITUTIONS

No Activity.

CREDIT UNIONS

No Activity.

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

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-1274. Filed for public inspection July 7, 2006, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Nominations for the Pennsylvania Recreational Trails Advisory Board

The Department of Conservation and Natural Resources (Department) is accepting nominations through August 18, 2006, for three new appointments to the Pennsylvania Recreational Trails Advisory Board (Board). The Board was created on October 29, 1992, in accordance with the provisions of the Transportation Equity Act for the 21st Century and reauthorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005.

The Board consists of one member from each of the following nine recreational trail user organizations: hiking, cross-country skiing, off-highway motorcycling, snowmobiling, horseback riding, all-terrain vehicle driving, bicycling, four-wheel driving and water trails. One member also represents physically challenged individuals.

The Board's main responsibilities include advising the Department on the use of Federal trails funding in this Commonwealth, reviewing and ranking trail project applications and presenting an annual report to the Secretary of the Department (Secretary) on the accomplishments of the preceding Federal fiscal year, including recommendations for changes.

Nominations for the three new appointees are to be made from individuals representing the following trail user organizations: bicycling, hiking and off-highway motorcycling.

Nominations must be submitted to the Department by August 18, 2006. Appointments will be made by the Secretary. Appointees will serve for 3 consecutive years.

To obtain a nomination form, contact the Pennsylvania Recreational Trails Program, P. O. Box 8475, Harrisburg, PA 17105-8475, (717) 787-2316, vtierney@state.pa.us.

For more information, visit the Department's website: www.dcnr.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marlene Long at (717) 787-7672 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-1275. Filed for public inspection July 7, 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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0055174 Minor Industrial	Buckeye Pipe Line Company, LP P. O. Box 368 Emmaus, PA 18049	Lehigh County Lower Macungie Township	UNT to Swabia Creek in Watershed 2C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0039144 (Industrial Wastewater)	Fish and Boat Commission Oswayo State Fish Hatchery 96 SR 244 East Coudersport, PA 16915-9646	Oswayo Township Potter County	Oswayo Creek 16C	Y
PA0044032 (Industrial Wastewater)	Fish and Boat Commission Upper Springs State Fish Hatchery 1735 Shiloh Road State College, PA 16801-8495	Benner Township Centre County	Spring Creek 9C	Y

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

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

PA0060241, Industrial Waste, **Laird Technologies**, P. O. Box 650, Delaware Water Gap, PA 18327-0650. This proposed facility is located in Delaware Water Gap Borough, **Monroe County**.

Description of Proposed Activity: Treated wastewater discharge from a metal stamping and finishing operation.

The receiving stream, Cherry Creek is in the State Water Plan Watershed 1E and is classified for CWF. The nearest downstream public water supply intake for City of Easton is located on Delaware River over 30 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.108 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Oil and Grease			7.9	15.9	
Total Dissolved Solids			2,000	2,500	
pH			6 to 9 standard units		

The proposed effluent limits for Outfall 101 based on a design flow of 0.045 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Cadmium			0.10	0.20	
Total Chromium			0.50	1.0	
Copper			0.50	1.0	
Lead			0.27	0.54	
Nickel			1.0	2.0	
Silver			0.24	0.43	
Zinc			1.48	2.61	
Total Cyanide			0.65	1.0	
Amenable Cyanide			0.32	0.86	
Total Toxic Organics				2.13	
Total Suspended Solids			30.0	60.0	
pH			6 to 9 standard units		

Outfalls 002—004 stormwater only. No effluent limitations.

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

Application No. PA 0248321, Sewage, **Hurley/Morrison**, 50 Frytown Road, Newville, PA 17241. This facility is located in Upper Frankford Township, **Cumberland 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 Conodoguinet Creek is in Watershed 7-B and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 18 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 ₅	25	50
Total Suspended Solids	30	60
Total Residual Chlorine		
Dissolved Oxygen	minimum of 5.0 at all times	
pH	from 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	26,000/100 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 not in effect.

Application No. PA 0247588, Concentrated Animal Feeding Operation (CAFO), **Wenger's Feed Mill, Inc. (Dutch Country Egg Farm)**, 101 West Harrisburg Avenue, Rheems, PA 17570.

Wenger's Feed Mill, Inc. has submitted an application for issuance of an Individual NPDES permit for an existing CAFO known as Dutch Country Egg Farm, located in Bethel Township, **Lebanon County**.

The CAFO is situated near Oil Creek, which is classified as a WWF. The CAFO is designed to maintain a maximum animal population of approximately 1,729 animal equivalent units consisting of 496,872 laying hens. Dry poultry manure is stored at the end of two layer houses and in pits below three layer houses. Manure is exported off the farm. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period 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, 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.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA 0248240, Sewage, **Matt D. Madden**, 20 South Hanover Street, Carlisle, PA 17013. This facility is located in North Middleton Township, **Cumberland County**.

Description of activity: The application is for issuance of an NPDES permit for new discharge of treated sewage.

The receiving stream, Conodoguinet Creek is in Watershed 7-B and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 2.9 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:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		
Total Suspended Solids	30		
Total Residual Chlorine	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)		100,000/100 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 0247863, Concentrated Animal Feeding Operation (CAFO), **Brubaker Farms Partnership**, 493 Musser Road, Mount Joy, PA 17552.

Brubaker Farms Partnership has submitted an application for reissuance of an Individual NPDES permit for its dairy and poultry farm located in East Donegal Township, **Lancaster County**.

The CAFO is situated near a UNT of Donegal Creek, which is classified as a CWF. The CAFO is designed to maintain an animal population of approximately 1,208 animal equivalent units consisting of 605 adult milking and dry cows, 465 heifers and calves, 2 bulls, and 50,000 broilers on the home farm and two satellite farms. Poultry manure is stored in the broiler houses and liquid dairy manure is stored in two circular concrete manure storage facilities and one HDPE-lined manure impoundment with a combined storage capacity of approximately 6.5 million gallons. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period 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, 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.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Northcentral Regional Office: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701, (570) 327-0530.

NPDES Permit No. PA0010561, Industrial Wastewater (SIC Code 0921), **Fish and Boat Commission**, 1735 Shiloh Road, State College, PA 16801-8495. This facility is the Pleasant Gap State Fish Hatchery located in Benner Township, Centre County.

Description of Proposed Action/Activity: The applicant wishes to renew an NPDES permit (PA0010561) for two discharge points (Outfalls 001 and 002) of treated industrial wastewater generated at the Pleasant Gap State Fish Hatchery. Outfall 002 is an alternate discharge point to Outfall 001 and is only used when the existing settling lagoons are being cleaned. Outfalls 001 and 1002 are not to be operated simultaneously.

The receiving stream, Spring Creek is in the State Water Plan watershed 9C and is classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is located on the West Branch Susquehanna River near Milton, PA. The discharge is not expected to affect the water supply.

The proposed effluent limits for Discharge 001, based on a design flow of 5.0010 mgd are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly Report	Maximum Daily Report	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)							
pH (S.U.)					within range 6.0 to 9.0		
D.O.					Report	Report	
CBOD ₅			208.5	417.0	5.0	10.0	12.5
TSS	Report	Report	250.3	500.5	6.0	12.0	15.0
Dissolved P			12.5	25.0	0.3	0.6	0.75
Total P	Report	Report			Report		
NH ₃ -N		Report	41.7	83.4	1.0	2.0	2.5
Formaldehyde			41.7	83.4	1.0	2.0	2.5
Total N	Report	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ -N		Report			Report		
Particulate	Report	Report	Report		Report		
Organic Carbon							

The proposed effluent limits for Discharge 002, based on a design flow of 5.0010 mgd are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)							
pH (S.U.)					within range 6.0 to 9.0		
D.O.					Report	Report	
CBOD ₅			208.5	417.0	5.0	10.0	12.5
TSS	Report	Report	250.3	500.5	6.0	12.0	15.0
Dissolved P			12.5	25.0	0.3	0.6	0.75
Total P	Report	Report			Report		
NH ₃ -N		Report	41.7	83.4	1.0	2.0	2.5
Formaldehyde			41.7	83.4	1.0	2.0	2.5
Total N	Report	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ -N		Report			Report		
Particulate Org Carbon	Report	Report	Report		Report		

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

Part C I. Solids Management.

Part C II. Affirmative Defense Provisions.

Part C III. Therapeutic Chemical Use Requirements.

Part C IV. BMP Implementation to maintain liner and baffles in existing polishing pond and install high capacity microscreen or microfilter units.

Part C V. Schedule of Compliance and limits on biomass production if schedules are not maintained.

Part C VI. Allowable Annual TSS Effluent Loading—17,600 pounds per year.

Part C VII. Fish Biomass Quarterly Reporting.

Part C VIII. Outfalls 001 and 002 are not to be operated simultaneously.

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (570) 327-3693.

The EPA waiver is in effect.

NPDES Permit No. PA0010553, Industrial Wastewater (SIC code 0921), **Fish and Boat Commission, Benner Springs State Fish Hatchery**, 1735 Shiloh Road, State College, PA 16801-8495. This facility is located in Benner Township, **Centre County**.

Description of Proposed Action/Activity: The applicant wishes to renew a NPDES permit (PA0010553) for two discharges (Outfalls 001 and 002) of treated industrial wastewater generated at the Benner Springs State Fish Hatchery.

The receiving stream, Spring Creek is in the State Water Plan Watershed 9C and is classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is located on the West Branch Susquehanna River near Milton, PA. The discharge is not expected to affect the water supply.

The proposed effluent limits for Discharge 001, based on a design flow of 7.7624 mgd are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)			Report	Report			
pH (S.U.)					within range 6.0 to 9.0		
D.O.					Report		
CBOD ₅			323.7	647.4	5.0	10.0	12.5
TSS	Report	Report	388.4	776.9	6.0	12.0	15.0
Dissolved P			19.4	38.8	0.3	0.6	0.75
Total P	Report*	Report			Report		
NH ₃ -N		Report	45.3	90.6	0.7	1.4	1.8
Formaldehyde			64.7	129.5	1.0	2.0	2.5
Total N	Report*	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ N		Report			Report		
Particulate	Report	Report	Report		Report		
Organic Carbon							

*Limits to be established after 2 years of monitoring.

The proposed effluent limits for Discharge 002, based on a design flow of 0.7798 mgd are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)			Report	Report			
PH (S.U.)					within range 6.0 to 9.0		
D.O.					Report	Report	
CBOD ₅			32.5	65.0	5.0	10.0	12.5
TSS	Report	Report	39.0	78.0	6.0	12.0	15.0
Dissolved P			2.0	4.0	0.3	0.6	0.75
Total P	Report*	Report			Report		
NH ₃ -N		Report	4.6	9.1	0.7	1.4	1.8
Formaldehyde			6.5	13.0	1.0	2.0	2.5
Total N	Report*	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ -N		Report			Report		
Particulate Organic Carbon	Report	Report	Report		Report		

*Limits to be established after 2 years of monitoring.

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

- Part C I. Solids Management.
- Part C II. Affirmative Defense Provisions.
- Part C III. Therapeutic Chemical Use Requirements.
- Part C IV. BMP Implementation to maintain liner and baffles in existing polishing pond and install high capacity microscreen or microfilter units.
- Part C V. Schedule of Compliance and limits on biomass production if schedules are not maintained.
- Part C VI. Allowable Annual TSS Effluent Loading—36,110 pounds per year.

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (570) 327-3693.

The EPA waiver is in effect.

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

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

WQM Permit No. 4806404, Nazareth Borough Municipal Authority, 872 Tatamy Road, P. O. Box A, Nazareth, PA 18064. This proposed facility is located in Lower Nazareth Township, **Northampton County**, PA.

Description of Proposed Action/Activity: This project consists of construction of a sewage pump station and sanitary sewer extension to serve Trio Farms, which is a 320 lot residential subdivision. Total sewage flow capacity will be 120,000 gpd.

WQM Permit No. 5206403, The Municipal Authority of the Township of Westfall, 1082 Delaware Drive, P. O. Box 235, Matamoras, PA 18336. This proposed facility is located in Westfall Township, **Pike County**, PA.

Description of Proposed Action/Activity: This project consists of construction of a 3,342 foot sewer extension along Mountain Ave. and construction of the Rosetown pump station.

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

WQM Permit No. 0706402, Sewerage, Greenfield Township Municipal Authority, P. O. Box 372, Claysburg, PA 16625. This proposed facility is located in Greenfield Township, **Blair County**.

Description of Proposed Action/Activity: Application for replacement of the Bedford Street Sewer Interceptor Replacement.

WQM Permit No. 0106401, Sewerage, Little Washington Wastewater Company, Inc., 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Application for the construction/operation of a wastewater treatment plant to serve the Preserve at Plum Run residential development.

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

WQM Permit No. 0306403, Sewerage, FirstEnergy Nuclear Operating Company, SR 168, P. O. Box 4, Shippingport, PA 15077-0004. This proposed facility is located in Shippingport Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage conveyance system to Shippingport sewage treatment plant.

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

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

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

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

Schuylkill County Conservation District: 1206 Ag. Ctr. Dr., R. R. 5, Box 5810, Pottsville, PA 17901, (570) 622-3742.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025406003	MAG of Luzerne County Partnership Valley Park, Suite 5 5 South Main St. Sugarloaf, PA 18249	Schuylkill	Rush Township	Nesquehoning Creek HQ-CWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users 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

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

Application No. 6606503 , Public Water Supply	
Applicant	Aqua Pennsylvania Inc Tunkhannock Township Wyoming County
Responsible Official	Karl Kyriss, President Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112

Application Received Date	June 15, 2006
Description of Action	The applicant proposes the replacement of Well No. 3 with a new well at the Rivercrest System.

Application No. 5206502 , Public Water Supply	
Applicant	Three Lane Utilities Westfall Township Pike County
Responsible Official	Steven Giacona, President Three Lane Utilities c/o Roundtable Services 302 East Broad Street 2nd Floor West Field, NJ 07090
Type of Facility	PWS
Consulting Engineer	Michael Gable, P. E. RKR Hess Associates Inc 112 North Courtland Street P. O. Box 268 East Stroudsburg, PA 18301

Application Received Date	June 9, 2006
Description of Action	The applicant proposes the construction of a new well, Well No. 5 at an existing PWS system, PWS ID No. 2520085.

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

Permit No. 6706508 , Public Water Supply.	
Applicant	Don Haubert Warrington Township York County
Responsible Official	Don E. Haubert Sr., President 15 Central Boulevard Camp Hill, PA 17011
Type of Facility	Public Water Supply
Consulting Engineer	Jerry T. Stahlman, P. E. Stahlman & Stahlman, Inc. 139 E Market Street York, PA 17401
Application Received:	4/24/2006
Description of Action	This PWS application is for a new water system for the Savannah Heights development, consisting of three wells, disinfection facilities, finished water storage and distribution facilities.

Permit No. 5006501, Public Water Supply.
 Applicant **Department of General Services**
 Municipality Tyrone Township
 County **Perry**
 Responsible Official Paul A Ebright, Department of General Services Project Coordinator
 Bureau of Engineering & Architecture
 18th and Herr Streets
 Harrisburg, PA 17125
 Type of Facility Public Water Supply
 Consulting Engineer Yves E. Pollart, P. E.
 RETTEW Associates, Inc.
 3020 Columbia Avenue
 Lancaster, PA 17603
 Application Received: 4/28/2006
 Description of Action This PWS application is for the addition of a microfiltration unit to the existing treatment system.

Permit No. 2106503, Public Water Supply.
 Applicant **Shippensburg Borough Authority**
 Municipality Southampton Township
 County **Cumberland**
 Responsible Official William W. Wolfe, Manager
 111 North Fayette Street
 P. O. Box 129
 Shippensburg, PA 17257-0129
 Type of Facility Public Water Supply
 Consulting Engineer Peter Lusardi, P. E.
 CET Engineering Services
 1240 N. Mountain Rd.
 Harrisburg, PA 17112

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

Permit No. 1906501, Construction Public Water Supply.
 Applicant **Millville Borough Municipal Authority**
 Township or Borough Millville Borough
 County **Columbia**
 Responsible Official Walter Stanek, Chairperson
 P. O. Box 284
 Millville, PA 17846
 Type of Facility Public Water Supply-Construction
 Consulting Engineer Shannon G. Williams, P. E.
 Herbert, Rowland & Grubic, Inc.
 369 East Park Drive
 Harrisburg, PA 17111
 Application Received Date June 20, 2006
 Description of Action Construction of 0.160 mgd microfiltration water treatment facility and associated appurtenances.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications 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.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 101634. Chapin Sewage Disposal, Inc., 114 Brittney Layne Road, Huntingdon Mills, PA 18622-1133. A modification and permit renewal application for the continued operation of this municipal waste (septage) transfer facility located in New Columbus Borough, **Luzerne County**. The permit modification includes reissuing the permit to Chapin Sewage Disposal, Inc. and proposed changes to the existing permit conditions. The application was received in the Regional Office on June 8, 2006, and was found to be administratively complete as of June 23, 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.

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

67-05004M: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) on June 1, 2006, to make new products on their paper machines in Spring Grove Borough, **York County**.

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

17-305-051A: Parkwood Resources, Inc. (511 Railroad Avenue, Homer City, PA 15748) for modification of a coal stockpiling and truck loading operation by increasing the throughput from 700,000 tons in any 12-consecutive month period to 1,200,000 tons in any 12-consecutive month period at their Cherry Tree Mine in Burnside Township, **Clearfield County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0134C: Reed Minerals (905 Steel Road South, Fairless Hills, PA 19030) for modification of their coal slag roofing granules plant, to replace a dust collector in Falls Township, **Bucks County**. This facility is a non-Title V facility. The proposed dust collector will control emissions from the rotary dryer and the dryer feed conveyor. The new dust collector will have the same capture efficiency of the old dust collector. Therefore, there will be no change in potential emissions at the facility. Emissions of PM will remain below 0.02 grain per dry standard cubic feet. The Plan Approval will contain monitoring, recordkeeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

40-303-027: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17104) for modification of a batch asphalt plant to utilize waste derived liquid fuel at the Slusser Brothers facility at 225 New Boston Road, Jenkins Township, **Luzerne County**. Particulate emissions from the plant are controlled by the existing baghouse. Expected particulate emission rate will be less than 0.02 grain/dscf. The company will operate the facility and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval will be incorporated into the company's State-only Operating Permit when operational. The operating permit will contain additional recordkeeping and operating restrictions that are designed to keep the facility operating within all applicable air quality requirements.

45-320-005: United Envelope (P. O. Box 37, Mount Pocono, PA 18344) for construction and operation of flexographic printing presses in Colbaugh Township, **Monroe County**. The installation will consist of six flexographic printing presses to print envelope. As per Department's best available technology requirements for new sources to minimize emissions, these presses will use low VOC containing inks, which will minimize VOC emissions. Expected VOC emissions from these presses will be 1.3 tons per year including cleaning solvents emissions. The company will operate the facility and maintain the presses in accordance with the good engineering practices to assure proper operation. 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.

21-03072A: Hoffman-Roth Funeral Home (219 North Hanover Street, Carlisle, PA 17013) for installation of a human crematory in the Carlisle Borough, **Cumberland County**. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

36-05145A: Craigg Manufacturing Corp. (P. O. Box 901, Adamstown, PA 19501) for operation of the utility box manufacturing process in West Cocalico Township, **Lancaster County**. The facility has limitations to keep emissions less than 50 tpy of VOC, 25 tpy of combined HAPs and 10 tpy of a single HAP. The plan approval will include emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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**. Atmospheric emissions will not be measurably impacted by this action. The plan approval and operating permit will include emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

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

14-00014C: Glenn O. Hawbaker, Inc. (711 East College Ave., Bellefonte, PA 16823) for construction of two aggregate storage bins and two associated conveyors in an existing asphalt plant, construction of a mineral filler storage silo, truck loadout spout and pug mill (mixer) in a secondary stone crushing operation, construction of a portable stone crushing and screening plant and associated 400 horsepower diesel engine, construction of a portable stone screening plant and associated 101 horsepower diesel engine, construction of a railcar stone unloading operation and construction of a liquid asphalt and reprocessed/recycled oil storage and distribution operation at the Pleasant Gap facility on SR 64 in Spring Township, **Centre County**.

The railcar stone unloading operation will involve the unloading of stone from railcars and will consist of two hoppers and four associated conveyors. The conveyors will be equipped with a water spray dust suppression system for fugitive dust control. This operation is not expected to emit more than 10.81 tons of PM and 3.97 tons of PM10 per year.

The liquid asphalt and reprocessed/recycled oil storage and distribution operation will consist of a 4,200,000 gallon capacity liquid asphalt storage tank, a 1,512,000 gallon capacity liquid asphalt storage tank, a 1,512,000 gallon capacity reprocessed/recycled oil storage tank, a two bay tank truck loading rack, a six station railcar unloading rack and two 8.4 million Btu per hour natural gas-fired hot oil heaters. The air contaminant emissions from this operation are not expected to exceed 6.57 tons of NOx, 2.72 tons of CO, .31 ton of VOCs and .37 ton of PM10 per year.

The portable stone crushing and screening plant will be equipped with a water spray dust suppression system for fugitive dust control. The air contaminant emissions from this plant are not expected to exceed 3.6 tons of particulate matter, 2.35 tons of PM10, 4.72 tons of NOx, 1.18 tons of CO, 1.64 tons of SOx and .26 ton of nonmethane hydrocarbons per year.

The portable stone screening plant will not be equipped with any air cleaning device due to the moist nature of the material being processed. The air contaminant emissions from this plant are not expected to exceed 2.52 tons of NOx, 2.94 tons of PM, 1.19 tons of PM10, .24 ton of CO, .91 ton of SOx tons of hydrocarbons per year.

The mineral filler storage silo and associated truck loadout spout will be ducted to an existing fabric collector for PM control.

The asphalt plant aggregate bins and conveyors will not be equipped with any air cleaning device due to the low associated PM emission potential. The emission of PM and PM10 from the bins and conveyors is expected to be minimal.

Glenn O. Hawbaker, Inc. has also, in the respective application, proposed to accept more stringent air contamination emission limitations for a number of air contamination sources located at this site than those previously in force. This is being done to assure that the facility will not become a major (Title V) facility.

The Department of Environmental Protection's (Department) review of the information submitted by Glenn O. Hawbaker, Inc. indicates that the air contamination sources to be constructed will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1 and 40 CFR 60.670–60.676 and the best avail-

able technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the proposed construction.

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 State-only Operating Permit 14-00014 and Plan Approval 14-00014B remain in effect unless amended or superseded by a condition contained herein. If there is a conflict between a condition contained herein and a condition contained in State-only Operating Permit 14-00014 or Plan Approval 14-00014B, the permittee shall comply with the condition contained herein rather than with the conflicting condition contained in State-only Operating Permit 14-00014 or Plan Approval 14-00014B.

2. Open top trucks loaded with dust from the mineral filler storage silo truck loadout spout shall either be tarped, or otherwise covered, during loading or the loadout spout shall be monitored and adjusted as necessary during loading such that the bottom of the spout is as close to the top of the material in the truckbed at all times as is reasonably possible. Following the completion of loading, all open top trucks shall be tarped, or otherwise covered, before being moved from the silo area.

3. The portable stone crushing and screening plant shall be equipped with a water spray dust suppression system incorporating spray nozzles at the inlet and outlet of the crusher, the inlet of the screen and the discharge of the product conveyor. The water spray dust suppression system shall be connected to an on-demand water source capable of delivering an adequate supply of water at any time the respective plant is in use. The water spray dust suppression system shall also be equipped with strainers to prevent nozzle plugging. If the water source cannot deliver an adequate supply of water to properly operate the water spray dust suppression system or if the water spray dust suppression system is incapable of operation due to weather conditions or any other reason, the portable stone crushing and screening plant shall not be operated.

4. The diesel engine associated with the portable stone crushing and screening plant shall not operate more than 3,999 hours in any 12-consecutive month period nor shall it be fired on anything other than virgin diesel fuel with a maximum sulfur content of .3% (by weight) and to which no reprocessed/recycled oil or waste oil or other waste materials have been added nor shall it emit more than 3.6 grams of NOx per kilowatt-hour, .90 gram of CO per kilowatt-hour, 1.25 grams of SOx per kilowatt-hour, .10 gram of PM/PM10 per kilowatt-hour and .20 gram of nonmethane hydrocarbons per kilowatt-hour nor shall it emit more than 2.36 pounds of NOx per hour, .59 pound of CO per hour, .82 pound of SOx per hour, .07 pound of PM/PM10 per hour and .13 pound of nonmethane hydrocarbons per hour.

5. There shall be no visible fugitive emissions at any time from the portable stone screening plant.

6. The diesel engine associated with the portable stone screening plant shall not operate more than 4,800 hours in any 12-consecutive month period nor shall it be fired on anything other than virgin diesel fuel with a maximum sulfur content of .3% (by weight) and to which no reprocessed/recycled oil or waste oil or other waste materials have been added nor shall it emit more than 6.32 grams of NOx per kilowatt hour, .61 gram of CO per

kilowatt hour, 2.3 grams of SO_x per kilowatt hour, .24 gram of PM/PM₁₀ per kilowatt-hour and .17 gram of hydrocarbons per kilowatt hour nor shall it emit more than 1.05 pounds of NO_x per hour, .10 pound of CO per hour, .38 pound of SO_x per hour, .04 pound of PM/PM₁₀ per hour and .03 pound of hydrocarbons per hour.

7. No more than 1,200,000 tons of stone shall be processed through the railcar stone unloading operation in any 12-consecutive month period.

8. The conveyors incorporated in the railcar stone unloading operation shall be equipped with a water spray dust suppression system incorporating a spray nozzle at the discharge of each conveyor. This water spray dust suppression system shall be connected to an on-demand water source capable of delivering an adequate supply of water at any time the railcar unloading operation is in use. The water spray dust suppression system shall also be equipped with strainers to prevent spray nozzle plugging. If the water source cannot deliver an adequate supply of water to properly operate the water spray dust suppression system or if the water spray dust suppression system is incapable of operation due to weather conditions or any other reason, the railcar stone unloading operation shall not be operated.

9. There shall be no visible fugitive emissions at any time from either the hoppers incorporated in the railcar unloading operation or from the rail cars while in the process of being unloaded.

10. The storage tanks incorporated in the liquid asphalt and reprocessed/recycled oil storage and distribution operation shall not be used to store anything other than liquid asphalt or reprocessed/recycled oil nor shall anything ever stored in any of the tanks have a vapor pressure in excess of 1.5 psia under actual storage conditions.

11. The two hot oil heaters incorporated in the liquid asphalt and reprocessed/recycled oil storage and distribution operation should only be fired on natural gas.

12. Records shall be maintained of the number of hours each of the diesel engines associated with the portable stone crushing and screening plant and portable stone screening plant is operated each month, the amount of stone processed through the railcar stone unloading operation each month, the identity of all materials stored in the liquid asphalt and reprocessed/recycled oil storage operation at all times.

13. The emission of NO_x, CO and VOCs from the asphalt plant shall not exceed .0345, .0735 and .0420 pounds per ton of asphalt concrete produced, respectively, nor shall they exceed 17.25, 36.75 and 21.0 pounds per hour, respectively.

14. The emission of PM/PM₁₀ from the asphalt plant shall not exceed .0056 grain per dry standard cubic foot of effluent gas volume nor shall it exceed .93 pound per hour.

15. The PM/PM₁₀ emissions from the Astec model RBH-30-7-MOD fabric collector associated with the secondary stone crushing operation shall not exceed .0109 grain per dry standard cubic foot of effluent gas volume nor shall they exceed 1.33 pounds per hour. The PM/PM₁₀ emissions from the Amerex RP-12-429-D6 fabric collector associated with the secondary stone crushing operation shall not exceed .0091 grain per dry standard cubic foot of effluent gas volume nor shall they exceed 3.51 pounds per hour.

16. The secondary stone crushing operation shall not process more than 3,504,000 tons of stone in any 12-consecutive month period.

17. The permittee shall perform stack testing on the asphalt plant annually to determine its NO_x, CO, VOC and PM emission rates. The permittee shall also perform stack testing on the Astec model RBH-30-7-MOD and Amerex RP-12-429-D6 fabric collectors associated with the secondary stone crushing operation annually to determine their particulate matter emission rate. The first such annual testing to be performed following the issuance of this plan approval shall be performed by no later than October 31, 2006, and the annual testing in all subsequent years shall be performed by no later than July 31 of each year.

18. Following the completion of the construction approved herein, the total combined emission of nitrogen oxides from all sources existing at this facility shall not exceed 31.80 tons in any 12-consecutive month period, the total combined emission of CO shall not exceed 40.88 tons in any 12-consecutive month period, the total combined emission of SO_x shall not exceed 78.50 tons in any 12-consecutive month period, the total combined emission of VOCs shall not exceed 21.20 tons in any 12-consecutive month period, the total combined emission of PM₁₀ shall not exceed 68.70 tons in any 12-consecutive month period and the total combined emission of particulate matter shall not exceed 102.87 tons in any 12-consecutive month period.

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

10-021L and 10-021M: Indspec Chemical Corp. (133 Main Street P. O. Box 307, Petrolia, PA 16050) for modifications of plan approval 10-021J to remove the restriction on hours of operation for the resin hold tank (Source 191) and the resin scrubber (Source 163) in Petrolia Borough, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue plan approvals to Indspec Chemical Corporation in Petrolia Borough, Butler County. The facility was issued a Title V permit No. TV-10-00021 on November 2, 2000. These plan approvals 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.

Plan approval No. 10-21L and 10-21M are for the modifications of plan approval 10-021J to remove the restriction on hours of operation for the resin hold tank (Source 191) and the resin scrubber (Source 163). The plan approval limits will increase from 8.06 tpy to 11.0 tpy. The plan approvals contain limitations of the resin production of 19,124,000 pounds per year (based on a 12-month rolling total). The Plan Approval and Operating Permit will contain additional monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the applications, the Department's analysis and other documents used in the evaluation of the Applications are available for public review during normal business hours at the Northwest Regional DEP Office, 230 Chestnut St., Meadville, PA 16335.

Persons wishing to provide Department with additional information that they believe should be considered prior to the issuance of this permit may submit the information

to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit [Permit No. 10-021L and 10-021M].

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to Matthew Williams, New Source Review, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Matthew Williams, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

If a plan approval has not undergone the public notice process the change to an operating permit must be treated as a significant modification. In these situations, the Department should follow the procedures described in 25 Pa. Code §§ 127.421—127.431 for State-only operating permits or 25 Pa. Code §§ 127.521—127.524 for Title V operating permits.

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.

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

67-05004: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) for operation of their sulfite kraft paper mill in Spring Grove Borough, **York County**. This is a renewal of the Title V Operating Permit issued in 2000.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00788: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) for assembly and manufacturing operations for televisions at their Sony Technology Center in East Huntingdon Township located in **Westmoreland County**. This is a Title V Operating Permit Renewal.

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

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

44-05016: Lewistown Cabinet Center, Inc. (P. O. Box 507, Reedsville, PA 17084) for operation of their cabinet finishing system in Armagh Township, **Mifflin County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards to ensure the facility complies with the applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00302: Lincoln Contracting and Equipment (2478 Lincoln Highway, Boswell, PA 15563) for painting operation at Boswell facility in Jenner Township, **Somerset County**.

56-00303: Lincoln Contracting and Equipment (2478 Lincoln Highway, Boswell, PA 15563) for painting and operating at Somerset facility in Somerset City, **Somerset County**.

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

33-00160: Reynoldsville Casket Co., Inc. (South 5th Street Extension, Reynoldsville, PA 15851) for manufacturing burial caskets outside the Borough of Reynoldsville, **Jefferson County**.

62-00174: Warren County Humane Society (212 Elm Street, Warren, PA 16365-2868) for operation of an animal crematorium outside the City of Warren, **Warren County**.

10-00346: Scrap Salvage and Surplus, Inc. (690A Glenwood Way, Butler, PA 16001) for operation of a scrap cutting and salvage company outside the City of Butler, Center Township, **Butler County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days

after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a

30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

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.

03991301 and NPDES Permit No. PA0235407. Rosebud Mining Company (301 Market Street, Kittanning, PA 16201), to renew the permit for the Logansport Mine in Bethel, Burrell, Gilpin and Parks Townships, **Armstrong County** and related NPDES permit. No additional discharges. Application received May 10, 2006.

33971301 and NPDES Permit No. PA0215031. AMFIRE Mining Company, LLC (One Energy Place, Suite 2800, Latrobe, PA 15650), to revise the permit and related NPDES permit for the Dora No. 8 Mine in Perry Township, **Jefferson County** to mine the Middle Kittanning coal seam and add surface acreage to install the new MK Portal. Surface acres proposed 6.3. Receiving stream: Mahoning Creek, classified for the following use: CWF. Application received April 28, 2006.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26060104 and NPDES Permit No. PA0250929. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of a bituminous surface mine located in Luzerne and German Township, **Fayette County**, affecting 90 acres. Receiving streams: Antram Run and the

Monongahela River, classified for the following use: WWF. The potable water supply intakes within 10 miles downstream from the point of discharge: Southwestern PA Water Authority and Tri-County Joint Municipal Authority. Application received on June 13, 2006.

30940102 and NPDES Permit No. PA0200930. Shafer Brothers Construction, Inc. (668 Lower Hildebrand Road, Morgantown, WV 26501). Renewal application for reclamation only of an existing bituminous surface mine, located in Greene Township, **Greene County**, affecting 25.5 acres. Receiving stream: UNT to Whiteley Creek, classified for the following use: WWF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 26, 2006.

30960101 and NPDES Permit No. PA0201626. C. J. & L. Coal (P. O. Box 133, Jefferson, PA 15344). Renewal application for continued operation and reclamation of an existing bituminous surface mine, located in Morgan Township, **Greene County**, affecting 136 acres. Receiving stream: UNT to South Fork of Ten Mile Creek, classified for the following use: WWF. Renewal application received: June 21, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16-06-08 and NPDES Permit No. PA0258148. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Proposal to enter into a Government Financed Reclamation Construction Contract on a 13.4 acre site in Clarion Township, **Clarion County**. The proposal includes total reclamation of 5.8 acres of abandoned mine lands as well as 7.6 acres of coal removal incidental and necessary to the reclamation activities.

Receiving streams: UNT A to Little Piney Creek, UNT B to Little Mill Creek and UNT C to Douglass Run to Mill Creek, classified for the following use: CWF. There are no potable surface water intakes within 10 miles downstream. Application received: June 19, 2006.

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

17960101 and NPDES No. PA0220256. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), permit renewal for the continued operation and restoration of a bituminous surface mine in Morris Township, **Clearfield County**, affecting 184.8 acres. Receiving streams: Hawk Run and two UNTs. There are no potable water supply intakes within 10 miles downstream. Application received: June 15, 2006.

14940101 and NPDES No. PA0219932. Junior Coal Contracting, Inc. (2330 Six Mile Road, Philipsburg, PA 16866), permit renewal for the continued operation and restoration of a bituminous surface mine in Rush Township, **Centre County**, affecting 522.0 acres. Receiving

streams: UNT to Moshannon Creek to the West Branch of the Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received: June 16, 2006.

17060106 and NPDES No. PA0256386. King Coal Sales, Inc. (P. O. Box 712, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine in Morris Township, **Clearfield County**, affecting 29.0 acres. Receiving stream: Flat Run; UNT to Sulphur Run; UNT to Moshannon Creek; classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: June 1, 2006.

Noncoal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹ pH ¹		greater than 6.0; less than 9.0	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

3076SM7. Terra Resources, LLC (222 South Main Street, Butler, PA 16001. Transfer of an existing sand and gravel operation in Jefferson Township, **Mercer County** affecting 61.0 acres. Receiving streams: Lackawannock Creek, classified for the following uses: TSF and UNT to Shenango River, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from J. Taylor Sand & Gravel. Application received: June 20, 2006.

43060302. Terra Resources, LLC (222 South Main Street, Butler, PA 16001. Commencement, operation and restoration of a sand and gravel operation in Jefferson Township, **Mercer County** affecting 61.0 acres. Receiving streams: Lackawannock Creek, classified for the following use: TSF and UNT to Shenango River, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 20, 2006.

18119-43060302-E-1. Terra Resources, LLC (222 South Main Street, Butler, PA 16001. Application for a stream encroachment beginning at the intersection of Lackawannock Creek and SR 3039 Valley Road, the variance is requested for the northeast side of Lackawannock Creek for approximately 1,600 feet southeast of the forementioned intersection. A 50-foot variance is re-

quested for aggregate stockyard area and truck traffic. Receiving streams: Lackawannock Creek, classified for the following uses: TSF and UNT to Shenango River, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 20, 2006.

18119-43060302-E-2. 43060302. Terra Resources, LLC (222 South Main Street, Butler, PA 16001. Application for a stream encroachment for UNT 1 to Lackawannock Creek which runs along the north side of a portion of the permit area and then extends east through the north central portion of the permit area. Beginning at a point approximately 300 feet east of the intersection for the UNT 1 and SR 3039 Valley Road, a 50 foot stream variance is requested for the south side of the UNT 1 to Lackawannock Creek for approximately 750 feet extending eastward. At this point, a 50-foot variance is requested for both the north and south side of the UNT for an additional 700 feet extending in a northeast direction to the permit area. A 50 foot variance is requested for this segment of stream channel to conduct mining activities within 100 feet of the stream but no closer than 50 feet in Jefferson Township, **Mercer County**. Receiving streams: Lackawannock Creek, classified for the following use: TSF and UNT to Shenango River, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: June 20, 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

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

E09-898. Bristol Township, 2501 Bath Road, Bristol, PA 19007, Bristol Township, **Bucks County**, ACOE Philadelphia District.

To perform the following activities associated with the flood control measures at the existing Minot Avenue subdivision:

1. To construct and maintain an approximately 535 linear feet of earth fill levee in the floodplain of west bank of Delaware River (WWF-MF) impacting 0.01 acre of adjacent wetlands (PFO).
2. To install and maintain a pump station and associated 16-inch dip outfall pipe in the floodplain of Delaware River associated with the interior drainage of the proposed levee.
3. To install and maintain a tide gate at the existing 24-inch outfall pipe to Delaware River.

The site is located approximately 1,800 feet southeast of the intersection of 2nd Street and River Road, (Beverly, NJ-PA USGS Quadrangle N: 13.7 inches; W: 3.5 inches).

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

E67-797: James Merritts, 33 Deardorff Road, Dillsburg, PA 17019 in Washington Township, **York County**, ACOE Baltimore District.

To construct and maintain a 21-foot by 3-foot by 14-foot open bottom concrete box culvert with endwalls and two 36-inch by 35-inch smoothed-lined plastic pipe culverts which will impact 0.03 acre of palustrine emergent wetlands all in a UNT to the North Branch Bermudian Creek (WWF) (Dillsburg, PA Quadrangle N: 11.7 inches W: 1.4 inches Latitude: 40° 3' 52" Longitude: 77° 0' 36") in Washington Township, York County. The wetland impact is considered de minimis and mitigation is not required.

E07-403: M.M.F.R.E., LP, 210 E. Plank Road, Altoona, PA 16603-1252 in Logan Township, **Blair County**, ACOE Baltimore District.

To fill in 0.372 acre of wetland to construct the proposed Hilton Garden Inn hotel and associated improvements located along Amelia Avenue about 400 feet from its intersection with Frankstown Road (Holidaysburg, PA Quadrangle N: 18.7 inches; W: 2.2 inches; Latitude: 40° 28' 41"; Longitude: 78° 23' 27") in Logan Township, Blair County. The applicant will provide a replacement wetland of 0.375 acre.

E06-610: City of Reading, 503 North 6th 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 buffer, 2 acres of new wetlands, creation of a recreational fishing pond, restoration of meadow habitat, a new 58-foot span pedestrian bridge, extend a stormwater outfall from an adjacent ballpark 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").

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

E25-665A, Milt and Jean Ganger Property. Retaining wall support structures, in Springfield Township, **Erie County**, ACOE Pittsburgh District (East Springfield, PA Quadrangle N: 22.2 inches; W: 10.2 inches).

The applicant proposes to construct and maintain two short retaining wall supports, at elevation below (lakeward of) the ordinary high water mark, at the Ganger residence, located at 12996 Old Lake Road, East Springfield. The supports would be comprised of 2-foot by 2-foot by 6-foot (2' by 2' by 6') concrete blocks, would extend into Lake Erie less than 20 feet from the Ordinary High Water Mark, and be 12 feet and 6 feet wide, respectively. The supports will act as groins, and are proposed to be no taller than eighteen inches above the beach profile elevation. Lake Erie is a body of water classified as a CWF. This project proposes to impact less than 0.1 acre of Lake Erie.

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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0060623	Silver Lake Township Municipal Authority P. O. Box 1975 Brackney, PA 18812	Silver Lake Township Susquehanna County	Little Rhiney Creek CWF Watershed 4E	Y

In accordance with the Chesapeake Bay Tributary Nutrient Reduction Strategy nutrient monitoring for Ammonia-N, Kjeldahl-N, Nitrite/Nitrate-N, Total Phosphorus and Total Nitrogen were added to Outfall 001 of this permit.

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0218464 Industrial Waste	Allegheny Energy Supply Company, LLC 800 Cabin Hill Drive Greensburg, PA 15601-1689	Fayette County Springhill Township	UNT to Grassy Run	Y
PA0204234 Sewage	M. J. Redden 350 Water Dam Road McDonald, PA 15057	Washington County Robinson Township	UNT to Robinson Run	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

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

WQG Permit No. WQG 01550601, Sewerage, **Keith E. Meese**, 3009 Green Mount, Orlando, FL 32806. This proposed facility is located in Penn Township, **Snyder County**.

Description of Proposed Action/Activity: Permit issuance for a small flow single residence system consisting of a seepage tank, dosing tank, sand filter, chlorination and stream discharge.

WQM Permit No. 1705410, Sewerage 4952, **Clearfield Borough**, 6 South Front Street, Clearfield, PA 16830. This proposed facility is located in Clearfield Borough, **Clearfield County**.

Description of Proposed Action/Activity: Replacement of approximately 42,400 lineal feet of sanitary sewers, manholes and appurtenances throughout Clearfield Borough, Wards 2 and 4.

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

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106-2	Penn State East Campus Ian Salada Office of Physical Plant 101P Physical Plant Bldg. University Park, PA 16802	Centre	State College Borough	Thompson Run HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage

PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Pine Grove Borough Schuylkill County	PAG2005406010	Pine Grove School District 103 School St. Pine Grove, PA 17963	Upper Little Swatara Creek to Swatara Creek CWF	Schuylkill County Cons. Dist. (570) 622-3742
Monroe Township Cumberland County	PAG2002105057	Eastern Communities, Ltd. The Meadows of Ashcombe John A. Kerschner 7300 Derry Street Harrisburg, PA 17111	Yellow Breeches Creek CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
West Donegal Township Lancaster County	PAG2003605074	Robert L. Gruber 48 S. Market St. Elizabethtown, PA 17022	Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
Conoy Township Lancaster County	PAG2003605110	Sylvester Walters 105 Southside Circle Downington, PA 19335	Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
East Donegal Township Lancaster County	PAG2003605122	Frey-Hoffer Joint Venture 419 Coffee Goss Rd. Marietta, PA17547	UNT Susquehanna River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Hempfield Township Lancaster County	PAG2003606021	Millfield Construction Co. 2130 Marietta Pike Lancaster, PA 17603	Millers Run CWF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
West Cocalico Township Lancaster County	PAG2003606034	Hurst Brothers Development Co. 154 Farmersville Rd. Ephrata, PA 17522	Cocalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Millersville Borough Lancaster County	PAG2003606036	Millersville Borough 10 Colonial Dr. Millersville, PA 17551	UNT Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Elizabethtown Borough Lancaster County	PAG2003606037	Conoy Crossing LLP 777 Newville Rd. Elizabethtown, PA 17022	Conoy Crossing TSF	Lancaster County Conservation District 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*

Mount Joy
Township
Lancaster County

PAG2003606044

John Snowden/Kenneth
Kreider
P. O. Box 394
Elizabethtown, PA 17022

UNT Donegal Creek
CWF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

Penn Township
Lancaster County

PAG2003606046

Doug Harris
1002 Lititz Pike, No. 126
Lititz, PA 17543

Little Conestoga Creek
TSF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

Manheim Township
Lancaster County

PAG2003606048

Donmoyer Development
Group
135 Northview Dr.
Lancaster, PA 17601

Conestoga Creek
WWF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

East Hempfield
Township
Lancaster County

PAG2003606051

Hempfield School District
200 Church St.
Landisville, PA 17538

Swarr Run
TSF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

West Earl Township
Lancaster County

PAG2003606067

Esther Hoover
186 West Metzler Rd.
Ephrata, PA 17522

Conestoga River
WWF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601 (717)
299-5361, Ext. 5

East Cocalico
Township
Lancaster County

PAG2003606069

Jeffrey Mitchell
80 Martin Dr.
Reinholds, PA 17569

UNT Little Cocalico
Creek
TSF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

Ephrata Township
Lancaster County

PAG2003606080

The Belovich Group
600 N. Noble St.
Kutztown, PA 19530

Conestoga River
WWF

Lancaster County
Conservation District
1383 Arcadia Road
Room 6
Lancaster, PA 17601
(717) 299-5361, Ext. 5

Derry Township
Dauphin County

PAG2002206027

The Hershey Trust Co.
100 Mansion Rd. East
Hershey, PA 17033

Swatara Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018

Lower Paxton
Township
Dauphin County

PAR10I269R

Eastern Development &
Planning, Inc.
7300 Derry St.
Harrisburg, PA 17111

Beaver Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018

Lower Paxton
Township
Dauphin County

PAG2002206029

Central Dauphin School
District
600 Rutherford Rd.
Harrisburg, PA
17109-5227

Spring Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain Rd.
Dauphin, PA 17018

Exeter Township
Berks County

PAG2000606045

Jason Belovich
The Belovich Group, Inc.
600 D Noble Street
Kutztown, PA 19530

Trout Run
WWF

Berks County
Conservation District
1238 County Welfare
Road
P. O. Box 520
Leesport, PA 19533-0520
(610) 372-4657, Ext. 201

NOTICES

3591

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Reading Borough Berks County	PAG2000606050	Ken Pick Redevelop. Authority of Berks County Berks County Services Center Reading, PA 19601	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Caernarvon Township Berks County	PAG2000606030	Gary Green YMCA of the Brandywine Valley 50 S. First Avenue Coatesville, PA 19320	UNT to Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Perry Township Berks County	PAG2000606052	Dennis Miller 886 Laurel Road Hamburg, PA 19526	Pidgeon Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Heidelberg Township Berks County	PAG2000606024	Witold Michalak Erosion Control Services, Inc. 841 N. Church Road Sinking Spring, PA 19608	Furnace Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Hamburg Borough Berks County	PAG2000606053	Robert Bayuk Blue Ridge Construction, LLC 7253 Airport Road Bath, PA 18014	UNT to Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Columbia County Briar Creek Township and Briar Creek Borough	PAG2001906009	Berwick Area Joint Sewer Authority 1108 Freas Ave. Berwick, PA 18603	Briar Creek and Susquehanna River CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Tioga County Middleburg Township	PAG2005906011	William Morral 940 Long Mill Rd. Telford, PA 18969	North Run WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801 X101
Indiana County Center Township	PAG2003206009	Brian E. Stewart Evergreen Landfill, Inc. P. O. Box 195 Coral, PA 15731	UNT to Laurel Run CWF	Indiana County CD (724) 463-8547

*General Permit Type—PAG-3**Facility Location &
Municipality*

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster Avenue Manor Township	PAR323509	Armstrong World Industries, Inc. P. O. Box 3001 Lancaster, PA 17604	Little Conestoga Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Cumberland County Lower Allen Township	PAR233530	Lower Allen Township 1993 Hummel Avenue Camp Hill, PA 17011	Cedar Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Perry Township Snyder County	PAR224816	R. J. Hoffman & Sons, Inc. 1144 Buckwheat Valley Road Mount Pleasant Mills, PA 17853	UNT North Branch Mahantango Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Wayne Township Greene County	PAR606168	Chissy's Truck Salvage 107 Chissy Lane P. O. Box 98 Brave, PA 15316	Dunkard Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Snyder County Penn Township	PAG045217	Keith E. Meese 3009 Green Mount Orlando, FL 32806	Penns Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

General Permit Type—PAG-5

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Dauphin County Harrisburg City	PAG053589	Collotia Stores, Inc. 8 South Seasons Drive Dillsburg, PA 17019	Spring Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 2106502 MA, Minor Amendment, Public Water Supply.

Applicant	Carlisle Borough
Municipality	Carlisle Borough
County	Cumberland
Type of Facility	Repainting of the backwash water tank.

Consulting Engineer Gerald R. McClune, P. E.
ARRO Consulting Inc.
270 Granite Run Drive
Lancaster, PA 17601-6804

Permit to Construct 6/20/2006
Issued:

Permit No. 6706506 MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Newberry Township
County **York**
Type of Facility Installation of chlorine contact piping at Reesers Wells Nos. 1 and 2 house.

Consulting Engineer Arthur Saunders, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct 5/2/2006
Issued:

Permit No. 0106506 MA, Public Water Supply.

Applicant **The York Water Company**
Municipality Berwick Township
County **Adams**
Type of Facility Construction of the Race Track Road standpipe.

Consulting Engineer Ryan M. Ural, P. E.
The York Water Company
130 East Market Street
P. O. Box 15089
York, PA 17405-7089

Permit to Construct 6/20/2006
Issued:

Permit No. 3606506 MA, Minor Amendment, Public Water Supply.

Applicant **Marietta Gravity Water Company**
Municipality Hallam Borough
County **York**
Type of Facility Relining of a 12-inch water main in the Susquehanna River.

Consulting Engineer David T. Lewis, P. E.
Marietta Gravity Water Company
1195 River Road
P. O. Box 302
Marietta, PA 17547-0302

Permit to Construct 6/13/2006
Issued:

Permit No. 3806503 MA, Minor Amendment, Public Water Supply.

Applicant **Elco School District**
Municipality Jackson Township
County **Lebanon**
Type of Facility Installation of booster chlorination facilities.

Consulting Engineer John T. Boyer, Sr., P. E.
The Boyer Partnership, Inc.
1435 11th Avenue
Altoona, PA 16601

Permit to Construct 6/20/2006
Issued:

Permit No. 0106510 MA, Minor Amendment, Public Water Supply.

Applicant **Borough of Bonneauville**
Municipality Bonneauville Borough
County **Adams**
Type of Facility Repainting of the 100,000-gallon Elm Avenue elevated storage tank.

Consulting Engineer Kirt L. Ervin
US Engineering, LLC
4 Sunrise Court
Highland, IL 62249

Permit to Construct 6/20/2006
Issued:

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

Permit No. M.A.—Operation Public Water Supply.

Applicant **Mifflinburg Borough Water System**
Township or Borough Mifflinburg Borough
County **Union**
Responsible Official Steve B. Benner
Project Manager
Mifflinburg Borough Water System
333 Chestnut Street
Mifflinburg, PA 17844

Type of Facility Public Water Supply—Operation
Consulting Engineer N/A
Permit Issued Date 6/23/06
Description of Action Chambers Spring and Finished Water Storage Tank No. 1 covers.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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>
Cambridge Springs Borough	161 Carringer Street Cambridge Springs, PA 16403	Crawford

Plan Description: The approved plan provides for the construction of a new 1.3 mgd WWTP with a 2.5 mg equalization tank to address hydraulic overload conditions at the existing Cambridge Area Joint Authority POTW.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Cotton Mill Store, Shillington Borough, **Berks County**. Liberty Environmental, Inc., 10 N. Fifth Street, Suite 800, Reading, PA 19601, on behalf of Janet Potter, Cotton Mill Store, Inc., 8425 Navajo Street, Philadelphia, PA 19118, 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 the residential Statewide Health Standard.

Suburban Heating Oil Partners, West Manchester Township, **York County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Suburban PA Property Acquisitions, LLC, 5793 Widewaters Parkway, Suite 100, Syracuse, NY, 13214-2811, submitted a Final Report concerning remediation of site soil and groundwater contaminated with fuel related SVOCs. The report is intended to document remediation of the site to the Statewide Health Standard.

Gibble's Quarry, Manheim Borough, **Lancaster County**. Schuylkill Valley Engineering, Inc., 4338 Pottsville Pike, Reading, PA 19605, on behalf of TCS Family Enterprises, 2238 Robert Fulton Highway, Peach Bottom, PA 17563, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with asbestos, sludge, oily wastes, flood debris and other waste products. The report is intended to document remediation of the site to the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan,

is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Commerce Bank, Ridley Township, **Delaware County**. Michelle Flowers, React Env. Professional Svc. Group, 6901 Kingessing Ave., 2nd Floor, Philadelphia, PA 19142 on behalf of Steven Smith, Commerce Bank, N. A., 1700 Atrium Way, Mt. Laurel, NJ 08054 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents, leaded/unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 14, 2006.

2804 West Township Rd., Upper Darby Township, **Delaware County**. Samuel Kucia, Env. Consulting, Inc., 50 W. Washington St., Norristown, PA 19401 on behalf of Bruce Greenfield, Agnew Assoc., LLC, c/o Dr. Bruce Greenfield, 2800 Township Line Rd., Havertown, PA 19083 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 12, 2006.

Woolslager-James Res. Plumstead Township **Bucks County**. Richard Trimpi, Trimpi Assoc., Inc., 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Kimberly Charlton Valley View, Danboro Mobil Home Park, 1081 N. Eaton Rd., P. O. Box 336, Danboro, PA 18916 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 9, 2006.

Chichester School Dist. Site, Upper Chichester Township, **Delaware County**. Douglas Newton, MACTEC Engineering & Consulting, Inc., 5205 Militia Hill Road Plymouth Meeting, PA 19462 on behalf of Michael Golde, Chichester School Dist., has submitted a Remedial Investigation and Cleanup Plan Report concerning the remediation of site groundwater contaminated with organochlorine pesticides. The Remedial Investigation Report/Cleanup Plan Report demonstrated attainment of the Site-Specific Standard and Statewide Health Standard and was approved by the Department on May 17, 2006.

145 N. Narberth Ave., Narberth Borough, **Montgomery County**. Samuel Kucia, Env. Consulting, Inc. 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of Brendan Johnson, 145 N. Narberth Ave., 7 Outlook Dr., Darien, CT 06820 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 7, 2006.

Roser Prop., Solebury Township, **Bucks County**. Edward Prout, American Resources Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Allan Roeser, HGR Investors, LP, 140 E. Butler Ave., Chalfont, PA 18914 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline, ethylbenzene and toluene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 7, 2006

Schoenfellinger Res. New Britain Township, **Bucks County**. Richard Trimpi, Trimpi Assoc., Inc, 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Jen Konefal, 782 Township Line Rd., Chalfont, PA 18914 has submitted a 90-day report concerning the remediation of site soil contaminated with No. 2 fuel oil. The report was submitted within 90 days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 19, 2006.

Schmidt Brewery, City of Philadelphia, **Philadelphia County**. Charlene Drake, React Env. Professional Svc., Group, 6901 Kingessing Ave., 2nd Floor, Philadelphia, PA 19142 on behalf of Wayne Dunlop, Northern Liberties Dev., LP, 969 N. 2nd St., Philadelphia, PA 19123 has submitted a Baseline Env Report concerning the remediation of site soil and groundwater contaminated with lead. The Baseline Env Report and Final Report were deficiency by the Department on June 15, 2006.

Domus Apt 34th and 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 Pennsylvania, 133 S. 36th St. Philadelphia, PA 19104 has submitted a Remedial Investigation Report and Cleanup Plan and Final Report concerning the remediation of site soil contaminated with PAHs. The Remedial Investigation Report and Cleanup Plan and Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department on June 20, 2006.

Acker Res., Lower Gwynedd Township, **Montgomery County**. Richard D. Trimpi, Trimpi Assoc., Inc., 1635 Old Plains Rd., Pennsburg, PA 18703 on behalf of Robert Acker, 1431 Meetinghouse Rd., Lower Gwynedd, PA 19002 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 18, 2006.

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

NGK Metals Corporation, Muhlenberg Township, **Berks County**. MECX, LLC, Mid Atlantic OPS, 4901 Mill Road, Coopersburg, PA 18036, on behalf of NGK Metals Corporation, 917 US 11 South, Sweetwater, TN 37874, submitted a Final Report concerning the remediation of site soils contaminated with beryllium. The Final

Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on June 16, 2006.

Nell's Shurfine Market, Dover Township, **York County**. Liberty Environmental, Inc., 10 N Fifth Street, Suite 800, Reading, PA 19601, on behalf of Associated Wholesalers, Inc., 336 East Penn Avenue, Robesonia, PA 19551-0067 submitted a Final Report concerning the remediation of site soils contaminated with leaded gasoline from an underground storage tank. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on June 16, 2006.

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, PA 17315-0097, submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel 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 Joseph McNally, 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 20, 2006.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 101683. Boyd Roll-Off Services, Inc., 1200 Railroad Place, McKees Rocks, PA 15136. Operation of a Municipal Waste (construction and demolition waste) transfer station in Stowe Township, **Allegheny County**. Permit issued in the Regional Office on June 20, 2006.

Permit ID. No. 301097. Horsehead Corp. Landfill, 300 Frankfort Road, Monaca, PA 15061. Operation of a captive residual waste landfill in Potter Township, **Beaver County**. Permit renewal issued in the Regional Office on June 21, 2006.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-310-060GP: Caddick Construction Co., Inc. (P. O. Box 179, Ambler, PA 19002) on June 22, 2006, to operate a portable nonmetallic mineral plant in Ambler Borough, **Montgomery County**.

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

GP3-06-03138: H. B. Mellott Estates, Inc. (P. O. Box 100, Mellott Drive, Suite 100, Warfordsburg, PA 17267) on June 22, 2006, for Portable Nonmetallic Mineral Processing Plants under GP3 at the Kempville Quarry in Richmond 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.

46-0025J: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on June 16, 2006, to operate eight new tanks in Upper Merion Township, **Montgomery County**.

09-0087E: Air Products and Chemicals, Inc. (351 Phila Avenue, Morrisville, PA 19067) on June 13, 2006, to operate a silicon tetrofluoride in Falls Township, **Bucks County**.

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

67-05016E: R. H. Sheppard Co., Inc. (101 Philadelphia Street, P. O. Box 877, Harrisburg, PA 17331-0877) on June 19, 2006, to construct a blast cabinet controlled by an existing fabric collector at their iron foundry in Hanover Borough, **York County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0156: Jolly Gardener Products, Inc. (500 East Pumping Station Road, Quakertown, PA 18951) on June 13, 2006, to operate two diesel engines and wood processing in Richland Township, **Bucks County**.

09-0156A: Jolly Gardener Products, Inc. (500 East Pumping Station Road, Quakertown, PA 18951) on June 13, 2006, to operate three diesel fired engines in Richland Township, **Bucks County**.

15-0094: Metallurgical Products Co. (P. O. Box 598, West Chester, PA 19381-0598) on June 13, 2006, to operate a bag filter dust collector in West Goshen Township, **Chester County**.

46-0005V: Merck and Co., Inc. (Sumneytown Pike, P. O. Box WP20, West Point, PA 19486) on June 13, 2006, to operate a biological manufacturing building in Upper Gwynedd Township, **Montgomery County**.

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

63-00014F: Reliant Resources, Inc.—Orion Power MidWest, LP (121 Champion Way, Suite 200, Canonsburg, PA 15317) on May 16, 2006, modified Plan Approval PA-63-00014F to change allowable ammonia emission rate resulting from the operation of selective noncatalytic reduction on unit No. 4 from 3.0 ppmv to 10.0 ppmv at Elrama Power Plant in Union Township, **Washington County**. This 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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00059: Lyondell Chemical Co. (3801 West Chester Pike, Newtown Square, PA 19073) on June 20, 2006, to operate a research and development center that manufactures industrial organic chemicals to the facility Synthetic Minor Operating Permit in Newtown Township, **Delaware County**.

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

36-05135: StyleCraft Corp. (P. O. Box 740, Terre Hill, PA 17581-0740) on June 19, 2006, to operate their wood furniture manufacturing facility in Terre Hill Borough, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00062: Quaker Sales Corp. (P. O. Box 1128, 336 Shawna Road, North Cambria, PA 15714) on June 20, 2006, to operate a Hot Mix Asphalt Concrete plant at their North Cambria facility located in Susquehanna Township, **Cambria County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

63-00014F: Reliant Resources, Inc.—Orion Power MidWest, LP (121 Champion Way, Suite 200, Canonsburg, PA 15317) on May 16, 2006, modified Plan Approval PA-63-00014F to change allowable ammonia emission rate resulting from the operation of selective noncatalytic reduction on unit No. 4 from 3.0 ppmv to 10.0 ppmv at Elrama Power Plant in Union Township, **Washington County**. This is a Title V facility.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56771301 and PG12-32011302-R12. RoxCOAL, Inc. (P. O. Box 149, 1576 Stoystown Road, Friedens, PA 15541), to revise the permit for the Geronimo Mine in Jenner Township, **Somerset County** to establish an emission inventory for coal processing and transfer facility based on peak production of 750,000 tons of raw coal per year. No additional discharges. Permit issued: June 15, 2006.

30861601 and NPDES Permit No. PA0214256. Cobra Mining, LLC (P. O. Box 40, 178 Chess Mine Road, Dilliner, PA 15327), to renew and transfer the permit for the Dunkard Preparation Plant in Monongahela Township, **Greene County** from Dunkard Mining Company. No additional discharges. Application received September 8, 2003. Permit issued: June 16, 2006.

32841302 and NPDES Permit No. PA0007803. Pennsylvania Mines, LLC (P. O. Box 367, Ebensburg, PA 15931), to renew the permit for the Greenswich North No. 1/South No. 2 Mine in Green Township, **Indiana County** and Susquehanna Township, **Cambria County** and related NPDES permit for reclamation only. No additional discharges. Application received January 24, 2006. Permit issued: June 19, 2006.

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

40940205R2 and NPDES Permit No. PA0223441. Northampton Fuel Supply Co., Inc. (1 Horwith Drive, Northampton, PA 18064), renewal of an existing coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Hanover Township, **Luzerne County** affecting 124.0 acres. Receiving stream: Nanticoke Creek. Application received May 16, 2005. Renewal issued: June 19, 2006.

49663004R4. Reading Anthracite Company (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing coal refuse reprocessing operation in Zerbe and West Cameron Townships, **Northumberland County** affecting 2222.0 acres. Receiving stream: none. Application received October 31, 2005. Renewal issued: June 20, 2006.

54040201. Reading Anthracite Company (P. O. Box 1200, Pottsville, PA 17901), commencement, operation and restoration of an anthracite coal refuse reprocessing, disposal and preparation plant operation in Butler, West Mahanoy and Union Townships, **Schuylkill County** affecting 1104.0 acres. Receiving stream: none. Application received June 16, 2004. Permit issued: June 20, 2006.

54840106R4. City of Philadelphia, Trustee, for Girard Estate (21 South 12th Street, Philadelphia, PA 19107), renewal of an existing anthracite surface mine, coal refuse reprocessing and coal refuse disposal operation in West Mahanoy and Butler Townships, **Schuylkill County** affecting 447.6 acres. Receiving stream: none. Application received June 28, 2004. Renewal issued: June 20, 2006.

54960202C6. City of Philadelphia, Trustee, for Girard Estate (21 South 12th Street, Philadelphia, PA 19107), correction to an existing anthracite coal refuse reprocess, coal refuse disposal and preparation plant operation in Butler, West Mahanoy and Union Townships, **Schuylkill County** affecting 1,071.0 acres. Receiving stream: none. Application received July 25, 2005. Correction issued: June 20, 2006.

GOVERNMENT-FINANCED CONSTRUCTION CONTRACT

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

Whitetail Contracting, GFCC No. 17-05-10, Karthaus Township, **Clearfield County** (UNT to WB Susquehanna—Upper West Branch Watershed): A Government Financed Construction Contract has been awarded to Whitetail Contracting that will result in the reclamation of over 1,850 feet of slumped highwall/ steep spoil areas as well as approximately 18.5 acres of abandoned mine lands in Karthaus Township, Clearfield County. The reclamation of the abandoned mine lands will also reduce the amount of sediment entering a UNT to the West Branch of the Susquehanna River from the site. Alkaline addition will be added to the mining area at a rate of 175 tons/acre. The value of this reclamation is estimated at \$45,000. (Contact: John Varner; (814) 342-8200, Moshannon).

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10960304. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Revision to an existing limestone operation to add blasting in Washington Township, **Butler County** affecting 186.0 acres. Receiving streams: UNT to South Branch Slippery Rock Creek. Application received: May 2, 2006. Permit Issued: June 21, 2006.

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

14050302 and NPDES No. PA0256285. Raducz Stone Corporation (284 Rockdale Road, Butler, PA 16002), commencement, operation and restoration of a large, noncoal surface mine in Howard Township, **Centre County**, affecting 117.5 acres. Receiving waters: Bald

Eagle Creek, classified for the following use: WWF. Application received: September 14, 2005. Permit issued: June 21, 2006.

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

4875SM2A2C5 and NPDES Permit No. PA0119563. Glen-Gery Corp. (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Dover Township, **York County**. Receiving stream: Fox Run. Application received May 8, 2006. Renewal issued: June 22, 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.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

63064006. Atlas Services (1024 Rte. 519, Suite 500, Eighty Four, PA 15330). Blasting activity permit for the Allegheny Power 138 KV relocation project, located in South Strabane Township, **Washington County**, with an expected duration of 1 year. Permit issued: June 20, 2006.

63064007. Alex E. Paris Contracting, Inc. (1595 Smith Township Road, Rt. 18, P. O. Box 369, Atlasburg, PA 15004). Blasting activity permit for the construction of South Point II Commercial Development, located in Cecil Township, **Washington County**, with an expected duration of 1 year. Permit issued: June 20, 2006.

63064008. J.N.D. Properties (3625 Washington Pike, Bridgeville, PA 15017). Blasting activity permit for trench blasting to install sewage lines, located in Cecil Township, **Washington County**, with an expected duration of 1 year. Permit issued: June 20, 2006.

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

01064113. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Lincoln Commons in Straban Township, **Adams County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

01064114. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Joboe Holstein Farm in Mt. Pleasant Township, **Adams County** with an expiration date of June 15, 2007. Permit issued: June 19, 2006.

06064117. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Brookfield Manor in Sinking Spring Borough, **Berks County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

06064118. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for The Hills at Woodgate in Exeter Township, **Berks County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

15064118. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Schuylkill Township Elementary School in Schuylkill Township, **Chester County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

28064158. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Forest Ridge Acres in Southampton Township, **Franklin County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

36064163. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Brethren Village in Manheim Township, **Lancaster County** with an expiration date of June 15, 2007. Permit issued: June 19, 2006.

36064164. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in East Earl Township, **Lancaster County** with an expiration date of August 30, 2006. Permit issued: June 19, 2006.

36064165. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a warehouse in West Earl Township, **Lancaster County** with an expiration date of August 30, 2006. Permit issued: June 19, 2006.

38064116. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Hilltop Estates in Cornwall Borough, **Lebanon County** with an expiration date of June 15, 2007. Permit issued: June 19, 2006.

40064115. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Willow View Estates in Plymouth Township, **Luzerne County** with an expiration date of July 31, 2007. Permit issued: June 19, 2006.

40064116. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Mill Creek Estates in Plains Township, **Luzerne County** with an expiration date of July 31, 2007. Permit issued: June 19, 2006.

67064125. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Winter Ridge Development in Lower Windsor Township, **York County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

67065126. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for The Orchards in Hellam Township, **York County** with an expiration date of June 30, 2007. Permit issued: June 19, 2006.

46064123. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Real Pro Enterprises in Towamencin Township, **Montgomery County** with an expiration date of December 30, 2007. Permit issued: June 20, 2006.

46064124. Allan A. Myers, Inc. d/b/a Independence Construction Materials (P. O. Box 98, Worcester, PA 19490), construction blasting for Meter Pit No. 6 in Skippack Township, **Montgomery County** with an expiration date of December 31, 2007. Permit issued: June 20, 2006.

21064148. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Logistic Center in North Middleton Township, **Cumberland County** with an expiration date of July 31, 2007. Permit issued: June 21, 2006.

21064149. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Logistic Center Warehouse in North Middleton Township, **Cumberland County** with an expiration date of July 1, 2007. Permit issued: 21, 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

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

E06-586: Cabela's Ventures Inc., One Cabela's Drive, Sydney, NE 69160 in Tilden Township, **Berks County**, ACOE Philadelphia Region.

To construct and maintain: 1) 417 lineal feet of 48-inch CMP within a UNT to the Schuylkill River (WWF), an activity waived per 25 Pa. Code § 105.12(a)(2); and 2) fill within 0.17 acre of PEM wetland associated with a UNT to the Schuylkill River for the purpose of outparcel development within Cabela's Inc. retail property located at the intersection of SR 78 and SR 61 (Auburn, N: 10.5 inches; W: 0.4 inch; Latitude: 40° 33' 28"; Longitude: 76° 0' 10") in Tilden Township, Berks County.

E31-203: Henderson Township, P. O. Box 356, Huntingdon, PA 16652 in Henderson Township, **Huntingdon County**, ACOE Baltimore District.

To operate and maintain a 95-inch by 67-inch elliptical metal pipe measuring 60 feet in length skewed from the original crossing location to allow for better hydraulic capacity, to install and maintain 66 feet of riprap protection on the left bank below the crossing and 58 feet of riprap protection on both left and right banks above the crossing at a point where Numers Hollow Road crosses Numers Hollow Run (WWF) (Mount Union, PA Quadrangle; N: 22.35; W: 12.63; Latitude: 40° 29' 53"; Longitude: 77° 57' 57") in Henderson Township, Huntingdon County.

E22-500: Cameron Management, Inc., 3000 Canby Street, Harrisburg, PA 17103 in the city of Harrisburg, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a multistory building and associated parking, including the placement and maintenance of 58,000 cubic yards of fill and the excavation of 22,500 cubic yards of fill in and along the floodway of Paxton Creek (WWF). This permit also authorizes the installation and maintenance of three 18-inch CMP outfalls along Paxton Creek (WWF). The project site is bounded by Herr Street, Cameron Street, State Street, and Paxton Creek (Harrisburg West, PA Quadrangle N: 3.5 inches; W: 0.3 inch; Latitude: 40° 16' 13"; Longitude: 76° 52' 38") in the City of Harrisburg, Dauphin County.

E01-259: Samuel E. Green, 399 Montclair Road, Gettysburg, PA 17325-7712 in Straban Township, **Adams County**, ACOE Baltimore District.

To relocate approximately 160 linear feet of a UNT to Rock Creek (WWF). The new channel will include three rock weirs, create aquatic habitat and establish native

tree and shrub plantings. The project is located at the corner of Hanover Road (SR 116) and Montclair Road (T. R. 534) (Gettysburg, PA Quadrangle N: 13.32 inches; W: 9.71 inches; Latitude: 39° 49' 24"; Longitude: 77° 11' 39") in Straban Township, Adams County.

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

E10-417, Larry Colonello, 131 Meredith Drive, Mars, PA 16046. Colonello Driveway Across Tributary to Glade Run, in Middlesex Township, **Butler County**, ACOE Pittsburgh District (Valencia, PA Quadrangle N: 40° 42' 08"; W: 79° 55' 40").

To construct and maintain a steel I-beam bridge having a clear, normal span of 22 feet and an underclearance of 6 feet across a tributary to Glade Run and impacting a total of 0.14 acre of adjoining wetland associated with the roadway approach to the bridge for a private driveway extending south from Overbrook Road approximately 0.5 mile east of SR 8. Project proposes contribution to the Pennsylvania Wetland Replacement Fund for compensation for the 0.14 acre of wetland impact.

E37-170, Mohawk Trails Golf Course, 5117 Erie Street, New Castle, PA 16102-9101. Mohawk Trails Golf Course Pond Maintenance and Construction, in Mahoning Township, **Lawrence County**, ACOE Pittsburgh District (Edinburg, PA Quadrangle N: 41° 00' 10"; W: 80° 26' 24").

To conduct the following activities at Mohawk Trails Golf Course west of SR 551 approximately 0.5 mile south of Edinburg:

1. To extend and maintain an existing stream enclosure by an additional 30 feet on the downstream end and associated 0.63 acre of fill (dredged material) in a tributary to Mahoning River.

2. To conduct maintenance dredging activities at five existing impoundments having a total surface area of 3.815 acres in tributaries to Mahoning River within the golf course, including the impoundment associated with D37-053. Anticipated total volume of dredged material is 14,800 cubic yards.

3. To construct a new nonjurisdictional on-stream dam on a tributary to Mahoning River having a contributory drainage area less than 100 acres, less than 15 feet maximum depth and less than 50 acre-feet of storage. Total length of stream impacted by the embankment and impoundment is indicated to be 169 feet.

ENVIRONMENTAL ASSESSMENTS

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

EA28-03: Bear Valley Franklin County PA Joint Water Authority, 218 Schoolhouse Road, P. O. Box 308, St. Thomas, PA 17252-0308 in St. Thomas Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain an 18-inch ductile iron outfall pipe, with an endwall, and 12.5 feet of riprap apron extending out to 9-feet from the water line, the outfall discharges to Broad Run (HQ-CWF). The project is located off of Bear Valley Road at the Water Treatment Plant (St. Thomas, PA Quadrangle N: 10.5 inches; W: 0.5 inches; Latitude: 39° 55' 55"; Longitude: 77° 52' 17") in St. Thomas Township, Franklin County.

**STORAGE TANKS
SITE-SPECIFIC INSTALLATION PERMITS**

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504 and 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
0633001	Mahoning Distribution 12475 Route 119 Hwy. South Rochester Mills, PA 15771 Attn: Dan Hauger	Jefferson	Corsica Borough	One AST storing diesel fuel	500,000 gallons

SPECIAL NOTICES

Certified Emission Reduction Credits in the Commonwealth's ERC Registry

Emission reduction credits (ERCs) are surplus, permanent, quantified and Federally enforceable emission reductions used to offset emission increases of oxides of nitrogen (NO_x), volatile organic compounds (VOCs) and the following criteria pollutants: carbon monoxide (CO), lead (Pb), oxides of sulfur (SO_x), particulate matter (PM), PM-10 and PM-10 precursors.

The Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. The ERC registry system provides for the tracking of the creation, transfer and use of ERCs. Prior to registration of the credits, ERC Registry applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered, and certified ERCs in the ERC Registry are currently available for use as follows:

- (1) To satisfy new source review (NSR) emission offset ratio requirements;
- (2) To "net-out" of NSR at ERC-generating facilities;
- (3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The following certified ERCs, expressed in tons per year (tpy), satisfy the applicable ERC requirements in 25 Pa. Code §§ 127.206—208. ERCs created from the curtailment or shutdown of a source or facility expires for use as offsets 10 years after the emission reduction occurs. ERCs generated by the over control of emissions by an existing facility do not expire for use as offsets. However, credits in the registry that are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or the United States Environmental Protection Agency (EPA).

For additional information concerning this listing of certified ERCs, contact the Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. The Commonwealth's ERC Registry report, the ERC Registry application and instructions are located at www.depweb.state.pa.us (select Air Topics, Air Quality Home, Permits, Emission Reduction Credits).

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
R. R. Donnelley & Sons Co. County: Lancaster Contact Person: Frederick Shaak, Jr.	VOCs	16.00		Internal Use
Kurz Hastings Inc. County: Philadelphia Contact Person: George Gornick (215) 632-2300	VOCs	137.45		Trading
Kurz Hastings Inc. County: Philadelphia Contact Person: George Gornick (215) 632-2300	NO _x VOCs	8.01 64.55	Varies from 3/28/2013 to 1/9/2014	Trading
Metallized Paper Corporation of America Recipient/Holder: Truck Accessories Group. d/b/a Leer East. Source Location: McKeesport County: Allegheny Contact Person: Bruce Freeman (574) 296-8201	VOCs	41.70	6/30/2006	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Contact Person: Lori Burgess (412) 274-3884	VOCs	171.82		Trading
Recipient/Holder of ERC: Coastal Aluminum Rolling Mills Inc. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-generating facility location: Quakertown, Bucks Contact Person: Jesse Hackenberg (570) 323-4430	VOCs	3.62		Internal Use/ Trading
Recipient/Holder of ERC: PG & E Energy Trading-Power, LP ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-generating facility location: Quakertown, Bucks Contact Person: Mark Sheppard (301) 280-6607	VOCs	39.84	8/1/2006	Trading
Congoleum Corporation Source Location: Marcus Hook County: Delaware Contact Person: Theresa C. Garrod (609) 584-3000	NOx	5.20		Trading
International Steel Group, Inc. Bethlehem Structural Products Corp. Source Location: Bethlehem County: Northampton Contact Person: Keith Nagel (330) 659-9165	VOCs	473.80	Varies from 3/28/2008 to 6/19/2008	Trading
Recipient/Holder of ERC: Lehigh Valley Industrial Park, Inc. ERC Generating Facility: International Steel Group, Inc. Source Location: Bethlehem County: Northampton Contact Person: Justin Ryan (610) 866-4600	NOx	1,054.00	Varies from 3/28/2008 to 6/19/2008	Trading
Morgan Adhesives Company (MACtac) Source Location: Scranton County: Lackawanna Contact Person: Tim Owens (330) 688-1111	VOCs	75.00	6/30/2008	Trading
National Fuel Gas Supply Corporation Sources: Generators 1 and 2, Dehydrator 1 Source Location: Ellisburg Station County: Potter Contact Person: Gary A. Young (814) 871-8657	NOx VOCs	16.14 1.80	2/1/2009	Internal Use
General Electric Company Source Location: Lawrence Park County: Erie Contact Person: Scott Gowdy (814) 875-2427	VOCs	1.80	12/31/2006	Internal Use/ Trading
TYK America, Inc. Source Location: Irvona Facility County: Clearfield Contact Person: David B. Orr (412) 384-4259	NOx VOCs	0.30 0.02	11/6/2008	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Smithkline Beechman Pharmaceuticals Sources: Two boilers and oxidizer Source Location: Spring Garden Street Facility County: Philadelphia Contact Person: Eileen Ackler (610) 239-5239	NOx VOCs	5.72 0.10	12/31/2008	Trading
Recipient/Holder of ERC: PG & E Energy Trading-Power, LP ERC Generating Facility: Global Packaging, Inc. ERC-generating facility location: Oaks Plant, Montgomery County Contact Person: Sarah M. Barpoulis (301) 280-6607	VOCs	7.70	9/1/2006	Trading
Recipient/Holder of ERC: PG & E Energy Trading-Power, LP ERC Generating Facility: Global Packaging, Inc. ERC-generating facility location: Oaks Plant, Montgomery County Contact Person: Sarah M. Barpoulis (301) 280-6607	VOCs	43.50		Trading
The Procter & Gamble Paper Products Company Source Location: Mehoopany Plant County: Wyoming Contact Person: John Romero (570) 833-3285	NOx VOCs PM	136.00 237.67 99.62	5/3/2009	Internal Use/ Trading
Caparo Steel Company Source: EAF Furnace 2 and Ladle Preheater 2 Source Location: Farrell Plant County: Mercer County Contact Person: Richard A. Herman (724) 983-6464	NOx VOCs	36.73 12.07	8/18/2007	Trading
LTV Steel Company, Inc. Source Location: Pittsburgh Coke Plant County: Allegheny Contact: Person: William L. West (216) 642-7178	NOx VOCs PM-10 SOx CO	1,663.00 373.00 406.00 1,238.00 671.00	2/28/2008	Trading
Newcomer Products Inc. Source Location: Latrobe County: Westmoreland Contact Person: Edward M. Nemeth (724) 694-8100	VOCs	16.00	7/14/2010	Trading
Scranton-Altoona Terminals Corporation Source Location: Monroe Township County: Cumberland County Contact Person: Thomas M. Carper (717) 939-0466	VOCs	4.84	9/30/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Contact Person: David W. Dunn (713) 546-6941	NOx VOCs CO	15.47 0.68 14.86	2/26/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Contact Person: David W. Dunn (713) 546-6941	NOx VOCs CO	2.82 44.34 0.57	4/1/2010	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
INDSPEC Chemical Corp. Source: Boiler 8 Source Location: Petrolia County: Butler Contact Person: Terry Melis (412) 756-2376	NOx SOx	158.68 1,217.95		Trading
Sun Company, Inc. Source: Wastewater Conveyance System Source Location: Marcus Hook Borough County: Delaware Contact Person: Steve Martini (610) 859-1000	VOCs	426.59		Trading/ Internal Use
Columbia Gas Transmission Corporation Source Location: Kent Station County: Indiana Contact Person: Gregory Lago (304) 357-2079	NOx VOCs	44.36 2.66	5/31/2011	Trading
Columbia Gas Transmission Corporation Source Location: Homer Station County: Indiana Contact Person: Gregory Lago (304) 357-2079	NOx VOCs	45.89 3.79	5/31/2011	Trading
ISG Steelton, Inc. Source: Rail Heat Treating and Quenching Source Location: Steelton Plant County: Dauphin Contact Person: James R. Hernjak (717) 986-2042	NOx VOCs	7.00 43.00	11/9/2009	Trading
General Electric Transportation System Source: Boiler 2 Source Location: E. Lake Road County: Erie Contact Person: Mark D. Restifo (814) 875-5406	NOx VOCs PM SOx CO	280.90 1.70 29.50 2,006.70 111.90	12/31/2010	Trading
3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Contact Person: Jeff Muffat (651)-778-4450	VOCs VOCs	502.00 279.00	11/30/2011 12/17/2011	Trading
Kosmos Cement Company, Cemex, Inc. Source Location: Neville Road, Pittsburgh County: Allegheny Contact Person: Amarjit Gill (713) 653-8554	NOx VOCs PM10 SOx CO	910.00 26.00 61.00 442.00 44.00	4/24/2011	Trading
Edgewater Steel Ltd. Source Location: College Avenue, Oakmont County: Allegheny Contact Person: Peter M. Guzanick (412) 517-7217	NOx VOCs PM10 SOx CO	17.05 1.87 5.44 32.29 17.93	8/6/2008	Trading
JG Furniture Group, Inc. Source Location: Quakertown, Bucks County: Bucks Contact Person: Donald Boisselle (336) 410-7263	VOCs	24.40	9/1/2007	Trading
Recipient/Holder of ERC: Maple North America Development Company, LLC ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Contact Person: John Cooper (703) 734-0844	NOx VOCs	104.00 45.00	11/29/2011	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Recipient/Holder of ERC: Natsource Emissions Brokers ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Contact Person: David Oppenheimer (212) 232-5305	NOx VOCs	0.27 1.50	11/29/2011	Trading
Trinity Industries, Inc. Source Location: Greenville County: Mercer County Contact Person: Dennis Lencioni (214) 589-8141	VOCs	61.65	10/31/2010	Trading
Rohm and Haas Company Source Location: Bristol Township County: Bucks Contact Person: Lloyd Davis (215) 785-8871	VOCs VOCs	1.15 0.32	10/30/2010 1/30/2011	Trading
Recipient/Holder of ERC: Waste Management Disposal Services of Pennsylvania ERC Generating Facility: The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Contact Person: Eli Brill (215) 269-2111	VOCs	43.00	1/31/2012	Traded
Recipient/Holder of ERC: Waste Management of Pennsylvania, Inc. ERC Generating Facility: The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Contact Person: Eli Brill (215) 269-2111	VOCs	70.00	1/31/2012	Traded
PPL Inc. Source Location: Holtwood Station County: Lancaster Contact Person: Linda A. Boyer (610)-774-5410	NOx VOCs PM10 SOx	3,521.09 9.70 105.50 13,241.30	4/29/2009	Trading
North American Refractories Company Source Location: Womelsdorf County: Lebanon Contact Person: Rhonda Vete (412) 469-6122	NOx NOx VOCs PM10 SOx CO	5.11 62.57 0.25 15.60 24.85 19.45	12/15/2010 9/30/2008 9/30/2008	Trading
The Quaker Oats Company Source Location: Shiremanstown Plant County: Cumberland Contact Person: Richard C. Pitzer (717) 731-3334	NOx VOCs PM	4.00 1.68 60.49	Varies from 4/3/2010 to 7/15/2011	Trading
Glasgow, Inc. Source Location: Plymouth Meeting County: Montgomery Contact Person: Brian Chabak (215) 884-8800	NOx VOCs NOx VOCs	2.72 0.21 6.54 0.52	12/31/2010 12/31/2010 6/1/2010 6/1/2010	Trading
Scranton-Altoona Terminals Corporation Source Location: East Freedom Terminal County: Cumberland County Contact Person: Thomas M. Carper (717) 939-0466	VOCs	9.19	4/1/2009	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
SLI Lighting Inc. Source Location: Ellwood City County: Lawrence Contact Person: Tim Haubach (724) 752-6493	VOCs	5.70	6/3/2010	Trading
National Fuel Gas Supply Corp. Source Location: Van Compressor St., Cranberry Town County: Venango Contact Person: Gary A. Young (814) 871-8657	NOx VOCs	80.90 0.65	7/19/2006	Trading
Harvard Industries, Inc. Plant name: Pottstown Precision Casting Inc. Source Location: West Pottsgrove Township County: Montgomery Contact Person: Allan B. Currie, Jr. (517) 740-2991 or (517) 592-3706	NOx VOCs	28.25 8.70	11/12/2011	Trading
Recipient/Holder of ERC: Morgan Stanley Capital Group Inc. ERC Generating Facility: Occidental Chemical Corp. ERC Generating Source Location: Pottsgrove Township County: Montgomery Contact Person: Trevor Woods (212) 761-8895	NOx	71.40	2/28/2007	Trading
Recipient/Holder of ERC: Kvaerner Philadelphia Shipyard, Inc. ERC Generating Facility: Occidental Chemical Corp. ERC Generating Source Location: Pottsgrove Township County: Montgomery County Contact Person: Michael Masington (215) 875-2649	NOx	50.00	2/28/2007	Trading
Alcoa, Inc. Source Location: Lebanon Township County: Lebanon Contact Person: Kevin S. Barnett (412) 553-2094	VOCs	507.43	Varies from 9/29/2010 to 5/1/2012	Trading
American Color Graphics, Inc. Formerly Flexi-Tech Graphics, Inc. Source Location: Barnhart Drive, Hanover County: York Contact Person: Glenn Shaffer (717) 792-8104	VOCs	9.60	1/15/2012	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Contact Person: Wendy Cooper (610) 286-7434	VOCs	42.61	3/29/2012	Trading
Williams Generation Company Source Location: Hazleton Co-Gen Facility County: Luzerne Contact Person: Terrie Blackburn (918) 573-9766	NOx PM10 SOx CO	794.60 50.40 308.40 89.50	1/31/2007	Trading
Calumet Lubricants Company Source Location: Rouseville Plant County: Venango Contact Person: Daniel R. Chapman (814) 678-4602	NOx VOCs SOx	89.80 2.38 87.70	5/21/2012	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Avery Dennison Corporation Source Location: Dungan Road County: Philadelphia Contact Person: Frank J. Brandauer (626) 398-2773	VOCs	3.13	6/30/2012	Trading
Henry Miller Spring & Manufacturing Company Source Location: Sharpsburg County: Allegheny Contact Person: David J. Jablonowski (412) 782-7300	NOx VOCs	10.96 36.47	1/22/2010	Trading
Penco Products, Inc. Source Location: Lower Providence Township County: Montgomery Contact Person: Allan J. Goss (610) 666-0500	NOx VOCs	3.11 29.48	10/1/2011	Trading
Norfolk Southern Railway Co. Source Location: Hollidaysburg Car Shop County: Blair Contact Person: Carl Russo (814) 949-1479	NOx VOCs	4.35 69.80	7/19/2012	Trading
World Kitchen Inc. Source Location: Charleroi Plant County: Washington Contact Person: James Rowlett (724) 489-2288	NOx	251.43		Trading
PPG Industries, Inc. Source Location: Greenwood Township County: Crawford Contact Person: David J. Neal (412) 492-5507	NOx	1,118.50		Trading
Sentry Paint Technologies, Inc. Source Location: Mill Street, Darby County: Delaware Contact Person: Benjamin Breskman (610) 522-1900	VOCs	3.56	4/30/2013	Trading
R. H. Sheppard Company, Inc. Source Location: Coremaking operation in Hanover County: York Contact Person: Julie L. Smith (717) 637-3751	VOCs	14.43	4/15/2013	Trading
International Paper Source: Bleach Plant, Erie Mill County: Erie Contact Person: Gary Morrow (814) 870-6782	VOCs	72.06		Trading
International Paper Source Location: Erie Mill County: Erie Contact Person: Gary Morrow (814) 870-6782	NOx VOCs	1,235.00 943.00	9/30/2012	Trading
Corning Incorporated Source Location: College Township County: Centre Contact Person: Douglas A. Wolf (607) 974-4267	NOx	1,400.01	6/23/2013	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Sea Gull Lighting Products, Inc. Source Location: 25th & Wharton St. County: Philadelphia Contact Person: Mark Gardiner (215) 468-7255	VOCs	12.50	3/1/2013	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Contact Person: Wendy Cooper (610) 286-7434	NOx CO	2.90 1.30	10/20/2013	Trading
Recipient/Holder of ERC: First Quality Tissue, LLC ERC Generating Facility: PPL Holtwood, LLC ERC Generation Source Location: Martic Township County: Lancaster Contact Person: Mark Zeffiro (814) 231-5267	NOx	74.98	4/29/2009	Internal Use
Recipient/Holder of ERC: First Quality Tissue, LLC ERC Generating Facility: Alcoa Inc. ERC Generation Source Location: South Lebanon County: Lebanon Contact Person: Mark Zeffiro (814) 231-5267	VOCs	43.72	4/5/2012	Internal Use
Lancaster Malleable Castings Company Source Location: Manheim Township County: Lancaster Contact Person: Jeffrey L. Ressler (717) 295-8200	VOCs CO	11.71 1.30	3/31/2013	Internal use/ Trading
International Paper Source: Lock Haven Mill Source Location: Castanea Township County: Clinton Contact Person: Thomas M. Sauer (570) 740-1211	NOx VOC SOx	1,287.00 27.90 6,606.00	3/22/2012	Offsets/Trading
CMS Gilbreth Packaging Systems Source: Label and Packaging Network County: Bucks Contact Person: Patricia M Henry Unrath (610) 789-2277	VOC	17.40	5/31/2008	Trading
Brodart Company Source Location: Montgomery Facility County: Lycoming Contact Person: Robyn J. Dincher (570) 326-2461 Ext 6408	VOCs	24.91	4/18/2013	Trading
Pennsylvania House White Deer Furniture Plant Source: Conveyor and Monorail lines Source Location: White Deer Plant County: Union Contact Person: Robert J. Varney (570) 523-2356	VOCs	82.90	3/15/2012	Trading
Exelon Power Source: Delaware Generating Station Source Location: Philadelphia County: Philadelphia Contact Person: Kimberly Scarborough (610) 765-5883	NOx	286.5	12/16/2014	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Worthington Steel Company Source Location: East Whiteland Township County: Chester Contact Person: Matt Johnson (614) 438-7960	NOx	10.00	4/1/2013	Trading
Buckeye Pipe Line Company, LP Source Location: Reed Township County: Dauphin Contact Person: Jason Mengel (484) 232-4491	VOCs	12.00	2/28/2012	Trading
Bollman Hat Company Source Location: Willow St., Adamstown County: Lancaster Contact Person: David L. Wails (717) 484-4361	VOCs	14.34	10/3/2013	Trading
Property Investing Center (Goodville Industrial Center) Source Location: East Earl Township County: Lancaster Contact Person: Richard Stauffer (717) 738-3488	VOCs	84.09	9/13/2013	Trading
Armstrong World Industries, Inc. (Lancaster Flooring) Source Location: 1067 Dillerville Road County: Lancaster Contact Person: Gene Hartzell (717) 396-3668	VOC NOx	31.79 1.9	9/1/2013 to 8/20/2014 8/20/2014	Internal use/ Trading
RUTGERS Organics Corporation Source Location: 201 Struble Road, State College County: Centre Contact Person: Mary Jo Smith (814) 231-9277	NOx NOx VOC	5.27 3.35 2.17	8/15/2013 4/16/2014 3/26/2014	Internal use/ Trading
AK Steel Corporation Source Location: Butler County: Butler Contact Person: Robert J. Hocks (724) 284-2685	NOx NOx NOx	28.55 24.82 139.45	11/6/2011 01/30/2012	Trading/ Internal use
Cabinet Industries, Inc. Source Location: Danville Borough County: Montour Contact Person: Laura Lee Spatzer (570) 275-1400, Ext 1400	VOC	7.29	9/1/2015	Trading
Honeywell-International Source Location: Emlenton Plant County: Venango Contact Person: Shane Dunn (814) 887-4081	VOC	49.82	4/30/2010	Trading
Naval Surface Warfare Center, Carderock Division Source Location: Philadelphia Naval Shipyards County: Philadelphia Contact Person: Michael Santella (215) 897-1315; DSN 443	NOx	116.50 157.50	9/30/2007 9/30/2008	Internal use
Eljer Plumbingware, Inc. Source: Ford City Plant Source Location: Ford City County: Armstrong Contact Person: Bill Harasty (724) 763-6233	NOx VOC NOx VOC NOx VOC	85.68 3.22 73.06 2.64 55.48 1.40	3/15/2014 6/8/2014 10/4/2014	Trading

**Bureau of Air Quality
Summary of ERC Transaction**

The following ERC transactions are approved by the Bureau of Air Quality, Department of Environmental Protection. The ERC transaction requirements are specified in 25 Pa. Code § 127.208.

ERC Holder/Generating Facility Information

ERC Generating Facility Name: Alcoa, Inc.
Location of Source: Lebanon Township, Lebanon County, PA
Certified ERCs (tpy): 570.43 tpy of VOCs and 48.86 tpy of NOx
Amount of ERCs traded to Purchaser/Recipient: 48.86 tpy of NOx; 63 tpy of VOC
Date of ERCs Transfer: 01/25/2006; 02/10/2006
ERCs available for future use: 507.43 tpy of VOCs

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Alcoa Extrusions, Inc.
Location of Source: Cressona, Schuylkill County, PA
Permit Number: NA
NOx credits used: 0
NOx credits available for future use: 48.86 tpy

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: R. R. Donnelley and Sons Company
Location of Source: Lancaster, Lancaster County, PA
Permit Number: 36-05027G
VOC credits used: 0
VOC credits available for future use: 63 tpy

ERC Generating Facility Information

ERC Generating Facility Name: 3M Company
Location of Source: Bristol Township, Bucks County, PA
Certified ERCs (tpy): 607 tpy of VOCs
Amount of VOC ERCs traded to Purchaser/Recipient: 61 tpy; 44 tpy
Date of ERCs Transfer: 7/20/2005; 5/9/2006
ERCs available for future use: 502 tpy of VOCs

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Sunoco Inc.
Location of Source: Ten Penn Center, 1801 Market Street, Philadelphia, PA 19103
Amount of ERCs received: 61 tpy of VOC
Intended Use: Offsets
VOC credits available for future use: 61

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Dominion Cove Point LNG, LP
Location of Source: Maryland
Plan Approval Number: NA
VOCs credits used: 0 tpy
VOC credits available for future use: 44

ERC Holder/Generating Facility Information

ERC Generating Facility Name: Metallized Paper Corporation of America
Recipient/ Holder: PNC Bank, National Association, assignee (by private lien foreclosure)
Location of Source: McKeesport, Allegheny County, PA
Certified ERCs (tpy): 41.70 tpy of VOCs
Amount of ERCs traded to Purchaser/Recipient: 41.70 tpy of VOCs
Date of ERCs Transfer: 05/24/2006
ERCs available for future use: 0

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Truck Accessories Group, Inc.
Location of Source: Leer's East Milton Facility, PA
Permit Number: NA
VOC credits used: 0
VOC credits available for future use: 41.70 tpy

ERC Holder/Generating Facility Information

ERC Generating Facility Name: PPL Holtwood, LLC
Location of Source: Martic Township, Lancaster County, PA
Certified ERCs (tpy): 4031 tpy of NOx, 9.7 tpy of VOCs, 13341.30 and 105.50 tpy of PM10.
Amount of ERCs traded to Purchaser/Recipient: 262 tpy of NOx; 67 tpy of NOx; 181 tpy of NOx; 100 tpy of SOx
Date of ERCs Transfer: 9/30/2003; 6/18/04; 10/19/2004; 06/15/2006
ERCs available for future use: 3521.09 tpy of NOx, 9.7 tpy of VOCs, 13241.30 and 105.50 tpy of PM10

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: Sunoco, Inc.
 Location of Source: Philadelphia
 Permit Number: Nil
 SOx credits used: 100 tpy
 SOx credits available for future use: 0

Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

Southcentral Region: Waste Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

The Department of Environmental Protection (Department) approved the Perry County Municipal Waste Management Plan Revision on June 22, 2006.

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 may 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 to 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.

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472 or to Mark Vottero, Regional Planning and Recycling Coordinator, Bureau of Waste Management at the Regional Office previously noted.

Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

Northcentral Region: Waste Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

The Department of Environmental Protection (Department) approved the Centre County Municipal Waste Management Non-Substantial Plan Revision on June 2, 2006.

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 may 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 to 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.

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The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472 or to Michelle Ferguson, Regional Planning and Recycling Coordinator, Bureau of Waste Management at the Regional Office previously noted.

Planning Grant Awards Under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, Section 901 and Section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste

processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by Sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Northwest	Crawford	Crawford County	Recycling Study	\$41,070

[Pa.B. Doc. No. 06-1276. Filed for public inspection July 7, 2006, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Ozone for the Lancaster Ozone Nonattainment Area; Public Hearing

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. The Lancaster County ozone nonattainment area has met the health-based National ambient air quality standard for ozone based on 2003—2005 concentrations. Therefore, the Department of Environmental Protection (Department) plans to submit a request to the United States Environmental Protection Agency (EPA) to redesignate this area to attainment. The Department is seeking public comment on this request, the 2002 base year inventory and a State Implementation Plan revision setting forth a maintenance plan demonstrating that the area can maintain the standard for the next 10 years as required under section 175A(a) of the Federal Clean Air Act (42 U.S.C.A. § 7505a). The maintenance plan, once found adequate by the EPA, will also establish new motor vehicle emission budgets for purposes of transportation conformity.

This proposal is available on the Department's website at www.depweb.state.pa.us (choose Air Topics) or through the contact persons listed as follows.

The Department will hold a public hearing to receive comments on the proposal on Tuesday, August 8, 2006, at 1 p.m. at the Southern Market Center, Rooms 1 and 2, corner of South Queen and Vine Streets, Lancaster, PA. Use the Vine Street entrance. Parking is available at the King Street Garage.

Persons wishing to present testimony at the hearing should contact Cheryl Minnich, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-6548 or chminnich@state.pa.us to reserve a time. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact J. Wick Havens at (717) 787-6548. TDD users

may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Comments must be received by the Department by August 11, 2006. Written comments should be sent to J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, chminnich@state.pa.us. Use "Lancaster SIP" in the subject line.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1277. Filed for public inspection July 7, 2006, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Win For Life® '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:

1. *Name:* The name of the game is Pennsylvania Win For Life® '06.

2. *Price:* The price of a Pennsylvania Win For Life® '06 instant lottery game ticket is \$2.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania Win For Life® '06 instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania Win For Life® '06 instant lottery game ticket will also contain a "Fast Cash Bonus" area.

(b) The prize play symbols and their captions located in the play area for "Game 1" are: \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$8⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

(c) The play symbols and their captions located in the play area for "Game 2" are: Keystone symbol (KYSTN) and an X Symbol (XXX).

(d) The play area for "Game 3" will contain a "YOUR NUMBERS" area and a "LUCKY NUMBERS" area. The play symbols and their captions located in the "YOUR NUMBERS" area and the "LUCKY NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

(e) The prize play symbols and the play symbol and their captions located in the "Fast Cash Bonus" area are: \$4⁰⁰ (FOR DOL), \$8⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY) and TRY AGAIN (NO BONUS).

4. *Prize Symbols:*

(a) The play area for "Game 2" will contain a "PRIZE" area. The prize symbols and their captions located in the "PRIZE" area for "Game 2" are: \$2⁰⁰ (TWO DOL), \$4⁰⁰

(FOR DOL), \$8⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

(b) The play area for "Game 3" will contain six "Prize" areas. The prize symbols and their captions located in the six "Prize" areas for "Game 3" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

5. *Prizes:* The prizes that can be won in "Game 1" and "Game 2" are: \$2, \$4, \$8, \$20, \$25, \$50, \$150 and \$1,000 a week for life (\$1 million lifetime minimum). The prizes that can be won in "Game 3" are: \$1, \$2, \$4, \$20, \$25, \$50, \$150 and \$1,000 a week for life (\$1 million lifetime minimum). The prizes that can be won in the "Fast Cash Bonus" area are: \$4, \$8, \$20, \$25 and \$50. The player can win up to seven times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 19,200,000 tickets will be printed for the Pennsylvania Win For Life® '06 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching prize play symbols of LIFE (\$1,000/WEEK) in the play area, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1 million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life® '06 prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets with three matching prize play symbols of \$150 (ONEHUNFTY) in the play area, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets with three matching prize play symbols of \$50\$ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with three matching prize play symbols of \$25\$ (TWY FIV) in the play area, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching prize play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching prize play symbols of \$8⁰⁰ (EGT DOL) in the play area, on a single ticket, shall be entitled to a prize of \$8.

(7) Holders of tickets with three matching prize play symbols of \$4⁰⁰ (FOR DOL) in the play area, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching prize play symbols of \$2⁰⁰ (TWO DOL) in the play area, on a single ticket, shall be entitled to a prize of \$2.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of LIFE (\$1,000/WEEK) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1

million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life® '06 prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$150 (ONEHUNFTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$50\$ (FIFTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$25\$ (TWY FIV) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$20\$ (TWENTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$8⁰⁰ (EGT DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$8.

(7) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$4⁰⁰ (FOR DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching Keystone (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$2⁰⁰ (TWO DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$2.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of LIFE (\$1,000/WEEK) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1 million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life® '06 prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$150 (ONEHUNFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$4⁰⁰ (FOR DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(7) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY

NUMBERS" play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(8) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(d) Determination of prize winners for the "Fast Cash Bonus" are:

(1) Holders of tickets with a prize play symbol of \$50\$ (FIFTY) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$50.

(2) Holders of tickets with a prize play symbol of \$25\$ (TWY FIV) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$25.

(3) Holders of tickets with a prize play symbol of \$20\$ (TWENTY) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$20.

(4) Holders of tickets with a prize play symbol of \$8⁰⁰ (EGT DOL) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$8.

(5) Holders of tickets with a prize play symbol of \$4⁰⁰ (FOR DOL) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$4.

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>Fast Cash Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 19,200,000 Tickets</i>
		\$2		\$2	20	960,000
	\$2		\$2	\$2	20	960,000
\$4		\$4		\$2	21.43	896,000
	\$4			\$4	750	25,600
		\$2	\$4	\$4	750	25,600
	\$2		\$4	\$4	750	25,600
		\$2	\$1 × 2	\$4	1,500	12,800
	\$2		\$1 × 2	\$4	150	128,000
		\$2	\$1 × 4	\$4	150	128,000
\$8	\$2	\$2		\$4	115.38	166,400
		\$8		\$4	150	128,000
	\$8			\$8	750	25,600
		\$4		\$8	750	25,600
\$4		\$4		\$8	750	25,600
\$4	\$2	\$2	\$1 × 4	\$8	500	38,400
\$4		\$2		\$8	500	38,400
\$4	\$2	\$2	\$2	\$8	500	38,400
		\$2	\$1 × 6	\$8	500	38,400
\$20	\$20			\$20	1,500	12,800
		\$20		\$20	1,500	12,800
			\$20	\$20	1,500	12,800
\$8	\$8		\$20	\$20	1,500	12,800
\$8			\$2 × 2	\$20	750	25,600
			\$4 × 3	\$20	750	25,600
			\$4 × 5	\$20	750	25,600
\$25				\$25	375	51,200

<i>Fast Cash Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 19,200,000 Tickets</i>
	\$25			\$25	750	25,600
		\$25		\$25	750	25,600
			\$25	\$25	750	25,600
\$50				\$50	1,017	18,880
	\$50			\$50	1,200	16,000
		\$50		\$50	1,200	16,000
\$25			\$25	\$50	1,200	16,000
\$25	\$25			\$50	1,200	16,000
	\$25	\$25		\$50	1,200	16,000
\$20	\$20		\$2 × 5	\$50	1,200	16,000
	\$150			\$150	60,000	320
		\$150		\$150	60,000	320
			\$150	\$150	60,000	320
	\$50		\$50 × 2	\$150	60,000	320
\$50	\$50	\$50		\$150	60,000	320
\$50	\$50		\$50	\$150	60,000	320
	LIFE			\$1,000/WK/LIFE	19,200,000	1
		LIFE		\$1,000/WK/LIFE	19,200,000	1
			LIFE	\$1,000/WK/LIFE	9,600,000	2

FAST CASH BONUS—Reveal prize amount between \$4 and \$50, win that prize.
 GAME 1—Get 3 like amounts, win that prize. Get three “LIFE” symbols, and win \$1,000 a week for life.
 GAME 2—Get three “KEYSTONE” symbols in a row, column or diagonal, win prize shown. When the prize won is “LIFE,” you win \$1,000 a week for life.
 GAME 3—When any of “YOUR NUMBERS” match either “LUCKY NUMBER,” win the prize shown under the matching number. When the prize under the matching number is “LIFE,” you win \$1,000 a week for life.

Prizes, including the top prizes, are subject to availability at the time of purchase.

9. *Claiming of Prizes.* For purposes of claiming the \$1,000 a week for life prize under the Pennsylvania Win For Life® '06 game, “lifetime” for legal entities shall be defined as 20 years beginning the date the prize is claimed. Only one claimant per ticket is allowed for the \$1,000 a week for life prize.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Win For Life® '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).

11. *Unclaimed Prize Money.* For a period of 1 year from the announced close of Pennsylvania Win For Life® '06, prize money from winning Pennsylvania Win For Life® '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 Win For Life® '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.

12. *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.

13. *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 Win For Life® '06 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1278. Filed for public inspection July 7, 2006, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Medical Advisory Board Meeting

The Medical Advisory Board, established under 75 Pa.C.S. § 1517 (relating to Medical Advisory Board), will meet on Thursday, July 27, 2006, at 10 a.m. in Transportation University Room 409, 4th Floor, Department of Transportation, Riverfront Office Center, 1101 S. Front Street, Harrisburg, PA 17106. The meeting is open to the public.

The meeting location is accessible to persons with disabilities. Persons with special needs or requiring special aids are requested to contact Tanja Staznik, Department of Transportation, Bureau of Driver Licensing at (717) 705-6799 prior to the meeting so that disability needs may be accommodated.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 06-1279. Filed for public inspection July 7, 2006, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

JDM Materials Company v. DEP; EHB Doc. No. 2006-157-MG

JDM Materials Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to JDM Materials Company for a facility in Schuylkill Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 06-1280. Filed for public inspection July 7, 2006, 9:00 a.m.]

JDM Materials Company v. DEP; EHB Doc. No. 2006-158-MG

JDM Materials Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to JDM Materials Company for a facility in Schuylkill Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 06-1281. Filed for public inspection July 7, 2006, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Environmental Quality Board Meeting Cancellation

The July 18, 2006, Environmental Quality Board (Board) meeting has been cancelled. The next meeting of the Board is scheduled for Tuesday, August 15, 2006, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. An agenda and meeting materials for the meeting will be available on the Department of Environmental Protection's website at www.depweb.state.pa.us (DEP Keyword: EQB).

Questions concerning the Board's next scheduled meeting should be directed to Natalie Shepherd, (717) 783-8727, nshepherd@state.pa.us.

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 06-1282. Filed for public inspection July 7, 2006, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council has scheduled the following meetings: Wednesday, July 12, 2006, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m.; Thursday, July 13, 2006, Council Meeting—10 a.m. The meetings will be held in the Conference Room, Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101 or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 06-1283. Filed for public inspection July 7, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Armstrong County Memorial Hospital; Prehearing

Appeal of Armstrong County Memorial Hospital under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-017

On or before July 12, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 24, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 2, 2006. Each party shall provide a telephone number to be used

for the telephone conference to the Hearings Administrator on or before July 28, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 19, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 26, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1284. Filed for public inspection July 7, 2006, 9:00 a.m.]

Butler Memorial Hospital; Prehearing

Appeal of Butler Memorial Hospital under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-011

A prehearing telephone conference initiated by this office is scheduled for July 19, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 14, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed on or before July 5, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 12, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1285. Filed for public inspection July 7, 2006, 9:00 a.m.]

Scott M. Goldman, M. D.; Prehearing

Appeal of Scott M. Goldman, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-012

On or before July 12, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 5, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 2, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 28, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 19, 2006, with the

Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 26, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1286. Filed for public inspection July 7, 2006, 9:00 a.m.]

Howard M. Hammer, D. O.; Prehearing

Appeal of Howard M. Hammer, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-013

On or before July 12, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 19, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 3, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 28, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 19, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 26, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1287. Filed for public inspection July 7, 2006, 9:00 a.m.]

Hyung-Bae Kim, M. D.; Prehearing

Appeal of Hyung-Bae Kim, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-018

A prehearing telephone conference initiated by this office is scheduled for July 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 14, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 7, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street,

Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1288. Filed for public inspection July 7, 2006, 9:00 a.m.]

David A. Klees, D. O.; Prehearing

Appeal of David A. Klees, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-05-053

On or before July 6, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 24, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 27, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 21, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 13, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 20, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1289. Filed for public inspection July 7, 2006, 9:00 a.m.]

John Keun-Sang Lee, M. D.; Prehearing

Appeal of John Keun-Sang Lee, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-015

On or before July 12, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 18, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 3, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 28, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 19, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Sev-

enth Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 26, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1290. Filed for public inspection July 7, 2006, 9:00 a.m.]

Leighton Emergency Medical Associates, PC; Prehearing

Appeal of Leighton Emergency Medical Associates, PC under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-016

A prehearing telephone conference initiated by this office is scheduled for July 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 17, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 4, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1291. Filed for public inspection July 7, 2006, 9:00 a.m.]

Robert J. Pearlstein, D. O. and Suburban Geriatrics, Inc.; Prehearing

Appeal of Robert J. Pearlstein, D. O. and Suburban Geriatrics, Inc. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-019

On or before July 12, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 5, 2006, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 2, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 28, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 19, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 26, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1292. Filed for public inspection July 7, 2006, 9:00 a.m.]

Pocono Medical Center; Prehearing

Appeal of Pocono Medical Center under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-014

A prehearing telephone conference initiated by this office is scheduled for July 21, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before July 17, 2006. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 4, 2006, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before July 14, 2006.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1293. Filed for public inspection July 7, 2006, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Kerem Baran; file no. 06-119-17433; Travelers Personal Insurance Co.; doc. no. P06-05-037; July 27, 2006, 10 a.m.

Appeal of Jennifer Rogers; file no. 06-130-19604; Erie Insurance Exchange; doc. no. P06-06-020; August 2, 2006, 10 a.m.

Appeal of Sharon L. Terek; file no. 06-119-18204; AIG Insurance Co.; doc. no. P06-05-038; July 25, 2006, 10 a.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Wesley Dias, Jr.; file no. 06-265-19696; AIG National Insurance Co.; doc. no. PH06-06-005; August 17, 2006, 3 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Gary and Dawn Hoffman; file no. 06-303-17752; Erie Insurance Exchange; doc. no. P06-05-056; July 13, 2006, 3 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1294. Filed for public inspection July 7, 2006, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Shane Magee; file no. 06-265-18329; Cumberland Mutual Insurance Co.; doc. no. P06-06-007; August 17, 2006, 4 p.m.

Appeal of Louis A. and Tamara Sanchez; file no. 06-266-17832; Erie Insurance Exchange; doc. no. P06-06-026; August 18, 2006, 9 a.m.

Appeal of Daniel Soloman and Sandra Greer; file no. 06-266-18892; Harleysville Mutual Insurance Co.; doc. no. P06-06-006; August 17, 2006, 2 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1295. Filed for public inspection July 7, 2006, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Cumberland County, Wine & Spirits Shoppe #2101, 281 S. Spring Garden Street, Carlisle, PA 17013.

Lease Expiration Date: May 31, 2011

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space. The location must be on Spring Garden Street within 3/4 mile of its intersection with SR 641, Carlisle.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Dauphin County, Wine & Spirits Shoppe #2201, Kline Village Shopping Center, 29 Kline Village, Harrisburg, SR 17104.

Lease Expiration Date: May 31, 2007

Lease retail commercial space to the Commonwealth.

Proposals are invited to provide the Liquor Control Board with approximately 3,800 to 3,900 net useable square feet of new or existing retail commercial space. The location must be within 1/4 mile of South 25th Street and Market Street, Harrisburg.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Dauphin County, Wine & Spirits Shoppe #2212, 1569 W. Harrisburg Pike, Middletown, PA 17057.

Lease Expiration Date: 90-day status since 1/1/06.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,300 to 4,000 net useable square feet of new or existing retail commercial space. The location must be within a 1/2 mile of intersection SR 230 and SR 283 (SR 3032), Middletown.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Franklin County, Wine & Spirits Shoppe #2802, 2105 East Main Street, Waynesboro, PA 17268.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,400 to 3,500 net useable square feet of new or existing retail commercial space. The location must be on SR 16 between Clayton Avenue and Old Route 16 Street, Waynesboro.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Lehigh County, Wine & Spirits Shoppe #3916, Trexler Mall, 6900 Hamilton Boulevard, Trexlertown, PA 18087.

Lease Expiration Date: January 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,900 to 8,000 net useable square feet of new or existing retail commercial space. The location must be on US 22 within 1 1/4 miles of its intersection with SR 100 and Hamilton Boulevard, Trexlertown.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Susquehanna County, Wine & Spirits Shoppe #5804, 1016 Mountain View Plaza, Hallstead, PA 18822.

Lease Expiration Date: July 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,800 to 2,500 net useable square feet of new or existing retail commercial space. The location must be within 2 miles of its intersection with SR 171 and US 11, Hallstead.

Proposals due: July 28, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228
 JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 06-1296. Filed for public inspection July 7, 2006, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Meetings Scheduled and Application Cut-Off Dates

The Fiscal Year 2006-2007 regular meetings and application cut-off dates of the Pennsylvania Infrastructure Investment Authority (PENNVEST) have been scheduled. Meetings of the PENNVEST Board of Directors (Board) will begin at 10:30 a.m. on the following meeting dates.

<i>Application Cut-Off-Dates</i>	<i>Board Meeting Dates</i>	<i>Locations</i>
	Tuesday, July 18, 2006	Governor's Residence
August 29, 2006	Tuesday, October 24, 2006	Dixon University Center
November 14, 2006	Tuesday, January 23, 2007	Governor's Residence
February 20, 2007	Tuesday, April 17, 2007	Dixon University Center

Governor's Residence
 2035 N. Front St.
 Harrisburg, PA

Dixon University Center
 Richards Hall Recital Room
 2986 N. Second St.
 Harrisburg, PA

Funding applications must be received by 5 p.m. on the stated cut-off dates following PENNVEST procedures.

Persons requiring ADA accommodations at the Board meetings should contact Elaine Keisling at (717) 783-4494 or akeisling@state.pa.us.

PAUL K. MARCHETTI,
Executive Director

[Pa.B. Doc. No. 06-1297. Filed for public inspection July 7, 2006, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION

Public Meetings Scheduled

The Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Department of Environmental Protection (Department) have scheduled public meetings in the 15th Floor Conference Room A, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

<i>Board Meeting Dates</i>	<i>Time</i>
July 18, 2006	1 p.m.—2 p.m.
October 24, 2006	1 p.m.—2 p.m.
January 23, 2007	1 p.m.—2 p.m.
April 17, 2007	1 p.m.—2 p.m.

The meetings are scheduled for the purpose of advising the public regarding revisions during Fiscal Year 2006-2007 to the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund Project Priority List and Intended Use Plan.

Persons requiring ADA accommodations should contact Tony Maisano at (717) 772-4055 or amaisano@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary
Department of Environmental Protection
Vice-Chairperson
Pennsylvania Infrastructure Investment Authority
 PAUL K. MARCHETTI,
Executive Director
Pennsylvania Infrastructure Investment Authority

[Pa.B. Doc. No. 06-1298. Filed for public inspection July 7, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Order

Public Meeting held
 June 22, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

*Pennsylvania Public Utility Commission v. MCImetro
 Access Transmission Services, LLC d/b/a Verizon Access
 Transmission Service Introducing Local Tariff
 Termination Service for nonaccess minutes of use;
 Doc. No. R-00050799*

Order

By the Commission:

By an Interim Order (Interim Order) entered on December 2, 2005, this Commission suspended MCImetro

Access Transmission Services, LLC's (MCImetro herein after Verizon ATS¹) Supplement No. 5 to Tariff-Telephone Pa. PUC No. 2, filed on August 2, 2005, to introduce Local Traffic Termination Service (LTTS) for non-access minutes of use, and invited comments from the industry. The proposed state tariff would have established local call terminating compensation rates between Verizon ATS and any Competitive Local Exchange Carrier (CLEC) that does not have an interconnection agreement with Verizon ATS. The Interim Order was published in the *Pennsylvania Bulletin* with comments due in 30 days following publication and reply comments due within 15 days after the comment due date.

In our Interim Order, we indicated our reluctance to approve the tariff based on the proposed interpretation of federal law² and FCC practices in the absence of comments and replies from other interested parties. Our reluctance to approve the tariff was underscored by the absence of similar provisions in other CLEC tariffs.

In addition, the proposed tariff seemed to substantially alter existing CLEC-to-CLEC intercarrier compensation practices in Pennsylvania by replacing the use of bill-and-keep compensation with a reciprocal compensation regime. There was minimal discussion in the pleadings addressing whether the CLECs that would be subject to this substantial change in compensation were aware of the proposal or the legal theory cited in support of the proposal. Finally, the proposed tariff also shifts the burden of interconnection agreements to carriers completing local calls on its network and would have done so while the tariff proponent was in the process of being acquired by an ILEC pursuant to a then-pending merger agreement.

Our Interim Order sought comments from interested members of the public on the following issues:

1. Whether the FCC's overall approach favoring interconnection arbitration and negotiation reflected in the *Core Order* and the *T-Mobile Order* is limited to ILEC-CLEC and ILEC-Wireless and/or agreements.

2. What, if any, role Commission ratification of this proposed tariff could have if, as proposed, where MCI Communications, Inc. may potentially become an affiliate of Verizon Pennsylvania Inc., given that this tariff may become a property right of an ILEC as opposed to a tariff proposal of a CLEC.

3. Whether a Commission-approved default compensation rate by tariff for a CLEC in CLEC-to-CLEC compensation matters continues where MCI may potentially become an affiliate of Verizon Pennsylvania Inc.

4. Whether Verizon ATS usage of the term "non-access minutes of use" is consistent with or contrasts with the general usage of the term in the industry. Typically, "non-access traffic" means telecommunications traffic that is not subject to access charges. It appears there might be a conflict in using such a term as "non-access traffic" for the proposed charge in an Access Tariff. Moreover, the use of the term "non-access" minutes varies even in the FCC Orders cited by [MCI] Verizon ATS.

¹ Upon Commission's approval of an Agreement and Merger of MCImetro Access Transmission Services, LLC's parent company, MCI with Verizon Communications Inc. by Order entered on January 11, 2006, at Docket No. A-310580F0009 et. al., MCImetro filed for a name change to Verizon Access Transmission Services.

² Verizon ATS quoted three Federal Communications Commission Orders 1) ISP Remand Order at FCC 01-1312 (released April 27, 2001); 2) the Core Order at FCC 04-2412 (released October 18, 2004), and the T-Mobile Order at FCC 05-422 (released February 24, 2005) in support of the proposed tariff. Verizon ATS avers that the three orders collectively allow Verizon ATS to charge other CLEC carriers compensation rates at state-approved rates when terminating non-access minutes of use below a 3:1 ratio of Terminating to Originating Non-Access Minutes of Use if the carrier has no interconnection agreement with Verizon ATS and the traffic is neither wireless nor ILEC.

5. Whether the proposed charge for local traffic transmitted between LECs in the form of "non-access charge" in just one carrier's tariff is in violation of Section 251(b)(5) of the 1996 Telecommunications Act, which obligates LECs to establish reciprocal compensation arrangements through an interconnection agreement for the transport and termination of local telecommunication traffic and also specifies that LECs and interconnecting local exchange carriers compensate each other for termination of local traffic on a reciprocal basis.

6. Whether the proposed charge is within the constraints of Section 3017 of Chapter 30 (66 Pa.C.S. § 3017), which prohibits a CLEC from charging access rates higher than those charged by an ILEC in the same service territory, absent a demonstration that costs justify a higher access rate.

We note that Verizon ATS agreed to remove the confidentiality treatment it requested earlier to its responses to Staff's questions that was filed on September 14, 2005. This was indicated in a Secretarial letter on January 31, 2006, that made it possible for interested parties to review and copy that information at the Commission's offices during normal hours.

The Commission, by way of a Secretarial letter addressed to counsel for Verizon Communications, Inc. and Broadband Cable Association of Pennsylvania, extended the deadline for filing a Comment from January 17, 2006, to January 31, 2006. Likewise, the deadline for Reply Comment was extended until February 15, 2006.

Comments and Reply Comments

The Commission received comments in response to the Interim Order. The entities submitting comments were CLEC Group of Companies (CGC comprised of Armstrong Telecommunications, Inc. D & E Systems, Inc. & Penn Telecom, Inc.), US LEC of Pennsylvania (US LEC), Broadband Cable Association of Pennsylvania (BCAP), PAETEC Communications, Inc. (PAETEC), and Verizon Access Transmission Services f/k/a MCImetro Access Transmission Services LLC (Verizon ATS).

The comments filed by CGC state that the Verizon ATS proposed tariff service offering is blatantly not a "reciprocal compensation arrangement" in accordance with the FCC's rules and regulations, but a unilateral compensation arrangement created for the sole benefit of Verizon ATS and thus be rejected. CGC cited the FCC's *T-Mobile Order* for the proposition that FCC is moving away from state-approved "tariff-based" compensation imposed on all carriers in favor of negotiated agreements between carriers. CGC emphasis in the FCC *T-Mobile Order* supports for negotiation-based rather than tariff-based compensation arrangement.

US LEC disagrees with Verizon ATS' charge for "non access traffic" in the absence of negotiations. US LEC believes that these traffic compensation arrangements cannot be determined without negotiating reciprocal arrangements and symmetrical rates through an agreement with the other LEC involved in the exchange of traffic. US LEC insists that Section 251(b)(5) of the Act imposes on all local exchange carriers a duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic. US LEC further states that FCC rule Section 711 also requires state commissions to establish symmetrical rates whether they are between incumbents or non-incumbents.

US LEC concludes that one CLEC may not file a tariff to unilaterally establish terms, conditions and rates for the transport and termination of local traffic. US LEC

requests that the Commission reject the Verizon ATS tariff revisions for implementation of LTTS.

BCAP submits that the Telecommunications Act of 1996 (TA-96) requires all local exchange carriers to enter into reciprocal compensation arrangements for the transport and termination of telecommunications. BCAP stresses that a tariff is not a negotiated reciprocal compensation arrangement. BCAP concludes that the FCC's rules stand for the proposition that negotiation, as opposed to state-approved tariffs, are preferred for these kinds of compensation arrangements. BCAP urges the Commission to reject this attempt to establish compensation by unilateral state-level tariff filings.

PAETEC is concerned that the Verizon ATS LTTS tariff will eliminate any incentive for Verizon ATS to negotiate interconnection and or tariff exchange agreements in the future. PAETEC notes that negotiations for almost a year with Verizon ATS for multi-state interconnection agreements have yet to result in any favorable resolution. PAETEC recommends that the Commission impose a condition in which Verizon ATS is precluded from applying the default compensation rates set forth in the tariff until Verizon ATS notifies all carriers of its intent to bill for such services and requests negotiations for interconnection agreements under Section 252 of the Communications Act, and follows statutory timelines for negotiation and arbitration. PAETEC urges the Commission to allow Verizon ATS to impose the default compensation rates set forth in the tariff only if a local exchange carrier refuses to negotiate or fails to respond to the notice. Finally, PAETEC urges the Commission to allow a local exchange carrier to seek negotiation under Section 252, even after the tariff goes into effect for a local exchange carrier.

PAETEC also has concerns regarding the Verizon ATS broad definition of "non-access minutes of use" that appears to capture the universe of all traffic that is not subject to access charge. However, as seen in the explanation and justification for the charge in the Interim Order, the LTTS tariff would only apply to local traffic. PAETEC wants the Commission to require Verizon ATS to clarify that this charge is limited to local traffic alone. PAETEC notes that if the Commission authorizes these tariff changes to go into effect, other carriers will be encouraged to file similar language that will result in more unilateral rates that ultimately undermine the current bill-and-keep regime.

PAETEC also points out that the Verizon ATS position in this pleading is directly opposite to the position advocated in other federal proceedings. The parent company of Verizon ATS advocates bill-and-keep arrangements in several federal proceedings. Finally, PAETEC states that the LTTS tariff also fails to acknowledge that the FCC's 3:1 ratio is a rebuttable presumption that allows carriers to avail themselves of the "converse rebuttal" that the FCC anticipated in the ISP Remand Order. PAETEC contends that in such situations, the traffic delivered to Verizon ATS should be subject to the ISP-bound rate of \$0.0007, which is less than half of the proposed LTTS rate of \$0.01501. As such, the Commission should allow affected carriers to demonstrate which traffic is ISP-bound and not subject to LTTS rates, even when it falls below the 3:1 ratio.

Verizon ATS maintains that this tariff is necessary and appropriate because there are hundreds of local exchange carriers, particularly CLECs, in Pennsylvania. Verizon ATS contends that an obligation to negotiate compensation arrangements for each and every carrier, as will happen if this tariff is not approved, will create unneces-

sary waste and delay. Verizon ATS is also concerned that negotiating and finalizing interconnection agreements is a lengthy process that does not always lead to mutual agreement. Delay, in this instance, also delays compensation.

Verizon ATS reiterates its legal conclusion that the FCC's interconnection, arbitration and negotiation rules set forth in the *T-Mobile Order* and its progeny do not extend to CLEC-to-CLEC compensation arrangements. Verizon ATS concludes that the FCC's decisions are limited to wire line ILEC-CLEC and ILEC-to-wireless compensation agreements. Verizon ATS relies on the absence of any express language in the FCC's orders specifically discussing CLEC-to-CLEC arrangements as considerations that support its legal theory.

In addition, the proponent maintains that the absence of any change in Verizon ATS' legal status as a result of the subsequent merger supports its conclusion that this is still a tariff proposed by a CLEC to govern CLEC-to-CLEC compensation arrangements.

Verizon ATS rejects the view that the subsequent merger makes this an ILEC tariff proposed for CLEC arrangements.

Verizon ATS maintains that it used the term "non-access minutes of use" in the tariff to convey that the traffic at issue is local traffic and not switched access minutes or ISP-bound. Verizon ATS states that its tariff does not violate Section 251(b)(5), since it does not establish a reciprocal compensation arrangement through an interconnection agreement. Verizon ATS further states that Section 251(b)(5) only imposes a duty on ILECs to establish reciprocal compensation arrangements for the transport and termination of telecommunications as opposed to any obligation to negotiate such arrangements. Moreover, Verizon ATS contends that its status as a CLEC following the merger does not require Verizon ATS to engage in interconnection agreement negotiations with other CLECs, since that obligation is an obligation imposed on ILECs, as opposed to CLECs.

Reply Comments were filed by CGC, BCAP, PAETEC, Choice One Communications of Pennsylvania Inc. (Choice One), and Verizon ATS.

CGC's Reply Comments state that the FCC's *T-Mobile Order* supports movement away from "tariff-based" compensation arrangements in favor of negotiation for compensation for all carriers. CGS claims the *T-Mobile Order* stands for the proposition that negotiated agreements for compensation are more consistent with the pro-competitive provisions and policies of the TA-96 than state-approved, and unilaterally determined, compensation rates by tariff. CGC disagrees with Verizon ATS' claim that TA-96 is limited to interconnection requirements for ILECs and that CLECs are not "legally required" to enter into interconnection agreement negotiations or arbitrations with other CLECs. CGS notes that Verizon ATS fails to cite to any specific provision of TA-96 in support of that interpretation.

CGC maintains that Verizon ATS' reliance on FCC's *T-Mobile Order* is inconsistent and legally unsound. The *T-Mobile Order* essentially closed a loophole where tariffs filed by an ILEC for terminating CMRS traffic were found to be unlawful under the existing rules. CGC contends that the FCC in its *T-Mobile Order* prospectively revised those rules for non-access CMRS traffic and required CMRS traffic arrangements be conducted through negotiated interconnections. CGC states the references in the *T-Mobile Order* that "it would have been permissible to

bill for call termination pursuant to state tariff” means that compensation arrangements are generally determined by negotiation, including CLEC-to-CLEC arrangements, consistent with the prospective change in compensation arrangements for CMRS traffic determined in the *T-Mobile Order*.

CGC states that the novel introduction of a rate relative to “non access” minutes in an Access Tariff is inappropriate because the service is not related to access. CGC also contends that Verizon ATS failed to address the appropriateness of including such a charge in its Access Tariff. CGC urges the Commission to reject the tariff because it is simply a unilateral, one-sided creation for the sole benefit of Verizon ATS and, as such, is not a reciprocal compensation arrangement arrived at through negotiation as required by the *T-Mobile Order* and TA-96.

BCAP challenges Verizon ATS’ basic premise that a uniform tariff is preferable to negotiating contracts notwithstanding TA-96 and the *T-Mobile Order*. BCAP views Verizon ATS’ claim as one not supported by any facts or evidence.

BCAP rejects Verizon ATS’ complaint that other entities will continue to terminate traffic on its network for free because, in BCAP’s view, the FCC’s preference for bill-and-keep compensation allows Verizon ATS to terminate without charge on the network of other CLECs as well. BCAP agrees with US LEC that the FCC’s intercarrier compensation rules expressly contemplate CLEC-to-CLEC agreement in 47 CFR § 51.711(a)(2) when neither party is an ILEC and that Section 211(a) of the Communications Act of 1934 has for decades contemplated contracts with other carriers regarding traffic exchange.

BCAP disagrees with Verizon ATS’ claim that the fact that it is now owned by Verizon Communications is of no importance in assessing its proposed traffic termination tariff. BCAP quotes D.C. Circuit Court observation that “to allow an ILEC to sideslip § 251(c)’s requirements by simply offering telecommunications services through a wholly owned affiliate seems to us a circumvention of the statutory scheme” *Association of Communications Enterprise v. FCC*, 235 F.3d 662 (D.C. Cir. 2001). BCAP opines that it would be troubling indeed for this Commission to countenance a regime in which an affiliate of an ILEC can avoid, with impunity, the ILECs’ obligations under TA-96.

BCAP also supports the US LEC view that the proposed Verizon ATS tariff supplement is little more than a blatant attempt to extract compensation for termination of traffic that is neither reciprocal nor symmetrical. This approach defies sound policy and direction in federal law. That, Verizon ATS’s filed tariff purported to govern terminating “non-access” minutes from CLECs lacks a negotiated traffic exchange or interconnection agreement. Accordingly, BCAP urges the Commission to reject Verizon ATS LTTS tariff.

Finally, BCAP urges that if the Commission is inclined to approve this tariff in some form, it should make two major modifications to the proposed tariff. First, since the overwhelming majority of the traffic Verizon ATS would receive will arrive by means of Verizon’s tandem switch, it should not include tandem functionality in its rate. As such, if the tariff is to take effect in any form, the rate must be reduced by eliminating the portion of the charge related to tandem functionality. Second, since Verizon ATS will not be providing the switching functionality and will be obtaining that functionality from an ILEC, presumably Verizon, it would cause severe risk of double-

counting for the same minutes. In order to avoid such double counting, it must be modified to eliminate any charge from Verizon ATS for traffic sent via wholesale switching obtained from an ILEC.

PAETEC takes issue with Verizon ATS’ legal view that, in the absence of this tariff, Verizon ATS must enter into negotiations and sign contracts with every single CLEC doing business in Pennsylvania, that such negotiations are a needless waste of resources, and that the delay denies Verizon ATS compensation for a number of years. PAETEC finds it “astonishing, self serving and tone deaf” that Verizon ATS, which is part of a multi-billion dollar enterprise with a pre-merger contingent of over 350 in-house lawyers, complains of “drain of resource” while expressing no consideration or sympathy for CLECs that would be required to negotiate with Verizon ATS. PAETEC again asks the Commission to condition approval of the Verizon ATS LTTS tariff with the provision that Verizon ATS may not apply the tariff to any carrier until it has notified the carrier that it intends to bill for service and requests negotiations for an interconnection agreement under Section 252 of the Communications Act.

Choice One states that the Verizon ATS tariff filing must be rejected because it is contrary to the requirements of federal law imposing on all local exchange carriers the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications. Choice One contends that FCC rules contemplate reciprocal compensation arrangements upon request from another carrier. Choice One also claims that in the *T-Mobile Order*, the FCC intended for compensation arrangements to be negotiated agreements and that negotiated agreement between carriers are more consistent with the pro-competitive process and policies reflected in the 1996 Act.

Choice One also challenges Verizon ATS’ contention that the *ISP Remand Order* allows Verizon ATS to assess termination charges on other LECs when there is no interconnection or reciprocal compensation arrangement. Choice One claims that the U.S. Court of Appeal for the D.C. Circuit found that the FCC provided no basis for determining that Section 251(g)(5) “carves out” ISP bound traffic from residential compensation. Choice One claims that the court invalidated the FCC’s use of Section 251(g) and remanded the case to the FCC for further consideration. Moreover, the FCC’s recent decision in its *Core Forbearance Order*³ wherein the FCC forbears from enforcing certain aspects of its interim ISP-bound traffic compensation regime provides no basis for the imposition of unilateral termination charges by state-approved tariff.

Choice One agrees with CGC comments that the practical impact of allowing Verizon ATS to establish a LTTS charge will change the existing system of bill-and-keep. This would create a chaotic environment where the Commission would have to make numerous decisions on whether such tariffed rates were reasonable and the resulting confusion would be bad for competition in Pennsylvania.

Verizon ATS avers that the other CLEC arguments that the tariff violates federal law are because the carriers misinterpret the law and fail to acknowledge the FCC’s findings in the *T-Mobile Order*. Verizon ATS raises the legal conclusion that the Section 252 process is simply inapplicable to CLEC-to-CLEC agreements. Verizon ATS raises the point that the carriers could refuse to negotiate

³ *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. § 160(c) from application of the ISP Remand Order*, 19FCC Red 20179(2004).

with Verizon ATS and it would have no recourse, since mandatory arbitration process in section 252 applies to ILECs.

Verizon ATS claims that it is always open to negotiation with any carrier who is willing to discuss reasonable terms and conditions associated with reciprocal compensation. Verizon ATS notes that some CLECs loosened their views on cost issues only after Verizon ATS submitted the proposed tariff for Commission approval. Verizon ATS urges the Commission to recognize that this proposed tariff had the unintended effect of creating an incentive for other carriers to negotiate with Verizon ATS in the absence of any prior legal obligation to do so.

Verizon ATS claims that the FCC has rejected identical arguments made by CMRS providers that a tariff is not a permissible way to implement reciprocal compensation and conditions because a tariff is not reciprocal or symmetrical as required under Section 251(b)(5) of the Act. In Verizon ATS' view, the FCC requires CMRS providers and ILECs to negotiate reciprocal compensation arrangements, although that obligation was never expressly extended to require CLECs to negotiate and submit to arbitration pursuant to Section 252. Given this legal structure, Verizon ATS contends that without the ability to propose compensation rates by state-approved tariffs that operate in the absence of an interconnection agreement, CLECs like Verizon ATS have no means to recover the cost associated with terminating the local calls of other CLECs.

Verizon ATS counters the argument of BCAP by claiming that there is no longer a difference between ISP-bound traffic and non-ISP bound traffic and that FCC's 3:1 presumption is no longer used. Verizon ATS recognizes that the FCC's *Core Forbearance Order* removed two aspects of the FCC's determination regarding the treatment of ISP-bound traffic but goes on to note that neither of these provisions have any impact on the proposed Verizon ATS LTTS tariff. Verizon ATS contends that BCAP misinterpreted the mirroring rule for ISP-bound traffic. Verizon ATS claims mirroring is only intended to apply to ILECs, while Verizon ATS is a CLEC.

Verizon ATS responds to PAETEC's criticism that its LTTS tariff fails to acknowledge the FCC's 3:1 ratio as a rebuttable presumption. Verizon ATS states that if PAETEC or any other carrier believes that traffic exchanged with Verizon ATS is not local traffic, the carrier can bring the matter to Verizon ATS' attention, and that it does not preclude a carrier from seeking such relief.

Verizon ATS suggests that BCAP reliance on the *Global NAPs* decision as support for rejecting the Verizon ATS LTTS tariff is a misinterpretation of law. In Verizon ATS' view, the *Global NAPs* tariff sought to recover reciprocal compensation for ISP-bound traffic for which it received no compensation under the existing interconnection agreement. The Massachusetts State Commission was in the process of interpreting the parties' interconnection agreement to determine if intercarrier compensation applied to ISP-bound traffic and therefore the FCC deemed the tariff unclear and unlawful. However, Verizon ATS tariff does not present any of the same issues as the *Global NAPs* tariff and only applies when there is no interconnection agreement. In Verizon ATS' view, the *Global NAPs* decision addressed an interpretation of an existing interconnection agreement, whereas the proposed tariff governs in the absence of an interconnection agreement.

Verizon ATS disagrees with BCAP and CGC claims that the interconnection arbitration and negotiation process in Section 252 applied to CLEC-CLEC agreements with the counter argument that they did not provide citation for this presumption. Verizon ATS also claims that CGC misinterprets the FCC's *T-Mobile Order* when it states that the FCC confirmed its direction away from tariff-based compensation arrangement for all carriers. Verizon ATS states that the FCC only recognized that reciprocal compensation was appropriate for ILEC-CMRS negotiation and interconnection agreements.

ANALYSIS AND DISPOSITION

This matter involves a proposed tariff of Verizon ATS that establishes default compensation rates under state law for CLEC-to-CLEC arrangements if the parties have not negotiated a binding interconnection agreement.

The proposed tariff raises questions about whether federal law allows the Commission to reject or accept default compensation rates in state tariffs. The Comments and Reply Comments present significant differences on our legal authority.

The FCC currently preempts the states from establishing compensation rates in state-approved tariffs for ILEC-to-CLEC and ILEC-to-wireless arrangements under the Telecommunications Act of 1996 (TA-96). The FCC takes this action based on their legal conclusion that Section 251(c) of TA-96 requires the preemption of any state tariff that establishes compensation rates because TA-96 requires negotiations on compensation as opposed to establishing compensation rates by state tariff.

Upon consideration, we reject the proposed tariff as discussed in more detail below. The FCC decisions cited in support of, or in opposition to, our authority to approve default compensation rates by tariff are ambiguous and uncertain. Given this ambiguity and uncertainty, we conclude that denial without prejudice is warranted until there is further clarity from the FCC.

Three major FCC decisions illustrate the ambiguity that warrants rejection of the proposed tariff. These cases, discussed in considerable length in the Comments and Reply Comments, are the *ISP Remand Order*, the *Core Order*, and the *T-Mobile Order*.⁴

The first is the *ISP Remand Order*. That Order established interim federal reciprocal compensation rates for dial-up access to the Internet for Internet Service Providers (ISPs) on a Minute-of-Use (MOU) basis. The *ISP Remand Order* established these rates as part of an overall policy of moving Internet access compensation from a MOU basis to a Bill-and-Keep system. The *ISP Remand Order* also created a rebuttable presumption that traffic exceeding a 3:1 ratio of Originating Minutes to Terminating Minutes was ISP traffic subject to these interim compensation rates as well as the growth cap imposed in the *ISP Remand Order*.⁵ Traffic below this 3:1 threshold is not considered ISP traffic, although the rate for this non-ISP traffic had to "mirror" the ISP rate.⁶

The second is the FCC's *Core Forbearance-Order*. The *Core Forbearance-Order* modified the *ISP Remand Order* by abandoning the growth cap and mirroring rate requirements of the *ISP Remand Order*.⁷

⁴ CC Docket No. 01-92, Ex Parte Presentation of Global COM, Inc., January 27, 2006. The Ex Parte presentation, discussed in more detail below, further illustrates the considerable uncertainty and ambiguity about the scope and intent of the *T-Mobile Order*.

⁵ *ISP Remand Order*, paragraph 8.

⁶ *ISP Remand Order*, paragraphs 3 through 8, 66-95.

⁷ *Core Forbearance-Order*, paragraph 24, last sentence. The growth cap and mirroring rules were part of a ruling aimed at developing a unified compensation regime

The third is the *T-Mobile Order*. In the *T-Mobile Order*, the FCC expressly addressed the issue of whether a local exchange carrier could obtain local call terminating compensation from a CMRS carrier using state-approved tariffs in the absence of any interconnection agreement. The *T-Mobile Order* preempts the states from establishing default compensation arrangements for ILEC-to-Wireless arrangements because those arrangements, like the ILEC-to-CLEC arrangements in TA-96, are to be established by negotiation and arbitration. The FCC reached this result after concluding that TA-96 requires negotiations, as opposed to state-approved compensation rates under tariff, as the legally acceptable means of determining wireless-to-wireline traffic compensation.⁸

The main issue here is whether the reasoning set forth in these three decisions includes CLEC-to-CLEC compensation arrangements addressed in the proposed tariff. The Commission could have authority to approve a default compensation rate for CLEC-to-CLEC arrangements, notwithstanding the preemption of that state authority for ILEC-to-CLEC and ILEC-to-wireless compensation in the *T-Mobile Order*, if those arrangements fall outside the general prohibition. This question arises because neither the *T-Mobile Order* nor the other orders contain express language addressing state commission authority to approve default compensation rates for CLEC-to-CLEC arrangements in the absence of a CLEC-to-CLEC interconnection agreement.

Verizon ATS interprets the FCC's silence to mean that states retain authority to establish compensation rates for CLEC-to-CLEC arrangements whenever CLEC-to-CLEC traffic falls outside the 3:1 ratio established in the ISP Remand Order. Verizon ATS apparently interprets the FCC's silence on CLEC-to-CLEC compensation in the *Core Forbearance Order* and the *T-Mobile Order* to allow the Commission to establish a default compensation rate for CLEC-to-CLEC arrangements. Verizon ATS limits the preemption holdings in the *T-Mobile* and *Core* orders to state-approved tariffs for ILEC-to-CLEC and ILEC-to-wireless compensation. Verizon ATS verbally clarified to staff that the proposed compensation rate applies only to CLEC-to-CLEC; that is, non-ISP (i.e., below the 3:1 ratio, and not wireless).

The opponents take an opposite view. In their opinion, the FCC's preemption of state authority to approve default compensation rates set forth in the *T-Mobile* and *Core* orders extends to CLEC-to-CLEC compensation arrangements. The opponents reason that the general language in the *T-Mobile Order* requires LECs to negotiate compensation under TA-96, and not rely on state-approved tariffs. The word "LECS" includes CLECs in their view.

The Commission concludes that these and other related issues should be examined in more detail only after state commissions have the benefit of clarity from the FCC. The ambiguity about the federal law set out in the comments warrant caution.

A cautious approach would avoid precipitous action on federal law and any other matters related to Verizon ATS' proposed tariff at this time. A cautious approach requires rejection of the proposed tariff without prejudice until the FCC provides greater clarity on the scope and intent of federal law; *Therefore*,

premiered on Bill-and-Keep. *ISP Remand Order*, paragraphs 4, 6, 8 and 66-67. The *Core Forbearance-Order* grants limited forbearance. The FCC abandoned these requirements based on a view that the underlying compensation premise reflected in the *ISP Remand Order* e.g., that no cost differences between voice and ISP warrant are sufficient to justify different rates, is less important than unified intercarrier compensation.

⁸ *T-Mobile Order*, paragraphs 9 and 14.

It Is Ordered That:

1. The proposed tariff Supplement No. 5 to Verizon Access Transmission Services, LLC Tariff-Telephone Pa. PUC No. 2, filed August 2, 2005, to introduce Local Traffic Termination Service for non-access minutes of use, suspended until September 2, 2006, is rejected without prejudice.

2. A copy of this Order shall be served on the Pennsylvania Telephone Association, COMPTTEL, in addition to all parties in this case.

3. A copy of this Order shall be published in the *Pennsylvania Bulletin* and posted on the Commission's website.

4. The file be marked closed.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1299. Filed for public inspection July 7, 2006, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by July 31, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to *begin operating as common carriers* for transportation of *persons* as described under the application.

A-00122741. Northeast EMS Corporation t/a Northeast EMS (299 Industrial Park Road, Suite 2A, Nazareth, Northampton County, PA 18064)—a corporation of the Commonwealth—persons in paratransit service from points in the Counties of Lehigh, Northampton, Monroe and Carbon, to points in Pennsylvania, and return. *Attorney:* Christopher McLean, Zator Law Offices, American Heritage Building, 4400 Walbert Avenue, Allentown, PA 18104.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Signature Van Lines, Inc.;
Doc. No. C-20066222

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section

701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Signature Van Lines, Inc., respondent, operates its business from 10 Industrial Park Dr., Mount Pocono, Pennsylvania, 18466.

2. That respondent does not hold a certificate of public convenience issued by this Commission to conduct intrastate moves of household goods. Respondent was notified by this Commission on September 30, 2004 (IC-237) and then again on October 28, 2004 (IC-249), that insufficient authority existed to perform intrastate moves of household goods.

3. That respondent did make an intrastate household move for complainant Anthony Diaz from Tannersville, Pennsylvania to East Stroudsburg, Pennsylvania, on the dates of October 8-9, 2005.

4. That respondent, in performing the act described in Paragraph 3 of this complaint, violated the Public Utility Code, 66 Pa.C.S. § 1101, in that respondent transported household goods for compensation between points in the Commonwealth of Pennsylvania while not holding a certificate of public convenience issued by this Commission. The penalty is \$1,000.00. Future violations may result in possible criminal prosecution with penalties up to \$10,000.00 and one year in prison.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Signature Van Lines, Inc. the sum of one thousand dollars (\$1,000.00) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision. The judge is not bound by the optional fine.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 783-5945.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1300. Filed for public inspection July 7, 2006, 9:00 a.m.]

Telecommunications Service

A-311373F0002AMA and A-311373F0002AMB.
Salsgiver Telecom, Inc. Application of Salsgiver Telecom, Inc. for approval to offer, render, furnish or supply telecommunications services to the public as a facilities based reseller of competitive local exchange in the service territories of Alltel Pennsylvania, Inc. and North Pittsburgh Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 24, 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: Salsgiver Telecom, Inc.

Through and By Counsel: Alan C. Kohler, Esquire,
Wolf, Block, Schorr and Solis-Cohen, LLP, P. O. Box 865,
Harrisburg, PA 17108-0865

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1301. Filed for public inspection July 7, 2006, 9:00 a.m.]

Tentative Order

Public Meeting held
June 1, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Application of Local Line America, Inc. (2005.0257.00);
Doc. No. A-311213

Tentative Order

By the Commission:

Local Line America, Incorporated (Local Line) has failed to file its initial tariff with the Commission. Failure to file an initial tariff violates provisions of 66 Pa.C.S. § 1302. Specifically, 66 Pa.C.S. § 1302 provides that:

Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission.

Law Bureau Prosecutory Staff has unsuccessfully attempted telephone contact with Local Line and believes that the company is no longer in business.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506 and 3301.

Local Line was granted a certificate of public convenience by the Commission on June 20, 2004 at A-311213.¹ Based upon the findings of the Prosecutory Staff, we believe that it is appropriate to revoke Local Line's certificate without the necessity of first filing a complaint. Finally, we are not aware that Local Line has any current customers in Pennsylvania, and Local Line is not assigned any NXX codes.

For these reasons, we tentatively conclude that revocation of Local Line's certificate pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Local Line seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. Local Line America, Inc.'s certificate of public convenience is hereby tentatively revoked. That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving all persons having an interest in this proceeding 30 days from the date of publication to file a written response.

2. Absent the filing of adverse public comment 30 days after the publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further order of this Commission.

¹ Consistent with our Implementation and Reconsideration Orders in M-00960799 (June 3, 1996 and September 9, 1996), and with Section 1302 of the Public Utility Code, Local Line is obligated to file and to maintain on file appropriate tariffs with this Commission. Local Line was reminded of its obligation to file its Initial Tariff by our June 24, 2005 Order approving the transfer of control of Local Line to Inflexion Communications Corp.; Local Line was given 60 days (or 120 days if an extension was requested) to comply and notice that its authority would be revoked without further Commission order for a failure to comply. Local Line was again reminded of the obligation by Secretarial Letter dated November 1, 2005; given 30 days to comply; and put on notice that failure to comply could result in prosecution, fines, and/or revocation of its certificate of public convenience. There has been no compliance.

3. Upon this Tentative Order becoming final and without further action by the Commission, the certificate of public convenience held by Local Line America, Inc. at A-311213 shall be revoked, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

4. A copy of this Tentative Order be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1302. Filed for public inspection July 7, 2006, 9:00 a.m.]

Water Service

A-210104F0075. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Pennsbury Township, Chester County, PA, known as Johnson Farms Development.

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: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1303. Filed for public inspection July 7, 2006, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 12, 2006 James J. Harris (D) 1 p.m.
(Member's Benefit Paid to a Trust)

Persons with a disability who wish to attend the listed hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 06-1304. Filed for public inspection July 7, 2006, 9:00 a.m.]
