

# PENNSYLVANIA BULLETIN

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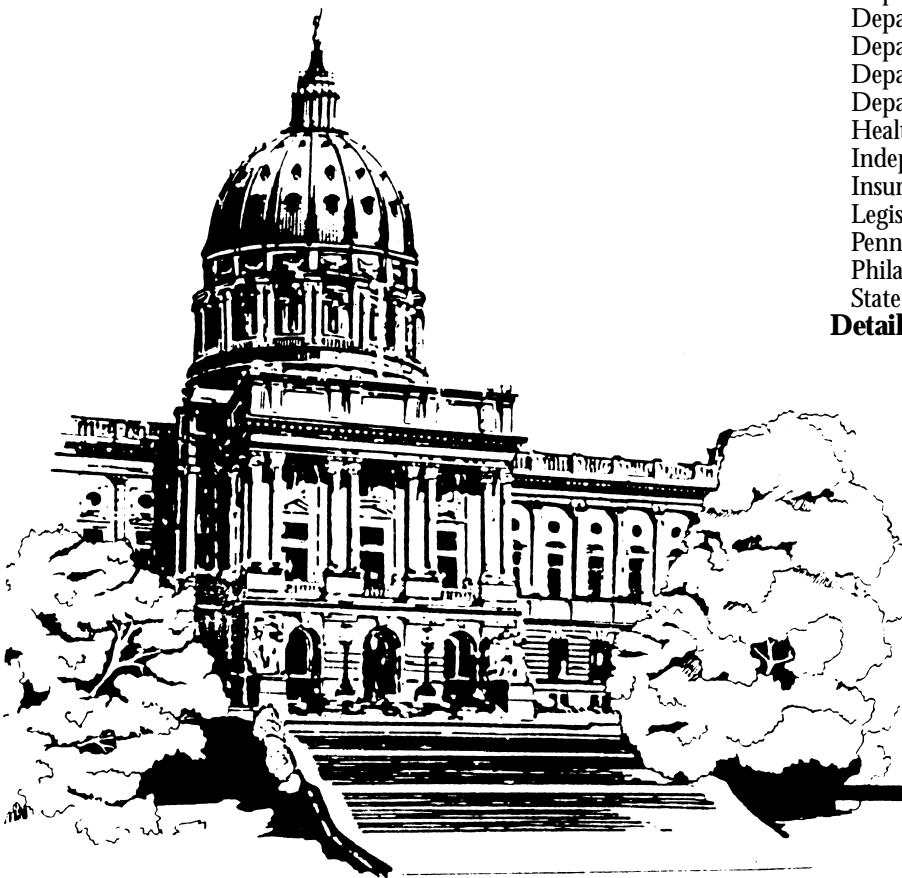
Saturday, July 29, 2006 • Harrisburg, PA

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**No. 380, July 2006**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE 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>
<b>2006 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 114 through 116</b>					
114	Jul 11	HB0185	PN4517	Immediately	Public School Code of 1949—omnibus amendments
115	Jul 11	SB0594	PN0668	Immediately	Dormant Oil and Gas Act—enactment
116	Jul 12	HB0859	PN4509	Immediately	Tax Reform Code of 1971—omnibus amendments
<b>2006 VETOES OF REGULAR SESSION OF BILLS—VETO 005 through 006</b>					
005	Jul 11	HB1195	PN4416	60 days	Storage Tank and Spill Prevention Act—underground storage tank indemnification fund, Underground Storage Tank Cleanup Program and Underground Storage Tank Pollution Prevention Program
006	Jul 11	HB1928	PN4307	60 days	Vehicle Code (75 Pa.C.S.)—permits for moving during manufacture and movement of mobile home or modular housing unit and modular housing unit undercarriage

\*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.

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[Pa.B. Doc. No. 06-1432. Filed for public inspection July 28, 2006, 9:00 a.m.]

# THE COURTS

## Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. I]

### Proposed Rule 104 Revision of Comment

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Revision of Comment to Rule 104. The changes are being proposed to include language reflecting the effect on the issue of competency of the opinions in *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (1998) and *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003).

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed Comment changes precede the Report. Additions are bold, and deletions are bold and in brackets.

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

Richard L. Kearns  
Staff Counsel  
Supreme Court of Pennsylvania  
Committee on Rules of Evidence  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

no later than September 6, 2006

By the Committee on  
Rules of Evidence

RICHARD A. LEWIS,  
Chair

#### Annex A

#### TITLE 225. RULES OF EVIDENCE

#### ARTICLE I. GENERAL PROVISIONS

#### Rule 104. Preliminary Questions.

\* \* \* \* \*

#### Comment

Paragraph 104(a) is identical to F.R.E. 104(a). The first sentence is consistent with prior Pennsylvania case law. See *Commonwealth v. Chester*, 526 Pa. 578, 587 A.2d 1367 (1991).

The second sentence of paragraph 104(a) is based on the premise that, by and large, the law of evidence is a "child of the jury system" and that the rules of evidence should not be applied when the judge is the fact finder. The theory is that the judge should be empowered to hear any relevant evidence to resolve questions of admissibility. Under the Federal Rule, the court may consider even the allegedly inadmissible evidence in deciding whether to admit the evidence. See *Bourjaily v. United States*, 483

U.S. 171 (1987). There is no express authority in Pennsylvania on whether the court is bound by the rules of evidence in making its determinations on preliminary questions. In view of this, the approach of the Federal Rule has been adopted.

Pa.R.E. 104(a) does not resolve whether the allegedly inadmissible evidence alone is sufficient to establish its own admissibility. Some other rules specifically address this issue. For example, Pa.R.E. 902 provides that some evidence is self-authenticating. But under Pa.R.E. 803(25), the allegedly inadmissible evidence alone is not sufficient to establish some of the preliminary facts necessary for admissibility. In other cases the question must be resolved by the trial court on a case-by-case basis.

Paragraph 104(b) is identical to F.R.E. 104(b) and appears to be consistent with prior Pennsylvania case law. See *Commonwealth v. Carpenter*, 472 Pa. 510, 372 A.2d 806 (1977).

The first sentence of paragraph 104(c) differs from the first sentence of F.R.E. 104(c) in that the Federal Rule says "Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury." The first sentence of Pa. R.E. 104(c) has been changed to be consistent with Pa.R.Crim.P. 581(F), which requires hearings outside the presence of the jury in all cases in which it is alleged that the evidence was obtained in violation of the defendant's rights.

The second sentence of paragraph 104(c) is identical to the second sentence of F.R.E. 104(c). Paragraph 104(c) says that hearings on other preliminary matters, both criminal and civil, shall be conducted outside the jury's presence when required by the interests of justice. Certainly, the court should conduct a hearing outside the presence of the jury when the court believes that it is necessary to prevent the jury from hearing prejudicial information.

In *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 ([Pa.] 1998), a case involving child witnesses, the Supreme Court created a per se [error] rule requiring competency hearings to be conducted outside the presence of the jury. In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 ([Pa.] 2003), the Supreme Court held that a competency hearing is the appropriate way to explore an allegation that the [testimony] memory of a child has been ["impaired"] so corrupted or "tainted" by unduly suggestive or coercive interview techniques[, and that the burden is on a party alleging testimonial incompetency by reason of taint to prove it by clear and convincing evidence] as to render the child incompetent to testify.

The right of an accused to have his or her testimony on a preliminary matter taken outside the presence of the jury, a right that the rule expressly recognizes, does not appear to have been discussed in prior Pennsylvania case law.

Paragraph 104(d) is identical to F.R.E. 104(d). In general, when a party offers himself or herself as a witness, the party may be questioned on all relevant matters in the case. See *Agate v. Dunleavy*, 398 Pa. 26, 156 A.2d 530 (1959). Under Pa.R.E. 104(d), however, when the accused in a criminal case testifies only with

regard to a preliminary matter, he or she may not be cross-examined as to other matters. Although there is no Pennsylvania authority on this point, it appears that this rule is consistent with Pennsylvania practice. This approach is consistent with paragraph 104(c) in that it is designed to preserve the defendant's right not to testify generally in the case.

Paragraph 104(e) differs from F.R.E. 104(e) to clarify the meaning of this paragraph. See 21 Wright and Graham, *Federal Practice and Procedure* § 5058 (1977). This paragraph is consistent with prior Pennsylvania case law.

## REPORT

### *Proposed Revision of Comment Pa.R.E. 104*

#### Changes

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Revision of Comment to Pa.R.E. 104.

This Revision of Comment is being proposed to include language reflecting the effect on the issue of competency of the opinions in *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (1998) and *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003).

[Pa.B. Doc. No. 06-1433. Filed for public inspection July 28, 2006, 9:00 a.m.]

## [225 PA. CODE ART. VI]

### Proposed Rule 601 Revision of Comment

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Revision of Comment to Rule 601. The changes are being proposed to include recent case law on the issue of competency.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed Comment changes precede the Report. Additions are bold, and deletions are bold and in brackets.

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

Richard L. Kearns  
Staff Counsel  
Supreme Court of Pennsylvania  
Committee on Rules of Evidence  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

no later than September 5, 2006

*By the Committee on  
Rules of Evidence*

RICHARD A. LEWIS,  
Chair

## Annex A

### TITLE 225. RULES OF EVIDENCE ARTICLE VI. WITNESSES

#### Rule 601. Competency.

\* \* \* \* \*

#### Comment—2006

Pa.R.E. 601[ (a) ] differs from F.R.E. 601 and is intended to preserve existing Pennsylvania law. F.R.E. 601 abolishes all existing grounds of incompetency except for those specifically provided in later rules dealing with witnesses and in civil actions governed by state law. [ Pa.R.E. 601(b) has no counterpart in the Federal Rules. ] Pa.R.E. 601(a) is consistent with Pennsylvania statutory law. 42 Pa.C.S.A. §§ 5911 and 5921 provide that all witnesses are competent except as otherwise provided. Pennsylvania statutory law provides several instances in which witnesses are incompetent. See, e.g., 42 Pa.C.S.A. § 5922 (persons convicted in a Pennsylvania court of perjury incompetent in civil cases); 42 Pa.C.S.A. § 5924 (spouses incompetent to testify against each other in civil cases with certain exceptions set out in 42 Pa.C.S.A. §§ 5925, 5926, and 5927); 42 Pa.C.S.A. §§ 5930—5933 and 20 Pa.C.S.A. § 2209 (“Dead Man’s statutes”).

[ Pa.R.E. 601(a) does not recognize any decisional grounds for incompetency. ] At one time Pennsylvania law provided that neither a husband nor a wife was competent to testify to non-access or absence of sexual relations if the effect of that testimony would illegitimize a child born during the marriage. See *Commonwealth ex rel. Leider v. Leider*, 434 Pa. 293, 254 A.2d 306 (1969). [ This ] That rule was abandoned in *Commonwealth ex rel. Savruk v. Derby*, 235 Pa. Super. 560, 344 A.2d 624 (1975).

Pa.R.E. 601(b) has no counterpart in the Federal Rules and is consistent with Pennsylvania law concerning the factors for determining competency of a person to testify, including persons with a mental defect and children of tender years. See *Commonwealth v. Baker*, 466 Pa. 479, 353 A.2d 454 (1976) (standards for determining competency generally); *Commonwealth v. Goldblum*, 498 Pa. 455, 447 A.2d 234 (1982) (mental capacity); *Rosche v. McCoy*, 397 Pa. 615, 156 A.2d 307 (1959) (immaturity). In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (Pa. 2003), the Supreme Court reiterated concern for the susceptibility of children to suggestion and fantasy and held that a child witness can be rendered incompetent to testify where unduly suggestive or coercive interview techniques corrupt or “taint” the child’s memory and ability to testify truthfully about that memory. See also *Commonwealth v. Judd*, Pa. Super. 2006.

The application of the standards in Pa.R.E. 601(b) is a factual question to be resolved by the Court as a preliminary question under Rule 104. The party challenging competency bears the burden of proving grounds of incompetency by clear and convincing evidence. *Commonwealth v. Delbridge*, 578 Pa. at 664; 855 A.2d at 40. In *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (1998), a case involving child witnesses, the Supreme Court announced a per se rule requiring trial courts to conduct competency hearings outside the presence of the jury. Expert testimony has been used when competency



under these standards has been an issue. E.g., *Commonwealth v. Baker*, 466 Pa. 479, 353 A.2d 454 (1976); *Commonwealth v. Gaertner*, 355 Pa. Super. 203, 484 A.2d 92 (1984). [Pa.R.E. 601(b) is intended to preserve existing law and not to expand it.]

\* \* \* \* \*

**REPORT**

***Proposed Revision of Comment Pa.R.E. 601***

**Changes**

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Revision of Comment to Pa.R.E. 601.

The Revision of Comment proposed for Pa.R.E. 601 calls attention to cases concerning the factors for determining the competency of a person to testify. With respect to a child witness, the concept of "taint" is described in *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (Pa. 2003). Accordingly, the proposed revision calls attention to the per se rule in *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (Pa. 1998) requiring competency hearings to be held outside the presence of the jury.

[Pa.B. Doc. No. 06-1434. Filed for public inspection July 28, 2006, 9:00 a.m.]

**Title 231—RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**[231 PA. CODE CH. 1300]**

**Technical Amendment of Rule 1330 Governing Proceedings to Compel Arbitration and Confirm Arbitration Award in Consumer Credit Transactions; No. 461 Civil Procedural Rules; Doc. No. 5**

**Order**

*Per Curiam:*

And Now, this 14th day of July, 2006, Pennsylvania Rule of Civil Procedure 1330 is amended to read as follows.

Whereas prior distribution and publication of this amendment would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 1300. ARBITRATION**

**Subchapter B. PROCEEDING TO COMPEL ARBITRATION AND CONFIRM AN ARBITRATION AWARD IN A CONSUMER CREDIT TRANSACTION**

**Rule 1330. Notice Required by Rule 1329(d)(1). Form.**

The notice required by Rule 1329(d)(1) shall be substantially in the following form:

(Caption)  
Notice to File Answer

The motion attached to this notice asks the court to enforce an agreement to submit claims to arbitration. If you oppose submission of this claim to arbitration, you must file an answer to the motion with the Prothonotary within [ **thirty (30)** ] **twenty (20)** days of mailing or other service of this notice. If you fail to respond, this case will proceed to arbitration and may result in the entry of a money judgment against you.

**Official Note:** A court may by local rule require the notice to be repeated in one or more designated languages other than English.

**Explanatory Comment**

Rule 1329(d)(1) provides that "a motion for a rule to show cause why arbitration should not be compelled shall begin with a notice substantially in the form prescribed by Rule 1330." That notice advises that there is a thirty-day period in which to file an answer to the motion. This time period conflicts with Rule 1329(d)(2) which prescribes a twenty-day period. The present amendment changes the time period set forth in the notice to twenty days, thus conforming to Rule 1329(d)(2).

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 06-1435. Filed for public inspection July 28, 2006, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CH. 1910]**

**Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 81**

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

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

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, October 13, 2006 directed to:

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

*By the Domestic Relations  
Procedural Rules Committee*

NANCY P. WALLITSCH, ESQ.  
*Chair*

## Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

## PART I. GENERAL

## CHAPTER 1910. ACTION FOR SUPPORT

## Rule 1910.1. Scope. Definitions.

(a) Except as provided by subdivision (b), the rules of this chapter govern all civil actions or proceedings brought in the court of common pleas to enforce a duty of support, or an obligation to pay alimony pendente lite.

**Official Note:** A duty of support is imposed by the following statutes: 23 Pa.C.S.A. § 4321 and Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973 (repealed) now Act 43-2005, July 7, 2005, P. L. 196. The procedure under the rules of this chapter implements Chapter 43[, subchapter C] of Part V of the Domestic Relations Code, Title 23 of the Consolidated Statutes, 23 Pa.C.S.A. § [4341] 4301 et seq., relating to support proceedings. The procedure under these rules provides an alternative to the [inter-county] intrastate and interstate [procedure] procedures under [the Revised Uniform Reciprocal Enforcement of Support Act (1968)] Parts VIII and VIII-A of the Domestic Relations Code, 23 Pa.C.S.A. §§ [4501] 7101 et seq. and 8101 et seq. For alimony and alimony pendente lite, see Sections 3701 and 3702 of the Divorce Code, 23 Pa.C.S.A. §§ 3701, 3702.

**Official Note:** Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S.A. § 4342(c).

(b) The rules of this chapter shall not govern

(1) an action or proceeding for support based upon a contract or agreement which provides that it may not be enforced by an action in accordance with these rules, [and]

(2) an application for a temporary order of support and other relief pursuant to the Protection from Abuse Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S.A. § 6101 et seq. or

(3) an action for support of an indigent brought pursuant to Chapter 46 of the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq.

**Official Note:** Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.

(c) As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

“Conference officer,” the person who conducts an office conference pursuant to Rule 1910.11.

“Hearing officer,” the person who conducts a hearing on the record and makes recommendations to the court pursuant to Rule 1910.12.

“Overdue support,” the amount of delinquent support equal to or greater than one month’s support obligation which accrues after entry or modification of a support order as the result of obligor’s nonpayment of that order.

“Past due support,” the amount of support which accrues prior to entry or modification of a support order as the result of retroactivity of that order. When nonpayment of the order causes overdue support to accrue, any and all amounts of past due support owing under the order shall convert immediately to overdue support and remain as such until paid in full.

“Suspend,” eliminate the effect of a support order for a period of time.

“Terminate,” end not only the support order, but the support obligation as well.

“Trier of fact,” the judge, hearing officer, or conference officer who makes factual determinations.

“Vacate,” declare a particular support order null and void, as if it were never entered.

**Explanatory Comment—1994**

Nothing in this rule should be interpreted to eliminate the distinctions between spousal support and alimony pendente lite which are established by case law.

Alimony pendente lite must be distinguished from permanent alimony for purposes of this rule. The rule applies only to alimony pendente lite. The procedure for obtaining permanent alimony is governed by Section 3702 of the Divorce Code, 23 Pa.C.S.A. § 3702, and Rules of Civil Procedure 1920.1 et seq. Agreements for alimony approved by the court in connection with actions for divorce under Section 3701 of the Divorce Code are deemed to be court orders enforceable under Section 3703 of the Code.

Section 3105(a) of the Divorce Code provides that all agreements relating to matters under the code, whether or not merged or incorporated into the decree, are to be treated as orders for purposes of enforcement unless the agreement provides otherwise. Subdivision (b)(1) is amended to conform to the statute.

There is considerable diversity in the terminology used throughout the rules, and in the various counties, to describe the individuals who conduct conferences and hearings pursuant to the support rules. The addition of subdivision (c) to the rules standardizes terminology and eliminates the confusion which results from individual counties using inconsistent terms to refer to persons performing the same function. All references in the rules to conference or hearing officers have been amended to conform to the terminology set forth in subdivision (c).

In an effort to further standardize the terminology used in support matters, the additional terms are defined.

**Explanatory Comment—2000**

Act 1998-127 technically amended Act 1997-58 to define and differentiate between past due and overdue support to clarify that only overdue support constitutes a lien by operation of law against the obligor’s real or personal property. 23 Pa.C.S.A. § 4302 now defines overdue support as “support which is delinquent under a payment schedule established by the court.” Past due support is defined as “support included in an order of support which has not been paid.”

The definitions of past due and overdue support in this rule do not substantively change the legislative definitions. They merely elaborate on them in terms which are more familiar and helpful to the bench and bar. Specifically, past due support consists of the purely retroactive arrearages which accumulate between the date of the filing of the complaint or petition for modification and the date of the hearing and entry of the initial or modified

support order. Overdue support refers to the delinquent arrearages which accrue after entry of the order due to the obligor's failure to pay support pursuant to the order.

These definitions are important for determining the remedies available for collecting support arrearages. Pursuant to 23 Pa.C.S.A. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against the obligor's property. Conversely, past due support (retroactive arrears) does not operate as a lien against this property as long as the obligor remains current on the support order.

Rule 1910.20 extends this legislative distinction between overdue and past due support to the following remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S.A. § 4303; (2) suspension of licenses under 23 Pa.C.S.A. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S.A. § 4305(b)(10). Accordingly, these remedies are available only to collect overdue support. They are not available to collect past due support as long as the obligor remains current on the order. If, however, the obligor subsequently defaults on the support order, Rule 1910.20(c) provides that any past due support still owing under the order immediately becomes overdue support subject to the full range of collection remedies. It remains overdue support until collected in full.

Pursuant to Rule 1910.20(c), all overdue support, including past due support which has converted to overdue support, remains subject to Act 58 remedies until paid in full. Any repayment plan subsequently agreed to by the parties, or ordered by the court pursuant to a contempt proceeding (including any arrearage component), does not preclude the use of these remedies for collecting overdue support more quickly, whenever feasible.

In cases involving past due support only, the obligee is not entirely without remedy in the event that additional income or assets of the obligor are discovered after the hearing which would enable collection of past due support more quickly. In these cases, identification of those income sources or assets provides a basis for modification pursuant to Rule 1910.19. Modification includes increasing the rate of repayment on past due support and, if appropriate, ordering that the past due support be paid in full. In these cases, the obligee may also petition the court for special relief pursuant to Rule 1910.26 to have the income or assets frozen and seized pending the petition for modification in order to secure payment of past due support.

#### Explanatory Comment—2006

**Act 43-2005, July 7, 2005, P.L. 196, repealed the Act of June 24, 1937 (P.L. 2045, No.397), known as The Support Law and added Chapter 46 to the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et. seq. Section 4 of Act 43-2005 states that the addition of Chapter 46 is a continuation of the Act of June 24, 1937 (P.L. 2045, No. 397). Chapter 46 addresses the responsibility of certain family members to maintain indigent relatives, whether or not the indigent person is a public charge. New subdivision (b)(3) clarifies that the support rules and guidelines do not apply to actions brought under Chapter 46 of the Domestic Relations Code.**

[Pa.B. Doc. No. 06-1436. Filed for public inspection July 28, 2006, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [246 PA. CODE CHS. 200, 400 AND 1000]

#### Proposed amendments to Rules 206, 402 and 1001—1020 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 206, 402, and 1001—020 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges to make comprehensive changes to the rules relating to appeals to the courts of common pleas from judgments entered in the magisterial district courts. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

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

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

Michael F. Krimmel, Counsel  
Minor Court Rules Committee  
Supreme Court of Pennsylvania  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055  
Fax 717-795-2175

or e-mail to: [minorrules@pacourts.us](mailto:minorrules@pacourts.us)

no later than Friday, September 1, 2006.

*By the Minor Court Rules Committee*

THOMAS E. MARTIN, Jr.,  
*Chair*

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

#### Rule 206. Costs; Proceedings In Forma Pauperis.

[A.] (A) Except as otherwise provided by law, the costs for filing and service of the complaint shall be paid at the time of filing.

#### [B.] (B) Recovery of Taxable Costs Generally.

(1) Except as otherwise provided [by subdivision C of] in this rule, the prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party.

(2) Taxable [Such] costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.

**[ C. Taxable ] (C) Recovery of Taxable Costs on Appeal or Certiorari.**

**(1) Except as otherwise provided in this paragraph, taxable costs on appeal or certiorari shall be paid by the unsuccessful party [ , and a ].**

**(2) A plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that obtained in the magisterial district court proceeding.**

**(3) A defendant who prevails on certiorari proceedings brought by the defendant or who obtains a favorable judgment upon appeal by either party shall not be liable for costs incurred by the plaintiff in the [ preceding ] magisterial district court proceeding and may recover taxable costs in that proceeding from the plaintiff.**

**(4) A plaintiff who is unsuccessful in the magisterial district court proceeding may recover taxable costs in that proceeding from the defendant if the plaintiff is successful on appeal, and in that event the defendant may not recover costs in the magisterial district court proceeding from the plaintiff.**

**(5) In no case shall an appellant who failed to appear at the hearing in the magisterial district court recover any taxable costs on appeal.**

**[ D. ] (D) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection from Abuse Act.**

**Official Note: With regard to the establishment of taxable costs in general, see Section 1726 of the Judicial Code, 42 Pa.C.S. § 1726.**

**Under paragraph (B)(2), “personal service . . . costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. “Execution” costs include those for executing an order for possession.**

**The items constituting taxable costs in appeal or certiorari proceedings will be governed by law or general rule applicable in the court of common pleas. Paragraph (C)(5) provides, however, that an appellant who did not appear at the hearing in the magisterial district court may not recover taxable costs on appeal. This is intended to discourage the wasting of resources that occurs when one party does not attend the magisterial district court hearing with the intent of filing an appeal. An appellant appeared at the hearing in the magisterial district court if the appellant or the appellant’s attorney of record or authorized representative attended the hearing.**

**[ Under subdivision B, “personal service . . . costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. ]**

\* \* \* \* \*

**[ E. ] (E) Proceedings in Forma Pauperis**

**(i) (1) A party who is without financial resources to pay the costs of litigation shall be entitled to proceed in forma pauperis.**

**(ii) (2) Except as provided [ by subparagraph (iii) ] in paragraph (3), the party shall file a petition and affidavit in the form prescribed [ by subparagraph**

**(vi) ] in paragraph (6). The petition may not be filed prior to the commencement of an action, which action shall be accepted in the first instance [ , ] without the payment of filing costs.**

**Except as prescribed [ by subparagraph (iii) ] in paragraph (3), the magisterial district judge shall act promptly upon the petition and shall enter a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the magisterial district judge shall briefly state the reasons therefor. The unsuccessful petitioner may proceed no further so long as such costs remain unpaid.**

**[ (iii) ] (3) If the party is represented by an attorney at law, the magisterial district judge shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that the attorney is providing free legal service to the party and believes the party is unable to pay the costs.**

**[ (iv) ] (4) A party permitted to proceed in forma pauperis shall not be required to pay any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.**

**The magisterial district [ judge ] court shall inform a party permitted to proceed in forma pauperis of the option to serve the complaint by mail in the manner permitted by these rules.**

**A party permitted to proceed in forma pauperis has a continuing obligation to inform the court of improvement in the party’s financial circumstances which will enable the party to pay costs.**

**[ (v) ] (5) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed in forma pauperis, the exonerated costs shall be taxed as costs and paid to the magisterial district [ judge ] court by the party paying the monetary recovery. In no event shall the exonerated costs be paid to the indigent party.**

**[ (vi) ] (6) The petition for leave to proceed in forma pauperis and affidavit shall be substantially in the following form:**

\* \* \* \* \*

**Official Note: This Rule substantially follows Pa.R.C.P. No. 240. Under [ subparagraph E(iv) ] paragraph (E)(4), “any costs” includes all filing, service, witness, and execution costs.**

**CHAPTER 400. ENFORCEMENT OF JUDGMENTS RENDERED BY MAGISTERIAL DISTRICT JUDGES FOR THE PAYMENT OF MONEY**

**Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas.**

**[ A. ] (A) Execution of a judgment for the payment of money rendered by a magisterial district judge may be ordered by a magisterial district judge in whose [ office ] court the judgment was rendered or entered, provided the [ plaintiff files in that office**

**(1) not before the expiration of 30 days from the date the judgment is entered by the magisterial district judge, and**

(2) within five years of that date, a request for an order of execution ] judgment holder files a request for an order of execution in that court not before the expiration of 30 days from the date the judgment is entered and within five years of that date.

[ B. ] (B) The request form shall be attached to the order, return and other matters required by these rules.

[ C. ] (C)(1) The [ plaintiff ] judgment holder may enter the judgment, for the purpose of requesting an order of execution thereon, in [ an office of ] a magisterial district [ judge ] court other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the [ office ] court in which the judgment is entered for execution [ is that of the magisterial district judge whose magisterial district ] is situated in the county in which levy is to be made.

(2) The [ plaintiff ] judgment holder may enter the judgment in such other [ office ] court by filing therein a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose existing [ office ] court the judgment was rendered or by any other official custodian of the record.

[ D. ] (D)(1) The [ plaintiff ] judgment holder may enter the judgment in the court of common pleas in any county. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas.

(2) The judgment [ may ] shall be entered in the court of common pleas [ by filing with the prothonotary a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose office the judgment was rendered or by any other official custodian of the record. ] in the following manner:

(a) The judgment holder shall file with the prothonotary a Praeceptum to Enter the Magisterial District Court Judgment in the Court of Common Pleas along with a copy of the notice of judgment certified to be a true copy by the magisterial district judge in whose court the judgment is entered or by any other official custodian of the record.

(b) The praecipe filed under paragraph (a) shall

(i) Identify the parties to the judgment and the magisterial district court in which the judgment is entered and that court's docket number associated with the judgment.

(ii) Direct the prothonotary to enter the judgment upon the proper docket and in the judgment index of the court of common pleas.

(iii) Direct the prothonotary to serve the defendant with notice of the entry of the judgment in the court of common pleas by mailing a copy of the praecipe in accordance with paragraph (c).

(iv) Direct the magisterial district court to transmit to the prothonotary the original record of the proceedings in accordance with paragraph (d).

(c)(i) When filing the praecipe under paragraph (a), the judgment holder shall provide to the pro-

thonotary a first class postage paid envelope pre-addressed to the magisterial district court in which the judgment is entered and a first class postage paid envelope pre-addressed to the defendant at the address as listed on the complaint filed in the magisterial district court or as otherwise appearing in the records of that court. The prothonotary shall thereupon send by ordinary mail a copy of the praecipe to the magisterial district court and the defendant, and shall note such service and any return on the docket.

(ii) Failure to serve the defendant with the notice as required by paragraph (i) shall not affect the lien of the judgment.

(d) The magisterial district court to which the praecipe is directed shall, within ten days after receipt of the praecipe, transmit to the prothonotary the original record of the proceedings including but not limited to the following items:

(i) The original complaint.

(ii) All original documents related to service filed in the case.

(iii) Any original exhibits or other evidence retained by the magisterial district court.

(iv) The notice of judgment.

(v) Such other original documents that the magisterial district court deems pertinent to the record.

(e) The original record of the magisterial district court proceedings shall thereafter be retained by the prothonotary. The magisterial district court shall note in the case file that the original record was transmitted to the prothonotary, and shall retain in the case file a duplicate copy of all documents so transmitted.

(3) The judgment may be entered in the court of common pleas only after 30 days from the date the judgment is entered [ by ] in the magisterial district [ judge ] court. The judgment may not be entered in the court of common pleas after five years from the date the judgment is entered [ by ] in the magisterial district [ judge ] court.

(4) Except as provided in [ subparagraph D ] paragraph (D)(5) of this rule, once the judgment is entered in the court of common pleas all further process must come from the court of common pleas and no further process may be issued by the magisterial district [ judge ] court.

(5) The magisterial district [ judge ] court shall enter satisfaction on the docket of the magisterial district court proceedings upon the filing by any party in interest of a certified copy of the docket entries of the court of common pleas showing the judgment and satisfaction have been entered in the court of common pleas.

**Official Note:** Under [ subdivision A ] paragraph (A) of this rule, the execution proceedings are commenced by requesting an "order of execution." The request may not be filed before the expiration of 30 days after the date the judgment is entered [ by ] in the magisterial district [ judge ] court. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five years of the date the judgment is entered [ by ] in the magisterial district

[judge] court. No provision has been made for revival of a judgment in magisterial district court proceedings.

[Subdivision C] Paragraph (C) provides for entering the judgment, for the purpose of requesting an order of execution, in [an office of] a magisterial district [judge] court other than that in which the judgment was rendered when levy is to be made outside the county in which the judgment was rendered. Compare Pa.R.C.P. No. 3002.

As to [subdivision D] paragraph (D), see Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The 30 day limitation in the rule [appears to be required by] is consistent with this Section. [Certification by the magisterial district judge should not be done before the expiration of 30 days after the date of entry of the judgment.]

Paragraph (D) was substantially amended in 2006 to provide a new procedure for entering a judgment in the court of common pleas. The rule requires that the judgment holder file with the prothonotary a Praeceptum to Enter the Magisterial District Court Judgment in the Court of Common Pleas along with a certified copy of the notice of judgment from the magisterial district court. This praecipe serves a number of purposes. First, it directs the prothonotary to enter the magisterial district court judgment upon the proper docket and in the judgment index of the court of common pleas. Second, by the prothonotary sending a copy of it to the defendant, the praecipe serves as notice to the defendant that the judgment has been entered in the court of common pleas. Finally, the praecipe directs the magisterial district court to transmit the original case file to be filed with and retained by the prothonotary.

It is necessary for the prothonotary to retain the original case documents because they may be needed if the judgment is renewed and the jurisdiction of the magisterial district court is subsequently challenged by a writ of certiorari under Rule 1009(A)(1)(a). Because there is no time limit on raising a question of jurisdiction by certiorari, the original case documents must be retained so long as the judgment remains in effect. Since magisterial district court judgments cannot be revived like judgments entered in the court of common pleas, after five years there would be no possibility of filing a writ of certiorari relating to a magisterial district court judgment unless the judgment were entered in the court of common pleas.

The rule requires that the magisterial district court retain a duplicate of the case documents transmitted to the prothonotary, but this duplicate may be destroyed in accordance with the applicable records retention schedule.

The Praeceptum to Enter the Magisterial District Court Judgment in the Court of Common Pleas shall be on a form prescribed by the Court Administrator of Pennsylvania. See Rule 212.

Paragraph (D)(2)(c)(ii) makes clear that failure to serve the defendant with notice of the entry of the judgment, including a return of the ordinary mail as undeliverable, shall not affect the lien of the judgment.

Under paragraph (D)(2)(d)(ii), “original documents related to service” includes certified mail return receipt cards, returned envelopes with notations from the postal service, and any proof or return of service filed with the court.

The only method available to renew a magisterial district court judgment would be to record the judgment in the [Prothonotary's] prothonotary's office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the revival of judgments. See Pa.R.C.P. No. 3025 et seq. Also, [subdivision D] paragraph (D) makes clear that when the judgment is entered in the court of common pleas, all further process shall come from the court of common pleas and that no further process shall be issued by the magisterial district judge [except that the magisterial district judge], but he or she shall enter on the magisterial district court docket proof of satisfaction of a judgment that had been entered in the court of common pleas and subsequently satisfied in that court. This exception is necessary so that procedures exist for entering satisfaction of all judgments with the magisterial district court, regardless of whether the judgment has been certified to and satisfied in the court of common pleas.

## CHAPTER 1000. APPEALS

### APPELLATE PROCEEDINGS WITH RESPECT TO JUDGMENTS AND OTHER DECISIONS OF MAGISTERIAL DISTRICT JUDGES IN CIVIL [MATTERS] AND POSSESSORY ACTIONS

#### Rule 1001. Definitions.

As used in this chapter:

(1) *Judgment*—A judgment rendered by a magisterial district judge under Rule 319, 322 or 514.

(2) *Appeal*—An appeal from a judgment to the court of common pleas.

(3) *Certiorari*—An examination by the court of common pleas of the record of proceedings before a magisterial district judge to determine questions raised under Rule 1009A.

(4) *Supersedeas*—A prohibition against any further execution processes on the judgment affected thereby.

(5) *Court of common pleas*—The court of common pleas of the judicial district in which is located the magisterial district wherein the questioned action of the magisterial district judge took place.

(6) *Claimant*—Includes a defendant with respect to a defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(7) *Defendant*—Includes a plaintiff with respect to the defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(8) *Service by certified or registered mail*—The mailing of properly addressed certified or registered mail.

(9) *Proof of service*—A verified written statement that service was made by personal service or by certified or registered mail, with the sender's re-

ceipt for certified or registered mail attached thereto if service was made by mail. ]

“appeal” means an appeal to the court of common pleas from a judgment entered by the magisterial district court;

“certiorari” means an examination by the court of common pleas of the record of proceedings before the magisterial district court to determine questions raised under Rule 1009(A);

“court of common pleas” means the court of common pleas of the judicial district in which is located the magisterial district wherein the questioned action of the magisterial district court took place;

“judgment” means a judgment entered by a magisterial district court under Rule 319, 322, or 514;

“proof of service” means a verified written statement that service was made by personal service or by certified mail, with the sender’s receipt for certified mail attached thereto if service was made by certified mail;

“service by certified mail” means the mailing of properly addressed certified mail;

“supersedeas” means a prohibition against any further execution processes on the judgment affected thereby.

**Official Note:** Although one of the purposes of the definitions in this rule is to avoid needless repetition throughout these appellate rules, some of the definitions are intended to state or clarify the law as well.

In connection with the definition of “appeal” [ in subdivision (2), ] see also Rule 1007 and the note thereto. Upon appeal to the court of common pleas, a possessory action brought under Chapter 500 may proceed in the same manner as an appeal of a civil action brought under Chapter 300, including being heard by a board of arbitrators.

[ Under subdivision (3), certiorari ] Certiorari under these rules is restricted to an examination of the record of the proceedings before the magisterial district [ judge, which will appear on the complaint forms prescribed by the State Court Administrator ] court. See *Flaherty v. Atkins*, 189 Pa. Super. 550, 152 A.2d 280 (1959). This is a narrow form of certiorari, both with respect to procedure and the matters which can be considered under Rule [ 1009A ] 1009(A). Since an aggrieved party will be entitled to a broad form of appeal de novo under these rules, there seems to be no justification for providing also for a broad form of certiorari. These restrictions on the writ of certiorari are authorized by § 26 of the Schedule to Article V of the 1968 Constitution. The writ of error, which at common law was probably available only to review the proceedings of a court of record (see *Beale v. Dougherty*, 3 Binn. 432 (1811)), is not a form of appellate process permitted by these rules. See also *County of Carbon v. Leibensperger*, 439 Pa. 138, 266 A.2d 632 (1970) (court of common pleas cannot issue writ of prohibition).

The definition of supersedeas [ in subdivision (4) points out the proper office and ] reflects the limited nature of a supersedeas. See also Rules 1008 and 1013 and the notes thereto.

Under [ subdivision (9), ] the definitions of “proof of service” and “service by certified mail,” there is no requirement that the sender’s receipt for certified mail be postmarked. There is no return receipt requirement for certified [ or registered ] mail. It is no longer necessary that the proof of service be under oath or affirmation; however, the statement is now made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

## APPEAL

### Rule 1002. Time and Method of Appeal.

[ A. A ] (A)(1) Except as otherwise provided in paragraph (B), a party aggrieved by a judgment [ for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, ] may appeal therefrom within [ thirty (30) ] 30 days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal [ on a form which shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the magisterial district judge ]. The Prothonotary shall not accept [ an ] a notice of appeal [ from an aggrieved party ] which is presented for filing under this paragraph more than [ thirty (30) ] 30 days after the date of entry of judgment without leave of [ Court ] court and upon good cause shown.

(2) An appeal from only the money portion of a judgment in a case arising out of a residential lease is governed by paragraph (A)(1).

[ B. ] (B) A party aggrieved by a judgment for the delivery of possession of real property in a case arising out of a residential lease may appeal therefrom within ten [ (10) ] days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal [ on a form which shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the magisterial district judge ]. The prothonotary shall not accept [ an ] a notice of appeal [ from an aggrieved party ] which is presented for filing under this paragraph more than ten [ (10) ] days after the date of entry of judgment without leave of court and upon good cause shown.

(C) In all cases, the party filing the notice of appeal shall file a copy of the notice of judgment issued by the magisterial district court together with the notice of appeal. In cases involving counterclaims filed pursuant to Rule 315 or Rule 508, the party filing the notice of appeal shall file a copy of all notices of judgment relating to the original complaint and all counterclaims.

**Official Note:** The [ Thirty ] 30 day [ limitation in subdivision A ] appeal period provided for in paragraph (A) of this rule is [ the same as that found in the Judicial Code § 5571(b) ] derived from Section 5571(b) of the Judicial Code, 42 Pa.C.S. § 5571(b)[ , as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53 ]. The ten day [ limitation in subdivision B ] appeal period provided for in paragraph (B) of this rule is [ designed to implement the time for appeal

set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No. 1995-33, approved July 6, 1995) (Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges, as adopted by that Order.) ] derived from Section 513 of the Landlord and Tenant Act of 1951 as amended, 68 P.S. § 250.513.

[ The two subdivisions of this rule ] Paragraphs (A) and (B) are intended to [ clarify ] specify that only where the right of possession of residential real estate is at issue, the shorter ten day appeal period [ for appeal ] applies; where the appeal is taken from any other judgment [ for money, or a judgment affecting a nonresidential lease, ] under these rules, the thirty day appeal period [ of time for appeal ] applies. [ A party may appeal the money portion of a judgment only within the thirty day appeal period specified in subsection A of this rule. It ] Thus, an appeal from only the money portion of a judgment in a case arising from a residential lease is subject to the 30 day appeal period applicable to money judgments in general. In addition, it is the intent of this rule that where the right of possession of residential real estate is at issue no supersedeas under [ Pa.R.C.P.D.J. No. ] Rule 1008(B) shall be issued by the [ Prothonotary ] prothonotary after the ten [ (10) ] day period for filing an appeal, unless by order of court.

The method of appeal is by filing with the prothonotary a written "notice of appeal" on a form [ to be ] prescribed by the [ State ] Court Administrator of Pennsylvania. [ Copies of this same form will be used for service under Pa.R.C.P.D.J. No. 1005. This permits use of the same form for filing and service. No useful purpose would be served by having two forms, one called an "appeal" for filing and another called a "notice of appeal" for service. ] See Rule 212. The current version of the notice of appeal form is available on Pennsylvania's Unified Judicial System website, [www.courts.state.pa.us](http://www.courts.state.pa.us). This same form is used for service and proof of service under Rule 1005.

[ The 1990 amendment is intended to encourage the complete utilization of the hearing process available before the magisterial district judge.

A copy of the Notice of Judgment must be filed since it will contain the separate entries required by Pa.R.C.P.M.D.J. No. 514.A and will be needed by the Prothonotary. ]

Paragraph (C) requires that the appellant file a copy of the notice of judgment together with the notice of appeal. When the case involves counterclaims, the appellant must file copies of all notices of judgment together with the notice of appeal. See Rule 1004(C) and Official Note. The notice of judgment will contain the separate entries required by Rule 514(A) and other information needed by the prothonotary to process the appeal. When entering a judgment for the delivery of possession of real property the magisterial district judge must make a determination as to the amount of monthly rent, even if no money judgment is sought or entered.

The prothonotary must have this information to calculate the amount due under Rule 1008(B).

With regard to costs on appeal, see Rule 206.

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#### Rule 1003. Bond for Appeal.

No bond or other security shall be required for appeal.

**Official Note:** No bond or other security is required for taking an appeal. Such a requirement would seem to be contrary to Article V, § 9, of the Constitution, although this section of the Constitution would not prevent requiring a bond for a supersedeas. See Rule 1008.

With regard to costs on appeal, see Rule 206.

#### Rule 1004. [ Filing Complaint or Praecipe ] Pleadings on Appeal. Appeals Involving [ Cross-Complaints ] Counterclaims.

[ A. If the appellant was the claimant in the action before the magisterial district judge, he shall file a complaint within twenty (20) days after filing his notice of appeal. ] (A) Except as otherwise provided by this rule, the pleadings in an action appealed to the court of common pleas from a magisterial district court shall be as prescribed by the rules of civil procedure governing a civil action in the court of common pleas.

(B)(1) An appellant who was the original plaintiff in the action in the magisterial district court shall file a complaint within 20 days after filing the notice of appeal.

[ B. If the ] (2) An appellant who was the original defendant in the action [ before ] in the magisterial district [ judge he shall file with his notice of appeal a praecipe requesting the prothonotary to enter a rule as of course upon the appellee to file a complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non pros ] court shall file with the prothonotary a copy of the complaint filed in the magisterial district court, either together with the notice of appeal required by Rule 1002 or within ten days after filing the notice of appeal. The action shall thereafter proceed as provided in paragraph (a) or paragraph (b).

(a) Within 20 days of filing the notice of appeal, the appellant shall file an answer to the complaint, which may also include a new matter, a counterclaim, or both. No further pleading is required. The action shall proceed in the court of common pleas upon the complaint and answer so filed except that

(i) An appellant who has filed a counterclaim in the action in the court of common pleas may seek an order to compel the appellee to file an answer to the counterclaim, but otherwise the allegations in the counterclaim shall be deemed denied.

(ii) An appellant may file preliminary objections in accordance with Pa.R.C.P. No. 1028 within 20 days after filing the notice of appeal. Preliminary objections filed under this paragraph are limited to the following grounds:

(1) lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue, or improper service of a complaint;

(2) lack of capacity to sue or nonjoinder of a necessary party;



(3) pendency of a prior action or agreement for alternative dispute resolution;

(4) failure to exercise or exhaust a statutory remedy, and

(5) full, complete and adequate non-statutory remedy at law.

(b) Within 20 days of filing the notice of appeal by the appellant, the appellee may file a complaint in the form prescribed by the rules of civil procedure governing a civil action in the court of common pleas. If the appellee files this complaint, all subsequent pleadings shall be in the form prescribed by the rules of civil procedure governing a civil action in the court of common pleas.

[ C. When judgments have been rendered on complaints of both the appellant and the appellee and the appellant appeals from the judgment on his complaint or on both complaints, the appellee may assert his claim in the court of common pleas by pleading it as a counterclaim if it can properly be so pleaded in that court. If the appellant appeals only from the judgment on his complaint, the appellee may appeal from the judgment on his complaint at any time within thirty (30) days after the date on which the appellant served a copy of his notice of appeal upon the appellee. ] (C) An appeal by any party shall be deemed an appeal by all parties as to all judgments and all issues unless otherwise stipulated in writing by all parties.

*Official Note:* [ The twenty days allowed the claimant-appellant under subdivision A will give him time to consider, among other things, matters under Rule 1007B. The procedure upon failure to file a complaint pursuant to a rule to do so entered under subdivision B will be governed by the Rules of Civil Procedure (Pa.R.C.P. No. 1037(a)). ] This rule was substantially amended in 2006 in a number of respects. First, to alleviate the burden previously put on the plaintiff to file a complaint in the form usually required by the rules of civil procedure governing civil actions in the court of common pleas when an appeal is taken by the defendant from a judgment in a magisterial district court, the rule permits the plaintiff to use the complaint filed in the magisterial district court.

[ The landlord's complaint in an appeal from a judgment concerning the possession of real property will contain the same material averments as those required under Rule 503C, an averment that the tenant claims possession of the property being substituted for an averment that he retains it if he has vacated the property or has been ejected from it. See, as to this general requirement of pleading, *Palethorp v. Schmidt*, 12 Pa. Super. 214 (1900). See also the note to Rule 1081(30).

Subdivision C permits the appellee, when there were cross-complaints in the action before the magisterial district judge and the appellant appeals from the judgment on his complaint or on both complaints, to assert his claim by way of a counterclaim in the court of common pleas if the claim is cognizable as a counterclaim in that court. However, even when this procedure is permissible, the appellee must, if he desires to use it, still give a notice of appeal under Rule 1002, with the time extension allowed by subdivision C (see the Judi-

cial Code, § 5571(f) 42 Pa.C.S. § 5571(f)), if he intends to appeal from the judgment on his complaint and the appellant has not appealed from that judgment, although in such a case subdivision A of Rule 1004 will not be applicable. If the appellee can and intends to avail himself of the procedure permitted by subdivision C, he need not obey any rule to file a complaint served upon him under subdivision B.

All judgments entered must be appealed to preserve all issues, if such issue can be properly pleaded in the court of common pleas. This is of particular importance under subdivision C, where both complaints must be appealed to preserve all issues. See *Borough of Downingtown v. Wagner*, 702 A.2d 593 (Pa. Cmwlth. 1997). ]

Paragraph (B)(2) provides that upon an appeal by a party who was the original defendant in the action in the magisterial district court, the appellee (who was the original plaintiff in the action in the magisterial district court) has the choice of either (1) filing no pleading and proceeding on the complaint filed in the magisterial district court or (2) filing a complaint in the form required for a civil action in the court of common pleas. If the appellee proceeds by filing a complaint as in a common pleas civil action, the appellant must respond by filing a responsive pleading as in a common pleas civil action.

With regard to paragraph (B)(2)(a)(ii), consistent with the policy of promoting simplified procedures in magisterial district court actions, it was thought desirable to limit the grounds upon which preliminary objections could be filed in appeals from judgments in such actions. The second major change to the rule under the 2006 amendments involves appeals in cases involving counterclaims and in cases involving multiple parties. Paragraph (C) now provides that an appeal by any party is deemed an appeal by all parties as to all judgments and all issues. This includes all judgments in cases involving counterclaims. Further, such appeals require the filing of only a single notice of appeal. See *American Appliance v. E.W. Real Estate Management, Inc.*, 564 Pa. 473, 769 A.2d 444 (2001). See also Rule 1002(C) and Official Note. Compare Pa.R.C.P. No. 1309 (with regard to appeals from compulsory arbitration awards).

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#### Rule 1005. Service of Notice of Appeal and Other Papers.

[ A. ] (A)(1) The appellant shall, by personal service or by certified [ or registered ] mail, serve a copy of [ his ] the notice of appeal upon the appellee [ and upon the magisterial district judge in whose office the judgment was rendered. If required by Rule 1004B to request a rule upon the appellee to file a complaint, he shall also serve the rule by personal service or by certified or registered mail upon the appellee ]. The address of the appellee for the purpose of service shall be [ his ] the address as listed on the complaint [ form ] filed in [ the office of ] the magisterial district [ judge ] court or as otherwise appearing in the records of that [ office ] court. [ If the appellee has an attorney of record named in the complaint form filed in the office of the magisterial district judge,

the service upon the appellee may be made upon the attorney of record instead of upon the appellee personally. ]

(2) When filing the notice of appeal the appellant shall provide to the prothonotary a first class postage paid envelope pre-addressed to the magisterial district court in which the judgment was entered. The prothonotary shall thereupon send by ordinary mail a copy of the notice of appeal to the magisterial district court, and shall note such service and any return on the docket.

[ B. ] (B) The appellant shall file with the prothonotary proof of service of copies of [ his ] the notice of appeal[, and proof of service of a rule upon the appellee to file a complaint if required to request such a rule by Rule 1004B, ] within ten [ (10) ] days after filing the notice of appeal.

[ C. ] (C) In lieu of service and proof of service [ pursuant to subparagraphs A. and B. of this Rule ] under paragraphs (A)(1) and (B), the court of common pleas may, by local rule, permit or require that the appellant file with the notice of appeal a [ stamped ] first class postage paid envelope pre-addressed to the appellee at [ his ] the address as listed on the complaint [ form ] filed in [ the office of ] the magisterial district [ judge ] court or as otherwise appearing in the records of that [ office, or the attorney of record, if any, of the appellee, and a stamped envelope pre-addressed to the magisterial district judge in whose office the judgment was rendered. Copies of the notice of appeal, and Rule pursuant to 1004B, if applicable, shall thereupon be mailed by the prothonotary or court by first class mail, with such service and any return being noted on the court's docket ] court. The prothonotary shall thereupon send by ordinary mail a copy of the notice of appeal to the appellee, and shall note such service and any return on the docket.

[ D. The party filing ] (D) An appellee who elects to file a complaint under Rule 1004(B)(2)(b) shall forthwith serve it upon the opposite party in the appeal by leaving a copy for or mailing a copy to [ him at his ] the opposite party at the address as shown in the magisterial district court records mentioned in [ subdivision A ] paragraph (A)(1) of this rule. [ If the opposite party has an attorney of record either in the magisterial district court or court of common pleas proceeding, service upon the opposite party may be made upon the attorney of record instead of upon the opposite party personally. ]

[ E. ] (E) Service and proof of service may be made by attorney or other agent.

(F) If a party subject to service under this rule had an attorney of record or authorized representative in the proceedings in the magisterial district court, or if there is an attorney of record in the appellate proceeding in the court of common pleas, a copy of the document to be served upon the party shall also be served upon the attorney of record or authorized representative in the same manner that it is to be served upon the party.

*Official Note:* [ Subdivision A ] Paragraph (A)(2) requires service of a copy of the notice of appeal upon the magisterial district [ judge as well as upon the appellee, or his attorney of record ] court. This copy, when received by the magisterial district [ judge ] court, may operate as a supersedeas under Rule 1008.

[ As to subdivision B ] With regard to paragraph (B), there is no return receipt requirement for service by certified [ or registered ] mail and consequently no [ such ] receipt need be filed with the prothonotary, although if service is by certified [ or registered ] mail the sender's receipt must be attached to the proof of service. See Rule 1001[ (9) and the last paragraph of the note to Rule 1001 ]. The notice of appeal and the proof of service may be filed simultaneously. See also Rule 1006 [ and its note ].

With regard to proof of service when the local option under paragraph (C) is used, see *Breza v. Don Farr Moving & Storage Co.*, 828 A.2d 1131 (Pa. Super. Ct. 2003).

[ Subdivision C prescribes ] Paragraph (D) provides for a pleading type service of the complaint, which may be made by ordinary mail, upon the opposite party in the appeal [ or his attorney of record ].

With regard to paragraph (F), see the definitions of "attorney of record" in Rule 202 and Pa.R.C.P. No. 76. See also Rule 207 regarding representation by an authorized representative.

#### Rule 1006. Striking Appeal.

Upon failure of the appellant to comply with Rule [ 1004A or Rule 1005B ] 1004(B) or Rule 1005(B), the prothonotary shall, upon praecipe of the appellee, mark the appeal stricken from the record. The court of common pleas may reinstate the appeal upon good cause shown.

*Official Note:* This rule is intended to provide sanctions for failing to act within the time limits prescribed.

If an appeal is stricken pursuant to this rule, any supersedeas based on it shall be terminated. See Rule 1008(C). If this occurs, and the court of common pleas does not reinstate the appeal upon good cause shown, the judgment holder may proceed with execution of the judgment entered in the magisterial district court.

#### Rule 1007. Procedure on Appeal.

[ A. ] (A) The proceeding on appeal shall be conducted de novo [ in accordance with the Rules of Civil Procedure that would be applicable if the action was initially commenced in the court of common pleas ].

[ B. ] (B) Except as otherwise provided in [ subdivision C ] paragraph (C), the action upon appeal may not be limited with respect to amount in controversy, joinder of causes of action or parties, counter-claims, added or changed averments or otherwise because of the particulars of the action before the magisterial district judge.

[ C. ] (C) When an appeal is taken from a supplementary action filed pursuant to Rule 342, only those issues arising from the Rule 342 action are to be considered.

(D) The prothonotary shall promptly give the magisterial district court written notice of the disposition of the proceeding on appeal.

**Official Note:** As under earlier law, the proceeding on appeal is conducted de novo, but the former rule that the proceeding would be limited both as to jurisdiction and subject matter to the action before the magisterial district judge (see *Crowell Office Equipment v. Krug*, 213 Pa. Super. 261, 247 A.2d 657 (1968)) has not been retained. Under [subdivision B] paragraph (B), the court of common pleas on appeal can exercise its full jurisdiction and all parties will be free to treat the case as though it had never been before the magisterial district judge, subject of course to the Rules of Civil Procedure. The only limitation on this is contained in [subdivision C] paragraph (C), which makes clear that an appeal from a supplementary action filed pursuant to Rule 342 is not intended to reopen other issues from the underlying action that were not properly preserved for appeal.

**Upon appeal to the court of common pleas, a possessory action brought under Chapter 500 may proceed in the same manner as an appeal of a civil action brought under Chapter 300, including being heard by a board of arbitrators.**

Paragraph (D) requires that the prothonotary give the magisterial district court written notice of the disposition of the proceeding on appeal. Disposition may include the entry a judgment, the striking of the appeal pursuant to Rule 1006, the voluntary termination of the appeal, or other disposition in the court of common pleas. If the appeal is stricken or voluntarily terminated, the judgment holder may be able to proceed with execution of the judgment entered in the magisterial district court; it is, therefore, important that the magisterial district court receive prompt official notice of the disposition of the appeal since the judgment holder may wish to execute in that court.

**Rule 1008. Appeal as Supersedeas.**

[ A. Receipt ] (A) Except as otherwise provided in paragraph (B), receipt by the magisterial district [ judge ] court of the copy of the notice of appeal [ from the judgment ] shall operate as a supersedeas [ , except as provided in subdivision B of this rule ] .

[ B. ] (B)(1) When an appeal is from a judgment for the possession of real property, receipt by the magisterial district [ judge ] court of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the appeal [ , ] deposits with the prothonotary a sum of [ money ( ) cash, or a bond [ , ] with surety approved by the prothonotary [ ) ] , equal to the lesser of three [ (3) ] months' rent or the rent actually in arrears on the date of the filing of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within [ thirty (30) ] 30 days following the date of the appeal, and each successive [ thirty (30) ] 30 day period thereafter.

(2) Only when a deposit of cash or bond is made in accordance with paragraph (1) at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district court.

[ Upon application by the landlord, the court ] (3)(a) Except as otherwise provided in paragraph (b), the prothonotary shall release [ appropriate sums ] to the landlord funds from the escrow account [ on a continuing basis ] within five days of the funds being collected while the appeal is pending [ to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal ] .

(b) Upon application by the tenant and for good cause shown, the court of common pleas may impound the funds in the escrow account and direct the prothonotary not to release funds except upon order of court.

(4) In the event the appellant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the appellee, shall terminate the supersedeas but not the underlying appeal. [ Notice of the termination of the supersedeas shall be forwarded via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party that does not have an attorney of record is sufficient if mailed to the party's last known address of record.

Where the deposit of money or bond is made pursuant to the Rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district judge. ]

[ C. ] (C) If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The prothonotary shall [ pay the deposits of rental to the party who sought possession of the real property ] thereupon release to the landlord any remaining funds paid in accordance with paragraph (B)(1).

(D) If a supersedeas is terminated in accordance with any provision of this rule, the prothonotary shall send notice of the termination of the supersedeas via first class ordinary mail to all parties. If a party subject to notice under this paragraph had an attorney of record or authorized representative in the proceedings in the magisterial district court, or if there is an attorney of record in the appellate proceeding in the court of common pleas, a copy of the notice shall also be sent to the attorney of record or authorized representative via first class ordinary mail.

**Official Note:** [ Subdivision A ] Paragraph (A) provides for an automatic supersedeas in appeals from [ trespass and assumpsit actions ] money judgments upon receipt by the magisterial district judge of a copy of the notice of appeal. An appeal from only the money portion of a landlord and tenant judgment would also be governed by paragraph (A). See Rules 514 and 521. It did not seem worthwhile to require bond or other security for costs as a condition for supersedeas in trespass and assumpsit appeals.

[ **Subdivision B** ] Paragraph (B), however, does require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. This provision substantially [ **incorporates the purpose and intent of the Legislative provision contained in Act No. 1995-33, approved July 6, 1995. The 1996 amendment provides a uniform, Statewide procedure (except Philadelphia County; See: Philadelphia Municipal Court Rules of Civil Procedure), and establishes a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.** ] implements the legislative changes to the Landlord and Tenant Act of 1951 contained in the Act of July 6, 1995, P. L. 253, No. 33.

A supersedeas issued under this rule remains in effect during the pendency of the appeal unless terminated in accordance with this rule. Paragraphs (B) and (C) provide in part for the termination of a supersedeas under certain circumstances. Only if a supersedeas is terminated pursuant to these provisions may the judgment holder proceed with execution of the judgment entered in the magisterial district court. A judgment holder who intends to proceed with execution of the judgment entered in the magisterial district court should provide the magisterial district court with a copy of the notice sent in accordance with paragraph (D). Paragraph (B)(4) makes clear that the underlying appeal may proceed even if the supersedeas is terminated.

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 for a period in excess of [ **thirty (30)** ] 30 days" and will be signed by appellee. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent for more than [ **thirty (30)** ] 30 days, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under [ **Pa. R.A.P.D.J. No. ] Rule 515** may be made.

When entering a judgment for the delivery of possession of real property the magisterial district judge must make a determination as to the amount of monthly rent, even if no money judgment is sought or entered. See Rule 514(A). The prothonotary must have this information to calculate the amount due under paragraph (B)(1). The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. [ **Disposition of the monthly rental deposits will be made by the court of common pleas following its de novo hearing of the matter on appeal.** ] Under the 2006 amendments to the rule, the prothonotary must release funds from the escrow account, within five days of the funds being collected, to the landlord during the pendency of the appeal unless otherwise directed by the court of common pleas in accordance with paragraph (B)(3)(b). This is intended to compensate the land-

lord for the tenant's actual possession and use of the premises during the pendency of the appeal. There is no requirement that the landlord make application for the release of funds under paragraph (B)(3)(a). This is a significant change from the former procedure.

[ The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.D.J. Nos. 514 and 521) would be governed by subdivision A. ]

With regard to paragraph (D), see the definitions of "attorney of record" in Rule 202 and Pa.R.C.P. No. 76. See also Rule 207 regarding representation by an authorized representative.

\* \* \* \* \*

### CERTIORARI

#### Rule 1009. Praecipe for Writ of Certiorari.

[ A. Unless he was the plaintiff in the action before the magisterial district judge ] (A)(1) Except as otherwise provided in paragraph (2), a party aggrieved by a judgment may file with the prothonotary of the court of common pleas a praecipe for a writ of certiorari claiming that the judgment should be set aside because of

(a) lack of jurisdiction over the parties or subject matter,

(b) improper venue, or

(c) such gross irregularity of procedure as to make the judgment void.

(2) If the party aggrieved by the judgment was the plaintiff in the action before the magisterial district [ **judge, he** ] court, the party may file a praecipe for a writ of certiorari only on the [ **last mentioned ground** ] grounds set forth in paragraph (1)(c).

[ B. If lack of jurisdiction over the parties or the subject matter is claimed, the praecipe may be filed at any time after judgment. Otherwise it shall be filed within thirty (30) days from the date of the judgment. ]

(B)(1) A praecipe for a writ of certiorari based on the grounds set forth in paragraph (A)(1)(a) may be filed at any time after the date of the entry of the judgment.

(2) A praecipe for a writ of certiorari based on the grounds set forth in paragraph (A)(1)(b) or (c) must be filed within 30 days after the date of the entry of the judgment.

[ C. The praecipe shall identify the judgment complained of and the magisterial district judge in whose office the record of the proceedings containing the judgment is filed. ] (C) Rescinded.

[ D. The praecipe and the writ shall be on a form which shall be prescribed by the State Court Administrator. ] (D) Rescinded.

*Official Note:* [ **Subdivision A** ] Paragraph (A) sets forth the grounds for certiorari. See the comments concerning the limited nature of certiorari in the note to Rule 1001. The plaintiff in the action before the magisterial district judge [ , ] (and the word "plaintiff" as used in this rule does not include a defendant who has sued on a [ **cross-complaint,** ] counterclaim) [ , ] may file a

praecipe for a writ of certiorari only on the ground of gross irregularity. Having instituted the proceedings before the magisterial district judge, the plaintiff should not be permitted to challenge jurisdiction or venue.

Under [ **subdivision B** ] paragraph (B), the praecipe for the writ of certiorari must be filed within [ **thirty** ] 30 days after the date of the entry of the judgment, except when a question of jurisdiction is raised. There is no time limit on raising a question of jurisdiction by certiorari. *Flaherty v. Atkins*, 189 Pa. Super. 550, 152 A.2d 280 (1959). A party who files [ **his** ] a praecipe after the [ **thirty** ] 30 day period has run can be heard only on the question of jurisdiction (if permitted to raise that question under [ **subdivision A** ] paragraph (A)) even though [ **he** ] the party claims improper venue or gross irregularity along with [ **his** ] the claim of lack of jurisdiction. See Rule 402 as to the retention by the prothonotary of the original record of the proceedings when a judgment is entered in the court of common pleas. Because there is no time limit on raising a question of jurisdiction by certiorari, the original case documents must be retained so long as the judgment remains in effect.

The praecipe and writ must be commenced by filing with the prothonotary a written "Writ of Certiorari to Magisterial District Judge" on a form prescribed by the Court Administrator of Pennsylvania. See Rule 212. The current version of the form is available on Pennsylvania's Unified Judicial System website, [www.courts.state.pa.us](http://www.courts.state.pa.us).

#### Rule 1010. Bond for Writ of Certiorari.

No bond or other security [ **shall** ] may be required for issuance of the writ of certiorari.

**Official Note:** As in the case of appeals (see Rule 1003), no bond or other security is required for certiorari, but see Rule 1013 with respect to supersedeas on certiorari.

#### Rule 1011. Issuance and Service of Writ of Certiorari.

[ **A.** ] (A) Upon receipt of the praecipe for a writ of certiorari, the prothonotary shall issue the writ and direct it to the magisterial district [ **judge in whose office** ] court in which the record of the proceedings containing the judgment is filed. [ **The** ] A copy of the writ shall be delivered for service to the party who filed the praecipe.

[ **B.** ] (B)(1) The party obtaining the writ shall serve it, by personal service or by certified [ **or registered** ] mail, [ **upon the magisterial district judge to whom it was directed. In like manner, he shall also serve a copy of the writ** ] upon the opposite party. The address of the opposite party for the purpose of service shall be [ **his** ] the address as listed on the complaint [ **form** ] filed in [ **the office of** ] the magisterial district [ **judge** ] court or as otherwise appearing in the records of that [ **office** ] court. [ **If the opposite party has an attorney of record named in the complaint form filed in the office of the magisterial district judge, the service upon the opposite party may be made upon the attorney of record instead of upon the opposite party personally.** ]

(2) When filing the praecipe for a writ of certiorari the appellant shall provide to the prothonotary a first class postage paid envelope pre-addressed to the magisterial district court in which the record of the proceedings containing the judgment is filed. The prothonotary shall thereupon mail a copy of the writ to the magisterial district court, and shall note such service and any return on the docket.

[ **C.** ] (C) If proof of service of the writ upon [ **the magisterial district judge and** ] the opposite party is not filed with the prothonotary within five [ **(5)** ] days after delivery of the writ for service, the prothonotary shall, upon praecipe of the opposite party, mark the writ stricken from the record and the writ shall not be reinstated nor shall any new writ issue.

[ **D.** ] (D) Service and proof of service may be made by attorney or other agent.

(E) If a party subject to service under this rule had an attorney of record or authorized representative in the proceedings in the magisterial district court, or if there is an attorney of record in the certiorari proceeding in the court of common pleas, a copy of the document to be served upon the party shall also be served upon the attorney of record or authorized representative in the same manner that it is to be served upon the party.

**Official Note:** The provisions as to service of the writ [ **parallel** ] are similar to those for service of notices of appeal under Rule 1005. [ **Subdivision C** ] With regard to paragraph (B), there is no return receipt requirement for service by certified mail and consequently no receipt need be filed with the prothonotary, although if service is by certified mail the sender's receipt must be attached to the proof of service. See Rule 1001. Paragraph (C) contains sanctions for failing to comply with the prescribed time limits, and reinstatement of the writ or the issuance of a new one is not allowed. If the writ is stricken pursuant to paragraph (C), any supersedeas based on it shall be terminated. See Rule 1013(C). If this occurs the judgment holder may proceed with execution of the judgment entered in the magisterial district court.

With regard to paragraph (E), see the definitions of "attorney of record" in Rule 202 and Pa.R.C.P. No. 76. See also Rule 207 regarding representation by an authorized representative.

#### Rule 1012. Return by Magisterial District Judge.

[ **The** ] (A) Except as otherwise provided in paragraph (B) the magisterial district [ **judge** ] court to [ **whom** ] which the writ of certiorari is directed shall, within ten [ **(10)** ] days after [ **its** ] receipt [ **by him** ] of the writ, make return to the writ by transmitting to the prothonotary a certified true copy of the record of the proceedings [ **containing the judgment.** ] including but not limited to copies of the following items:

- (1) The complaint.
- (2) All documents related to service filed in the case.
- (3) Any exhibits or other evidence retained by the magisterial district court.
- (4) The notice of judgment.
- (5) Such other documents that the magisterial district court deems pertinent to the record.

(B) If the original record of the proceedings has been entered in the court of common pleas in accordance with Rule 402(D), the magisterial district court shall so notify the prothonotary.

*Official Note:* [The certified true copy of the record of the proceedings containing the judgment will be a certified true copy of the filled out complaint form prescribed by the State Court Administrator.] Under paragraph (A)(2), "documents related to service" includes certified mail return receipt cards, returned envelopes with notations from the postal service, and any proof or return of service filed with the court.

As to paragraph (B), Rule 402(D) provides that the original record of the proceedings is to be filed with the prothonotary when a magisterial district court judgment is entered in the court of common pleas. Since magisterial district court judgments cannot be revived like judgments entered in the court of common pleas, after five years there would be no possibility of filing a writ of certiorari relating to a magisterial district court judgment unless the judgment were entered in the court of common pleas. If the original record of the proceedings is no longer on file with the magisterial district court upon service of a writ of certiorari, the magisterial district court need only notify the prothonotary that the original documents needed for consideration of the writ are already on file with the prothonotary.

#### Rule 1013. Writ of Certiorari as Supersedeas.

[A. Receipt] (A) Except as otherwise provided in paragraph (B), receipt of the writ of certiorari by the magisterial district [judge to whom] court to which it was directed shall operate as a supersedeas[, except as provided in subdivision B of this rule].

[B.] (B)(1) When the writ of certiorari involves a judgment for the possession of real property, receipt of the writ by the magisterial district [judge] court shall operate as a supersedeas only if the party obtaining the writ at the time of filing the writ[, ] deposits with the prothonotary a sum of [money (]cash, or a bond[, ] with surety approved by the prothonotary[)], equal to the lesser of three [(3)] months' rent or the rent actually in arrears on the date of the filing of [appeal, as determined by the magisterial district judge] the writ, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the certiorari proceedings [upon writ] are pending in the court of common pleas, such additional deposits to be made within [thirty (30)] 30 days following the date of the filing of the writ, and each successive [thirty (30)] 30 day period thereafter.

(2) Only when a deposit of cash or bond is made in accordance with paragraph (1) at the time of filing the writ, the prothonotary shall make upon the writ and its copies a notation that it will operate as a supersedeas when received by the magisterial district court.

[Upon application by the landlord, the court]  
(3)(a) Except as otherwise provided in paragraph

(b), the prothonotary shall release [appropriate sums] to the landlord funds from the escrow account [on a continuing basis] within five days of the funds being collected while the writ is pending [and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of ensuing proceeding (in the event the writ is granted)] in the court of common pleas.

(b) Upon application by the tenant and for good cause shown, the court of common pleas may impound the funds in the escrow account and direct the prothonotary not to release funds except upon order of court.

(4) In the event [that] the party filing the writ fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the writ, shall terminate the supersedeas, but not the underlying writ. [Notice of the termination of the supersedeas shall be forwarded via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party who or which does not have an attorney of record is sufficient if mailed to the party's last known address of record.]

Where the deposit of money or bond is made pursuant to this Rule at the time of the filing of the writ, the prothonotary shall make upon the writ and its copies a notation that the writ will operate as a supersedeas when received by the magisterial district judge.

C.] (C) If a writ of certiorari is stricken, [dismissed] quashed, or discontinued, any supersedeas based on it shall terminate. The prothonotary shall [pay the deposits of rental to the party who sought possession of the real property] thereupon release to the landlord any remaining funds paid in accordance with paragraph (B)(1).

(D) If a supersedeas is terminated in accordance with any provision of this rule, the prothonotary shall send notice of the termination of the supersedeas via first class ordinary mail to all parties. If a party subject to notice under this paragraph had an attorney of record or authorized representative in the proceedings in the magisterial district court, or if there is an attorney of record in the certiorari proceeding in the court of common pleas, a copy of the notice shall also be sent to the attorney of record or authorized representative via first class ordinary mail.

*Official Note:* As in appeals [(see Pa.R.C.P.D.J. No. 1008)], certiorari operates as an automatic supersedeas [in trespass and assumpsit matters] when the writ is received by the magisterial district [judge] court when the judgment subject to the writ is only a money judgment. If the writ involves a judgment for the possession of real property, however, it will operate as a supersedeas upon receipt by the magisterial district [judge] court only if money is paid or a bond is filed conditioned as stated in the rule. This

[Rule has been amended to require] requires a payment equal to the lesser of three months rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a supersedeas to ensure consistency [between this Rule and Pa.R.C.P.D.J. No. 1008. (Appeal as Supersedeas)] with Rule 1008. See Rule 1008. If the judgment subject to the writ is only the money judgment portion of a landlord and tenant judgment, the matter would be governed by paragraph (A) of this rule and the automatic supersedeas would issue.

When entering a judgment for the delivery of possession of real property the magisterial district judge must make a determination as to the amount of monthly rent, even if no money judgment is sought or entered. See Rule 514(A). The prothonotary must have this information to calculate the amount due under paragraph (B)(1).

A supersedeas issued under this rule remains in effect during the pendency of the certiorari proceeding in the court of common pleas unless terminated in accordance with this rule. Paragraphs (B) and (C) provide in part for the termination of a supersedeas under certain circumstances. Only if a supersedeas is terminated pursuant to these provisions may the judgment holder proceed with execution of the judgment entered in the magisterial district court. A judgment holder who intends to proceed with execution of the judgment entered in the magisterial district court should provide the magisterial district court with a copy of the notice sent in accordance with paragraph (D). Paragraph (B)(4) makes clear that the underlying writ may proceed even if the supersedeas is terminated.

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the party filing the writ to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 for a period in excess of [thirty (30)] 30 days" and will be signed by the landlord. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the party filing the writ to deposit the monthly rent for more than [thirty (30)] 30 days, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under [Pa.R.C.P.D.J. No.] Rule 515 may be made.

[The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.] Under the 2006 amendments to the rule, the prothonotary must release funds from the escrow account, within five days of the funds being collected, to the landlord during the pendency of the writ in the court of common pleas unless otherwise directed by the court of common pleas in accordance with paragraph (B)(3)(b). This is intended to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ. There is no requirement that the landlord make application for the release of funds under paragraph (B)(3)(a). This is a significant change from the former procedure.

With regard to paragraph (D), see the definitions of "attorney of record" in Rule 202 and Pa.R.C.P. No. 76. See also Rule 207 regarding representation by an authorized representative.

#### Rule 1014. Orders of Court in Certiorari Proceedings.

[A.] (A) If the court of common pleas finds in favor of the party obtaining the writ, it shall enter an order that the judgment is set aside without prejudice to the cause of action.

[B.] (B) If the court of common pleas finds against the party obtaining the writ, it shall enter an order that the writ is [dismissed] quashed.

*Official Note:* [Subdivision A] Paragraph (A) states the rule that if the court finds in favor of the party obtaining the writ, it merely sets the judgment below aside without prejudice to the cause of action. The grounds for certiorari do not go to the merits of the case but only to matters that usually can be cured by [later selecting a proper tribunal. See *Statler v. Alexander Film Co.*, 21 D & C 512 (1934)] remedial action.

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#### Rule 1015. Certiorari and Appeal Not Permitted.

A judgment may not be the subject of both certiorari and appeal. The prothonotary shall mark stricken from the record any writ of certiorari concerning a judgment as to which an appeal is pending if proof of service of copies of the notice of appeal has been filed. If the appeal is stricken or voluntarily terminated, the prothonotary shall reinstate the writ of certiorari [shall be reinstated] upon praecipe of the party obtaining the writ.

*Official Note:* This rule forbids bringing both certiorari and an appeal. An appeal involves a trial de novo on the merits, although in many cases first in the form of compulsory arbitration, without regard to any defects in the proceedings below, whereas certiorari does attack defects, not going to the merits, in the proceedings below. To attempt to combine these two procedures would cause administrative difficulties hardly worth the effort, considering that a successful certiorari would often merely allow the case to be tried again[, either] before the same or another magisterial district judge or in the court of common pleas, and that an appeal actually is a second trial although it may have changed aspects (see Rule [1007B] 1007(B)). Probably because of these administrative difficulties, the courts of common pleas have rather uniformly prohibited joining the two remedies of appeal and certiorari and have either required an election or forced the prosecution of the first type filed to the exclusion of the other. [See, for example, *Ward v. Harligan*, 1 W.N.C. 72 (1874); *Russell v. Shirk*, 3 C.C. 287 (1888).] Since under the 1968 Constitution a party is entitled as of right to an appeal (Art. V, § 9) but not to certiorari (Art. V, Schedule, 26), it was decided to provide in this rule that the remedy of appeal would take precedence in all cases and that a writ of certiorari addressed to a judgment under appeal (from the time of filing proof of service) would be stricken. This would apply even in the perhaps rare case when one party appeals and the other files certiorari.



## STATEMENT OF OBJECTION

**Rule 1016. Statement of Objection to Rule 420 Orders and Determinations.**

[ A. ] (A) Any party in interest aggrieved by an order or determination made by a magisterial district judge under Rule 420 may obtain a reconsideration thereof in the court of common pleas **only** by filing a **written** statement of objection to the order or determination with the prothonotary and with the magisterial district [ **judge in whose office** ] **court in which** the order or determination was made.

[ B. ] (B) The statement of objection shall be filed with the prothonotary and the magisterial district [ **judge** ] **court** within ten [ (10) ] days after the date of the order or determination to which objection is made.

*Official Note:* This rule and Rules 1017–1020 provide a system for reconsideration in the court of common pleas of orders and determinations of magisterial district judges dealing with execution matters.

Under [ **subdivision B** ] **paragraph (B)** of this rule, the statement of objection must be filed within ten days after the date of the questioned order or determination. See Rule [ **421C** ] **421(C)**. The time limit for filing a statement of objection need not be the same as that for filing a notice of appeal from a judgment. See [ **the Judicial Code, §** ] **section 5571(c)(4) of the Judicial Code, 42 Pa.C.S. § 5571(c)(4)** [ , as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53 ]. It may be noted that under Pa.R.C.P. Nos. 3206(b) and 3207(b) objections to sheriff's determinations must be made within ten days after the date of mailing of the determination.

**Rule 1017. Form and Content of Statement of Objection.**

The statement of objection [ , which shall be on a form which shall be prescribed by the State Court Administrator, ] shall merely [ **state** ] **set forth** that the party filing it objects to the order or determination described in the statement.

*Official Note:* This rule prescribes the form and content of the statement of objection. **The statement of objection must be commenced by filing with the prothonotary and the magisterial district court a written "Statement of Objection to Rule 420 Orders and Determinations of Magisterial District Judge" on a form prescribed by the Court Administrator of Pennsylvania. See Rule 212. The current version of the form is available on Pennsylvania's Unified Judicial System website, www.courts.state.pa.us. Compare Pa.R.C.P. Nos. 3206(b), 3207(b).**

**Rule 1018. Duties of Magisterial District Judge Upon Receipt of Statement of Objection.**

[ A. ] (A)(1) Immediately upon receipt of the statement of objection, the magisterial district [ **judge** ] **court** shall send a copy of it by **first class** ordinary mail to all other parties in interest.

(2) **If a party subject to service under paragraph (1) has an attorney of record or authorized representative in the proceedings in the magisterial district court, the magisterial district court shall also send a copy of the statement of objection by**

**first class ordinary mail to the attorney of record or authorized representative.**

[ B. ] (B) Within ten [ (10) ] days after receiving the statement of objection, the magisterial district [ **judge** ] **court** shall [ **file with** ] **transmit** to the prothonotary a certified true copy of the record of actions taken by the magisterial district judge under Rule 420, but copies of only those appeals, objections, claims, exceptions, or requests considered under Rule 420 that are pertinent to the statement of objection need be [ **attached to** ] **included** in that record.

*Official Note:* As to the procedure in [ **subdivision A** ] **paragraph (A)**, compare Pa.R.C.P. Nos. 3206(b), 3207(b).

**With regard to paragraph (A)(2), see the definition of "attorney of record" in Rule 202. See also Rule 207 regarding representation by an authorized representative.**

[ **Subdivision B** ] **Paragraph (B)** is intended to bring before the court copies of the documents on file in the [ **office of the** ] magisterial district [ **judge** ] **court** pertaining to the matter in question. The [ **attachments to** ] **documents included** in the record of Rule 420 actions referred to in this [ **subdivision** ] **paragraph** are notations by the magisterial district judge of appeals taken under Rule [ **408C** ] **408(C)** and objections to levy under Rule 413, property claims under Rule 413, exceptions to distribution under Rule [ **416C** ] **416(C)** and requests to set aside sale under Rule [ **420C** ] **420(C)** filed in [ **the office of** ] the magisterial district [ **judge** ] **court**.

**Rule 1019. Consideration of Statement of Objection by Court of Common Pleas.**

[ A. ] (A) Upon consideration of the statement of objection, the court of common pleas shall take such action and make such orders as shall be just and proper.

[ B. ] (B) The matters raised by the statement of objection shall be considered de novo by the court of common pleas.

*Official Note:* Consideration of the matters raised by the statement of objection will be de novo and the court is given broad latitude and discretion in disposing of these matters. Although the proceedings are de novo, this will not excuse failure to comply with whatever time limitations are imposed (see Rules [ **408C** ] **408(C)**, 413, [ **416C and 420C** ] **416(C) and 420(C)**) for raising before the magisterial district [ **judge** ] **court** the matters now before the court of common pleas.

**Rule 1020. Statement of Objection to Operate as Stay.**

Until further order of the court of common pleas, receipt by the magisterial district [ **judge** ] **court** of the statement of objection shall operate as a stay of any execution proceedings that may be affected by the proceedings on the statement.

*Official Note:* Under this rule, receipt by the magisterial district [ **judge** ] **court** of the statement of objection operates initially as an automatic stay of the affected execution proceedings.



## REPORT

**Proposed Amendments to Rules 206, 402, and  
1001—1020 of the Rules of Conduct, Office  
Standards and Civil Procedure for Magisterial  
District Judges**

**Comprehensive Changes to the Rules Relating  
to Appeals to the Courts of Common Pleas  
From Judgments Entered in the Magisterial  
District Courts**

**I. Introduction and Background**

The Minor Court Rules Committee (the Committee) is proposing significant amendments to the rules of procedure governing appeals to the courts of common pleas from judgments entered in the magisterial district courts (Chapter 1000). This proposal is the culmination of several years work, and is in response to inquiries and suggestions from interested persons, developments in case law, and the Committee's own internal discussions.

**II. Proposed Rule Changes**

While many of the proposed changes are self-explanatory or editorial in nature, the following represent more significant changes in practice and require more in-depth explanation.<sup>1</sup>

**A. Discussion of Selected Changes to Appellate Rules 1001—1020**

**1. Rule 1001**

The Committee proposes that the definitions in Rule 1001 be revised to conform to the substantive changes in the subsequent appellate rules. Specifically, because of significant proposed changes in Rule 1004, the definitions of "claimant" and "defendant" are rendered unnecessary. In addition, the Committee proposes that all references to registered mail be deleted as unnecessary.

In the Official Note, among other changes, the Committee proposes additional wording to make clear that an appeal of a possessory (landlord and tenant) action brought under Chapter 500 may be heard by a board of arbitrators in the same manner as an appeal of a civil action brought under Chapter 300.<sup>2</sup> This has been the source of confusion from time-to-time, with some suggesting that an appeal from a magisterial district court possessory judgment should proceed in the court of common pleas as an action in ejectment. The Committee believes that landlord and tenant matters, as statutorily created causes of action, may be heard by arbitrators and proceed as in other appeals from magisterial district court judgments.

**2. Rule 1002**

The Committee proposes the addition of a new paragraph (A)(2) to make clear that an appeal from only the money portion of a judgment in a case arising out of a residential lease is governed by paragraph (A)(1) and the longer 30 day appeal period applies. While this has been the subject of much confusion since the 1995 amendments to the Landlord and Tenant Act, the Committee has long believed that only appeals from judgments for the possession of real property arising out of residential lease agreements should be subject to the shorter ten day appeal period, and where a tenant contests only the judgment for money, and not the judgment for possession,

the tenant should be accorded the longer 30 day appeal period (and the applicable automatic supersedeas under Rule 1008(A)).

The Committee further proposes the addition of a new paragraph (C) that would require the party filing the appeal to file a copy of all notices of judgment relating to the original complaint and all counterclaims. This is intended to facilitate proposed new Rule 1004(C), and is consistent with the Pennsylvania Supreme Court's holding in *American Appliance v. E.W. Real Estate Management, Inc.*, 564 Pa. 473, 769 A.2d. 444 (2001).<sup>3</sup>

**3. Rule 1004**

The Committee proposes significant changes to Rule 1004 to streamline the appellate process. Under current rules, appeals to the court of common pleas are heard *de novo*, and all pleadings and procedures beyond the filing of the notice of appeal must conform to the rules of civil procedure governing actions in the court of common pleas. Under the Committee's proposed changes, this would remain the case when the plaintiff from the magisterial district court proceedings appeals; i.e., the plaintiff would be required to file a complaint in conformity with the common pleas rules, and thereafter all pleadings and procedures would be in accordance with those rules. When the defendant from the magisterial district court proceedings appeals, however, the proposed rules would give the plaintiff the option to proceed in the court of common pleas using the complaint filed in the magisterial district court proceedings.<sup>4</sup> This is intended to alleviate the burden currently placed on the plaintiff to file a common pleas complaint when the defendant takes an appeal. The existing requirement that the plaintiff file a common pleas complaint in all cases usually forces the plaintiff to incur the additional expense of hiring a lawyer to draft and file the complaint, after the plaintiff has already obtained a judgment and often after the defendant failed to appear and defend at the district court level. Under the proposed rules, when the plaintiff elects to proceed on the magisterial district court complaint there would be streamlined responsive pleadings and limited grounds on which preliminary objections could be filed. For example, the permissible grounds for preliminary objections would not include improper form of complaint because the magisterial district court complaint does not conform to the common pleas requirements. The proposed rules would also permit a plaintiff to file a common pleas complaint as under current procedures, and if the plaintiff elects to do so all subsequent pleadings and procedures would need to conform to regular common pleas practice. This proposed simplified pleading option would require numerous conforming amendments to other rules in Chapter 1000.

The second proposed major change to Rule 1004 involves appeals in cases involving counterclaims and in cases involving multiple parties. The proposed amendment to paragraph (C) would provide that an appeal by any party is deemed an appeal by all parties as to all judgments and all issues unless otherwise stipulated in writing by all parties. This would include all judgments in cases involving counterclaims. Further, such appeals

<sup>3</sup> See discussion *infra* Part II.A.3.

<sup>4</sup> This concept was initially introduced in a proposal put forth by the Civil Procedural Rules Committee. See the Civil Procedural Rules Committee's Proposed Recommendation No. 160, published at 30 Pa.B. 2126 (April 29, 2000). Because the procedures relating to appeals from magisterial district court judgments are set forth in Chapter 1000 of the magisterial district court civil rules which are under the purview of the Minor Court Rules Committee, and it was thought desirable to keep all such procedures in one set of rules, the Civil Procedural Rules Committee referred this matter to the Minor Court Rules Committee.

<sup>1</sup> In addition to the substantive changes discussed here, the Committee is proposing numerous editorial changes to improve tabulation, enhance readability, correct citation form, and to conform to modern drafting style.

<sup>2</sup> The Committee proposes a similar note in Rule 1007.

would require the filing of only a single notice of appeal.<sup>5</sup> This proposed change is intended to be consistent with the Pennsylvania Supreme Court's holding in *American Appliance v. E.W. Real Estate Management, Inc.*, 564 Pa. 473, 769 A.2d. 444 (2001). This proposed change would also be consistent with Pa.R.C.P. No. 1309 governing appeals from compulsory arbitration awards.

#### 4. Rule 1005

The Committee proposes that Rule 1005 be amended to provide for service of the notice of appeal upon the magisterial district court by first class ordinary mail. The proposed rule would require the appellant to provide to the prothonotary, at the time of filing the notice of appeal, a first class postage paid envelope pre-addressed to the magisterial district court. The Committee believes that personal service or service by certified mail upon the district court is an unnecessary burden and expense. Service upon the appellee would continue to be by personal service or certified mail, or in accordance with the local rule option under paragraph (C).<sup>6</sup>

Proposed new paragraph (F) would require service upon a party's attorney of record or personal representative in the magisterial district court proceedings, if any.<sup>7</sup> This is intended to make the service and notice provisions in Chapter 1000 consistent with similar provisions elsewhere in the rules.<sup>8</sup>

#### 5. Rule 1006

The Committee proposes a revision to the Official Note to Rule 1006 to make clear that if an appeal is stricken any supersedeas based on the appeal is terminated, and in this event the holder of the magisterial district court judgment may execute upon the judgment utilizing the execution procedures at the district court level. This provision, and similar provisions proposed throughout the Chapter 1000 rules,<sup>9</sup> is intended to provide guidance as to when a judgment holder may return to the magisterial district court level to execute upon a judgment that had been appealed to the court of common pleas.<sup>10</sup>

#### 6. Rule 1007

In Rule 1007, the Committee proposes the addition of a new paragraph (D) that would require the prothonotary to promptly give the magisterial district court written notice of the disposition of the proceeding on appeal. The Committee believes it to be particularly important that this provision be made a part of the rule because, depending on the disposition of the appeal, the holder of the magisterial district court judgment may or may not be able to return to the district court to execute upon the judgment utilizing the execution procedures at the district court level.<sup>11</sup>

#### 7. Rule 1008

The Committee proposes amendments to Rule 1008 to clarify when the automatic supersedeas (paragraph (A)) applies, and when a deposit of cash or bond is required to secure a supersedeas (paragraph (B)). In addition, the Committee proposes a significant change to existing procedure with regard to rent monies paid from the

escrow account held by the prothonotary under paragraph (B). Under the current rule, the landlord must make application for the release of escrow funds. Because the escrowed funds are intended to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal, however, the Committee believes that funds should automatically be paid to the landlord on an ongoing basis. Under the proposal, therefore, paragraph (B)(3)(a) would be amended to require the prothonotary to release funds from the escrow account within five days of the funds being collected while the appeal is pending. Paragraph (B)(3)(b) would provide for an application of the tenant to the court to impound the escrowed funds for good cause shown. The Committee believes this to be a more equitable system for the disbursement of escrowed funds.

A proposed amendment to paragraph (B)(4) would make clear that the failure of the tenant to make the rent payments in accordance with paragraph (B)(1) terminates the supersedeas but not the underlying appeal. This has been the source of some confusion, and the Committee believes that termination of the supersedeas alone does not affect the disposition of the underlying appeal.<sup>12</sup>

#### 8. Rule 1009

In addition to numerous editorial changes, the Committee proposes a revision to the Note to Rule 1009 to cross reference the proposed new procedure in Rule 402 for the entry of a magisterial district court judgment in the court of common pleas.<sup>13</sup>

#### 9. Rule 1012

The Committee proposes that Rule 1012 be amended to specify what documents should be included in the certified true copy of the magisterial district court record sent to the prothonotary in response to a writ of certiorari. In addition, a new paragraph (B) would be added to conform to the proposed new procedure in Rule 402 for the entry of a magisterial district court judgment in the court of common pleas.<sup>14</sup>

#### 10. Rule 1013

Rule 1013 would be amended to mirror, to the extent possible, the supersedeas provisions in Rule 1008, including the proposed new procedure for the disbursement of escrow funds to a landlord.<sup>15</sup>

### B. Discussion of Correlative Changes to Rules 206 and 402

#### 1. Rule 206

The Committee reviewed paragraph (C) of Rule 206 relating to recovery of taxable costs on appeal or certiorari, and is proposing a significant change to promote the efficient utilization of judicial resources and the effective administration of justice. Specifically, the Committee is proposing the addition of a new paragraph (C)(5) that would provide that an appellant who did not appear at the hearing in the magisterial district court may not recover taxable costs on appeal. This provision is intended to discourage the wasting of judicial resources that occurs when one party does not attend the magisterial district court hearing with the intent of filing an appeal and

<sup>5</sup> See discussion of Rule 1002 supra Part II.A.2.

<sup>6</sup> Similar changes are proposed in Rule 1011 with regard to service of a writ of certiorari.

<sup>7</sup> Similar provisions are proposed in Rules 1008, 1011, 1013, and 1018.

<sup>8</sup> See Supreme Court of Pennsylvania Order No. 230, Magisterial Docket No. 1 (June 1, 2006) implementing Recommendation No. 3 Minor Court Rules 2004, and accompanying explanatory Final Report, note 10, published at 36 Pa.B. 2955 (June 17, 2006).

<sup>9</sup> See proposed amendments or revisions to the Official Notes to Rules 1007, 1008, 1011, and 1013.

<sup>10</sup> For further discussion of this issue, see the Committee's proposal and explanatory Report published at 34 Pa.B. 1933 (April 10, 2004).

<sup>11</sup> See supra Part II.A.5 and note 10.

<sup>12</sup> A similar change is proposed in Rule 1013 with regard to a supersedeas based on a writ of certiorari.

<sup>13</sup> See discussion infra Part II.B.2.

<sup>14</sup> Id.

<sup>15</sup> See discussion supra Part II.A.7.

litigating the case in the court of common pleas. The Committee believes that the magisterial district courts offer an affordable, efficient, and effective forum in which to resolve many disputes, and that litigants should fully and properly avail themselves of the district court process before appealing matters to the courts of common pleas.

## 2. Rule 402

In Rule 402, the Committee is proposing a new procedure for the entry of a magisterial district court judgment in the court of common pleas. The Committee reviewed a recent case, *Smith v. Sperduti*,<sup>16</sup> which addressed an apparent conflict between Pa. R.C.P.M.D.J. No. 1009 and the Scheduled Records/District Justice Record Retention Schedule.<sup>17</sup> In *Smith*, the issue was whether “an aggrieved party [can] secure relief from a judgment of a district justice (now a magisterial district judge) by way of a writ of certiorari, claiming lack of jurisdiction over him, after the case records of the district justice have been destroyed pursuant to the record retention and disposition schedule adopted to implement Pa.R.J.A. 507(b)?”<sup>18</sup> As the court pointed out, “there is seemingly irreconcilable conflict between Pa.R.C.P.D.J. 1009(B), which permits a praecipe for a writ of certiorari anytime after judgment where lack of jurisdiction is claimed, and the record retention and disposition schedule of our Supreme Court”<sup>19</sup> which provides for the destruction of civil case records seven years after entry of judgment.<sup>20</sup> Although the court was able to decide this case by appropriately considering “evidence beyond the record of the district justice to determine the issue with regard to those facts not within the personal knowledge of the district justice,”<sup>21</sup> the Committee believes the conflict between Rule 1009 and the records retention schedule should be resolved. The Committee concluded that because there is no time limit on raising a question of jurisdiction by certiorari, the original case documents must be retained so long as the judgment remains in effect.<sup>22</sup>

To resolve the conflict, the Committee proposes that Rule 402(D)(2) be amended to provide a procedure by which the original record of a case that is entered in the court of common pleas be retained by the prothonotary, and therefore not subject to the records retention schedule applicable to the magisterial district courts. The amended rule would require a magisterial district court judgment holder who seeks to enter the judgment in the court of common pleas to file with the prothonotary a “Praecipe to Enter the Magisterial District Court Judgment in the Court of Common Pleas”<sup>23</sup> along with a certified true copy of the judgment. The praecipe would, among other things, direct the prothonotary to enter the judgment upon the proper docket and the judgment index, direct the prothonotary to give notice of the entry of judgment to the defendant by mailing a copy of the praecipe to the defendant,<sup>24</sup> and direct the magisterial district court to transmit the original record of the proceedings to the prothonotary to be retained by the

prothonotary. Under this proposed procedure, therefore, the original record — including, notably, records relating to service — would be available if at any time in the future the judgment was challenged under Rule 1009 for lack of jurisdiction. The copy of the record retained by the magisterial district court could be destroyed in accordance with the records retention schedule.

[Pa.B. Doc. No. 06-1437. Filed for public inspection July 28, 2006, 9:00 a.m.]

## PART I. GENERAL

### [246 PA. CODE CH. 1000]

#### Correction to Rule 1002 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Order of December, 15, 2000, published at 30 Pa.B. 6882, 6883 (December 30, 2000), amended the comment to Rule 1002. A paragraph of the official note was not codified correctly. This notice corrects the affected portion of the official note currently published in the *Pennsylvania Code*.

### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

### PART I. GENERAL

#### CHAPTER 1000. APPEALS

### APPEAL

#### Rule 1002. Time and Method of Appeal.

\* \* \* \* \*

**Official Note:** The thirty day limitation in subdivision A of this rule is the same as that found in the Judicial Code § 5571(b), 42 Pa.C.S. § 5571(b), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. The ten day limitation in subdivision B of this rule is designed to implement the time for appeal set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No. 1995-33, approved July 6, 1995) (Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before District Justices, as adopted by that Order.). The two subdivisions of this rule are intended to clarify that where the right of possession of residential real estate is at issue, the shorter, ten day period for appeal applies; where the appeal is taken from any judgment for money, or a judgment affecting a nonresidential lease, under these rules, the thirty day period of time for appeal applies. A party may appeal the money portion of a judgment only within the thirty day appeal period specified in subsection A of this rule. It is the intent of this rule that no supersedeas under Pa.R.C.P.D.J. No. 1008 shall be issued by the Prothonotary after the ten (10) day period for filing an appeal, unless by order of court.

\* \* \* \* \*

[Pa.B. Doc. No. 06-1438. Filed for public inspection July 28, 2006, 9:00 a.m.]

<sup>16</sup> 74 Pa. D. & C.4th 395 (C.P. Beaver County 2005)

<sup>17</sup> 204 Pa. Code § 213.51. See also Pa.R.J.A. No. 507.

<sup>18</sup> 74 Pa. D. & C.4th at 397.

<sup>19</sup> *Id.* at 400.

<sup>20</sup> 204 Pa. Code § 213.51(a)(3).

<sup>21</sup> 74 Pa. D. & C.4th at 401.

<sup>22</sup> At the outset, the Committee noted that the issue in *Smith* would not have arisen had the magisterial district court judgment not been entered in the court of common pleas, because the judgment would have expired after five years (see Rule 402(A) and (D)(3)), two years before the record could have been destroyed under the records retention schedule. Therefore, the *Smith* issue can arise only when a judgment is entered in the court of common pleas, thereby potentially extending the life of the judgment beyond the seven year records destruction date.

<sup>23</sup> The rule contemplates that the praecipe would be on a preprinted form. See Pa. R.C.P.M.D.J. No. 212.

<sup>24</sup> See Pa.R.C.P. No. 236.

# Title 255—LOCAL COURT RULES

## CRAWFORD COUNTY

### In the Matter of the Adoption of Local Criminal Rule 117 Providing for Coverage and Availability of Issuing Authorities with Respect to Issuing Warrants; Preliminary Arraignments; Summary Trials; and Setting and Accepting Bail; AD No. 4 of 2006

#### Order

And Now, July 13, 2006 pursuant to Rule 105 of the Pennsylvania Rules of Criminal Procedure, it is hereby ordered that Local Rule 117 (Cra.R.Crim.P. 117) is hereby adopted to take effect thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is ordered and directed to:

1. File seven (7) certified copies of this order with the Administrative Office of Pennsylvania Courts.
2. Send two (2) certified copies and a diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Send one (1) certified copy of this order to the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy to the Crawford County Law Library.
5. Keep continuously available for public inspection copies of this order and rule in the Clerk of Courts Office.

By the Court

GORDON R. MILLER,  
*President Judge*

#### **Rule 117. COVERAGE—ISSUING WARRANTS; PRELIMINARY ARRAIGNMENTS AND SUMMARY TRIALS; AND SETTING AND ACCEPTING BAIL**

##### REGULAR BUSINESS HOURS

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. local time.

##### CONTINUOUS COVERAGE

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) shall be in accordance with the traditional on-call system as presently established.

##### NON-BUSINESS HOURS

At least one magisterial district judge shall be available at all times in Crawford County. The responsibility of the judge on call is to perform the services referred to in this order and any other acts of an emergency nature as required by rule or law. A magisterial district judge in a particular district may contact police officers and other law enforcement agencies to indicate that said judge shall be called first even though said judge is not the on call magisterial district judge in order to handle matters required of magisterial district judges within the district of that particular judge.

Otherwise, the magisterial district judge on call shall be contacted by all police agencies and other law enforcement agencies. Said judge must be available (able to be accessed or able to render services as required by rule or law). The magisterial district judge shall not have the option of determining when he or she will be available. The on call magisterial district judge must be available and must respond (answer or reply) in a timely fashion. In certain instances, such as under Rules 441 and 519 of the Pennsylvania Rules of Criminal Procedure, arresting officers may release a person from custody and subsequently file a citation or summons when specific conditions have been met. Police agencies and arresting officers are encouraged to familiarize themselves with these sorts of rules as those rules will be discussed by a magisterial district judge in deciding whether an arraignment is necessary in these cases.

The on call magisterial district judge will be available during non-office hours for a week at a time in rotation, with each assignment period beginning on Monday at 4:30 p.m. and ending the following Monday at 8:30 o'clock a.m. (except Monday holidays, when the assignment period ends at 4:30 p.m. on that particular Monday).

During that time the on call magisterial district judge is responsible for coverage by being available for inquiries at his or her home, through use of the beeper, or through communication with Crawford County Control. By providing continuous availability the on call magisterial district judge can then effectively receive/monitor all on call requests. If it is necessary for the on call magisterial district judge to personally act within two (2) hours of the time that judge's office will open for the next business day, the magisterial district judge may require the police officer or other law enforcement agency to bring a defendant before the appropriate magisterial district judge at or after the opening of that office.

During temporary assignments in the on call schedule the magisterial district judge assigned is authorized to call upon the services of other magisterial district judges as needed, and mutually agreed upon, particularly if the other magisterial district judges have an office that is more convenient to the parties by reason of geographical location.

The court administrator shall, annually, prepare a temporary assignment schedule to be used in Crawford County outside of normal business hours for the purposes set forth in this rule. That schedule is known as the "Emergency Assignment Schedule." Modifications to this schedule may occur amongst respective magisterial district judges provided any modifications are mutually agreed upon and subsequently conveyed to Crawford County Control. Any additional compensation for subsequent modification of an existing schedule shall be waived.

#### MAGISTERIAL DISTRICT JUDGE TEMPORARY ASSIGNMENTS

When during regular business hours for magisterial district judges, a judge who has venue over a particular matter is unavailable, any other magisterial district judge in Crawford County is hereby temporarily assigned to serve the magisterial district of the judge who is unavailable. Such an arrangement may be made between respective magisterial district judges by mutual agreement. Any additional compensation for said arrangement will be waived.

## OFFICIALS DESIGNATED TO ACCEPT BAIL

Magisterial district judges and the Clerk of Courts shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 06-1439. Filed for public inspection July 28, 2006, 9:00 a.m.]

## INDIANA COUNTY

## Adoption of Rules of Criminal Procedure IC117, IC431 and IC520; No. AD-2-2006

## Order of Court

And Now, this 12th day of July, 2006, it is hereby Ordered and Directed that new Indiana County Rules of Criminal Procedure IC117, IC431 and IC520 are adopted effective August 1, 2006.

The Indiana 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 *Indiana County Law Journal*.
5. Forward one (1) copy to the Indiana 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

WILLIAM J. MARTIN,  
President Judge

## ADOPTION OF RULES OF CRIMINAL PROCEDURE

## INDIANA COUNTY 117, INDIANA COUNTY 431 and INDIANA COUNTY 520

## Local Rule IC 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail

A. After hours coverage shall be provided by a Magisterial District Judge, assigned on a rotational schedule, who has county-wide jurisdiction and who operates between the hours of 4:00 p.m. to 8:00 a.m. Monday through Friday. Holiday and weekend coverage shall be provided by an assigned on-call Magisterial District Judge.

1. The "duty" Magisterial District Judge will hold Court by video conferencing available from any approved advanced communication technology site. The Magisterial District Court Office will remain closed to the public during after hours coverage except at the discretion of the Magisterial District Judge.

2. In the event a Magisterial District Judge is needed when the Court is not scheduled for after hours coverage for the issuance of a search or arrest warrant, a protection from abuse petition, or other emergency matter; the "duty" Magisterial District Judge will be contacted through the Indiana County Emergency Management Agency at (724) 349-1428.

3. Procedures for executed summary warrants shall be pursuant to Pa.R.Crim.P.431.

B. Monetary bond may be posted outside of regularly scheduled daily work hours at the Indiana County Jail.

The Indiana County Sheriff's Office is designated to accept bail deposits as provided in Rule 117, having the defendant sign the bail bond, releasing the defendant and delivering the bail deposit and bail bond to the issuing authority or The Clerk of Courts. After hour bail deposits must be in the form of cash or a money order. The posting of \$10,000.00 or more in cash shall require the submission of Form 8300, an Internal Service Regulation. All persons wishing to post bail after hours shall contact the duty sheriff by calling the Indiana County Emergency Management Agency at (724) 349-1428.

## Rule IC 431 Procedure When Defendant Arrested With Warrant

A. In lieu of bringing a summary offender before the Magisterial District Judge when summary warrant is executed, the police officer shall follow the options provided in Pa.R.Crim.P.431.

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

## Rule IC 520 Bail Before Verdict

Monetary bond may be posted outside of regularly scheduled daily work hours at the Indiana County Jail pursuant to procedure outline in Rule IC 117B.

Effective 8/01/06

[Pa.B. Doc. No. 06-1440. Filed for public inspection July 28, 2006, 9:00 a.m.]

## LEHIGH COUNTY

## Adoption of New Lehigh Rule of Criminal Procedure 117; File No. AD-2-2006

## Order

And Now, this 11th day of July, 2006, pursuant to the requirements of Pa.R.Crim.P. 117, *It Is Ordered* that effective August 1, 2006, new Lehigh County Rule of Criminal Procedure, Leh.R.Cr.P.117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail, be and the same is hereby adopted in the following form.

*It Is Further Ordered* that seven (7) certified copies of this Order and the attached Rule of Criminal Procedure shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies and one (1) diskette shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of

Pennsylvania; and that one copy shall be filed with the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

**Leh.R.Cr.P.117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.**

1. Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays, excluding holidays, during such hours as established by Order of the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the court.

2. Continuous coverage for the issuance of warrants, the holding of preliminary arraignments and summary trials, and the setting and accepting of bail and collateral shall be by 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. An on-call Magisterial District Judge, while on-call, and the Clerk of Courts-Criminal, on any day and at any time, are authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 06-1441. Filed for public inspection July 28, 2006, 9:00 a.m.]

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**LUZERNE COUNTY**

**Order Promulgating New Rule of Criminal Procedure 150; No. 1 MD/06**

**Order**

*Now, this 1st day of June, 2006, It Is hereby Ordered* that new Luzerne County Rule of Criminal Procedure 150 is hereby promulgated in the following form.

*It Is Further Ordered* that the District Court Administrator shall file seven (7) certified copies of this Order and the attached Rule with the Administrative Office of Pennsylvania Courts, two (2) copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee, one (1) certified copy to the Criminal Procedural Rules Committee, once (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue.

*It Is Further Ordered* that the effective date of this order shall be thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

*It Is Further Ordered* that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office and the Clerk of Court's Office.

*By the Court*

MICHAEL T. CONAHAN,  
*President Judge*

**L.R.CRIM.P. 150 Bench Warrants**

(1) The person executing a bench warrant shall deliver the subject of the warrant to the warden of the Luzerne County Prison. The person executing a bench warrant shall immediately notify the Court Administrator that the subject of the warrant is in custody. In the event, the subject of the warrant is lodged at the Luzerne County Prison after the close of the business day, the person executing the bench warrant shall notify the Court Administrator as required by this paragraph at the opening of the next business day.

(2) In addition, when the subject of the warrant has been delivered to the warden of Luzerne County, the warden shall immediately notify the Court Administrator that the subject of the warrant is in custody. In the event, the subject of the warrant is lodged at the Luzerne County Prison after the close of the business day, the warden shall notify the Court Administrator as required by this paragraph at the opening of the next business day.

(3) If the subject voluntarily surrenders, the Court Administrator must be immediately informed by the agency to which the subject has surrendered. In the event the subject of the warrant surrenders after the close of the business day, the agency shall notify the Court Administrator as required by this paragraph at the opening of the next business day.

(4) Upon receiving notice that a bench warrant has been executed or that the subject has surrendered, the Court Administrator shall immediately notify the issuing judge, the district attorney, any counsel of record and the public defender that the subject is in custody. In the event the issuing judge is unavailable, notice shall be given to a judge of this Court assigned criminal cases who is available. After consultation with the judge, the Court Administrator shall schedule a hearing to be held as soon as possible, but not later than 72 hours after the subject has been lodged at the Luzerne County jail. The Court Administrator may give oral notice of this hearing, along with written notice, and shall maintain a record of that notice.

[Pa.B. Doc. No. 06-1442. Filed for public inspection July 28, 2006, 9:00 a.m.]

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**WESTMORELAND COUNTY**

**Adoption of Rule of Criminal Procedure WC150; Amendment of Rule WC529; No. 2 Civil of 2006**

**Order**

*And Now This 13th day of July 2006, it is hereby Ordered* that new Westmoreland Rule of Criminal Procedure WC150 is adopted, and that Westmoreland County Rule of Criminal Procedure 529 is amended. This Order is effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

DANIEL J. ACKERMAN,  
*President Judge*

**Rule 150 Bench Warrants**

(a) Whenever an individual is committed to the Westmoreland County Prison pursuant to a bench warrant issued by a Westmoreland County judicial officer, the

Warden or designee, shall promptly, or in no case later than the beginning of the next business day, notify the court administrator who shall:

- (1) schedule a bench warrant hearing, and
- (2) notify the district attorney, defense counsel of record, sheriff and probation office.

(b) Pursuant to Pa.R.Crim.P. 150(A)(4), whenever an individual is committed to the Westmoreland County Prison pursuant to a bench warrant issued by a judicial officer outside of Westmoreland County, the Warden or designee, shall promptly notify the proper authorities in the county of issuance.

(c) Any judge of the Court Of Common Pleas Of Westmoreland County may conduct a bench warrant hearing if the judge who issued the bench warrant is unavailable. Any Westmoreland County magisterial district judge may conduct a bench warrant hearing if the magisterial district judge who issued the bench warrant is unavailable.

(d) The Westmoreland County Warden shall release an individual held on a bench warrant by operation of law 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 president judge shall advise the warden of any days in addition to weekends or holidays that are non-business days.

#### **Rule WC529 Modification of Bail Order Prior to Trial**

The defendant shall indicate on any petition to the court to modify bail prior to the preliminary hearing whether or not the defendant first applied for modification of bail from the magisterial district judge who was elected or assigned to preside over the jurisdiction where the crime occurred.

[Pa.B. Doc. No. 06-1443. Filed for public inspection July 28, 2006, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

### DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 147]

#### Building Energy Conservation Standards

The Department of Community and Economic Development (Department), under section 306 of the Community and Economic Development Enhancement Act (71 P. S. § 1709.306), rescinds Chapter 147 to read as set forth in Annex A.

#### *Introduction*

Chapter 147 established administrative procedures and energy conservation standards for the implementation of the Building Energy Conservation Act.

#### *Analysis*

Chapter 147 is outdated and no longer consistent with current law. The Building Energy Conservation Act has been repealed and replaced by the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103). Therefore, Chapter 147 is unnecessary.

#### *Fiscal Impact*

*Commonwealth.* There will be no fiscal impact on the Commonwealth.

*Political subdivisions.* There will be no fiscal impact on political subdivisions.

*Public.* There will be no fiscal impact on the public.

#### *Paperwork*

The rescission of Chapter 147 eliminates paperwork requirements currently in existence.

#### *Notice Proposed Rulemaking Omitted*

Notice of proposed rulemaking has been omitted under section 204(2) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(2) and (3)), known as the Commonwealth Documents Law (CDL), which specifies that a regulation may be adopted without notice of proposed rulemaking if proposed rulemaking procedures are “in the circumstances impracticable, unnecessary, or contrary to the public interest” or if they relate to “Commonwealth property, loans, grants, benefits or contracts.” The proposed rulemaking procedures in this instance is unnecessary because the existing regulation is outdated and no longer consistent with current law.

#### *Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on May 23, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce Committee and the Senate Community and Economic Development Committee. A copy of this material is available to the public upon request.

Under section 5.1(j.2) of the Regulatory Review Act, on July 5, 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 July 6, 2006, and approved the final-omitted rulemaking.

#### *Effective Date/Sunset Date*

The final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. A sunset date is not applicable because the regulations are being repealed.

#### *Contact Person*

Interested persons are invited to submit in writing comments, suggestions or objections regarding the final-omitted rulemaking to Matthew Speicher, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7317; or Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7416.

#### *Findings*

The Department finds that:

(1) The proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are inapplicable because they are unnecessary as the existing regulations are outdated and no longer consistent with current law.

(2) Public notice of intention to rescind the regulations has been omitted under section 204 of CDL and the regulation promulgated thereunder, 1 Pa. Code § 7.4.

(3) Delay in implementing the rescission will have a serious adverse impact on the public interest.

#### *Order*

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

(a) The regulations of the Department, 12 Pa. Code Chapter 147, are amended by deleting §§ 147.1, 147.1a, 147.2—147.8, 147.17—147.23, 147.31—147.33, 147.34a, 147.41 and 147.42 to read as set forth in Annex A.

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

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

DENNIS YABLONSKY,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** 4-86. No fiscal impact; (8) recommends adoption.



**Annex A**

**TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT**

**PART V. COMMUNITY AFFAIRS AND DEVELOPMENT**

**Subpart C. COMMUNITY DEVELOPMENT AND HOUSING**

**CHAPTER 147. (Reserved)**

§ 147.1. (Reserved).

§ 147.1a. (Reserved).

§§ 147.2—147.8. (Reserved).

§§ 147.17—147.23. (Reserved).

§§ 147.31—147.33. (Reserved).

§ 147.34a. (Reserved).

§ 147.41. (Reserved).

§ 147.42. (Reserved).

[Pa.B. Doc. No. 06-1444. Filed for public inspection July 28, 2006, 9:00 a.m.]

**Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS**

**STATE BOARD OF LANDSCAPE ARCHITECTS**

**[49 PA. CODE CH. 15]**

**General Revisions**

The State Board of Landscape Architects (Board) amends §§ 15.2, 15.11, 15.16, 15.18, 15.32—15.34, 15.36, 15.41, 15.54, 15.56, 15.72, 15.73, 15.76 and 15.79 and deletes §§ 15.14, 15.19, 15.20 and 15.37 to read as set forth in Annex A.

Notice of proposed rulemaking was published at 35 Pa.B. 2404 (April 23, 2005). Publication was followed by a 30-day public comment period. The Board received one comment from the American Society of Landscape Architects, which generally supported the proposed amendments and specifically approved of the amendments to §§ 15.36 and 15.76 (relating to permitted practices; and sources of continuing education courses). The House Professional Licensure Committee (HPLC) submitted comments and questions June 7, 2005, and the Independent Regulatory Review Commission (IRRC) submitted comments and questions June 22, 2005. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment on the proposed rulemaking.

*Effective Date*

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

*Statutory Authority*

This final-form rulemaking is authorized under section 4(9) of the Landscape Architects' Registration Law (act) (63 P. S. § 904(9)).

*Summary of Comments and Responses to Proposed Rulemaking*

§ 15.2. *Board proceedings and meetings.*

IRRC noted that the Board was amending subsection (b) to state that Board meetings “may,” rather than “will,” be conducted using Robert’s Rules of Order. IRRC suggested that if the use of Robert’s Rules of Order were no longer required, the second sentence in the subsection should be deleted, that is, the sentence making the use of Robert’s Rules of Order a matter of Board discretion. Upon consideration, the Board declines to adopt this suggestion. The Board believes that the amended subsection still provides useful information about Board meeting procedures by informing that Robert’s Rules of Order may still be consulted as a source of authority.

§ 15.14. *Retention of documents.*

The proposed rulemaking deleted the second sentence of this section, which authorized an applicant to submit photocopies of original documents for documentary evidence if the photocopies were notarized as true copies. The HPLC pointed out that under statutory construction principles the deletion of this language would indicate the Board’s intent to require the applicant to submit original documents, but that applicants might not discern this intent. The HPLC recommended that the Board state clearly that the applicant must submit original documents. IRRC pointed out that the preamble to proposed rulemaking indicated that the documents being spoken about were work samples of the applicant. In reviewing the comments to this section, it became apparent to the Board that this section was in part outdated and in part misplaced. Applicants who apply after having completed, among other things, the licensing examination (see section 6(b)(i)—(iii) of the act (63 P. S. § 906(b)(i)—(iii))) do not submit work samples. Documents submitted by them or on their behalf, including official transcripts, letters of reference and letters with employment information, are original documents or documents bearing original certifications regarding their authenticity. These documents are retained by the Board as part of the application and are never returned to the applicant. Under section 6 of the act, applicants who apply without having taken the examination are required to show at least 10 and as many as 15 years of experience in the practice of landscape architecture. These applicants bring work samples to the Board so that they can demonstrate “experience of such grade and character as to fit the person to assume responsible charge of work involved in the practice of landscape architecture.” See section 6(c)(ii) of the act. The Board believes that rules pertaining to landscape architecture documents that are submitted in support of an application without examination are best moved to § 15.56 (relating to registration without examination). In this final-form rulemaking, the Board added § 15.56(b)(2), regarding submission of work samples. This section indicates that the applicant must submit original work samples in support of an application without examination unless the Board agrees to accept photocopies for good cause shown by the applicant and that the work samples will be returned to the applicant at the conclusion of all proceedings related to the application.

§ 15.16. *References.*

The proposed rulemaking added a sentence to subsection (b) that stated “The Board will return completed reference forms sent by the applicant.” IRRC noted that the intent of this provision was to require reference forms to be submitted directly to the Board from the person

providing the reference and that the proposed sentence lacked clarity. The Board agrees and adopted IRRC's suggestion that the sentence state "the Board will not accept completed reference forms that are sent by the applicant."

The proposed rulemaking deleted the language from subsection (d) that required letters of recommendation to address the applicant's moral character. The HPLC questioned the Board's decision to remove this language and asked how the Board would know that the applicant possessed the good moral character required by section 6(b) of the act. The Board agrees and concludes that the letter of reference does provide useful evidence that the applicant possesses good moral character. Therefore, the Board restores the language requiring references to comment on the applicant's moral character.

*§ 15.18. Certification.*

The proposed rulemaking deleted subsection (b), which indicated that prior to the issuance of a permanent certificate, a letter would be issued advising the landscape architect that he has been granted registration and that the letter would serve as a temporary certificate of registration. The Board proposed deleting the provision because once a license is approved, it is automatically considered active and is listed on the Board's website and the licensee receives the permanent certificate within 2 weeks following approval. IRRC, in the interest of clarity, suggested that the Board replace the provision with one that stated that the licensee could practice once the notification of approval is listed on the website. The Board largely adopts this suggestion and the amended subsection states that a license may begin practicing when he is identified as a licensee on the Board's website or receives a license from the Board.

*§ 15.23. Practice by out-of-State landscape architects.*

The proposed rulemaking deleted the requirement in subsection (a) that out-of-State landscape architects seeking to practice in this Commonwealth for up to 30 days in 1 year obtain approval from the Board before practicing. The HPLC noted that a landscape architect licensed in another jurisdiction would still have to submit proof of address and licensure, asked where the out-of-State firms would send the proof required by the remaining paragraphs of this subsection and asked if the Board should retain the policy choice that out-of-State landscape architects seek Board approval before practicing. Upon review, the Board determined that it would adopt the suggestion of the HPLC and not make a change to current § 15.23.

*§ 15.33. Seals.*

The proposed rulemaking deleted subsection (d), which indicated that a license would not be renewed unless the registrant had obtained a seal or stamp. The HPLC asked the Board to provide information as to why it chose to delete the language of subsection (d). The Board's rationale in the proposed rulemaking for deleting this requirement was that it was difficult to enforce. The current rulemaking requires the license not to be renewed if the registrant did not have a seal. The decision not to renew would have to occur in the comparatively short period from the time renewal applications became available to the date when the old license expired, without significant time for the licensee to respond or for a hearing. Upon reviewing the HPLC's concern regarding the loss of an enforcement mechanism that would ensure that licensees obtained a seal or stamp, the Board concluded that it could both facilitate renewals and provide an enforcement mechanism by stating in the final-form rulemaking that a

licensee who fails to obtain a seal or rubber stamp will be subject to disciplinary action and penalties under section 11(b) of the act (63 P. S. § 911(b)).

*§ 15.36. Permitted practices.*

The proposed rulemaking deleted subsections (b) and (d) and most of subsection (c), which generally required licensees to file copies of articles of incorporation and fictitious name registrations with the Board as well as the Corporation Bureau if they practiced as part of a corporation or used a fictitious name and required licensees to sign documents arising out of professional services and to have their name appear on association documents when they did not sign the document. The HPLC and IRRC asked why the Board sought to delete subsection (d), which requires that a landscape architect sign documents that arise out of the rendering of professional services and, if he practices in association with others, that his name appear with the name of the association on documents not signed by him. Upon review of these questions, the Board concluded that it should keep the requirement that a landscape architect sign documents that arise out of the rendering of professional services. This requirement now appears as subsection (c) in the final-form rulemaking. The Board, however, declines to keep the requirement that a landscape architect who practices in association with others have his name appear with the name of the association on documents not signed by him. The Board notes that there could be a large number of people in the firm, resulting in a long list of people who might have nothing to do with a project, who are nevertheless identified on project documents. The Board does not believe that lists of names help it to regulate landscape architects or promote public protection. The HPLC also asked why the Board sought to delete the requirement in subsection (c)(3) that requires a licensee to notify the Board of changes of ownership of a business and to seek the Board's approval before practicing under a new name or owner. These pieces of information do not assist the Board in its enforcement activities. Unlike the State Board of Accountancy; the State Board of Pharmacy; the State Board of Vehicle Manufacturers, Dealers and Salespersons and the State Real Estate Commission, the Board does not have statutory authority to issue licenses, permits or registrations for businesses or corporations. The Board only licenses natural persons who meet the statutory qualifications for a landscape architect license. The Board's computerized licensing records record individual licensees, but do not record or register landscape architecture businesses or firms and do not record fictitious names. These records are available at the Corporation Bureau.

*§ 15.37. Public information.*

This section was proposed to be rescinded. The HPLC asked whether the Board intended to cease providing information regarding names of licensees, whether a licensee was in good standing and test results, or whether requests for information would have to be made as a formal request under the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law. The HPLC also asked whether the effect of rescinding this section meant the Board would no longer provide this information to applicants and the licensing boards of other states. The Board does not intend to cease providing any information that it currently provides. On the contrary, the Board provides more information to licensees and the public than ever before. Information concerning licensees is now readily and immediately available on the Department of State website at [www.dos.state.pa.us](http://www.dos.state.pa.us). Interested persons with access to the Internet

can instantly look up a licensee, city, state, zip code, whether the license is in good standing and whether there has been prior disciplinary action against the licensee. This website further instructs visitors how to access further information about prior disciplinary action. The same information may also be obtained by calling or writing to the Board. The Board administrative staff routinely provides information regarding a licensee's test results to the administrative staffs of other states. It is also routine for licensees to obtain verification of their licensure status and certification of their licensure for matters such as seeking employment or a license in another state. See § 15.12 (relating to fees). This website also tells licensees how to request certification of licensure and examination scores, among other things. It should be pointed out that the Board and candidates for licensure by examination only learn whether they passed or failed the examination. The Board and examinees do not receive numerical scores. Other information may be available upon written request under and in accordance with the Right-to-Know Law.

*§ 15.72. Requirement for biennial renewal.*

The proposed rulemaking added subsection (b), indicating that the Board would exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal. Both IRRC and the HPLC raised questions regarding this subsection. The HPLC asked the Board to clarify whether the policy choice of this subsection conflicted with section 9.1(b) of the act (63 P.S. § 909.1(b)), which states that "each person licensed under this act shall be required to obtain ten hours of mandatory continuing education during each two-year license period." IRRC questioned why the Board would allow a blanket waiver for a licensee who was licensed within 2 years preceding the biennial renewal and recommended that the Board reduce or waive the required continuing education for licensees who obtained their licenses just before a renewal. The Board does not believe that there is a policy conflict between this subsection and the act, but believes strongly that new licensees should be exempt from the continuing education requirements if they became licensed within the 2 years prior to the first renewal. The new licensee would not have the full statutory "2-year license period" to complete the 10 hours of continuing education, unlike the licensee who already has renewed the license at least one time. The Board also notes in this regard that certified public accountants are exempt from the continuing education requirement for the biennial period during which the applicants completed the examination. See § 11.62(d) (relating to credit-hour requirements). Similarly, pharmacists who are newly graduated are exempt from the continuing education requirements for the license renewal immediately following licensure. See § 27.32(e) (relating to continuing education). Funeral directors are not required to complete continuing education during the renewal period in which the funeral director is first issued a license. See § 13.401(a) (relating to credit hour requirements). IRRC also suggested that the Board use the word "waive" rather than "exempt" in this subsection. However "exemption" is a word that has taken root in the *Pennsylvania Code* for releasing new licensees from a continuing education obligation when they lack the full 2 years to accumulate the necessary hours. See §§ 11.62(d) and 27.32(e).

*§ 15.73. Acceptable continuing education courses.*

Currently, subsection (c) authorizes a licensee to meet up to 5 of the 10-hour continuing education requirement with satellite seminars and electronic presentations. The proposed rulemaking amended subsection (c) to add correspondence courses to the types of nontraditional classroom courses that may be used for up to 5 hours of the continuing education requirement. IRRC called attention to the phrase "electronic presentations" and suggested that clarity would be improved by providing examples of these types of presentations. The phrase "electronic presentations" is already defined in § 15.71 (relating to definitions) as "[t]ransmittal of information by means of applications such as computer technology, telecommunications, television, and the like." The Board believes that this definition clarifies the phrase.

In final-form rulemaking the Board is changing "[a] maximum of 5 clock hours . . ." of subsection (c) to read "[a] maximum of 1/2 of the required clock hours . . ." This amendment will not currently alter the number of hours of continuing education that may be satisfied by satellite seminars, electronic presentations and correspondence courses, but will clarify, in the event the act is modified to require more than 10 hours of continuing education, that the Board intends to keep the principle that half of the requirement may be met through these types of programs. Senate Bill 200, referred to the SCP/PLC on February 7, 2005, for example, would increase the continuing education requirement to 20 hours, if enacted.

*§ 15.79. Reporting of hours spent in continuing education.*

The proposed rulemaking deleted the phrase "on Board-provided forms" from this section which described how and what licensees were supposed to report regarding the hours they spent in continuing education. The HPLC asked the Board to provide information regarding the type of proof acceptable to the Board in terms of attendance and asked how, given the proposed deletion of the phrase "on Board-provided forms," the Board would be able to sufficiently verify attendance.

In reviewing this section, both in its current form and in the proposed rulemaking, the Board realized that the section caused confusion among licensees and did not accurately reflect the procedures used to renew licenses and to verify attendance at continuing education courses. When a licensee renews a license, the renewal application only asks the licensee to verify whether the licensee has taken 10 hours of Board-approved continuing education courses. The renewal application does not ask the licensee to provide certificates of attendance, transcripts or other documentation. Records and documentation of course completion are only requested when the Board conducts a random audit of continuing education after the license renewal as indicated in § 15.80 (relating to retention of records), which describes the acceptable types of proof of attendance at courses: certificates, transcripts or other documents prepared by the course provider. The continuing education audit is, in fact, the Board's means of verifying attendance.

The Board amended § 15.79 to conform to the actual practice and states that an applicant for license renewal shall certify on the renewal application whether the applicant has completed the required number of hours of Board-approved continuing education courses.

*Fiscal Impact*

The final-form rulemaking will have no fiscal impact on the Board or its licensees. The final-form rulemaking should have no fiscal impact on the private sector, the general public or political subdivisions.

*Paperwork Requirements*

The final-form rulemaking should not create additional paperwork for the private sector.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2404, to the IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 13, 2006, the final-form rulemaking was approved by the HPLC. On June 14, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

*Additional Information*

Additional information may be obtained by contacting to Terrie Kocher, Board Administrator, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649.

*Findings*

The Board finds that:

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

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

(3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 35 Pa.B. 2404.

(4) This final-form rulemaking is necessary and appropriate for the administration of the act.

*Order*

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 15, are amended by amending §§ 15.2, 15.11, 15.16, 15.18, 15.32—15.34, 15.36, 15.41, 15.54, 15.56, 15.72, 15.73, 15.76 and 15.79 and by deleting §§ 15.14, 15.19, 15.20 and 15.37 to read as set forth in Annex A.

(*Editor's Note:* The proposal to amend § 15.23, included in the proposal at 35 Pa.B. 2404, has been withdrawn by the Board.)

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

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

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

JAMES W. BARNES,  
*Chairperson*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)

**Fiscal Note:** Fiscal Note 16A-618 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS****GENERAL PROVISIONS****§ 15.2. Board proceedings and meetings.**

(a) Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) applies to practice and procedure before the Board, except if provided otherwise in the act or in this chapter.

(b) Five members of the Board constitute a quorum. Board meetings may be conducted according to Roberts' Rules of Order.

(c) If a conflict arises between 1 Pa. Code Part II and Roberts' Rules, 1 Pa. Code Part II applies.

**APPLICATION PROCEDURES****§ 15.11. Filing procedures.**

(a) An application for registration shall be submitted to the Board.

(b) An application shall be submitted on forms provided by the Board along with the appropriate fee.

(c) An application for examination shall be submitted directly to the professional testing organization along with the fee in accordance with the deadline provided by the professional testing organization.

(d) The Board may credit an applicant's experience requirements 4 months in advance of the administration of the examination, if the applicant submits satisfactory certification to the Board that the applicant has attained the required experience during the interim period between the date of application and the date of examination.

**§ 15.14. (Reserved).****§ 15.16. References.**

(a) Members of the Board may not serve as references for applicants.

(b) The applicant shall provide three references on the application and shall forward forms to the references to be completed and mailed directly to the Board by the references. The Board will not accept completed reference forms that are sent by the applicant.

(c) Two references shall be landscape architects licensed by the Board. The remaining reference may be another design professional.

(d) A reference must attest that the reference is familiar with the applicant's professional work and the applicant's moral character. The Board will accept additional references pertaining to the applicant's moral character from individuals who are not design professionals if the professional references do not have personal knowledge of the applicant's moral character.

**§ 15.18. Certification.**

(a) An applicant granted registration will be issued a permanent certificate of registration.

(b) The applicant may begin practicing as a landscape architect when the applicant is identified as a licensee on the Board's website or receives the license from the Board.

**§ 15.19. (Reserved).**

**§ 15.20. (Reserved).**

**ADMINISTRATION**

**§ 15.32. Change of name or address.**

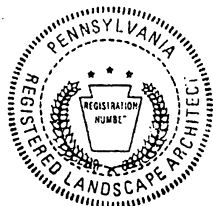
Responsibility for a name or address change is that of the registrant. Correspondence from the Board not received by the registrant as a result of failure to notify the Board of a name or address change may lead to violation of the act and may cause the registrant to be subject to penalty as set forth in section 4(4), (5) and (6) of the act (63 P. S. § 904(4), (5) and (6)).

**§ 15.33. Seals.**

(a) An approved seal or stamp will be required for a registrant for the purpose of signing and sealing drawings, preliminary documents, specifications and contract documents.

(b) Only one registered landscape architect's name may be used per seal. However, more than one seal or stamp may appear on drawings, specifications and documents.

(c) A registrant shall be required to obtain the authorized seal or a rubber stamp. A sample seal is as follows:



(d) A licensee who fails to obtain a seal or rubber stamp will be subject to disciplinary action and penalties under section 11(b) of the act (63 P. S. § 911(b)).

**§ 15.34. Biennial registration, inactive status and expired certificates.**

(a) *Registration fee.* A landscape architect licensed in this Commonwealth shall pay the biennial registration fee set forth in § 15.12 (relating to fees).

(b) *Inactive status and registration renewal.* A landscape architect who is not engaged in the practice of landscape architecture may request the Board, in writing, to place the landscape architect's name on inactive status. The landscape architect shall notify the Board, in writing, of the landscape architect's desire to reregister. The

landscape architect shall comply with the requirements for the renewal of a license that exist at the time the landscape architect applies to become currently registered. There is no fee or penalty for preceding biennial periods in which the landscape architect did not engage in practice in this Commonwealth. The landscape architect applying to return to active status shall submit to the Board an application form prescribed by the Board stating that the applicant has not practiced landscape architecture in this Commonwealth during inactive status and the current renewal fee.

(c) *Lapsed certificates.* A landscape architect who has allowed his certificate of licensure to lapse by failing to pay a biennial renewal fee, may reactivate a certificate by submitting to the Board an application on the form prescribed by the Board. The application shall be accompanied by past due biennial renewal fees, including the biennial renewal fee for the current period and penalty fees as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225). The payment of these fees does not preclude the Board from taking disciplinary action against the landscape architect for practicing landscape architecture without a current license.

**§ 15.36. Permitted practices.**

(a) A landscape architect may practice alone or with other persons in the form of an association or corporation as permitted by law.

(b) A landscape architect, partnership, professional corporation, association or other group practice may do business under a fictitious name and advertise in any medium if the name and the advertisement are not misleading, deceptive or fraudulent

(c) A landscape architect shall sign documents which arise out of the rendering of professional services.

**§ 15.37. (Reserved).**

**EXPERIENCE**

**§ 15.41. General requirements.**

(a) For experience to be of a grade and character satisfactory to the Board, it must be progressive and of a varied and increasing level of experience and responsibility evidenced by a comprehensive work sample, technical knowledge and professional experience.

(b) Professional experience means 2 years of experience obtained under the supervision of a design professional. If the applicant is not supervised by a landscape architect, the applicant shall have his professional work product reviewed by a registered landscape architect every 6 months for 2 consecutive years. This person shall be one of the applicant's landscape architect references under § 15.16(c) (relating to references).

(c) Acceptable military experience shall have been spent engaged in landscape architecture of a grade and character satisfactory to the Board.

(d) Professional experience gained while pursuing an undergraduate degree in landscape architecture or first professional degree will not be considered by the Board as an acceptable experience.

**EXAMINATIONS****§ 15.54. Registration by examination.**

An applicant who meets one or more of the following requirements is eligible for licensure by written examination:

(1) An individual who has received an undergraduate degree in landscape architecture from an approved institution or college and after graduation has at least 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the Board.

(2) An individual who has received an undergraduate degree in landscape architecture from an approved institution or college and has completed at least 1 year of graduate school in landscape architecture, and after graduation also has at least 1 year of practical experience in landscape architectural work of a grade and character satisfactory to the Board.

(3) An individual who has received a graduate degree in landscape architecture from an approved institution or college and has an undergraduate degree in another subject matter, and after graduation also has at least 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the Board.

(4) An individual who has not graduated from an approved institution or college but has at least 8 years of practical experience in landscape architectural work of a grade and character satisfactory to the Board.

**§ 15.56. Registration without examination.**

(a) *Requirements.* An applicant who meets one or more of the following requirements is eligible for registration without examination:

(1) An individual who possesses 10 years of practical experience in landscape architecture, of a grade and character satisfactory to the Board, and who has graduated from an approved institution.

(2) An individual who possesses 15 years of practical experience in landscape architecture of a grade and character satisfactory to the Board.

(3) An individual who has passed the examination in another state with a score required by the Board and who has met the education experience requirements of the act.

(b) *Procedure.*

(1) Prior to issuing a license without examination, the Board will require the applicant to appear before representatives of the Board for an interview. The applicant will be required to submit the following work samples to the representatives during the interview:

- (i) Site and development plans.
- (ii) Specifications and drawings.
- (iii) Grading and drainage plans.
- (iv) Layout plans.
- (v) Planting plans.
- (vi) Stormwater management plans and calculations.
- (vii) Site construction details and specifications.
- (viii) Photographs of completed projects.
- (ix) Evidence of cost estimating and supervision of construction.

(x) A variety of project types including experience with residential subdivision, commercial land developments, environmental projects and park and recreation projects.

(2) *Submission of work samples.*

(i) The applicant shall submit original work samples in support of an application for registration without examination, unless the Board agrees to accept photocopies for good cause shown by the applicant.

(ii) The work samples will be returned to the applicant at the conclusion of all proceedings related to the application.

(3) Prior to issuing a license without examination, the Board will review the applicant's qualifications, and by a majority vote approve or disapprove the application.

(4) If an application has been disapproved, the Board may vote to allow the applicant to take the written examination.

**CONTINUING EDUCATION****§ 15.72. Requirement for biennial renewal.**

(a) As a condition of biennial renewal commencing with the 2003 biennium and continuing thereafter, licensees shall have completed during the preceding biennium 10 clock hours of continuing education in acceptable courses approved under this subchapter.

(b) The Board will exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal.

(c) A licensee who wishes to reactivate a lapsed license or who has been on inactive status shall have completed 10 hours of continuing education in the 2-year period immediately prior to reactivation.

**§ 15.73. Acceptable continuing education courses.**

(a) Only courses approved by the Board will be accepted for continuing education credit. The licensee shall be responsible for ascertaining the approved status of the course before undertaking a continuing education activity.

(b) Acceptable subject matter for continuing education courses is limited to courses pertaining to the enhancement of the landscape architect's professional skills. The Board will not approve courses in office management.

(c) A maximum of 1/2 of the required clock hours per biennium will be accepted in courses consisting of satellite seminars, electronic presentations and correspondence courses.

**§ 15.76. Sources of continuing education courses.**

The Board finds the courses provided, approved, sponsored or co-sponsored by the following entities meet the standards of the act and this subchapter:

- (1) The American Society of Landscape Architects and its chapters.
- (2) The American Nursery & Landscape Association and its chapters.
- (3) The American Planning Association and its chapters.
- (4) The American Institute of Architects and its chapters.
- (5) The National Society of Professional Engineers and its chapters.
- (6) The National Recreation and Parks Association and its chapters.
- (7) The Pennsylvania Society of Land Surveyors.
- (8) The Urban Land Institute.

(9) Accredited landscape architect programs or programs in fields related to landscape architecture in colleges and universities.

(10) Agencies of the Commonwealth and Federal government offering training programs in landscape architecture and its related fields.

(11) The Council of Landscape Architects Registration Boards (CLARB) or its successor.

**§ 15.79. Reporting of hours spent in continuing education.**

An applicant for license renewal shall certify on the renewal application whether the applicant has completed the required number of hours of Board-approved continuing education courses.

[Pa.B. Doc. No. 06-1445. Filed for public inspection July 28, 2006, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF BANKING

[10 PA. CODE CHS. 46 AND 48]

### Advanced Notice of Proposed Rulemaking; Proposed Regulations and Statement of Policy Regarding the Conduct of Licensees in the Mortgage Loan Business

The Department of Banking (Department) is publishing this advanced notice of proposed rulemaking to solicit input regarding the Department's intent to propose regulations to govern the proper conduct of lending and brokering in the mortgage loan business for licensees under the Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P. S. §§ 456.101—456.3101), the Secondary Mortgage Loan Act (7 P. S. §§ 6601—6627) and the Consumer Discount Company Act (7 P. S. §§ 6201—6219). The Department is also soliciting input on its intent to propose a statement of policy to provide guidance as to what are dishonest, fraudulent or illegal practices or conduct in the first mortgage loan business, unfair or unethical practices or conduct in connection with the first mortgage loan business and negligence or incompetence in performing any act for which the licensee is required to hold a license under the Mortgage Bankers and Brokers and Consumer Equity Protection Act.

This is an advanced notice of proposed rulemaking and will be followed by the formal rulemaking procedures for publication and comment established under the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205).

The Department is proposing to promulgate regulations and a statement of policy because in the past decade the mortgage loan business has significantly increased in complexity and competitiveness, resulting in a drastically changed borrowing landscape. Unfortunately, because of this complexity and competitiveness, borrowers may not understand the loan products offered to them or the process of obtaining a loan. The Department believes that this lack of information and understanding all too often results in borrowers making poor financial decisions, many times resulting in the loss of their homes. The Department also believes that there are individuals and entities in the mortgage loan business who take advantage of borrowers by placing them in loan products they are incapable of repaying from loan inception. Therefore, the Department is proposing regulations and a statement of policy with the goals of ensuring that borrowers are provided with the necessary information to make informed borrowing decisions and providing guidance to persons and entities operating in the mortgage loan business under the Mortgage Bankers and Brokers and Consumer Equity Protection Act, the Secondary Mortgage Loan Act and the Consumer Discount Company Act.

#### *Comment Period*

A public hearing will be held on September 12, 2006, at 10 a.m. and, if necessary, continued on September 13, 2006, at 10 a.m. The hearing will be held at Hearing Room No. 1, Keystone Building, 400 North Street, Harrisburg, PA 17120. Interested parties are invited to attend and provide comments to the Department's administrative proposals. Individuals who wish to attend and testify at the hearing must submit, by 5 p.m. on September 8, 2006, their name, address and organization represented,

if any, in writing to the Department of Banking, Office of Chief Counsel, 17 N. Second Street, Suite 1300, Harrisburg PA, 17101.

The Department is also inviting written comments to its proposed administrative actions. Written comments must be submitted by 5 p.m. on September 13, 2006, to the Department of Banking, Office of Chief Counsel, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

A. WILLIAM SCHENCK, III,  
*Secretary*

#### Annex A

#### TITLE 10. BANKS AND BANKING

#### PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

#### CHAPTER 46. PROPER CONDUCT OF LENDING AND BROKERING IN THE MORTGAGE LOAN BUSINESS

Sec.	
46.1.	Definitions.
46.2.	Proper conduct of lending and brokering in the mortgage loan business.

#### § 46.1. Definitions.

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

*Acts*—The Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P. S. §§ 456.101—456.3101), the Secondary Mortgage Loan Act (7 P. S. §§ 6601—6627) and the Consumer Discount Company Act (7 P. S. §§ 6201—6221).

*Applicant*—A person who submits an application.

*Application*—As defined in 12 U.S.C.A. § 3500.2(b) (relating to definitions).

*CDCA*—The Consumer Discount Company Act (7 P. S. §§ 6201—6219).

*Consummation*—As defined in 12 CFR 226.2(a)(13) (relating to definitions and rules of construction).

*Covered loan*—A covered loan as defined in section 503 of the MBBCEPA (63 P. S. § 456.503).

*First mortgage loan*—A mortgage loan as defined in section 302 of the MBBCEPA (63 P. S. § 456.302).

*Licensee*—A Licensee under the MBBCEPA, SMLA, CDCA or a partially exempt entity under the MBBCEPA.

*Loan*—A first mortgage loan or secondary mortgage loan, or both, as the context may require.

*MBBCEPA*—The Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P. S. §§ 456.101—456.3101).

*Mortgage loan business*—The first mortgage loan business as defined in section 302 of the MBBCEPA, the secondary mortgage loan business as defined in the section 3(a)(5) of the SMLA (7 P. S. § 6603(a)(5)), and any kind of mortgage lending or brokering activity conducted by a licensee under the CDCA.

*Person*—A person as defined in section 302 of the MBBCEPA, section 2 of the SMLA (7 P. S. § 6602) and section 2 of the CDCA (7 P. S. § 6202), as applicable.



*SMLA*—The Secondary Mortgage Loan Act (7 P. S. §§ 6601—6627).

*Secondary mortgage loan*—A secondary mortgage loan as defined in section 2 of the SMLA (7 P. S. § 6602).

**§ 46.2. Proper conduct of lending or brokering in the mortgage loan business.**

(a) *Advertising.* Licensees may not engage in false or misleading advertising.

(b) *Communication with applicant.* Licensees shall orally explain to an applicant the loan process and the terms and conditions of any offered loan and may not solely rely upon documents related to the loan transaction to inform an applicant of the terms and conditions of the offered loan.

(c) *Disclosures to applicant.* On a form prescribed by the Department, licensees shall disclose the following to an applicant at the time an application is received or prepared by the licensee:

(1) If the lender providing the loan will escrow the applicable taxes and insurance.

(2) If the licensee is a lender with the ability to directly lock-in loan rates.

(3) Whether the loan includes a prepayment penalty.

(4) Whether the loan contains a variable interest rate, demand payment provision or balloon payment feature.

(d) *Required redisclosures.* Licensees shall reissue the disclosure form required under subsection (c) whenever the licensee becomes aware or reasonably believes that the initial disclosure form may be inaccurate and within a reasonable time period prior to loan consummation.

(e) *Offering a loan.*

(1) Licensees may not offer a loan to an applicant without reasonable information and belief that the applicant will have the ability to repay the loan.

(2) To determine whether an applicant will have the ability to repay a loan, a licensee shall consider and document those factors from the following list that are appropriate to the applicant and the offered loan:

(i) The purpose of the loan.

(ii) The income of the applicant.

(iii) The value of the property.

(iv) Applicable property taxes and insurance based upon the full value of the property and any improvements.

(v) Whether or not the applicant's taxes and insurance are escrowed and the effect on the applicant's scheduled loan payments.

(vi) The applicant's credit score.

(vii) The fixed expenses of the applicant.

(viii) The effect of any prepayment penalty on the applicant's ability to refinance the loan or sell the subject property within the prepayment penalty period.

(ix) For loans where the interest rate, scheduled loan payment or loan balance may vary, the ability of the applicant to make the scheduled loan payments if the interest rate, scheduled loan payment or loan balance increase.

(x) For loans with a balloon payment feature, the ability of the applicant to make the balloon payment when due.

(xi) For loan refinances and home equity loans, the interest rate and current scheduled loan payments of the applicant on the loan to be refinanced and the cumulative effects of refinancing or home equity loans on the applicant's equity, including the current loan.

(f) *Loan transaction prohibitions.* Licensees may not:

(1) Advise or imply to an applicant that the applicant's income is not relevant to the loan transaction.

(2) Recommend that an applicant default on any existing contract or loan obligation.

(3) Advise or induce an applicant to refinance an existing loan or otherwise enter into a new loan obligation repeatedly when not appropriate in view of the financial resources of an applicant.

(4) If an applicant qualifies for a loan offered by the licensee that is not a covered loan, offer to the applicant a covered loan without advising the applicant that the applicant may qualify for a loan that is not a covered loan.

(5) Minimize the importance of or advise an applicant to ignore any required disclosures or suggest that the execution of any document is unimportant or of no consequence.

(6) Direct, encourage, permit or otherwise be involved with the improper execution of any document, including requesting or allowing an applicant to sign documents that contain blank spaces where material information regarding the loan transaction is required, permitting the execution of documents where signatures are required to be witnessed without the witnesses being physically present or permitting someone other than the required signatory to execute a document unless otherwise authorized by law.

(7) Submit, or encourage or knowingly permit an applicant or third party to submit, false or misleading information to any party to a loan transaction.

(8) Improperly influence, or attempt to improperly influence one or more of the following:

(i) The outcome of an appraisal, including by attempting to ensure that an appraisal matches the contemplated sales price of a home or falls within the required loan-to-value ratio for a particular loan, or commit any act or omission that is intended to compromise the independent judgment of an appraiser.

(ii) Any other entity related to the mortgage loan business, such as notaries, title companies, real estate agents and builders.

(9) Obtain insurance required for a loan for an applicant without providing the applicant with the opportunity to secure or provide evidence of their own insurance.

(10) Charge an applicant a fee for any notices or disclosures unless otherwise authorized by law.

(11) Pay compensation to or receive compensation from, contract with, or employ any person engaged in the mortgage loan business who is not properly licensed or otherwise exempt from licensure.

(12) Render legal advice to an applicant.

(g) *Loan funding.*

(1) A licensee may not refuse to fund a consummated loan, other than when an applicant rescinds the loan in accordance with 12 CFR 226.15 or 226.23 (relating to right of rescission), as applicable.

(2) If an applicant does not rescind a consummated loan in accordance with 12 CFR 226.15 or 226.23, as applicable, a licensee shall fund the loan no later than after the applicable rescission period.

(3) Licensees shall disburse loan funds in accordance with any commitment or agreement with the applicant.

(h) *Services paid for by applicant.* Licensees shall provide, when applicable, copies or originals of the documents associated with a loan that an applicant has paid for, such as appraisals, surveys, loan documents, disclosures and fee agreements.

(i) *Payoff statement or statement of mortgage reinstatement.* Licensee lenders shall provide a borrower with payoff statements or statements of mortgage reinstatement, as applicable, for their loans within 5 business days of receipt of a written request by a borrower or a person authorized by the borrower.

### Proposed Statement of Policy

#### CHAPTER 48. FIRST MORTGAGE LOAN BUSINESS PRACTICES—STATEMENT OF POLICY

Sec.	
48.1.	Definitions.
48.2.	Purpose.
48.3.	Dishonest, fraudulent, illegal, unfair or unethical, or negligent or incompetent practices or conduct in the first mortgage loan business.

#### § 48.1. Definitions.

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

*Act*—The Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P.S. §§ 456.101—456.3101).

*First mortgage loan business*—The first mortgage loan business as defined in section 302 of the act (63 P.S. § 456.302).

*Licensee*—A licensee or partially-exempt entity under the act.

*Truth in Lending Act*—15 U.S.C.A. §§ 1681—1667f.

#### § 48.2. Purpose.

The purpose of this chapter is to provide guidance to licensees under the act regarding what constitutes dishonest, fraudulent or illegal practices or conduct in the first mortgage loan business, unfair or unethical practices or conduct in connection with the first mortgage loan business and negligence or incompetence in performing any act for which a licensee is required to hold a license under the act, as contemplated by sections 313(a)(5) and (14) of the act (63 P.S. §§ 456.313(a)(5) and (14)). Conduct or practices that the Department determines to be dishonest, fraudulent, illegal, unfair, unethical, negligent or incompetent under the act may result in an administrative action against the licensee by the Department under section 313(a)(5) and (14) of the act, as applicable. In reviewing licensee conduct and practices, the Department will consider all relevant factors in addition to those actions of licensees that are inconsistent with the guidance set forth in this chapter.

#### § 48.3. Dishonest, fraudulent, illegal, unfair or unethical, or negligent or incompetent practices or conduct in the first mortgage loan business.

(a) Licensees under the act should not engage in any dishonest, fraudulent or illegal practices or conduct or

unfair or unethical practices or conduct in connection with the first mortgage loan business or be negligent or incompetent in performing any act for which a license is required under the act.

(b) The following paragraphs provide guidance as to what these terms mean and examples of conduct that would be illustrative of these terms:

(1) A dishonest practice or conduct is characterized by a lack of truth, honesty or trustworthiness, or is unfair or deceptive or implies a willful perversion of the truth in order to deceive, cheat, or defraud.

*Example:* A mortgage broker arranges a loan with a lender on behalf of an applicant. The mortgage broker tells the applicant that his broker fee will be \$600 and indicates that fee on the good faith estimate knowing the fee will be far greater. When the applicant gets to the mortgage loan closing, the broker fee is \$3,000.

(2) A fraudulent practice or conduct is characterized by deceit or trickery, an intentional perversion of the truth in order to induce another to part with something of value or to surrender a legal right, or an act of deceiving or misrepresenting. Fraud also includes any other definition of fraud under applicable law.

*Example:* A mortgage broker has promised a certain low-rate mortgage loan to an applicant. However, the applicant does not have the minimum debt-to-income ratio set by the licensee's preferred lender to qualify for the lowest-rate mortgage loan offered. Therefore, the mortgage broker changes the W-2 statement of the applicant to reflect a higher income for the applicant, forges the applicant's signature on the mortgage loan application, and then submits the application to the lender.

(3) An illegal practice or conduct is characterized as not according to or authorized by law.

*Example:* A mortgage banker fails to provide before or at consummation a revised Truth-in-Lending-Act disclosure to an applicant after the annual percentage rate on his applied-for fixed-rate mortgage loan increases more than 1/8 of one percentage point.

(4) An unfair practice or conduct is characterized as being marked by injustice, partiality or deception or being inequitable in business dealings. An unethical practice or conduct is characterized as not conforming with the moral norms or standards followed in the first mortgage loan business or profession.

*Example:* A mortgage banker routinely makes mortgage loans to borrowers knowing that the borrowers do not understand the terms of the mortgage loans.

(5) Negligence in performing any act for which the licensee is required to hold a license under the act is characterized by the definition of negligence as used by the courts of this Commonwealth. Incompetence in performing any act for which the licensee is required to hold a license under the act is characterized as inadequate or unsuitable for a particular purpose, or lacking the qualities needed for effective action.

*Example:* A mortgage broker or banker mishandles mortgage loan applications and documentation causing the applicants to not obtain the loans for which they applied.

[Pa.B. Doc. No. 06-1446. Filed for public inspection July 28, 2006, 9:00 a.m.]

# STATEMENTS OF POLICY

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

### Unscheduled Water Service Interruptions and Associated Actions

Public Meeting held June 1, 2006

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

*Proposed Policy Statement Relating to Unscheduled Water Service Interruptions and Associated Actions; Doc. No. M-00061956*

#### Proposed Policy Statement

*By the Commission:*

#### I. Background

By Order entered March 10, 2006 at I-00050109, the Commission released staff's investigative report relating to Pennsylvania American Water Company's (PAWC) high fluoride concentration incident that occurred on December 10, 2005. As part of the Commission's investigation into the incident, Commission staff was directed to examine the Commission's existing notification and reporting requirements and recommend possible changes, if appropriate. The incident in question affected approximately 34,000 customers of PAWC located in eastern Cumberland County and northern York County served by PAWC's Yellow Breeches Water Treatment Plant (YB Plant) in Fairview Township, Cumberland County. Staff found that the elevated level of fluoride concentration was the result of operator error at the YB Plant, which resulted in a chemical spill of approximately 372 gallons of hydrofluorosilic acid (fluoride) used in the fluoridation process at the plant.

Perhaps the most troubling aspects of this incident, however, were PAWC's failures to notify the Commission in a timely fashion of the spill and to provide its consumers with timely and adequate notice after the Pennsylvania Department of Environmental Protection (DEP) concluded that a "Do Not Consume" advisory was to be put into effect early in the afternoon of December 10th when high levels of fluoride were found in PAWC's potable water supply.<sup>1</sup> In our March 10, 2006 Order, we specifically found that while PAWC may have been in technical compliance with DEP's applicable public notice regulations, PAWC did not provide actual, timely notice to many of the affected customers.<sup>2</sup> We also found that the contents of PAWC's public notice were inadequate under

<sup>1</sup> On the issue of timely notification to the Commission, we concluded that a proposed rulemaking was necessary to amend 52 Pa. Code § 67.1 so as to address interpretation of the phrase "service interruption" in that section. That rulemaking is moving forward in a separate proceeding at L-00060177, Proposed Rulemaking Order entered on May 5, 2006, and will not be addressed further in the instant proceeding. This proceeding will instead focus exclusively on the public notice shortcomings and the development in this Order of a proposed Chapter 69 policy statement to provide guidance to the industry regarding the types of public notice in the future that will be necessary to meet the reasonableness standard in section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, when there are unscheduled water service interruptions.

<sup>2</sup> For its part, DEP issued its own investigative report dated March 2006 that found that PAWC violated several of DEP's notice provisions, including the failure to provide DEP with timely notice (within one hour of discovery of a situation requiring Tier I public notice, the highest alert under its system, or of circumstances which may affect the quality of the drinking water), 25 Pa. Code §§ 109.408(a)(7) & 109.701(a)(3), the failure to issue the "Do Not Consume" advisory on a more expeditious basis because PAWC did not have appropriate communications staff on site, 25 Pa. Code

DEP's public notice regulations, as PAWC failed: (i) to identify when the fluoride spill entered the potable water distribution system, 25 Pa. Code § 109.411(a)(2); (ii) to include any of the required adverse health effects language, 25 Pa. Code § 109.411(a)(3) & (d)(1) or (d)(2); and (iii) to identify the population at risk, including any subpopulations of customers that are particularly vulnerable to the contaminant in their water supply, 25 Pa. Code § 109.411(a)(4). In addition, we found that PAWC failed to use its Internet website to notify the public about the incident and water advisory.

In determining whether the issue of public notice for unscheduled service interruptions should be addressed in a new Commission regulation or other directive such as a policy statement, we opined that the detailed public notice requirements already contained in DEP's regulations made it unnecessary for the Commission to impose an additional layer of public notice regulations on water utilities. At the same time, however, we agreed with comments filed by the Office of Consumer Advocate (OCA) that the issuance of a policy statement for the purpose of providing guidance to the industry on the types of notice that will be deemed acceptable and appropriate in meeting the reasonableness standard under 66 Pa.C.S. § 1501 would be beneficial. We, therefore, directed staff to prepare for consideration a proposed Chapter 69 policy statement regarding public notice standards for unscheduled water service interruptions to be considered at a future Public Meeting.

Upon review of Staff's recommendation, we now believe a comprehensive approach is appropriate. The policy statement should not only provide guidance to utilities related to public notice during unscheduled water service interruptions, but also should address associated actions such as the provision of alternative water supplies, public notice templates, and notice to the Commission.

#### II. Discussion

The Commonwealth Documents Law defines a statement of policy as:

[A]ny document, except an adjudication or a regulation, promulgated by an agency which sets forth substantive or procedural personal or property rights, privileges, immunities, duties, liabilities or obligations of the public or any part thereof, and includes, without limiting the generality of the foregoing, any document interpreting or implementing any statute enforced or administered by such agency.<sup>3</sup>

Id. § 1102. The Pennsylvania Supreme Court described the critical distinction between a duly promulgated regulation (substantive rule) and a statement of policy as follows:

The critical distinction between a substantive rule and a general statement of policy is the different practical effect that these two types of pronouncements have in subsequent administrative proceedings. . . . A properly adopted substantive rule establishes a standard of conduct which has the force of law. . . . The underlying policy embodied in the rule is not generally subject to challenge before the agency.

A general statement of policy, on the other hand, does not establish a "binding norm." . . . A policy statement

§ 109.408(b)(1), and the failure to provide DEP with a completed copy of the required Public Notification Certification Form, 25 Pa. Code § 109.701(a)(4).

<sup>3</sup> Commonwealth Documents Law, Act of July 9, 1976, P. L. 877, No. 160, § 1, 45 Pa.C.S. §§ 501, et seq.

announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued.

*Pa. Human Relations Comm'n v. Norristown Sch. Dist.*, 374 A.2d 671, 679 (Pa. 1977) (quoting *Pacific Gas & Electric Co. v. FPC*, 506 F.2d 33, 38 (D.C. Cir. 1974)).

Our policy statement in the instant case is intended to provide guidance to the industry regarding the types of public notice necessary to meet the reasonableness standard in section 1501 of the Public Utility Code when there are unscheduled water service interruptions. The purpose of this proposed policy statement is to help ensure that actual, timely notice to customers is provided by water utilities whenever there is any event that potentially endangers public health and/or safety of the customer's water supply. Our proposed policy statement, therefore, will include a series of acceptable methods for improving the timeliness and effectiveness of notice to water customers whenever it has been determined that any event such as a terrorist act, chemical spill, or water line break, has affected the quality or quantity of the water customers' potable water supply. In addition, the proposed policy statement will propose guidelines for alternative water supplies, public notice templates, and notice to Commission personnel.

#### A. Methods of Public Notification

The public notice guidelines envisioned within the parameters of this proposed policy statement are applicable to unscheduled service interruptions. This term currently is not defined in our regulations. However, the Commission recently promulgated proposed regulations to define the term as:

... an interruption of service affecting the quantity or quality of water delivered to the customers . . .<sup>4</sup>

Unscheduled service interruptions can include, but are not limited to main breaks, chemical spills, floods, outbreaks of waterborne illnesses, acts of vandalism or terrorism, and storm-related damage.

The findings of the PAWC investigation, supported by the OCA comments, revealed that the utility's notification procedures failed to adequately alert large numbers of customers in a timely and reasonable manner about the hydrofluorosilic acid spill and the "Do Not Consume" advisory. The policy statement proposed today is intended to enhance customer notification in situations that not only have a direct or immediate health and safety impact (as specified within "Boil Water" or "Do Not Consume" advisories), but in any situation where water quality or quantity may be affected. With timely and adequate notice, customers can safely and efficiently reschedule a number of common household activities if they know their water is unsafe to drink, in short supply, discolored, sediment-laden, etc., on a short-term basis until the advisory is lifted.

Utilities are obligated to provide safe and reliable service pursuant to 66 Pa.C.S. § 1501. This proposed policy statement is intended to provide guidance to the industry regarding the types of public notice necessary to meet the reasonableness standard in section 1501 of the Public Utility Code when there are unscheduled water service interruptions. One of the primary purposes of this proposed policy statement is to help ensure that actual,

timely notice to customers is provided by water utilities whenever there is any event that potentially endangers public health and/or safety of the customer's water supply. Our proposed policy statement, therefore, will include a series of acceptable methods for improving the timeliness and effectiveness of notice to water customers whenever it has been determined that any event such as a terrorist act, chemical spill, or water line break, has affected the quality or quantity of their potable water supply. Such situations may also include localized events such as a main break, hydrant repair, flushing or other similar event that can be expected to impact adversely some or all of a utility's customers.

These acceptable methods of public notification include taking advantage of existing technology such as sending faxes and/or e-mail notification to local radio and television stations, cable systems, newspapers and other print and news media; using Reverse 911<sup>®</sup> (outbound dialing) notification to affected customers' landline or wireless phones where locally available; sending e-mail and text messages to affected customers who have opted to receive such notice; and utilizing the utility's Internet website. Indeed, use of the utility's Internet website is a rapid, efficient and low-cost method of providing notice that should be a part of every utility's public notice protocols for unscheduled water service interruptions.

Other types of direct/personal notification, such as doorknob flyers, may be considered, where feasible. Additionally, actual notice to all affected health care and child care facilities and other facilities, such as schools and restaurants, as determined in consultation with the Department of Environmental Protection, the Department of Agriculture, the Department of Health, the Department of Aging, or other state agencies, as appropriate, is recommended. Depending upon the severity of the event and the potential health risks involved, the utility should coordinate with State and local emergency management agencies as needed to use the Emergency Alert System (EAS).<sup>5</sup>

The utility should also consider using its own 24/7 emergency phone line and integrated voice response system to provide relevant information about the event. The relevant information that should be provided with any of these notification methods should include a description of the affected location(s); a statement of the event's potential impact on the public, including possible adverse health effects and the population or subpopulation particularly at risk; and a description of actions customers should take to ensure their safety, with updates as often as needed.

The proposed policy statement reiterates that all water utilities are required to follow the regulations relating to public notification as promulgated by the DEP at 25 Pa. Code § 109.407—416, which are now undergoing revisions. While the DEP's regulations currently call for utilities to provide notice ". . . as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation . . .,"<sup>6</sup> the Commission encourages jurisdictional utilities to provide notification as soon as possible. With today's technological advances in the field of communications, the Commission believes quick responses are more realistic than ever before. We also hasten to add that when issues arise that would be

<sup>5</sup> The EAS was established by the Federal Communications Commission in November 1994. The EAS replaced the Emergency Broadcast System as a tool the government and others may use to warn the public about emergency situations. For more information on Pennsylvania's implementation of the EAS, see [www.pema.state.pa.us/](http://www.pema.state.pa.us/).

<sup>6</sup> 25 Pa. Code § 109.407, general public notification requirements, now undergoing revisions.

<sup>4</sup> The definition of "unscheduled service interruption" is currently being revised within our proposed rulemaking at L-00060177.

helpful to be in the notification to the public, they should be included as well, dependent upon the specifics of the incident. Therefore, in addition to service interruptions clearly affecting health and safety (as defined within DEP's regulations), the Commission further encourages utilities to provide public notification for all other unscheduled service interruptions (such as main flushing or other localized event affecting the water quantity or quality), to the extent practicable.

Finally, another tool to help ensure that the public is informed as best as possible is for utilities to have a knowledgeable contact person stationed on site during the emergency. However, the size and resources of the individual utility will dictate the extent to which this recommendation can be carried out.

In setting forth this proposed policy statement, we realize that of the Commission's approximately 100 jurisdictional investor-owned water companies (and approximately 40 municipal systems serving beyond their corporate boundaries), fewer than ten are large enough to be expected to carry out the complete array of public notification actions delineated within the Commission's proposed policy statement. Nonetheless, the intent of the policy statement can readily be met by the smallest of regulated water companies. Essentially, all regulated water companies need to determine their individual level of response, commensurate with their resources and circumstances, to any given unscheduled interruption in service. The appropriate actions should be coupled with the best available technology to deliver the public notice, realistic with a smaller utility's resources.

#### **B. Alternative Water Supplies**

In addition to the advanced methods of public notification, this proposed policy statement reminds utilities of the need to ensure that adequate quantities of alternative supplies of water are made available in pre-determined, conspicuous and in sufficient locations relative to the number of customers affected by the incident. This includes the use of water tankers and/or free bottled water. When using tankers, containers should be made available for those customers who did not bring them. Utilities should also make efforts, based on prior coordination with community-based organizations, for example, to provide water to elderly or homebound customers to the extent practicable. When bottled water is used, utilities should have plans in place, based on prior coordination with local vendors, to have adequate supplies to last for the duration of the outage.

#### **C. Advance Template Preparation**

Utilities should have public notice templates prepared in advance to be available when needed to avoid wasting critical time developing materials from scratch. The notices should cover all possible scenarios from water conservation to Boil Water Alerts to contaminants of concern and associated health effects. Smaller utilities can look to resources such as the DEP, the United States Environmental Protection Agency, the Pennsylvania Section of the American Water Works Association, and the Pennsylvania Chapter of the National Association of Water Companies, for assistance in developing public notice templates.

#### **D. Notice to Commission**

Notice should be made to Commission personnel as soon as possible of the utility's knowledge of an unscheduled service interruption. It should be noted, however, that our regulation at 52 Pa. Code § 67.1(c) already directs utilities to contact the Commission within one

hour following preliminary assessment of conditions. Furthermore, all jurisdictional utilities should maintain lists of appropriate Commission contact personnel, including current after-hour contact numbers.

#### **III. Conclusion**

Consistent with the Commission's recent educational campaign, *Prepare Now: Be Water Wise*, the overriding message for emergency preparedness and response, including public notification, is one of being prepared now, prior to an emergency. The Commission strongly encourages all utilities to take any and all steps, appropriate to the level of resources and customers served, to think through all possible scenarios, including lessons learned from recent disasters, and to have all necessary tools pre-designed and in place. When a service interruption or emergency occurs, the utility will be ready without hesitation to respond by implementing what has already been thoroughly pre-designed in advance. As we have learned, once the emergency is unfolding, precious time will be wasted designing an appropriate response. At the least, interruptions of regular household water uses can be minimized and at the most drastic, protection of health and safety can be maximized by preparing now.

We propose to amend Chapter 69 of our regulations by adding 52 Pa. Code §§ 69.1601—69.1603 as set forth in Annex A hereto, which establishes a Policy Relating to Unscheduled Water Service Interruptions and Associated Actions, and invite all interested parties to submit comments. Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the Commonwealth Documents Law, 45 P.S. §§ 1201—1208, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we amend our regulations at 52 Pa. Code Chapter 69 as previously noted and as set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The proposed amendments to 52 Pa. Code Chapter 69, as set forth in Annex A, are issued for comment.
2. The Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
4. Interested persons may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA, 17105-3265, within 30 days from the date this order is published in the *Pennsylvania Bulletin*.
5. A copy of this order shall be posted on the Commission's website and served on the Office of Consumer Advocate, the Office of Small Business Advocate, the central and regional offices of the Department of Environmental Protection, the Pennsylvania Chapter of the National Association of Water Companies and all jurisdictional water and wastewater utilities.
6. The contact persons for this matter are Carl S. Hisiro, (717) 783-2812 and Adam D. Young, (717) 772-8582, Law Bureau (legal) and Paul Diskin (717) 214-5558 and E. Festus Odubo, (717) 783-6181, Bureau of Fixed Utility Services (technical).

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-250. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 52. PUBLIC UTILITIES

## PART I. PUBLIC UTILITY COMMISSION

## Subpart C. FIXED SERVICE UTILITIES

## CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

## UNSCHEDED WATER SERVICE INTERRUPTIONS AND ASSOCIATED ACTIONS

## § 69.1601. General.

(a) The purpose of this statement of policy is to provide guidance to the water industry relating to unscheduled water service interruptions, particularly regarding the types of public notice and associated actions that will be deemed acceptable and appropriate for meeting the safe, reasonable and adequate standard in 66 Pa.C.S. § 1501 (relating to character of service and facilities) and for complying with the Commission's regulation in § 56.71 (relating to interruption of service). It is imperative that water customers receive actual, timely and sufficient notice of unscheduled service interruptions whenever a situation affects water quality or quantity and particularly when the water is unsafe to drink.

(b) In addition to the notification guidelines contained in this statement of policy, water utilities shall conform to the public notice requirements of the Department of Environmental Protection found in 25 Pa. Code §§ 109.407—109.416 (relating to public notification). This statement of policy should not be considered to modify or replace in any way the public notice requirements of the Department of Environmental Protection.

## § 69.1602. Public notification guidelines.

(a) In the event of an unscheduled water service interruption, the following acceptable methods of public notification should be considered and utilized as appropriate:

(1) Fax/e-mail notification to local radio and television stations, cable systems, newspapers and other print and news media as soon as possible after the event occurs. The notification must provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions customers should take to ensure their safety, with updates as often as needed.

(2) Use of the utility's own Internet website and 24/7 emergency phone line and integrated voice response system to provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions customers should take to ensure their safety, with updates as often as needed.

(3) Reverse 911<sup>®</sup> (outbound dialing) notification to affected customers' landline or wireless phones when locally available.

(4) Actual notice to affected health care and child care facilities and other facilities, for example, schools and restaurants, as determined by consultation with the Department of Environmental Protection, the Department of Agriculture, the Department of Health, the Department of Aging and other State agencies as necessary.

(5) Other types of direct or actual notice, such as doorknob flyers distributed to affected customers, when feasible.

(6) E-mail and text message notification to affected customers who have opted to receive the notice.

(7) Coordination with State and local emergency management agencies as needed to use the emergency alert system for qualifying situations.

(b) Utilities should have public notice templates prepared in advance to be available when needed to avoid wasting critical time developing materials when confronted with an unscheduled service interruption. The notices should cover all possible scenarios from water conservation to boil water alerts to contaminants of concern and associated health effects. Smaller utilities can look to resources such as the Department of Environmental Protection, the United States Environmental Protection Agency, the Pennsylvania Section of the American Water Works Association and the Pennsylvania Chapter of the National Association of Water Companies for assistance in developing public notice templates.

(c) To ensure that the public is informed, utilities should have a knowledgeable contact person stationed onsite during the emergency, if possible.

## § 69.1603. Other associated actions.

(a) Water utilities need to ensure that adequate quantities of alternative supplies of water are made available in a sufficient number of conspicuous and predetermined locations relative to the number of customers affected by the incident. This includes the use of water tankers or free bottled water, or both. When using tankers, containers should be made available for those customers who did not bring them. Utilities should also make efforts, based on prior coordination with community-based organizations, for example, to provide water to elderly or homebound customers to the extent practicable. When bottled water is used, utilities should have plans in place, based on prior coordination with local vendors, to have adequate supplies to last for the duration of the outage.

(b) Notice should be made to Commission personnel as soon as possible upon a utility becoming aware of an unscheduled service interruption. It should be noted that § 67.1(c) (relating to general provisions) already directs utilities to contact the Commission within 1 hour following preliminary assessment of conditions. Furthermore, jurisdictional utilities should maintain lists of appropriate Commission contact personnel, including current after-hour contact numbers.

[Pa.B. Doc. No. 06-1447. Filed for public inspection July 28, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending July 18, 2006.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
7-14-06	Parke Bancorp, Inc., Washington Township, NJ, to acquire 100% of the shares of Parke Interim Bank, Philadelphia, PA	Washington Township New Jersey	Effective

##### New Bank Charters

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-17-06	Royal Asian Bank Philadelphia Philadelphia County	6331 Castor Avenue Philadelphia Philadelphia County	Commenced Operations

##### Interim Bank Charters

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-14-06	Parke Interim Bank Philadelphia Philadelphia County	Philadelphia	Effective

The interim bank is being effected for the sole purpose of permitting Parke Bank, Washington Township, NJ, to expand its branch operations into this Commonwealth. Immediately following its incorporation it will be acquired by Parke Bancorp, Inc. and merged with and into Parke Bank, the holding company's banking subsidiary.

##### Section 112 Applications

<i>Date</i>	<i>Name of Individual</i>	<i>Action</i>
7-17-06	Paul J. Coviello to acquire up to 28.0% of the shares of common stock of Landmark Community Bank, Pittston, PA, under section 112 of the Banking Code of 1965	Approved

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-17-06	Royal Asian Bank Philadelphia Philadelphia County  Purchase of assets/assumption of liabilities of four branch offices of Royal Bank America, Narberth Located at: 7001 West Chester Pike Upper Darby Delaware County  6526 Castor Avenue Philadelphia Philadelphia County	Philadelphia        418 Oak Lane Road Philadelphia Philadelphia County  1550 Lemoine Avenue Fort Lee Bergen County, NJ	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-17-06	CommunityBanks, Millersburg and Sentry Trust Company, Chambersburg Surviving Institution— CommunityBanks, Millersburg	Millersburg	Filed
7-18-06	Centra Bank—Smithfield (Interim Bank in Organization), Smithfield, and Smithfield State Bank of Smithfield, PA, Smithfield Surviving Institution— Centra Bank-Smithfield, Smithfield	Smithfield	Filed

The application is being filed to facilitate the acquisition of Smithfield State Bank by Centra Financial Holdings, Inc., Morgantown, WV.

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-12-06	Orrstown Bank Shippensburg Cumberland County	308 Carolle Street Greencastle Franklin County	Opened
7-7-06	Fulton Bank Lancaster Lancaster County	116 West Market Street West Chester Chester County	Opened
7-12-06	First Star Savings Bank Bethlehem Lehigh County	6302 Route 309 New Tripoli Lehigh County	Filed
7-17-06	Peoples State Bank of Wyalusing Wyalusing Bradford County	205 West Lockhart Street Sayre Bradford County	Approved
7-17-06	Berkshire Bank Wyomissing Berks County	Crestwood East Office Park Lots Nos. 1 and 2 Neversink and Hearthstone Court Reading Exeter Township Berks County	Approved

**Branch Relocations/Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-11-06	S & T Bank Indiana Indiana County	<i>Into:</i> 800 Philadelphia Street Indiana Indiana County  <i>From:</i> 501 Philadelphia Street Indiana Indiana County	Filed
7-12-06	S & T Bank Indiana Indiana County	<i>to:</i> Corner of Logan Blvd. and Dewey Street Altoona Blair County  <i>From:</i> 208 West Plank Rd. Altoona Blair County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

The Department's website at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

A. WILLIAM SCHENCK, III,  
*Secretary*



# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

## Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Tuesday, August 8, 2006, at 7 p.m. in Room 112, Tom Ridge Environmental Center, Erie, PA.

Questions concerning this meeting or agenda items should be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania 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. 06-1449. Filed for public inspection July 28, 2006, 9:00 a.m.]

# DEPARTMENT OF EDUCATION

## February 2006 Basic Education Funding

Under section 2502.45(12) of the Public School Code of 1949 (code) (24 P. S. § 25-2502.45(12)), as amended by act of July 11, 2006 (P. L. , No. 114), following is the Basic Education Funding allocation for each school district as posted on the Department of Education's website on February 8, 2006.

<i>School District</i>	<i>County</i>	<i>February 2006 Basic Education Funding</i>
Bermudian Springs SD	Adams	\$4,920,594
Conewago Valley SD	Adams	\$6,347,582
Fairfield Area SD	Adams	\$3,087,892
Gettysburg Area SD	Adams	\$6,711,953
Littlestown Area SD	Adams	\$5,428,694
Upper Adams SD	Adams	\$5,224,973
Allegheny Valley SD	Allegheny	\$2,134,191
Avonworth SD	Allegheny	\$2,201,723
Baldwin-Whitehall SD	Allegheny	\$7,650,507
Bethel Park SD	Allegheny	\$7,808,345
Brentwood Borough SD	Allegheny	\$4,076,525
Carlynton SD	Allegheny	\$3,666,673
Chartiers Valley SD	Allegheny	\$3,743,971
Clairton City SD	Allegheny	\$6,338,091
Cornell SD	Allegheny	\$1,431,407
Deer Lakes SD	Allegheny	\$5,315,573
Duquesne City SD	Allegheny	\$5,708,758
East Allegheny SD	Allegheny	\$5,208,164
Elizabeth Forward SD	Allegheny	\$8,157,844
Fox Chapel Area SD	Allegheny	\$2,830,656
Gateway SD	Allegheny	\$6,420,765

<i>School District</i>	<i>County</i>	<i>February 2006 Basic Education Funding</i>
Hampton Township SD	Allegheny	\$4,321,925
Highlands SD	Allegheny	\$9,397,760
Keystone Oaks SD	Allegheny	\$4,259,667
McKeesport Area SD	Allegheny	\$19,712,230
Montour SD	Allegheny	\$3,459,224
Moon Area SD	Allegheny	\$5,534,223
Mt Lebanon SD	Allegheny	\$5,238,099
North Allegheny SD	Allegheny	\$7,943,346
North Hills SD	Allegheny	\$5,144,284
Northgate SD	Allegheny	\$3,461,530
Penn Hills SD	Allegheny	\$14,037,735
Pine-Richland SD	Allegheny	\$4,064,385
Pittsburgh SD	Allegheny	\$130,311,433
Plum Borough SD	Allegheny	\$11,177,172
Quaker Valley SD	Allegheny	\$1,080,357
Riverview SD	Allegheny	\$2,615,906
Shaler Area SD	Allegheny	\$9,165,548
South Allegheny SD	Allegheny	\$7,826,582
South Fayette Township SD	Allegheny	\$2,233,583
South Park SD	Allegheny	\$5,654,910
Steel Valley SD	Allegheny	\$7,122,428
Sto-Rox SD	Allegheny	\$7,099,655
Upper Saint Clair SD	Allegheny	\$3,658,560
West Allegheny SD	Allegheny	\$4,823,582
West Jefferson Hills SD	Allegheny	\$4,703,809
West Mifflin Area SD	Allegheny	\$5,600,685
Wilksburg Borough SD	Allegheny	\$6,480,716
Woodland Hills SD	Allegheny	\$12,689,609
Apollo-Ridge SD	Armstrong	\$7,248,425
Armstrong SD	Armstrong	\$26,209,333
Freeport Area SD	Armstrong	\$5,897,138
Leechburg Area SD	Armstrong	\$3,770,133
Aliquippa SD	Beaver	\$7,240,674
Ambridge Area SD	Beaver	\$9,343,410
Beaver Area SD	Beaver	\$4,768,426
Big Beaver Falls Area SD	Beaver	\$8,737,040
Blackhawk SD	Beaver	\$8,357,704
Center Area SD	Beaver	\$3,902,802
Freedom Area SD	Beaver	\$7,227,540
Hopewell Area SD	Beaver	\$8,617,915
Midland Borough SD	Beaver	\$2,608,843
Monaca SD	Beaver	\$3,841,510
New Brighton Area SD	Beaver	\$9,396,270
Riverside Beaver County SD	Beaver	\$7,148,150
Rochester Area SD	Beaver	\$5,527,273
South Side Area SD	Beaver	\$7,473,712
Western Beaver County SD	Beaver	\$5,022,278
Bedford Area SD	Bedford	\$6,517,446
Chestnut Ridge SD	Bedford	\$7,489,105
Everett Area SD	Bedford	\$5,098,183
Northern Bedford County SD	Bedford	\$5,260,808
Tussey Mountain SD	Bedford	\$6,847,890
Antietam SD	Berks	\$2,344,882
Boyertown Area SD	Berks	\$12,936,943
Brandywine Heights Area SD	Berks	\$3,567,402
Conrad Weiser Area SD	Berks	\$4,656,759
Daniel Boone Area SD	Berks	\$6,228,679

<i>February 2006 Basic Education Funding</i>			<i>February 2006 Basic Education Funding</i>		
<i>School District</i>	<i>County</i>		<i>School District</i>	<i>County</i>	
Exeter Township SD	Berks	\$6,867,890	Lehigh Area SD	Carbon	\$7,441,056
Fleetwood Area SD	Berks	\$4,295,530	Palmerton Area SD	Carbon	\$5,472,818
Governor Mifflin SD	Berks	\$4,622,207	Panther Valley SD	Carbon	\$5,446,124
Hamburg Area SD	Berks	\$5,394,646	Weatherly Area SD	Carbon	\$2,789,906
Kutztown Area SD	Berks	\$2,912,560	Bald Eagle Area SD	Centre	\$7,327,911
Muhlenberg SD	Berks	\$2,730,272	Bellefonte Area SD	Centre	\$7,249,748
Oley Valley SD	Berks	\$3,402,573	Penns Valley Area SD	Centre	\$4,036,677
Reading SD	Berks	\$78,047,295	State College Area SD	Centre	\$5,917,132
Schuylkill Valley SD	Berks	\$2,189,717	Avon Grove SD	Chester	\$10,148,285
Tulpehocken Area SD	Berks	\$3,500,346	Coatesville Area SD	Chester	\$19,095,223
Twin Valley SD	Berks	\$4,329,234	Downingtown Area SD	Chester	\$12,242,781
Wilson SD	Berks	\$5,479,914	Great Valley SD	Chester	\$2,028,234
Wyomissing Area SD	Berks	\$1,033,942	Kennett Consolidated SD	Chester	\$3,254,992
Altoona Area SD	Blair	\$34,770,066	Octorara Area SD	Chester	\$4,946,325
Bellwood-Antis SD	Blair	\$6,280,137	Owen J Roberts SD	Chester	\$4,847,585
Claysburg-Kimmel SD	Blair	\$4,701,140	Oxford Area SD	Chester	\$7,934,770
Holidaysburg Area SD	Blair	\$10,543,144	Phoenixville Area SD	Chester	\$3,888,982
Spring Cove SD	Blair	\$6,869,078	Tredyffrin-Easttown SD	Chester	\$2,793,617
Tyrone Area SD	Blair	\$8,369,597	Unionville-Chadds Ford SD	Chester	\$2,733,448
Williamsburg Community SD	Blair	\$2,990,497	West Chester Area SD	Chester	\$6,613,106
Athens Area SD	Bradford	\$10,232,791	Allegheny-Clarion Valley SD	Clarion	\$5,376,677
Canton Area SD	Bradford	\$6,277,866	Clarion Area SD	Clarion	\$2,454,190
Northeast Bradford SD	Bradford	\$5,355,777	Clarion-Limestone Area SD	Clarion	\$4,582,518
Sayre Area SD	Bradford	\$5,341,616	Keystone SD	Clarion	\$6,299,607
Towanda Area SD	Bradford	\$5,631,372	North Clarion County SD	Clarion	\$3,077,157
Troy Area SD	Bradford	\$8,308,499	Redbank Valley SD	Clarion	\$7,804,417
Wyalusing Area SD	Bradford	\$6,155,184	Union SD	Clarion	\$5,107,612
Bensalem Township SD	Bucks	\$10,198,365	Clearfield Area SD	Clearfield	\$11,105,639
Bristol Borough SD	Bucks	\$5,557,272	Curwensville Area SD	Clearfield	\$6,692,263
Bristol Township SD	Bucks	\$17,057,018	Dubois Area SD	Clearfield	\$13,151,013
Centennial SD	Bucks	\$10,817,095	Glendale SD	Clearfield	\$4,975,338
Central Bucks SD	Bucks	\$14,351,581	Harmony Area SD	Clearfield	\$2,480,532
Council Rock SD	Bucks	\$12,780,200	Moshannon Valley SD	Clearfield	\$6,202,994
Morrisville Borough SD	Bucks	\$2,797,730	Philipsburg-Osceola Area SD	Clearfield	\$10,070,477
Neshaminy SD	Bucks	\$11,433,024	West Branch Area SD	Clearfield	\$6,592,800
New Hope-Solebury SD	Bucks	\$1,014,289	Keystone Central SD	Clinton	\$18,113,817
Palisades SD	Bucks	\$2,635,134	Benton Area SD	Columbia	\$2,925,611
Pennridge SD	Bucks	\$8,879,641	Berwick Area SD	Columbia	\$12,757,820
Pennsbury SD	Bucks	\$13,706,772	Bloomsburg Area SD	Columbia	\$4,988,646
Quakertown Community SD	Bucks	\$8,293,643	Central Columbia SD	Columbia	\$5,652,539
Butler Area SD	Butler	\$22,365,385	Millville Area SD	Columbia	\$3,697,329
Karns City Area SD	Butler	\$8,786,246	Southern Columbia Area SD	Columbia	\$4,054,231
Mars Area SD	Butler	\$5,250,735	Conneaut SD	Crawford	\$10,022,299
Moniteau SD	Butler	\$6,905,669	Crawford Central SD	Crawford	\$13,877,737
Seneca Valley SD	Butler	\$12,216,153	Penncrest SD	Crawford	\$17,122,094
Slippery Rock Area SD	Butler	\$7,417,167	Big Spring SD	Cumberland	\$8,222,757
South Butler County SD	Butler	\$6,722,041	Camp Hill SD	Cumberland	\$1,081,093
Blacklick Valley SD	Cambria	\$4,684,934	Carlisle Area SD	Cumberland	\$10,846,310
Cambria Heights SD	Cambria	\$8,665,158	Cumberland Valley SD	Cumberland	\$9,115,257
Central Cambria SD	Cambria	\$6,612,146	East Pennsboro Area SD	Cumberland	\$4,441,117
Conemaugh Valley SD	Cambria	\$5,312,906	Mechanicsburg Area SD	Cumberland	\$4,993,437
Ferndale Area SD	Cambria	\$4,499,536	Shippensburg Area SD	Cumberland	\$7,436,499
Forest Hills SD	Cambria	\$11,437,580	South Middleton SD	Cumberland	\$3,666,691
Greater Johnstown SD	Cambria	\$14,595,042	Central Dauphin SD	Dauphin	\$14,313,459
Northern Cambria SD	Cambria	\$7,901,130	Derry Township SD	Dauphin	\$1,725,748
Penn Cambria SD	Cambria	\$8,628,602	Halifax Area SD	Dauphin	\$5,022,681
Portage Area SD	Cambria	\$6,124,330			
Richland SD	Cambria	\$2,781,614			
Westmont Hilltop SD	Cambria	\$2,756,598			
Cameron County SD	Cameron	\$4,889,240			
Jim Thorpe Area SD	Carbon	\$1,977,391			

<i>February 2006 Basic Education Funding</i>			<i>February 2006 Basic Education Funding</i>		
<i>School District</i>	<i>County</i>		<i>School District</i>	<i>County</i>	
Harrisburg City SD	Dauphin	\$36,728,142	Juniata Valley SD	Huntingdon	\$4,540,921
Lower Dauphin SD	Dauphin	\$8,231,443	Mount Union Area SD	Huntingdon	\$7,843,457
Middletown Area SD	Dauphin	\$6,740,062	Southern Huntingdon County SD	Huntingdon	\$6,151,341
Millersburg Area SD	Dauphin	\$3,577,145	Blairsville-Saltsburg SD	Indiana	\$8,496,669
Steelton-Highspire SD	Dauphin	\$6,604,934	Homer-Center SD	Indiana	\$4,989,376
Susquehanna Township SD	Dauphin	\$2,452,264	Indiana Area SD	Indiana	\$8,133,307
Upper Dauphin Area SD	Dauphin	\$5,154,960	Marion Center Area SD	Indiana	\$8,548,092
Chester-Upland SD	Delaware	\$34,981,170	Penns Manor Area SD	Indiana	\$6,630,434
Chichester SD	Delaware	\$8,634,795	Purchase Line SD	Indiana	\$8,015,069
Garnet Valley SD	Delaware	\$3,164,550	United SD	Indiana	\$8,064,852
Haverford Township SD	Delaware	\$2,722,108	Brockway Area SD	Jefferson	\$6,395,317
Interboro SD	Delaware	\$6,956,524	Brookville Area SD	Jefferson	\$8,118,572
Marple Newtown SD	Delaware	\$2,260,001	Punxsutawney Area SD	Jefferson	\$13,947,614
Penn-Delco SD	Delaware	\$5,172,689	Juniata County SD	Juniata	\$9,039,995
Radnor Township SD	Delaware	\$1,636,558	Abington Heights SD	Lackawanna	\$5,532,843
Ridley SD	Delaware	\$9,653,222	Carbondale Area SD	Lackawanna	\$6,431,798
Rose Tree Media SD	Delaware	\$2,490,292	Dunmore SD	Lackawanna	\$3,170,350
Southeast Delco SD	Delaware	\$10,467,382	Lakeland SD	Lackawanna	\$4,683,323
Springfield SD	Delaware	\$2,356,095	Mid Valley SD	Lackawanna	\$3,272,483
Upper Darby SD	Delaware	\$21,168,524	North Pocono SD	Lackawanna	\$7,318,595
Wallingford-Swarthmore SD	Delaware	\$2,863,962	Old Forge SD	Lackawanna	\$2,666,171
William Penn SD	Delaware	\$15,449,879	Riverside SD	Lackawanna	\$4,203,823
Johnsonburg Area SD	Elk	\$4,607,897	Scranton SD	Lackawanna	\$30,240,775
Ridgway Area SD	Elk	\$4,549,793	Valley View SD	Lackawanna	\$6,435,207
Saint Marys Area SD	Elk	\$5,454,751	Cocalico SD	Lancaster	\$5,644,020
Corry Area SD	Erie	\$11,049,306	Columbia Borough SD	Lancaster	\$5,139,515
Erie City SD	Erie	\$43,314,093	Conestoga Valley SD	Lancaster	\$2,320,538
Fairview SD	Erie	\$2,652,743	Donegal SD	Lancaster	\$5,708,844
Fort Leboeuf SD	Erie	\$5,965,222	Eastern Lancaster County SD	Lancaster	\$3,619,388
General McLane SD	Erie	\$9,466,505	Elizabethtown Area SD	Lancaster	\$7,270,194
Girard SD	Erie	\$6,979,956	Ephrata Area SD	Lancaster	\$8,203,129
Harbor Creek SD	Erie	\$7,925,344	Hempfield SD	Lancaster	\$10,807,003
Iroquois SD	Erie	\$6,699,922	Lampeter-Strasburg SD	Lancaster	\$2,966,190
Millcreek Township SD	Erie	\$11,449,850	Lancaster SD	Lancaster	\$35,700,536
North East SD	Erie	\$7,771,561	Manheim Central SD	Lancaster	\$6,032,218
Northwestern SD	Erie	\$8,211,746	Manheim Township SD	Lancaster	\$3,604,581
Union City Area SD	Erie	\$7,980,026	Penn Manor SD	Lancaster	\$9,725,795
Wattsburg Area SD	Erie	\$6,110,039	Pequea Valley SD	Lancaster	\$2,326,151
Albert Gallatin Area SD	Fayette	\$20,914,202	Solanco SD	Lancaster	\$8,767,771
Brownsville Area SD	Fayette	\$10,991,889	Warwick SD	Lancaster	\$7,940,260
Connellsville Area SD	Fayette	\$26,892,153	Ellwood City Area SD	Lawrence	\$10,207,708
Frazier SD	Fayette	\$6,233,762	Laurel SD	Lawrence	\$6,900,449
Laurel Highlands SD	Fayette	\$12,281,474	Mohawk Area SD	Lawrence	\$9,080,399
Uniontown Area SD	Fayette	\$13,651,431	Neshannock Township SD	Lawrence	\$2,834,378
Forest Area SD	Forest	\$2,357,134	New Castle Area SD	Lawrence	\$19,270,279
Chambersburg Area SD	Franklin	\$17,457,125	Shenango Area SD	Lawrence	\$6,646,546
Fannett-Metal SD	Franklin	\$2,041,737	Union Area SD	Lawrence	\$4,260,133
Greencastle-Antrim SD	Franklin	\$5,078,697	Wilmington Area SD	Lawrence	\$5,067,038
Tuscarora SD	Franklin	\$7,184,284	Annville-Cleona SD	Lebanon	\$4,092,814
Waynesboro Area SD	Franklin	\$11,604,723	Cornwall-Lebanon SD	Lebanon	\$8,494,840
Central Fulton SD	Fulton	\$4,966,778	Eastern Lebanon County SD	Lebanon	\$4,224,631
Forbes Road SD	Fulton	\$2,593,285	Lebanon SD	Lebanon	\$16,419,169
Southern Fulton SD	Fulton	\$4,007,416	Northern Lebanon SD	Lebanon	\$6,832,604
Carmichaels Area SD	Greene	\$6,175,943	Palmyra Area SD	Lebanon	\$5,243,655
Central Greene SD	Greene	\$7,164,036	Allentown City SD	Lehigh	\$55,219,089
Jefferson-Morgan SD	Greene	\$4,921,794	Catasauqua Area SD	Lehigh	\$3,555,751
Southeastern Greene SD	Greene	\$4,428,087	East Penn SD	Lehigh	\$9,253,852
West Greene SD	Greene	\$2,962,300	Northern Lehigh SD	Lehigh	\$5,845,500
Huntingdon Area SD	Huntingdon	\$6,849,660			

<i>February 2006 Basic Education Funding</i>			<i>February 2006 Basic Education Funding</i>		
<i>School District</i>	<i>County</i>		<i>School District</i>	<i>County</i>	
Northwestern Lehigh SD	Lehigh	\$4,988,263	Perkiomen Valley SD	Montgomery	\$4,619,535
Parkland SD	Lehigh	\$5,780,627	Pottsgrove SD	Montgomery	\$6,903,390
Salisbury Township SD	Lehigh	\$2,003,069	Pottstown SD	Montgomery	\$7,557,060
Southern Lehigh SD	Lehigh	\$3,929,362	Souderton Area SD	Montgomery	\$7,332,863
Whitehall-Coplay SD	Lehigh	\$4,932,718	Springfield Township SD	Montgomery	\$1,116,555
Crestwood SD	Luzerne	\$5,808,570	Spring-Ford Area SD	Montgomery	\$7,537,782
Dallas SD	Luzerne	\$4,977,515	Upper Dublin SD	Montgomery	\$2,367,867
Greater Nanticoke Area SD	Luzerne	\$8,337,066	Upper Merion Area SD	Montgomery	\$1,844,643
Hanover Area SD	Luzerne	\$6,141,676	Upper Moreland Township SD	Montgomery	\$2,856,001
Hazleton Area SD	Luzerne	\$23,447,386	Upper Perkiomen SD	Montgomery	\$7,584,948
Lake-Lehman SD	Luzerne	\$6,052,988	Wissahickon SD	Montgomery	\$2,141,360
Northwest Area SD	Luzerne	\$6,497,533	Danville Area SD	Montour	\$6,368,369
Pittston Area SD	Luzerne	\$7,932,788	Bangor Area SD	Northampton	\$7,621,238
Wilkes-Barre Area SD	Luzerne	\$19,411,671	Bethlehem Area SD	Northampton	\$20,530,075
Wyoming Area SD	Luzerne	\$6,253,936	Easton Area SD	Northampton	\$16,150,059
Wyoming Valley West SD	Luzerne	\$15,198,452	Nazareth Area SD	Northampton	\$6,904,803
East Lycoming SD	Lycoming	\$7,458,952	Northampton Area SD	Northampton	\$11,586,572
Jersey Shore Area SD	Lycoming	\$11,721,619	Pen Argyl Area SD	Northampton	\$3,996,019
Loyalsock Township SD	Lycoming	\$2,424,842	Saucon Valley SD	Northampton	\$2,602,211
Montgomery Area SD	Lycoming	\$4,689,179	Wilson Area SD	Northampton	\$4,224,335
Montoursville Area SD	Lycoming	\$6,199,055	Line Mountain SD	Northumberland	\$5,566,394
Muncy SD	Lycoming	\$3,412,062	Milton Area SD	Northumberland	\$7,941,068
South Williamsport Area SD	Lycoming	\$5,234,591	Mount Carmel Area SD	Northumberland	\$7,025,405
Williamsport Area SD	Lycoming	\$21,848,589	Shamokin Area SD	Northumberland	\$10,958,386
Bradford Area SD	McKean	\$11,059,490	Shikellamy SD	Northumberland	\$10,840,784
Kane Area SD	McKean	\$7,346,755	Warrior Run SD	Northumberland	\$5,658,078
Otto-Eldred SD	McKean	\$5,065,831	Greenwood SD	Perry	\$3,062,695
Port Allegany SD	McKean	\$6,535,787	Newport SD	Perry	\$5,207,006
Smethport Area SD	McKean	\$5,829,256	Susquenita SD	Perry	\$6,935,865
Commodore Perry SD	Mercer	\$3,480,744	West Perry SD	Perry	\$7,496,350
Farrell Area SD	Mercer	\$6,415,775	Philadelphia City SD	Philadelphia	\$826,646,099
Greenville Area SD	Mercer	\$5,765,125	Delaware Valley SD	Pike	\$10,677,915
Grove City Area SD	Mercer	\$7,174,432	Austin Area SD	Potter	\$1,101,967
Hermitage SD	Mercer	\$5,191,594	Coudersport Area SD	Potter	\$3,787,733
Jamestown Area SD	Mercer	\$2,748,456	Galeton Area SD	Potter	\$1,905,328
Lakeview SD	Mercer	\$6,082,115	Northern Potter SD	Potter	\$3,907,107
Mercer Area SD	Mercer	\$4,823,179	Oswayo Valley SD	Potter	\$3,268,488
Reynolds SD	Mercer	\$7,271,295	Blue Mountain SD	Schuylkill	\$6,946,011
Sharon City SD	Mercer	\$11,493,091	Mahanoy Area SD	Schuylkill	\$6,333,971
Sharpsville Area SD	Mercer	\$5,546,118	Minersville Area SD	Schuylkill	\$4,520,988
West Middlesex Area SD	Mercer	\$4,849,532	North Schuylkill SD	Schuylkill	\$7,276,468
Mifflin County SD	Mifflin	\$18,164,136	Pine Grove Area SD	Schuylkill	\$5,819,524
East Stroudsburg Area SD	Monroe	\$10,358,735	Pottsville Area SD	Schuylkill	\$10,613,952
Pleasant Valley SD	Monroe	\$17,674,610	Saint Clair Area SD	Schuylkill	\$2,768,189
Pocono Mountain SD	Monroe	\$17,209,003	Schuylkill Haven Area SD	Schuylkill	\$5,231,062
Stroudsburg Area SD	Monroe	\$8,094,034	Shenandoah Valley SD	Schuylkill	\$4,874,421
Abington SD	Montgomery	\$5,246,148	Tamaqua Area SD	Schuylkill	\$6,090,905
Bryn Athyn SD	Montgomery	\$32,057	Tri-Valley SD	Schuylkill	\$4,066,885
Cheltenham Township SD	Montgomery	\$3,918,550	Williams Valley SD	Schuylkill	\$6,370,270
Colonial SD	Montgomery	\$2,612,765	Midd-West SD	Snyder	\$7,681,393
Hatboro-Horsham SD	Montgomery	\$3,934,443	Selinsgrove Area SD	Snyder	\$6,560,944
Jenkintown SD	Montgomery	\$737,361	Berlin Brothersvalley SD	Somerset	\$4,745,993
Lower Merion SD	Montgomery	\$3,166,763	Conemaugh Township Area SD	Somerset	\$6,139,336
Lower Moreland Township SD	Montgomery	\$1,757,208	Meyersdale Area SD	Somerset	\$6,641,779
Methacton SD	Montgomery	\$5,810,319	North Star SD	Somerset	\$6,881,766
Norristown Area SD	Montgomery	\$7,611,634	Rockwood Area SD	Somerset	\$3,070,273
North Penn SD	Montgomery	\$8,179,432	Salisbury-Elk Lick SD	Somerset	\$1,795,923
			Shade-Central City SD	Somerset	\$3,584,662
			Shanksville-Stonycreek SD	Somerset	\$1,393,407

<i>February 2006 Basic Education Funding</i>			<i>February 2006 Basic Education Funding</i>		
<i>School District</i>	<i>County</i>		<i>School District</i>	<i>County</i>	
Somerset Area SD	Somerset	\$6,969,909	Burrell SD	Westmoreland	\$5,089,346
Turkeyfoot Valley Area SD	Somerset	\$2,064,647	Derry Area SD	Westmoreland	\$10,166,740
Windber Area SD	Somerset	\$7,852,268	Franklin Regional SD	Westmoreland	\$6,046,213
Sullivan County SD	Sullivan	\$2,305,098	Greater Latrobe SD	Westmoreland	\$8,919,880
Blue Ridge SD	Susquehanna	\$5,834,217	Greensburg Salem SD	Westmoreland	\$8,872,055
Elk Lake SD	Susquehanna	\$6,092,866	Hempfield Area SD	Westmoreland	\$15,668,964
Forest City Regional SD	Susquehanna	\$3,038,611	Jeannette City SD	Westmoreland	\$6,661,427
Montrose Area SD	Susquehanna	\$6,849,221	Kiski Area SD	Westmoreland	\$14,036,289
Mountain View SD	Susquehanna	\$4,866,501	Ligonier Valley SD	Westmoreland	\$5,120,062
Susquehanna Community SD	Susquehanna	\$5,862,259	Monessen City SD	Westmoreland	\$5,248,654
Northern Tioga SD	Tioga	\$11,112,192	Mount Pleasant Area SD	Westmoreland	\$8,086,499
Southern Tioga SD	Tioga	\$7,827,290	New Kensington-Arnold SD	Westmoreland	\$9,235,667
Wellsboro Area SD	Tioga	\$5,354,294	Norwin SD	Westmoreland	\$14,194,330
Lewisburg Area SD	Union	\$2,792,267	Penn-Trafford SD	Westmoreland	\$12,712,863
Mifflinburg Area SD	Union	\$6,921,733	Southmoreland SD	Westmoreland	\$8,357,834
Cranberry Area SD	Venango	\$6,172,047	Yough SD	Westmoreland	\$8,412,632
Franklin Area SD	Venango	\$10,353,523	Lackawanna Trail SD	Wyoming	\$5,112,282
Oil City Area SD	Venango	\$12,217,613	Tunkhannock Area SD	Wyoming	\$9,926,925
Titusville Area SD	Venango	\$12,261,313	Central York SD	York	\$4,837,645
Valley Grove SD	Venango	\$6,026,085	Dallastown Area SD	York	\$7,334,927
Warren County SD	Warren	\$22,504,901	Dover Area SD	York	\$8,765,533
Avella Area SD	Washington	\$3,951,056	Eastern York SD	York	\$6,520,782
Bentworth SD	Washington	\$5,656,861	Hanover Public SD	York	\$2,009,783
Bethlehem-Center SD	Washington	\$7,953,619	Northeastern York SD	York	\$8,353,742
Burgettstown Area SD	Washington	\$5,556,581	Northern York County SD	York	\$6,454,345
California Area SD	Washington	\$5,222,260	Red Lion Area SD	York	\$12,357,885
Canon-Mcmillan SD	Washington	\$9,788,943	South Eastern SD	York	\$6,656,092
Charleroi SD	Washington	\$6,261,229	South Western SD	York	\$8,870,049
Chartiers-Houston SD	Washington	\$4,262,182	Southern York County SD	York	\$6,881,627
Fort Cherry SD	Washington	\$5,914,084	Spring Grove Area SD	York	\$9,286,109
McGuffey SD	Washington	\$9,373,147	West Shore SD	York	\$11,119,258
Peters Township SD	Washington	\$4,295,809	West York Area SD	York	\$4,059,728
Ringgold SD	Washington	\$11,058,075	York City SD	York	\$32,610,418
Trinity Area SD	Washington	\$10,583,377	York Suburban SD	York	\$1,450,100
Washington SD	Washington	\$7,294,027			
Wallenpaupack Area SD	Wayne	\$3,855,368			
Wayne Highlands SD	Wayne	\$7,130,289			
Western Wayne SD	Wayne	\$4,339,564			
Belle Vernon Area SD	Westmoreland	\$8,480,889			

GERALD L. ZAHORCHAK, D. Ed.  
Secretary

[Pa.B. Doc. No. 06-1450. Filed for public inspection July 28, 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**

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**32841307 and NPDES Permit No. PA0092193, Tanoma Coal Company, Inc.** (One Energy Place, Latrobe, PA 15650), to renew the permit for the Tanoma Mine in Rayne Township, **Indiana County** and related NPDES permit for reclamation only. No additional discharges. Application received June 29, 2006.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900*

**56900113 and NPDES No. PA0598992. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 99.5 acres. Receiving streams: Hays Run and UNTs to Hays Run; UNTs to Buffalo Creek classified for the following uses: CWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 6, 2006.

**56010101 and NPDES No. PA0248924. Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale, PA 15552-7228, permit renewal for the continued operation and restoration of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 70.0 acres. Receiving streams: UNT to Casselman River and UNTs to Ellick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 3, 2006.

**11000104 and NPDES No. PA0248851. Hoffman Mining, Inc.**, P. O. Box 130, 118 Runway Road, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to add 17.2 acres to the permit area and to include mining on the Middle Kittanning and the Lower Kittanning seams. Total SMP acres goes from 133.8 to 151.0 in Adams Township, **Cambria County**. Receiving stream: Paint Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 19, 2006.

**11010101 and NPDES No. PA0248941. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 71.0 acres. Receiving streams: Fallentimber Run and Clearfield Creek classified for the following uses: CWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 12, 2006.

**4074SM28 and NPDES Permit No. PA0599123. PBS Coals, Inc.,** P. O. Box 260, Friedens, PA 15541, renewal of NPDES Permit, Summit Township, **Somerset County**. Receiving streams: UNTs to Bigby Creek; to Bigby Creek; to the Casselman River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 19, 2006.

**3366BSM2 and NPDES Permit No. PA0249998, PBS Coals, Inc.,** P. O. Box 260, Friedens, PA 15541, renewal of NPDES Permit, Stonycreek Township, **Somerset County**. Receiving streams: UNTs of Stonycreek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received June 19, 2006.

**4274SM5 and NPDES Permit No. PA0262218. New Enterprise Stone & Lime Company, Inc.,** P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Broadtop Township, **Bedford County**. Receiving streams: UNT to Six Mile Run classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Saxton Municipal Water Authority. Application received July 7, 2006.

**32810135 and NPDES Permit No. PA0607606. North Cambria Fuel Company,** 175 McKnight Road, Blairsville, PA 15717, renewal of NPDES Permit, West Wheatfield Township, **Indiana County**. Receiving streams: UNT to Blacklick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received July 11, 2006.

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*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**30980101 and NPDES Permit No. PA02020304. Coresco, Inc.** (P. O. Box 1209, Morgantown, WV 26507). Revision application to change land use from forestland to pastureland to an existing bituminous surface mine, located in Dunkard Township, **Greene County**, affecting 148.4 acres. Receiving streams are: Crooked Run and UNTs to Dunkard Creek, classified for the following use: WWF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: July 7, 2006.

**65060104 and NPDES Permit No. PA0250945. Sosko Coal Company, Inc.** (R. R. 3, Box 330, Mt. Pleasant, PA 15666). Application for commencement, operation and reclamation of a bituminous surface mine, located in East Huntingdon Township, **Westmoreland County**, affecting 31.7 acres. Receiving stream: UNT to Stauffer Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: July 3, 2006.

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*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**54960101R2 and NPDES Permit No. PA0223743. Mountaintop Coal Mining, Inc.** (P. O. Box 183, Elysburg, PA 17824), renewal of an existing anthracite surface mine and coal refuse disposal operation in Barry and Foster Townships, **Schuylkill County** affecting 246.4 acres. Receiving stream: Hans Yost Creek. Application received July 10, 2006.

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0038598 (IW)	Susquehanna Aquacultures, Inc. P. O. Box 306 York Haven, PA 17370	York County East Manchester Township	Susquehanna River 7-F	Y
PA0029106 (Sew)	Greenfield Township Municipal Authority P. O. Box 372 Claysburg, PA 16625-9737	Blair County Greenfield Township	Frankstown Branch Juniata River 11-A	Y
PA0034754 (Sew)	Frank T. Perano GSP Management Company Alex Acres Mobile Home Park P. O. Box 677 Morgantown, PA 19543	Dauphin County Halifax Township	Gurdy Run 6-C	Y
PA0080446 (Sew)	Thomas E. Grosh Valley View Manor Mobile Home Park P. O. Box 223 State Line, PA 17263	Franklin County Antrim Township	UNT to Conococheague Creek 13-C	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0238562	John Ditrich Subdivision Property Owners' Association, Inc. 5795 Peck Road Erie, PA 16510-5748	Harborcreek Township Erie County	UNT to Six Mile Creek 15-6M	Y
PA0223140	Interstate Antique Mall 5446 Station Road North East, PA 16428	North East Township Erie County	UNT to Lake Erie 15	Y
PA0000167	Union Electric Steel Corporation/Transportation Investment Group 7005 West Pine Gate Road Fairview, PA 16415	City of Erie Erie County	UMT to West Branch of Cascade Creek 15-CA	Y

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

**PA0002593**, Industrial Waste, SIC, 3317, **Summerill Tube Corp.**, P. O. Box 302, Franklin Street, Scottdale, PA 15683. This application is for renewal of an NPDES permit to discharge treated groundwater water, noncontact cooling water and stormwater from Summerill Tube Corp. in Scottdale Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Stauffer Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is McKeesport Municipal Water Authority, located at McKeesport, approximately 42 miles below the discharge point.

*Outfall 001:* existing discharge, design flow of 0.092 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature					
January 1 to 31	62.4°F				
February 1 to 29	64.5°F				
March 1 to 31	104.7°F				
April 1 to April 30	110°F				
May 1 to May 15	106.8°				
May 16 to August 31	110°F				
September 1 to 15	104.0°F				
September 16 to 30	98.0°F				
October 1 to 15	92.1°F				
October 16 to 31	86.1°F				
November 1 to 15	80.4°F				
November 16 to 30	67.9°F				
December 1 to 31	58.8°F				
Total Iron	7.0				
Vinyl Chloride	Nondetect using EPA Test Method 601				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 101:* existing discharge, design flow of 0.022 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
TSS					
1,1 Dichloroethylene	30				
Trichloroethylene	0.001				
	60				
	0.002				
	0.002				



Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Vinyl Chloride			0.001	0.02	
Total Iron				7.0	
pH	not less than 6.0 nor greater than 9.0				

Outfalls 003 and 004: existing discharge, flow of varied mgd (stormwater)

This discharge shall consist of uncontaminated stormwater only.

The EPA waiver is in effect.

**PA0002984**, Industrial Waste, SIC, 5171, **Pittsburgh Terminals Corporation**, P. O. Box 2621, Harrisburg PA 17105. This application is for renewal of an NPDES permit to discharge treated groundwater, stormwater and untreated storm water from the Pittsburgh Terminal in Moon Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Thorn Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Midland Borough Water Authority, located at 10th and Railroad Streets, Midland PA 15059, 25.2 miles below the discharge point.

Outfall 001: existing storm water discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

Other Conditions:

The EPA waiver is in effect.

Outfall 002: new stormwater discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
This discharge shall consist solely of uncontaminated stormwater runoff.					

Outfall 003: new stormwater discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

Outfall 004: new discharge, design flow of 0.0144 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended solids			30		75
Oil and Grease			15		30
Iron, dissolved				7.0	
Benzene			0.001		0.0025
Total BTEX			0.1		0.25
Toluene			Monitor and Report		
Ethylbenzene			Monitor and Report		
Xylenes, total			Monitor and Report		
MTBE			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

*Outfall 005:* existing stormwater discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

**PA0003832**, Industrial Waste, **Aristech Chemical Corporation**, 200 Neville Island Plant, 200 Neville Road, Pittsburgh, PA 15225. This application is for renewal of an NPDES permit to discharge treated sewage from Aristech Chemical Corporation in Neville Island, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters known as Ohio River (Back Channel), which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply from this facility is the Robinson Township Authority, approximately 3 miles downstream from the discharge point.

*Outfall 001:* existing discharge, design flow of 0.4 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
COD			30		60
Temperature					110°F
TSS			30		60
pH	not less than 6.0 nor greater than 9.0				

*Other Conditions:* No net addition of pollutants, no change in temperature by more than 2°F, stormwater, approval of hydrostatic test water and chemical additives.

The EPA waiver is in effect.

**PA0004219**, Industrial Waste, SIC, 1061, 2819 and 3313, **Langeloth Metallurgical Company**, P. O. Box 608, Langeloth, PA 15054. This application is for renewal of an NPDES permit to discharge treated process water, sewage and untreated cooling water stormwater from the Langeloth Plant in Smith Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to Burgetts Fork, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Midland Borough Municipal Water Authority, located at Midland-Ohio River, approximately 45 miles below the discharge point.

*Internal Monitoring Point 101:* existing discharge, design flow of 0.005 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	0.015				
CBOD <sub>5</sub>			25		50
Suspended Solids			30		60
Total Residual Chlorine (1st month—36 month) (37th month—expiration)			Monitor and Report 1.4                      3.3		
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as geometric mean 2,000/100 ml as geometric mean		
pH	not less than 6.0 nor greater than 9.0				

*Internal Monitoring Point 201:* existing discharge, design flow of 0.006 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

*Internal Monitoring Point 301:* existing discharge, design flow of 0.028 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Arsenic	0.76	1.70	0.62	1.39	
Cadmium	0.10	0.25	0.08	0.20	
Copper	0.75	1.57	0.55	1.1	
Lead	0.16	0.34	0.13	0.28	
Zinc	0.52	1.25	0.42	1.02	
Fluoride	24.39	42.91	19.9	35.0	
Suspended Solids	72.96	145.92	12	15	
Oil and Grease			15		30
Molybdenum					
(1st month to 36 month)			30		60
(37th month to expiration)			3.0		6.0
pH	not less than 6.0 nor greater than 9.0				

*Outfall 001:* existing discharge, design flow of 0.030 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
This outfall receives wastewater contributions from IMPs 101, 201 and 301. The permit limits are imposed at each respective IMP.					

*Outfall 002:* existing discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Zinc			Monitor and Report		
Molybdenum			Monitor and Report		
See Condition No. 15 in Part C of the permit.					

*Outfall 003:* existing discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Zinc			Monitor and Report		
Molybdenum			Monitor and Report		
See Condition No. 15 in Part C of the permit.					
pH	not less than 6.0 nor greater than 9.0				

*Outfall 004:* existing discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Zinc			Monitor and Report		
Molybdenum			Monitor and Report		
See Condition No. 15 in Part C of the permit.					

*Outfall 005:* existing discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
The discharge from this outfall is subject to effluent limits in Mining Permit No. 63920301.					

*Outfall 006:* existing discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Zinc					Monitor and Report
Molybdenum					Monitor and Report
	See Condition No. 15 in Part C of the permit.				

The EPA waiver is in effect.

**PA0216097**, Industrial Waste, SIC, 3462, **Standard Forged Products, Inc.**, 100 Iron Street, Johnstown, PA 15906. This application is for renewal of an NPDES permit to discharge untreated cooling water, stormwater and groundwater from Standard Forged Products, Inc. in City of Johnstown, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Conemaugh River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority located on the Allegheny River approximately 77 miles below the discharge point.

*Internal Monitoring Point 399:* existing discharge, design flow of 0.044 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Oil and Grease					Monitor and Report
	The wastewater from internal monitoring point 399 discharges to the Conemaugh River by means of Outfall 309 which is owned by Bethlehem Steel Corporation (see NPDES Permit PA0002992).				
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

*Outfalls 308 and 311:* existing discharge, flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Nitrate-Nitrite Nitrogen					Monitor and Report

**PA0253197**, Industrial Waste, SIC, 5093, **Rollock Company**, 156 Rollock Road, Stoystown PA 15563. This application is for issuance of an NPDES permit to discharge stormwater from Rollock Company in Franklin Borough, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Little Conemaugh River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority located on the Allegheny River approximately 81 miles below the discharge point.

*Outfalls 001—003:* existing discharges, varied mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Nitrate-Nitrite Nitrogen					Monitor and Report
Zinc					Monitor and Report

The EPA waiver is in effect.

*Outfalls 900—903:* existing discharge, flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Nitrate-Nitrite Nitrogen			Monitor and Report		
Iron			Monitor and Report		
Manganese			Monitor and Report		
Zinc			Monitor and Report		
pH			Monitor and Report		

**PA0027464**, Sewage, **Pleasant Hills Authority**, 410 East Bruceton Road, Pittsburgh, PA 15236. This application is for renewal of an NPDES permit to discharge treated sewage from Pleasant Hills Wastewater Treatment Plant in South Park Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Lick Run, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA American Water Co., Becks Run Intake on the Monongahela River.

*Outfall 001:* existing discharge, design flow of 5 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	1.5	2.3		3.0
(11-1 to 4-30)	2.5	3.8		5.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

**PA0030406-A1**, Sewage, **State Correctional Institution at Laurel Highlands**, P. O. Box 631, 5706 Glades Pike, Somerset, PA 15501. This application is for amendment of an NPDES permit to discharge treated leachate from the SCI at Laurel Highlands STP in Somerset Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT East Branch Coxes Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing downstream potable water supply is The Ohiopyle Municipal Water Authority.

*Outfall 001:* existing discharge, design flow of 0.50 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Thallium			0.006	0.009	0.015
Alpha-Terpineol			0.016	0.033	0.040
Benzoic Acid			0.071	0.120	0.150
p-Cresol			0.014	0.025	0.035
Phenol			0.015	0.026	0.037
Copper			0.04	0.06	0.08
Iron			3.0	4.5	6.0
Manganese			3.5	5.2	7.0
pH	not less than 6.0 nor greater than 9.0				

*Other Conditions:* The limitations are to become effective upon acceptance of landfill leachate at the STP.

The EPA waiver is in effect.

**PA0046906**, Sewage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Moon Township PA 15108-3193. This application is for renewal of an NPDES permit to discharge treated sewage from Flaugherty Run WWTP in Moon Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as the Ohio River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority.

*Outfall 001:* existing discharge, design flow of 2.0 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 10-30)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

Other conditions: SW2 and SW3 are permitted stormwater outfalls.

The EPA waiver is not in effect.

**PA0098922**, Sewage, **Freedom Area School District**, 1701 Eighth Avenue, Freedom, PA 15042-2099. This application is for renewal of an NPDES permit to discharge treated sewage from Big Knob Elementary School STP in New Sewickley Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pine Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Nova Chemicals, Beaver Valley Plant on the Ohio River.

*Outfall 001:* existing discharge, design flow of 0.016 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.02			0.05
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218928**, Sewage, **Cadogan Township**, 260 Spruce Avenue, Cadogan, PA 16212-0309. This application is for renewal of an NPDES permit to discharge treated sewage from Cadogan Township Sewage Treatment Plant in Cadogan Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Glade Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority located on the Allegheny River.

*Outfall 001:* existing discharge, design flow of 0.075 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	20.0			40.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0252531**, Sewage, **Independence-Cross Creek Joint Sewer Authority**, P. O. Box 156, 16 Campbell Street, Avella PA 15312. This application is for amendment of an NPDES permit to discharge treated sewage from Independence-Cross Creek STP in Independence Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cross Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the City of Wheeling, WV, Ohio River.

*Outfall 001*: existing discharge, design flow of 0.236 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	9.5	14.3		19.0
(11-1 to 4-30)	25.0	37.5		50.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 2 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0253341**, Sewage, **Jonathan and Holly Hayman**, 1224 Dividing Ridge Road, Fairhope, PA 15538. This application is for issuance of an NPDES permit to discharge treated sewage from Hayman STP in Brothersvalley Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT to Millers Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the North Fayette County Municipal Authority.

*Outfall 001*: new discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

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. 4506408**, Sewerage, **Franconia Mennonite Camping Association, Inc.**, Spruce Lake Retreat, R.TR. 1, Box 605, Canadensis, PA 18325-9749. This proposed facility is located in Barrett Township, **Monroe County**, PA.

Description of Proposed Action/Activity: This project consists of increasing the current flow from 6,600 gpd to 8,323 gpd Facility and also includes the installation of a communitor which will replace the influent bar screen at the Spruce Lake Retreat Wastewater Treatment Facility.

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

**WQM Permit No. 0506403**, Sewerage, **Saxton Borough Municipal Authority**, 1002 Branch Street, Saxton, PA 16678-8739. This proposed facility is located in Liberty Township and Saxton Borough Township, **Bedford County**.

Description of Proposed Action/Activity: Application for the construction/operation of a wastewater treatment facility.

**WQM Permit No. 2106407**, Sewerage, **Paul W. Gettle**, 480 Cornman Road, Carlisle, PA 17013. This proposed facility is located in North Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for the construction/operation of a small flow sewage treatment system to serve a four bedroom single family home located on Lot No. 3 Paul Dick Estates.

**WQM Permit No. 0606402**, Sewerage, **Bethel Township Municipal Authority**, P. O. Box 24, Bethel, PA 19507. This proposed facility is located in Bethel Township, **Berks County**.

Description of Proposed Action/Activity: Application for the construction/operation of a sewage facility to serve the Village of Frystown.

**WQM Permit No. WQG01280602**, Sewerage, **Deerwood Community Homeowners Association**, 11375 Deerwood Drive, Mercersburg, PA 17236. This proposed facility is located in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Application for the construction/operation of a sanitary sewer pump station and collection system for 140 initial EDUs.

**WQM Permit No. 2902401, Amendment 06-1**, Sewerage, **Dublin Township**, 29195 Great Cove Road, Fort Littleton, PA 17223. This proposed facility is located in Dublin Township, **Fulton County**.

Description of Proposed Action/Activity: Application to change proposed method of treatment from extended aeration to the Biologically Engineered Single Sludge Treatment process at the Fort Littleton Treatment Plant.

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#### **IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

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#### **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Rd., Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906015	Thomas Gorr Upper Macungie Township 8330 Schantz Road Breiningsville, PA 18031	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI023906014	Scott Faust Upper Macungie Township 8330 Schantz Road Breiningsville, PA 18031	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

*Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025206008	Camp Speers Eljabar YMCA R. R. 1, Box 89 Dingmans Ferry, PA 18328	Pike	Delaware Township	Tributary to Dingmans Creek HQ-CWF

*Monroe County Conservation District: 8050 Running Valley Rd., Stroudsburg, PA 18360, (570) 629-3060*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024506019	Samuel Stoltzfus 85 Bald Hill Road Millville, PA 17846	Monroe	Tunkhannock Township	Tobyhanna Creek HQ-CWF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033606005	Martins Land Development LLC 1357 Kramer Hill Road Denver, PA 17517	Lancaster	East Earl Township and Terre Hill Borough	Black Creek HQ-WWF
PAI032906001	Turnpike Commission P. O. Box 67676 Harrisburg PA 17106-7676	Fulton	Brush Creek, Wells and Taylor Township	UNT and Lick Branch of Wooden Bridge Creek HQ-CWF



<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030606006	East Penn Manufacturing Co. Deka Road Lyon Station, PA 19536-0147	Berks	Richmond and Maxatawny Townships	Moselem Creek HW-CWF
PAI033106001	Huntingdon County Business & Industry Inc. 419 14th St. Huntingdon, PA 16652	Huntingdon	Shirley Township	UNT Juniata River HQ
PAI030606003	East Penn Manufacturing Co. Deka Rd., P. O. Box 147 Lyon Station, PA 19536	Berks	Topton and Longswamp Townships	Toad Creek HQ-CWF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Westmoreland County Conservation District, Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056506001	Alan Latta 5543 Saltsburg Road Murrysville, PA 15668	Westmoreland	Murrysville	UNT to Haymakers Run HQ
PAI056506002	Thomas and Sandra Usher Camp 400 Manordale Road Pittsburgh, PA 15241	Westmoreland	Cook and Ligonier Townships	Loyalhanna 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)

**CAFO Notices of Intent Received**

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PAG124823**, CAFO, **Keith C. Heimbach**, R. R. 1, Box 178B, Granville Summit, PA 16926. This proposed facility is located in Granville Township, **Bradford County**.

Description of Size and Scope of Proposed Operation/  
Activity: Concentrated Animal Feeding Operation with approximately 696 AEUs made up of primarily finishing hogs and buffalo with some dairy cows, heifers and calves.

The receiving stream, UNT to Towanda Creek, is in watershed Sugar-Towanda Creek (4C) and classified for CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

**PAG124820**, CAFO, **Todd Hiller**, 84 Hiller Lane, Allenwood, PA 17810. This proposed facility is located in Gregg Township, **Union County**.

Description of Size and Scope of Proposed Operation/  
Activity: Concentrated Animal Feeding Operation with approximately 610 AEUs made up of finishing hogs and beef steers.

The receiving stream, Spring Creek, is in watershed White Deer-Buffalo Creeks (10C) and classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

**PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the

writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received Under the Pennsylvania Safe Drinking Water Act

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

##### Permit No. 4605501, Public Water Supply

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township	Whitemarsh
County	<b>Montgomery</b>
Responsible Official	Karl Kyriss
Type of Facility	PWS
Consulting Engineer	CET Engineering Services
Application Received Date	July 14, 2006
Description of Action	Construction of Bubbling Springs Well Station.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

##### Permit No. 5506501—Construction Public Water Supply.

Applicant	<b>McClure Municipal Authority</b>
Township or Borough	McClure Borough
County	<b>Snyder</b>
Responsible Official	Quentin T. Wagner
Authority Chairman	McClure Municipal Authority P. O. Box 138 McClure, PA 17841
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Michele A. Klopf, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801

Application Received Date	July 18, 2006
Description of Action	Construct the necessary facilities to develop Well No. 4 into a water production well for the Borough of McClure.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

##### Permit No. 5046492, Public Water Supply.

Applicant	<b>Creekside Springs, LLC</b> 667 Merchant Street Ambridge, PA 15003
Township or Borough	
Responsible Official	Chuck Wozniak Creekside Springs, LLC 667 Merchant Street Ambridge, PA 15003
Type of Facility	Bottled water system

Consulting Engineer	
Application Received Date	June 12, 2006
Description of Action	Add a second filler supply line, a second ozone system and install a 1,000 gallon per-hour distiller.

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

##### Application No. 6106501, Public Water Supply

Applicant	<b>Cornplanter Township</b>
Township or Borough	Cornplanter Township <b>Venango County</b>
Responsible Official	John H. Riley, Township Chairperson
Consulting Engineer	Joseph P. Pacchioni, P. E. Project Manager Herbert, Rowland & Grubic, Inc 3755 East State Street Hermitage, PA 16148
Application Received Date	07/05/2006
Description of Action	Permit existing potable water system for three service areas, identified as Cornplanter Township East (Hasson Height's, Grandview Area); Cornplanter Township West (Union St/Charlton St/Clapp Farm Area) and Cornplanter Township-Rouseville (McClintockville Rd Area)

*Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.*

##### Permit No. 9996445, Public Water Supply.

Applicant	<b>Premium Waters, Inc.</b>
Township or Borough	Greeneville, Tennessee
Responsible Official	Janet Thomas, Quality Assurance Manager

Type of Facility	Out-of-State Bottled Water System
Application Received Date	July 13, 2006
Description of Action	Applicant requesting Department approval to change company name from Natural Springs, Inc. to Premium Waters, Inc. Bottled water to be sold in Pennsylvania under the brand names; American Fare Spring Water, American Fare Drinking Water, Best Yet Drinking Water, Classic Selection Spring Water, Crystal Ridge Drinking Water, Glacier Clear Naturally Refreshing Spring Water, Great Value Spring Water, Great Value Drinking Water, Natures Crystal Natural Spring Water, Natures Crystal Purified Water and Natures Crystal Spring Water.

#### MINOR AMENDMENT

#### Applications Received Under the Pennsylvania Safe Drinking Water Act

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

#### Application No. 6306501MA, Minor Amendment.

Applicant	<b>Authority of the Borough of Charleroi</b> 3 McKean Avenue P. O. Box 211 Charleroi, PA 15022
Township or Borough	Borough of Speers
Responsible Official	Edward Golanka General Manager Authority of the Borough of Charleroi 3 McKean Avenue P. O. Box 211 Charleroi, PA 15022
Type of Facility	Speers Water Storage Tank
Consulting Engineer	ATS Chester Engineers Airsides Business Park 260 Airside Drive Moon Township, PA 15108
Application Received Date	June 29, 2006
Description of Action	Sandblasting and painting of all interior and exterior surfaces of the Speers Tank.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**US Gypsum Site/C&J Assoc.**, City of Philadelphia, **Philadelphia County**. Henry Deh Alexander, Conestoga-Rovers & Assoc., 559 W. Uwchlan Ave., Suite 120, Exton, PA 19341 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of diesel fuel oil. The proposed future use of the property will be residential.

**Sunoco Ship Road Leak Site**, West Whiteland Township, **Chester County**. Tiffani Doerr, GES, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of Barry Albright, 1330 Ship Road, West Chester, PA 19380, Hower Sok, 1323 Ship Road, West Chester, PA 19380, Henry Melius, 1319 Ship Road, West Chester, PA 19380, David McKinney, 1313 Hillcrest Ave., West Chester, PA 19380, Devereux Foundation, 2012 Renaissance Blvd., King of Prussia, PA 19406, David Tinney, 1327 Ship Road, West Chester, PA 19380, Ricardo Coroniti, Northwyn Court Apts. 468 Stacy Dr., King of Prussia, PA 19406, Richard Brane, 1314 Dunsinane Drive, West Chester, PA 19380, Henry Stockley, 1308 Dunsinane Drive, West Chester, PA 19380, Paul Miller, 1306 Dunsinane Drive, West Chester, PA 19380, Frederick Custer, 1306 Hillcrest Ave., West Chester, PA 19380, Robert Erhard, 1308 Hillcrest Ave., West Chester, PA 19380, Michael Downs, 1309 Dunsinane Drive, West Chester, PA 19380, Frederick Trautman, 1304 Dunsinane Drive, West Chester, PA 19380, Lillian Cree, 1309 Hillcrest Ave., West Chester, PA 19380, Donald Farr, 1303 Dunsinane Drive, West Chester, PA 19380, David Sulpizi, 1301 Dunsinane Drive, West Chester, PA 19380, Bradfish Fish, Atlantic Pipeline Corp., P. O. Box 1135, Marcus Hook, PA 19061, Thomas Hedberg, 690 E. Boot Road, West Chester, PA 19380, Tolentino Enterprises, Tolentino Enterprises, 459 Foster Drive, Springfield, PA 19064, John McBratnie, 651 E. Boot Road, West Chester, PA 19380, Bruce Jones, 1298 Country Lane, West Chester, PA 19380, Dat Senh, 1296 County Lane, West Chester, PA 19380, has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with petroleum and unleaded gasoline. The future use of the property will be residential.

**Agway, Inc.**, Penn Township, **Chester County**. Lawrence Roach, Groundwater Sciences Corp., 2601 Market Place St., Suite 310, Harrisburg, PA 17110 on behalf of John Steiner, Agway Liquidating Trust, LLC, 5790 Widewaters Pky., Dewitt, NY 13214 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with pesticides. The intended future use of this property will be nonresidential.

**Tri Cnty Federal Credit Union Site**, Pennsburg Borough, **Montgomery County**. Justin Lauterbach, RT Env., Svc., Inc., 510 Heron Dr., Pureland Complex, Suite 306, Bridgeport, NJ 08014 on behalf of Andrew Pistoria, Tri-Cnty, Federal Credit Union, 1550 Medical Drive, Pottstown, PA 19464 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with PAH'S and arsenic. The proposed future of this property will be commercial. A summary of the Notice of Intent to Remediate was reported to have been published in The Morning Call on March 4, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Suburban Heating Oil Partners Gettysburg**, Straban Township, **Adams 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 Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The property is nonresidential and will continue to be used as a nonresidential commercial property in the future. The applicant intends to remediate to the Statewide Health Standard.

**Ken Johnson Property**, Rushcombmanor Township, **Berks County**. GemChem, Inc., 53 N Cedar Street, Lititz, PA 17543, on behalf of Ken Johnson, 51 Lark Lane, Fleetwood, PA, 19522, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The property is a private residence and will remain a residence in the future. The applicant seeks to remediate to the residential Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Former Pickelner Fuel Company Facility**, Loyalsock Township, **Lycoming County**. D & A Environmental, Inc., 120 N. Abington Rd., Clarks Summit, PA 18411 on behalf of Pickelner Fuel Company, Inc. 210 Locust St., Williamsport, PA 17701 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with leaded and unleaded gasoline. The applicant proposes to remediate the site to meet the Site-Specific Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Ampco-Pittsburgh Corp/Colona Division Plant (Former)**, Borough of Monaca, **Beaver County**. Scott Whipkey, R.A.R. Engineering Group, Inc., 1135 Butler Avenue, New Castle, PA 16101 on behalf of James Mansell, Rt. 51, Fallston, PA 15066, and Mark McClymonds, Colona Transfer LP, 1 River Road, Monaca, PA 15061 has submitted a Notice of Intent to Remediate soils contaminated with cutting oils that apparently leaked from two 10,000 Gallons UST's that were once located at the site. The intended future use of the property is nonresidential for industrial and commercial use.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Bradford Electronics**, Bradford, McKean County, Environmental Strategies Consulting LLC, 300 Corporate Center Drive, Suite 200, Pittsburgh, PA 15108, on behalf of Vishay Dale, 1122 23rd. Street, Columbus, NE 68601, has submitted a Notice of Intent to Remediate for this site. The site was used for manufacturing of electronic resistors and film resistors. A release of trichloroethene in 1973, as well as, VOCs from former underground storage tanks have contaminated the soil and shallow ground water. The site is expected to demonstrate site specific attainment for the shallow zone by pathway elimination and statewide health standards for soils and deeper aquifer. Proof of Publication in the *Bradford Era* on May 12, 2006.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

#### Renewal Applications Received

Med Trace, Inc., 927 Red Toad Rd., North East, MD 21901; License No. PA-HC 0220; Received 6/20/06.

Med-Flex, Inc., P. O. Box 357, Hainesport, NJ 08036; License No. PA-HC 0207; Received 7/10/06.

## RESIDUAL WASTE GENERAL PERMITS

**Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR114.** PPT Research, Inc, 460 and 515 Business Park Lane, Allentown PA 18109. The application proposes processing of spent polyethylene glycol slurry containing silicon and silicon carbide and beneficial use in fresh slurry and in production of silicon ingots. The processing is limited to mechanical separation, including filtration, thin film vacuum evaporation, spray drying, classification and grinding. The application was received by Central Office on July 12, 2006.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## 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.*

**06-05090C: Chiyoda America, Inc.** (P. O. Box 470, Morgantown, PA 19543) for modification of several of the facility's minor operations in Caernarvon Township, **Berks County**. The modification involves a request to operate several minor sources uncontrolled under specific conditions. The modification will have the potential to increase the VOC emissions by minor amounts.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481 George Monasky, New Source Review Chief, (814) 332-6940.*

**25-025J: General Electric Transportation Systems—Erie Plant** (2901 East Lake Road, Room 9-201, Erie, PA 16531) for construction of two temporary natural gas-fired boilers rated at 88.5 mmBtu/hr in Lawrence Park Township, **Erie County**. The boilers will be subject to 40 CFR 60 Subpart Dc. This is a Title V facility.

**42-211A: M and M Royalty** (Route 146, Port Allegany, PA 16743) for construction of two compressors (1,340 HP Caterpillar model 3516TALE and 186 HP Waukesha Model 1197) a dehydrator, reboiler, storage tanks and stripping plant in Sergeant Township, **McKean County** for their Bloomster Hallow natural gas processing facility.

In accordance with 25 Pa. Code §§ 127.44(d) and 127.424(d), the Department of Environmental Protection (Department) intends to issue a plan approval to construct two compressors (1,340 HP Caterpillar model 3516TALE and 186 HP Waukesha Model 1197) a dehydrator, reboiler, storage tanks and stripping plant in Sergeant Township, McKean County. The plan approval will include emission restrictions for the new engines. The emissions from the engines are less than 2, 2 and 1 gram/hp-hr for NO<sub>x</sub>, CO and VOC, respectively. The permittee shall be required to conduct emission testing on the 1,340 HP engine initially and at least once every 12 months thereafter. The facility will be required to monitor

and keep records of the hours of operation, daily fuel consumption, and the throughput for the plant. The stripping plant is subject to 40 CFR Part 60 Subpart KKK—Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants. The plan approval will also include additional monitoring, reporting and recordkeeping conditions and other requirements to ensure the source is operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121—143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

**42-213A: M and M Royalty** (SR 155, Port Allegany, PA 16743) for construction of 2 compressors (1,265 HP Caterpillar model 3516TALE and 186 HP Waukesha Model 1197) a reboiler, storage tanks and stripping plant in Liberty Township, **McKean County** for the Port Allegheny natural gas processing facility.

In accordance with 25 Pa. Code §§ 127.44(d) and 127.424(d), the Department of Environmental Protection (Department) intends to issue a plan approval to construct two compressors (1,265 HP Caterpillar model 3516TALE and 186 HP Waukesha Model 1197) a reboiler, storage tanks and stripping plant in Liberty Township, McKean County. The plan approval will include emission restrictions for the new engines. The emissions from the engines are less than 2, 2 and 1 gram/hp-hr for NO<sub>x</sub>, CO, and VOC, respectively. The permittee shall be required to conduct emission testing on the 1,265 HP engine initially and at least once every 12 months thereafter. The facility will be required to monitor and keep records of the hours of operation, daily fuel consumption and the throughput for the plant. The stripping plant is subject to 40 CFR Part 60 Subpart KKK—Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants. The plan approval will also include additional monitoring, reporting and recordkeeping conditions and other requirements to ensure the source is operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121—143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-320-026: Quebecor World—Hazleton, Inc.** (Route 924 Humboldt Industrial Park, Hazleton, PA 18201) for construction and operation of a cold set web lithographic printing press in Hazle Township, **Luzerne County**. The installation will consist of one offset lithographic cold set web printing press. The press is rated at a maximum line speed of 3,000 ft/min and will be utilized to print paper. The company will use low VOC contains inks, fountain

solution containing less than 5% VOC by weight, and cleaning solution containing VOC less than 30% by weight or 100% VOC cleaning solution having vapor pressure less than 10 mm HG at 68°F, which meets Department's BAT requirements for this type of printing press. Expected VOC emissions from this press will be 14.26 tons per year including cleaning solvents emissions. HAP's emissions will be less than 2.84 tons per year. 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.

**54-322-006: Pine Grove Landfill Inc.** (193 Schultz Road, P. O. Box 307, Pine Grove, PA 17963) for construction of an expansion (Pad 12) at the site in Pine Grove Township, **Schuylkill County**. Pine Grove Landfill is a major facility subject to Title V permitting requirements. The existing flare system will provide sufficient combustion capacity and backup flare capacity to destroy all of the landfill gas generated over the life of the landfill including the proposed expansion. This expansion does represent additional waste being introduced into the landfill (850 tons per day quarterly average, 2,000 tons per day maximum). The flare has a destruction efficiency in excess of 98% for nonmethane VOCs. The landfill operation is also subject to NSPS Part 60, Subpart WWW and MACT Part 63, Subpart AAAA. The company currently has a Title V Permit 54-00021. The Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The Plan Approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. For further details, contact Mark J. Wejkszner at (570) 826-2511 within 30 days after publication date.

**48-313-099: Praxair Distribution, Inc.** (145 Shimersville Road, Bethlehem, PA 18015) for reactivation of the base gas cylinder purging system and associated air cleaning device in the City of Bethlehem, **Northampton County**. The facility is a non-Title V (State-only) facility and has been issued the Natural Minor Operating Permit No. 48-00054. The Plan Approval and Operating Permit will include emission restrictions and monitoring requirements designed to keep the source operating within all applicable air quality requirements. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Natural Minor Operating Permit through an administrative amendment at a later date.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-05142A: Masterfoods USA—Division of Mars, Inc.** (295 Brown Street, Elizabethtown, PA 17022) for installation of a new roasting system controlled by two venturi scrubbers at their candy manufacturing facility in Elizabethtown Borough, **Lancaster County**. The construction will result in approximately 15.4 tons of VOC emissions and 24.9 tons of particulate emissions per year. The plant is a major facility and subject to the operating permit requirements of Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V operating permit requirements.) The plan approval contains work practice standards and recordkeeping require-

ments designed to keep the facility operating within all applicable air quality regulations.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**42-206A: Holm Industries** (700 1/2 Elk Avenue, Kane PA 16735) for modification of the ph limitations for the wet scrubber solution in the Borough of Kane, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for their plant in the Borough of Kane, McKean County. The facility has a submitted a Plan Approval Application. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into an operating permit through an administrative amendment at a later date.

This application is for the modification of the pH limitations for the wet scrubber solution.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown below. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. PA-26-069L.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation 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 John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

**10-305A: Recmix of PA, Inc.** (359 North Pike Road, Sarver, PA 16056) for installation of a 12.5 mmBtu/hr natural gas thermal heater and aggregate dryer with a baghouse control device for a cement additive operation in the Township of Winfield, **Butler County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the Township of Winfield, **Butler County**.

This plan approval will authorize the applicant to install a 12.5 mmBtu/hr natural gas Thermal Heater and Aggregate Dryer with a baghouse control device for a cement additive operation. The plan approval will subsequently be incorporated into a State-only Operating Permit at a later date.

Based on the information provided by the applicant and DEP's own analysis the NOx emissions from the fuel combustion will be ~ 8 tons/yr and the PM-10 emissions from the aggregate drying will be less than 2 ton/yr. The

operation will be limited to 10 tons/hr for the dryer and 12.5 mmBtu/hr for the thermal heater.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. PA 10-305A.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation 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 John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

**25-069L: Engelhard Corp.** (1729 East Avenue, Erie, PA 16503) for permanent operation of a Catalyst Manufacturing Process.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the City of Erie, **Erie County**. This plan approval will authorize the applicant to permanently operate a Catalyst Manufacturing Process. The plan approval will subsequently be incorporated into a State-only Operating Permit at a later date.

Based on the information provided by the applicant and Department's own analysis the PM emissions from the process will be less than 1 ton/yr.

Persons wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. PA-26-069L.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation 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 John F. Guth, Regional Air Quality

Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 06053: 121 Point Breeze Management Corp.** (6300 West Passyunk Avenue, Philadelphia, PA 19153) for reactivation of five gasoline storage tanks, one diesel fuel storage tank, and a motor fuel loading/unloading rack. Emissions from the loading/unloading rack will be controlled by a new vapor combustion unit. The potential emissions from the facility will be limited to less than 25 tons per rolling 12-month period of VOCs, 10 tons per rolling 12-month period of individual HAPs and 25 tons per rolling 12-month period of combined HAPs. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 05166: Smith Edwards-Dunlap Co.** (2867 East Allegheny Avenue, Philadelphia, PA 19134) for installation of a lithographic nonheatset press. There will be a potential emission decrease of 2.47 tons for VOCs for the facility. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 04255: Bartash Printing, Inc.** (5400 Grays Ave., Philadelphia, PA 19143) for installation of a nonheatset, lithographic Tensor printing press. There will be a potential emission increase of 0.77 ton for VOCs for the facility. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

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#### PUBLIC HEARINGS

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**OP No. 01-02009A: Department of Defense—Raven Rock Mountain Complex—Site R** (201 Beasley Drive, Suite 100, Fort Detrick, MD 21701) for approval of a Reasonably Available Control Technology (RACT) Plan and proposal to revise the State Implementation Plan (SIP) for the Department of Defense's Raven Rock Mountain Complex—Site R in Liberty Township, **Adams County**.

The Department of Environmental Protection (Department) has made a preliminary determination to approve a RACT Plan and proposes to revise the SIP for the Department of Defense's Raven Rock Mountain Complex—Site R located in Liberty Township, Adams County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in RACT Operating Permit No. 01-02009A for the existing facility to comply with current regulations. The NOx RACT determination for the facility will include limiting NOx emissions to less than 160 tons per year, restricting operating hours for the engines to a total of 9,067 hours per year and complying with an emission limit for each engine of 35.3 lbs of NOx per hour. Each of the facility's emergency generators will have an operational limit of 500 hours per year, and the facility's boilers shall be operated and maintained in accordance with the manufacturer's specifications.

The preliminary RACT determinations, when finally approved, will be incorporated into the facility's Title V operating permit and will be submitted to the United States Environmental Protection Agency as a revision to Pennsylvania's SIP.

An appointment to review the pertinent documents at the Southcentral Regional Office may be scheduled by contacting Jennifer Troutman at (717) 705-4732 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

One public hearing will be held for the purpose of receiving comments on the proposal. The hearing will be held on September 6, 2006, at the Department's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110 from 1 p.m. until all scheduled comments on the proposal are received.

Those wishing to comment are requested to contact Sandra Roderick at (717) 705-4703 at least 1 week in advance of the hearing to schedule their testimony. Those wishing to provide testimony are requested to provide two written copies of their remarks at the time of the hearing. Oral testimony will be limited to a maximum of 10 minutes per individual. Organizations are requested to designate an individual to present testimony on behalf of the organization. Written comments may be submitted to Rick Millard, New Source Review Section, 909 Elmerton Avenue, Harrisburg, PA 17110-8200 within 30 days of this notice.

Persons with a disability who wish to attend the hearing scheduled for August 18, 2006, at the DEP Southcentral Regional Office who require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Sandra Roderick directly at (717) 705-4703 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate your needs.

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#### OPERATING PERMITS

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdone Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00001: Avery Dennison Corp.** (35 Penn Am Drive, Quakertown, PA 18951) for renewal of a Title V facility in Richland Township, **Bucks County**. No significant changes have taken place at this facility since the previously issued TV Operating Permit, issued August 9, 2001. The facility's sources include boilers, maintenance and equipment cleaning tanks, emergency generator, coater lines and other sources defined in the TV Operating Permit. The permittee's does have the potential to emit more than the major threshold for VOC and NOx and is therefore characterized as a Title V, Major Facility. This facility is subjected to CAM, under 40 CFR Subpart 64. CAM is address in the Operating Permit through 40 CFR 63 Subpart JJJJ. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.



**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**15-00042: Southeastern Veterans Center** (1 Veterans Drive, Spring City, PA 19475) for operation of two boilers, two emergency generators, one chiller and various small natural gas heaters at the care center for retired veterans of war in East Vincent Township, **Chester County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap NO<sub>x</sub> to less than 25 tons per year; therefore the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**21-05050: Department of the Navy** (5450 Carlisle Pike, Mechanicsburg, PA 17055) for operation of a Naval Support Activity in Hampden Township, **Cumberland County**. This is a non-Title V (State-only) facility. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements.

**36-03077: ICM of Pennsylvania, Inc.** (638 Lancaster Avenue, Malvern, PA 19355) for operation of a crushing and screening plant at the Cedar Hill Quarry in Fulton Township, **Lancaster County**. This is a non-Title V (State-only) facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the facility's previous operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Devendra Verma, New Source Review Chief, (814) 332-6940.*

**37-00313: Ellwood Mill Products Co.** (712 Moravia Street, New Castle, PA 16101) for operation of a heat treating facility in the city of New Castle, **Lawrence County**.

**37-00303: Ennstone, Inc.—dba Three Rivers Aggregate—Taylor Run Plant** (4557 Harlansburg Road, Slippery Rock, PA 16057) for operation of a sand and gravel plant in Scott Township, **Lawrence County**.

**25-00088: Industrial Papers, Inc.** (140 East 16th Street, Box 6307, Erie, PA 16512) for operation of an industrial paper plant in Erie, **Erie County**.

**24-00135: National Fuel Gas Supply Corp.—Island Run Compressor Station** (Monroe Road, St. Marys, PA 15857) for operation of a natural gas compressor station in Ridgeway Township, **Elk County**.

**33-00038: Brookville Wood Products, Inc.** (12942 Route 322, Brookville, PA 15825) for operation of a sawmill, wood processing facility in Brookville Borough, **Jefferson County**. The facility's major emission sources include steam boilers, silo, molders and saw, dowel machine and saw, drying kiln and degreaser units.

**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.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**1475-10040104-E-3. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for stream encroachment to construct a temporary stream crossing over UNT No. 1 to South Branch Slippery Rock Creek located on the Donald E. Stewart property. The purpose of the stream crossing is to place a culvert in UNT No. 1 to South Branch Slippery Rock Creek to allow for the construction of a haul road over the UNT. Receiving streams: three UNTs to South Branch Slippery Rock

Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: July 10, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49060101. Last Time Coal Company** (R. R. 1 Box 461, Shamokin, PA 17872), commencement, operation and restoration of an anthracite surface mine operation in Zerbe Township, **Northumberland County** affecting 242.2 acres, receiving stream: none. Application received July 5, 2006.

#### *Noncoal Applications Received*

#### *Effluent Limits*

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <sup>1</sup>		greater than 6.0; less than 9.0	
pH <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**Permit No. 05960302 and NPDES Permit No. PA0234214. New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Snake Spring Township, **Bedford County**. Receiving stream: Cove Creek classified for the following use: EV. There are no potable water supply intakes within 10 miles downstream. Application received June 21, 2006.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**26060605 and NPDES Permit No. PA0250937. John Joseph** (470 Vanderbilt Road, Connellsville, PA 15425). Application received for commencement, operation and

reclamation of a large noncoal (sandstone) surface mining site located in Jefferson Township, **Fayette County**, affecting 16.6 acres. Receiving streams: UNTs to Little Redstone Creek, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is the Municipal Authorities of Washington Township, Belle Vernon and Charleroi. Application received: June 29, 2006.

**03010407 and NPDES Permit No. PA0250040. Stitt Coal Company, Inc.** (R. D. 1, Box 197A, Ford City, PA 16226). Revision application to add 15.1 acres to an existing noncoal surface mine, located in Kittanning Township, **Armstrong County**, affecting 285.2 acres. Receiving stream: Garrets Run, classified for the following use: WWF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: July 12, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58020821. EJM Holdings, LLC** (R. D. 2 Box 2130, Factoryville, PA 18419), Stages I and II release for a quarry operation in Clifford Township, **Susquehanna County** affecting 3.0 acres on property owned by Francis Barrett. Application received June 30, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E45-491. Mel and Susan Burchman**, 712A Trenton Road, Langhorne, PA 19047, in Tobyhanna Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.16 acre of wetlands for the purpose of constructing a single family dwelling on Lot 20, Unit 2, Section 11 of Lake Naomi Estates residential subdivision. The project is located between Tanglewood Drive and Upper Tunkhannock Creek, approximately 0.2 mile north of SR 0940 (Pocono Pines, PA Quadrangle N: 21.2 inches; W: 7.5 inches).

**E48-373. Toll Brothers, Inc.**, 4178 Rexford Drive, Bethlehem, PA 18020, in Bethlehem Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 54-inch diameter R.C.P. stormwater outfall structure and energy dissipator in Nancy Run (CWF-MF). This work is associated with a proposed residential subdivision, known as The Estates at Green Pond, located approximately 40 feet east Farmersville Road (Nazareth, PA Quadrangle N: 6.3 inches; W: 8.2 inches).

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

**E28-333. Chambersburg Borough**, 100 South Second Street, Chambersburg, PA 17201 in Chambersburg Borough, **Franklin County**, ACOE Baltimore District.

To construct and maintain a 100-foot span pedestrian bridge with an underclearance of 18-feet across Conococheague Creek (WWF); relocate and maintain a 35-foot pedestrian bridge with an underclearance of 5 feet across Falling Spring Branch of Conococheague Creek (TSF); remove 50 feet of existing gabion wall and repair approximately 350 lineal feet of existing concrete retaining wall along the left downstream bank of Falling Spring Branch of Conococheague Creek (TSF) all for the purpose of enhancing the Village of Falling Spring (Chambersburg, PA Quadrangle N: 11.5 inches; W: 5.0 inches; Latitude: 39° 56' 18"; Longitude: 77° 39' 47") in Chambersburg Borough, Franklin County.

**E01-260. Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325 in Tyrone Township, **Adams County**, ACOE Baltimore District.

To realign a UNT of Plum Run, to construct and maintain a stormwater treatment wetland for the purpose of treating polluted stormwater runoff, to construct a minor road crossing of the realigned channel with a 30' long by 2' diameter pipe, and to fill an existing onsite stormwater detention pond at Hillandale's Site 3 Farm (Hampton, PA Quadrangle; Latitude: 39° 56' 23", Longitude: 77° 06' 20"; N: 12 inches; W: 14.75 inches).

**E21-385. Cumberland County Commissioners**, One Courthouse Square, Carlisle, PA 17013 in Upper Allen Township, **Cumberland County** and Monaghan Township, **York County**, ACOE Baltimore District.

To remove an existing single span iron truss bridge having a clear span of 76-feet and an underclearance of 14-feet and to construct and maintain a two span concrete box beam bridge, each span having a clear span of 49-feet and an underclearance of 14-feet, carrying Gilbert Road (T-892) over Yellow Breeches Creek (HQ-CWF, Scenic River) at a point on the Lemoyne, PA Quadrangle; N: 5.20 inches; W: 14.85 inches; Latitude 40° 09' 11"; Longitude 76° 58' 23" in Upper Allen Township, York County and Monaghan Township York County. The project will necessitate temporary impacts to 0.032 acre of PEM wetland and permanent impacts to 0.048 acre of PEM wetland. Permanent wetland impacts associated with the project are considered de minimis and replacement is not required

**E21-365. Insight Development**, 1943 Monterey Drive, Merchanicsburg, PA 17050 in Hampden Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain: 1) a 36-foot span by 10.5-foot underclearance by 50-foot long arch bridge, filling 0.021 acre of a wetland and an outfall pipe across and at the right bank of Sears Run (WWF) (Wertzville, PA Quadrangle N: 5.52 inches; W: 1.6 inches; Latitude: 40° 16' 49"; Longitude: 77° 00' 46"); 2) filling 0.053 acre of a wetland (Wertzville, PA Quadrangle N: 5.52 inches;

W: 1.45 inches; Latitude: 40° 16' 49"; Longitude: 77° 00' 37"); 3) filling 0.146 acre of a (Wertzville, PA Quadrangle N: 5.18 inches; W: 1.1 inches; Latitude: 40° 16' 43"; Longitude: 77° 00' 28"); 4) filling 0.11 acre of a wetland (Wertzville, PA Quadrangle N: 5.24 inches; W: 0.55 inch; Latitude: 40° 16' 44"; Longitude: 77° 00' 14"); 5) filling 0.035 acre of a wetland (Wertzville, PA Quadrangle N: 5.24 inches; W: 0.4 inch; Latitude: 40° 16' 44"; Longitude: 78° 00' 10"). All activities are related to the construction of the proposed Peregrine Way and Osprey Circle of a proposed housing development called Hawks Landing located starting from a point 300 feet south of the PA 944 and Hunters Drive intersection and ending at point about 1,200 feet south of the PA 944 and Lambs Gap Road intersection in Hampden Township, Cumberland County. The applicant will provide a 0.76 acre of a wetland replacement.

**E22-506: Gaeton S. Mulea**, 452 Main Street, Elizabethville, PA 17023 in Elizabethville Borough, **Dauphin County**, ACOE Baltimore District.

To maintain a 100-foot long 1.5-foot high segmented block retaining wall and approximately 630 cubic yards of fill material along a UNT to Wiconisco Creek (WWF) just upstream of the Route 209 bridge (Elizabethville, PA Quadrangle N: 3.4 inches; W: 12.0 inches Latitude: 32° 67' 98" Longitude: 56° 57' 13") in Elizabethville Borough, Dauphin County.

**E21-384: Department of Transportation**, 2140 Herr Street, Harrisburg, PA 17103-1699 in Hampden, Lower Allen, and East Pennsboro Townships and Lemoyne and Camp Hill Boroughs, **Cumberland County**, ACOE Baltimore District

To reconstruct and widen the existing SR 15 and SR 581 interchange and various approach roads involving the following:

1. To extend and maintain, an existing 106 lineal foot long box culvert with a clear span of 14 feet and an underclearance of 5 feet, 55 lineal feet upstream and downstream, for a total culvert length of 216 lineal feet within UNT to Cedar Run (CWF) for the purpose of reconstructing and widening the existing interchange of US 15 and Gettysburg Road (SR 2014) (Lemoyne, PA Quadrangle; Latitude: 40° 13' 38", Longitude: 76° 55' 57"; North 18.6 inches; West 8.0 inches),

2. To remove 95 lineal feet of a 14 foot wide by 5 foot high box culvert and to construct and maintain 106 lineal foot box culvert with a clear span of 14 feet and an underclearance of 6 feet located approximately 70 feet downstream of the existing box culvert within a UNT to Cedar Run (CWF) for the purpose of reconstructing the existing interchange of US 15 and Gettysburg Road (SR 2014) (Lemoyne, PA Quadrangle; Latitude: 40° 13' 37", Longitude: 76° 55' 52"; North 18.5 inches; West 7.8 inches),

3. To extend and maintain, an existing 99 lineal foot long box culvert with a clear span of 10 feet and an underclearance of 8 feet, a distance of 18 feet upstream and 28 lineal feet downstream, for a total culvert length of 145 lineal feet within an UNT to Cedar Run (CWF) for the purpose of adding an auxiliary travel lane to SR 581 (Lemoyne, PA Quadrangle; Latitude: 40° 14' 00", Longitude: 76° 55' 25"; North 19.7 inches; West 6.8 inches),

4. To extend and maintain, an existing 147 lineal foot long box culvert with a clear span of 20 feet and an underclearance of 6 feet, a distance of 23 feet upstream for a total culvert length of 167 lineal feet within Cedar Run (CWF) for the purpose of adding an auxiliary travel

lane along SR 15 (Lemoyne, PA Quadrangle; Latitude: 40° 13' 03", Longitude: 76° 56' 34"; North 16.8 inches; West 9.4 inches),

5. To construct and maintain a minimum of 190 lineal feet of channel restoration within a UNT to Cedar Run (CWF) consisting of streambank and floodway grading; cross rock vanes; j-hook rock vanes; root wads and tree plantings to provide compensation for permanent impacts associated with the SR 15/581 improvements (Lemoyne, PA Quadrangle; Latitude: 40° 14' 00", Longitude: 76° 55' 25"; North 19.7 inches; West 6.8 inches)

**E44-128: Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301 in Bratton, Oliver, Granville and Union Townships, **Mifflin County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the Juniata/Mifflin County line (McVeytown, PA Quadrangle N: 15.54 inches; W: 4.33 inches; Latitude: 40° 27' 38", Longitude: 77° 39' 22") to the Mifflin/Huntingdon County line (Barrville, PA Quadrangle N: 7.26 inches; W: 11.29 inches; Latitude: 40° 39' 54", Longitude: 77° 42' 23") in Bratton, Oliver, Granville, and Union Townships, Mifflin County including:

1. Utility line stream crossings of the following streams:

- Six crossings of UNTs to East Licking Creek (HQ-CWF)
- One crossing of East Licking Creek (HQ-CWF)
- One crossing of Minehart Run (HQ-CWF)
- Four crossings of UNTs to Carlisle Run (HQ-CWF)
- One crossing of Juniata River (WWF)
- Ten crossings of UNTs to Strodes Run (HQ-CWF)
- One crossing of Kishacoquillas Creek (CWF)
- One crossing of Frog Hollow (CWF)

2. Temporary road crossings of the following streams:

- Fourteen crossings of UNTs to East Licking Creek (HQ-CWF)
- One crossing of East Licking Creek
- One crossing of Minehart Run (HQ-CWF)
- Four crossings of UNTs to Carlisle Run (HQ-CWF)
- Eleven crossings of UNTs to Strodes Run (HQ-CWF)
- One crossing of Kishacoquillas Creek (CWF)
- Two crossings of UNTs to Laurel Creek (HQ-CWF)
- One crossing of Laurel Creek (HQ-CWF)

3. Three utility line wetland crossings and 3 temporary road crossings of wetlands impacting:

- 4.68 acres of temporary impacts to PEM wetlands which includes 0.03 acre of Exceptional Value wetlands and 4.65 acres of other wetlands;
- 0.02 acre of temporary impacts to PFO wetlands which includes 0.02 acre of Exceptional Value wetlands and 0 acres of other wetlands;
- and 0.01 acre of permanent impacts to PFO wetlands which includes 0.01 acre of Exceptional Value wetlands and 0 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata

County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties. The project will impact 4549 linear feet of stream, 4.70 acres of temporary wetland impacts, and 0.01 acre of permanent wetland impacts.

**E34-117: Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301 in Tuscarora Township, **Juniata County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the existing end of Dominion Transmission, Inc.'s PL-1 pipeline near Perulack, PA in Lack Township, Juniata County (Blairs Mills, PA Quadrangle; Latitude: 40° 21' 26", Longitude 77° 39' 29"; North: 19.5", West: 4.6") to the Juniata/ Mifflin County line (McVeytown, PA Quadrangle; Latitude: 40° 27' 37", Longitude: 77° 39' 24"; North: 15.5", West: 4.4") in Tuscarora Township, Juniata County involving:

1.) Utility line stream crossings of the following streams:

- Eight crossings of UNTs to Lick Run (CWF);
- One crossing of Lick Run (CWF);
- Two crossings of UNTs to Willow Run (HQ-CWF);
- Two crossings of Willow Run (HQ-CWF);
- Nine crossings of UNTs to Dougherty Run (HQ-CWF);
- One crossing of Dougherty Run (HQ-CWF);
- Two crossings of UNTs to Blacklog Creek (HQ-CWF);
- and one crossing of Blacklog Creek (HQ-CWF).

2.) Stream relocations at the proposed Perulack Compressor Station in Lack Township, Juniata County:

- 80-feet of channel relocation and maintenance of a UNT to Lick Run (CWF);
- 575-feet of channel relocation and maintenance of a UNT to Lick Run (CWF).

3.) Temporary road crossings of the following streams:

- Two crossings of UNTs to Lick Run (CWF);
- One crossing of a UNT to Willow Run (HQ-CWF);
- Six crossings of UNTs to Blacklog Creek (HQ-CWF);
- One crossing of Blacklog Creek (HQ-CWF);
- Two crossings of UNTs to Barn Run (HQ-CWF);

4.) Thirteen utility line wetland crossings and four temporary road crossings of wetlands involving:

- 1.60 acres of temporary impacts to PEM wetlands which includes 0.87 acre of Exceptional Value wetlands and 0.73 acre of other wetlands;
- 1.22 acres of temporary impacts to PFO wetlands which includes 0.02 acre of Exceptional Value wetlands and 1.20 acres of other wetlands;
- and 0.16 acre of permanent impacts to PFO wetlands which includes 0.01 acre of Exceptional Value wetlands and 0.15 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties. The project

will involve 4,565 linear feet of stream channel impact, 2.82 acres of temporary wetland impacts, and 0.16 acre of permanent wetland impacts.

**E31-207: Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301 in Jackson Township, **Huntingdon County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the Mifflin/Huntingdon County line (Huntingdon, PA Quadrangle N: 19.88 inches; W: 0.66 inch; Latitude: 40° 29' 04", Longitude: 78° 00' 17") to the Huntingdon/Centre County line (Huntingdon, PA Quadrangle N: 19.88 inches; W: 0.66 inch; Latitude: 40° 29' 04", Longitude: 78° 00' 17") in Jackson Township, Huntingdon County involving:

1.) Utility line stream crossings of the following streams:

- One crossing of East Branch of Standing Stone Creek (HQ-CWF);
- Nine crossings of UNTs to Standing Stone Creek (HQ-CWF);
- and one crossing of Standing Stone Creek (HQ-CWF).

2.) Temporary road crossings of the following streams:

- One crossings of East Branch of Standing Stone Creek;
- Seventeen crossings of UNTs to Standing Stone Creek;
- Three crossings of Standing Stone Creek;
- Seven crossings of UNTs to East Branch of Standing Stone Creek (HQ-CWF);
- and three crossings of UNTs to Lingle Creek (HQ-CWF).

3.) 3 utility line wetland crossings and 3 temporary road crossings of wetlands involving:

- 1.66 acres of temporary impacts to PEM wetlands which includes 0.11 acre of Exceptional Value wetlands and 1.55 acres of other wetlands;
- 0.08 acre of temporary impacts to PFO wetlands which includes 0 acres of Exceptional Value wetlands and 0.08 acre of other wetlands;
- and 0.01 acre of permanent impacts to PFO wetlands which includes 0 acre of Exceptional Value wetlands and 0.01 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties. The project will impact 3,810 linear feet of stream, 1.74 acres of temporary wetland impacts and 0.01 acre of permanent wetland impacts.

**E36-796: Solanco School District**, 121 South Hess Street, Quarryville, PA 17566 in Quarryville Borough, **Lancaster County**, ACOE Baltimore District

To remove a 36-inch reinforced concrete twin pipe culvert then to construct and maintain: 1) 305-foot by 54-inch reinforced concrete pipe enclosure with a type EW-1 endwall with concrete wall energy dissipater and rip-rap rock apron; 2) two 15-inch reinforced concrete stormwater outfall pipes through the type EW-1 endwall;

3) extend two 18-inch reinforced concrete outfall pipes near South Hess Street; 4) install a type D-W headwall on the existing 48-inch corrugated metal pipe culvert under Park Avenue; 5) 35-foot of stream restoation with riparian buffer upstream of Park Avenue all in the South Fork of Big Beaver Creek (TSF) between South Hess Street and Park Avenue (Quarryville, PA Quadrangle N: 3.5 inches; W: 4.8 inches, Latitude: 39° 53' 39" Longitude: 76° 9' 33") in Quarryville Borough, Lancaster County. The applicant has agreed to establish and maintain a 50-foot wide riparian buffer zone on 520 linear feet of the South Fork of Big Beaver Creek (TSF) starting at a point just downstream of Park Avenue to Second Street. As part of the riparian buffer a 40-foot long by 4-foot wide timber footbridge will be constructed over a UNT to the South Fork of Big Beaver Creek (TSF).

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

**E42-323, Minard Run Oil Company**, P. O. Box 18, 609 South Avenue, Bradford, PA 16701. Kushequa Pipeline, in Hamlin Township, **McKean County**, ACOE

Pittsburgh District (Cyclone, PA Quadrangle N: 41°, 45', 23.5"; W: 78°, 36', 18.27").

To install by directional boring and maintain a 6-inch natural gas gathering pipeline within a 10-inch-diameter casing across Kinzua Creek and an adjacent 320-foot-wide wetland approximately 0.5 mile northeast of the Village of Kushequa.

**DAM SAFETY**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D64-203. Hidden Lakes Property Owner's Association**, HC-1 Box 7-2, Hawley, PA 18428. To modify, operate and maintain the existing Hidden Lake Dam, which creates a 40-acre recreational lake known as Hidden Lake, formerly Decker Pond, located across a tributary to Wallenpaupack Creek (HQ-CWF). Work includes raising the earthen North Dike, repairing the outlet conduit and controls and installing cabled concrete blocks to protect the embankment against overtopping flows. (Hawley, PA Quadrangle N: 16.7 inches; W: 11.5 inches) in Paupack Township, **Wayne County**.

**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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060071	Sanofi Pasteur Discovery Drive Swiftwater, PA 18370-0187	Pocono Township Monroe County	Swiftwater Creek (HQ-CWF) 1E	Y

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0114472 Sewerage	Cherry Township Board of Supervisors R. R. 4, Box 4245 Dushore, PA 18614-9804	Cherry Township Sullivan County	Birch Creek 10B	Y

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0098612 Industrial Waste	Ebensburg Power Plant 2840 New Germany Road Ebensburg, PA 15931-0845	Cambria County Cambria Township	South Branch Blacklick Creek and UNT of Howells Run	
PA0205672 Industrial Waste	Johnstown America Corporation 17 Johns Street Johnstown, PA 15901	Cambria County City of Johnstown	Little Conemaugh River	Y
PA0218642 Sewage	Indiana County Municipal Services Authority 827 Water Street Indiana, PA 15701	Indiana County East Mahoning township	Pine Run	Y
PA0218685 Sewage	RoxCoal, Inc. P. O. box 149 Friedens, PA 15541	Somerset County Jenner Township	UNT of Quemahoning Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0003026	U. S. Bronze Foundry & Machine, Inc. P. O. Box 458 Meadville, PA 16335	Woodcock Township Crawford County	French Creek 16-D	Y
PA0209996	The Salvation Army/Camp Allegheny 424 Third Avenue Pittsburgh, PA 15219	Wayne Township Lawrence County	Slippery Rock Creek 20-C	Y
PA0100951	Pennsylvania Electric Co. Shannon Road Ash Site 1003 Broad Street Johnstown, PA 15906	Harborcreek Township Erie County	Four Mile Creek 15-FM	Y

### II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PA0228958**, Sewerage SIC, 4952, **Penngolf Corporation**, 375 Kennel Lane, Port Matilda, PA 16870. This existing facility is located in Huston Township, **Centre County**.

Description of Proposed Activity: The applicant has been issued an individual NPDES permit that will authorize discharge from a small flow treatment facility to serve a golf course clubhouse and maintenance building.

The receiving stream, Bald Eagle Creek, is in the State Water Plan Watershed 9C and classified for: TSF. The nearest downstream public water supply intake is PA American in Milton, PA.

The effluent limits for Outfall 001 based on a design flow of 0.0016 mgd.

Parameter	Concentration mg/l			Mass lbs		
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH		within the range of 6.0 to 9.0				
CBOD <sub>5</sub>	10			20		
TSS	20			40		
Fecal Coliforms:	200 colonies/100 ml					

The EPA waiver is in effect.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA0253243**, Sewage, **Richard Chatak**, 943 Peninsula Drive, Central City, PA 15926. This proposed facility is located in Indian Lake Borough, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for renewal of authorization to discharge.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**WQM Permit No. 5406402**, Sewerage, **Saint Clair Sewer Authority**, 16 South Third Street, Saint Clair, PA 17970. This proposed facility is located in East Norwegian Township, **Schuylkill County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

**WQM Permit No. 2806403**, Sewerage, **Ray and Rubie Wingert**, 2635 Grand Point Road, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a small flow individual residence spray irrigation system for denitrification consisting of a septic tank, Ecoflo filter, chlorine disinfection and spray irrigation.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 1906402**, Sewerage, **Berwick Area Joint Sewer Authority (BAJSA)**, 1108 Freas Ave., Berwick, PA 18603. This approved facilities are located in Briar Creek Borough and Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant has been approved to construct and operate sewer line extensions for Ruckle Hill and Rittenhouse Mill Roads, and the Woodcrest, Briar Crest and Foundryville development areas. The proposed extensions would serve approximately 357 existing residential dwellings and 55 future dwellings. The majority of the existing dwellings have malfunctioning onlot systems. The project will also consist of three pump stations for the conveyance of sewage from the Foundryville and Woodcrest developments. All of the approved sewage flows will go to the existing BAJSA sewage treatment plant.

**WQM Permit No. 1406403**, Sewerage 4952. **PENNGOLF Corp**, 375 Kennel Lane, Port Matilda, PA 16870. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management permit for the installation of a small flow wastewater treatment plant to serve a golf course club house and maintenance facility.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 1197403-A2**, Sewage, **Forest Hills Municipal Authority**, P. O. Box 111, South Fork, PA 15956. This proposed facility is located in Conemaugh Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the installation of additional sequential batch reactor and blower capacity at Forest Hills Municipal Authority Sewage Treatment Plant.

**WQM Permit No. 5606402**, Sewerage, **Richard Chatak**, 943 Peninsula Drive, Central City, PA 15926. This proposed facility is located in Indian Lake Borough, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a new single residence sewage treatment plant.

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

**WQM Permit No. WQG018475**, Sewerage, **Alpha Assembly of God**, 559 Maxwell Road, Clarion, PA 16214. This proposed facility is located in Monroe Township, **Clarion County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. WQG018471**, Sewerage, **Howard Burnett**, 341 Morgan Street, Phoenixville, PA 19460. This proposed facility is located in Eldred Township, **McKean County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.



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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030606006	East Penn Manufacturing Co. Deka Road Lyon Station, PA 19536-0147	Berks	Richmond and Maxatawny Townships	Moselem Creek HW-CWF
PAI033106001	Huntingdon County Business & Industry Inc. 419 14th St. Huntingdon, PA 16652	Huntingdon	Shirley Township	UNT Juniata River HQ
PAI036706004	York County Solid Waste Authority 2700 Blackbridge Road York, PA 17403-7901	York	Hopewell Township	Rambo Run EV and Ebaughs Creek CWF
PAS10M095R	Chadwick Estates 85 Homestead Drive Chambersburg, PA 17225	Franklin	Greencastle Township	Muddy Run HQ-CWF

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Cambria County Conservation District, 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051105005	Dennis Storm 374 Hanlon Road Gallitzin, PA 16641	Cambria	Clearfield Township	Chest Creek (HQ-CWF)

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056306001	A & S Landscaping 1840 Washington Road Canonsburg, PA 15317	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

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**VII. Approvals to Use NPDES and/or Other General Permits**


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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).

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**List of NPDES and/or Other General Permit Types**


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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 &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Northampton Boro. Northampton County	PAG2004805042	Matthew Sorrentino Castle Holdings, Inc. 6718 Overlook Ct. Allentown, PA 18106	Dry Run CWF	Northampton Co. Cons. Dist. (610) 746-1971
Lackawanna County City of Scranton	PAG2003506012	John Grow 950 Main St. Dickson City, PA 18519	Lackawanna River CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Schuylkill County Washington Township	PAG2005406009	Miller Real Estate Development Co., Ltd. P. O. Box 336 Orwigsburg, PA 17961-0336	Upper Little Swatara Creek 300+ feet CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Southampton Township Cumberland County	PAG2002106020	Keswick Heights Dwight L. Martin 18321 Dry Run Road West Spring Run, PA 17262	Bulls Head Branch CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Township Cumberland County	PAG2002106017	Country Club Estates Conerstone Development Group Inc 1 Market Way East York, PA 17401	Conodoguinet Creek WWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Camp Hill Borough Hampden Township Cumberland County	PAG2002106018	The Good Shepherd School Diocese of Harrisburg in trust for Good Shepherd Parish 3435 Trindle Road Camp Hill, PA 17011	Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Exeter Township Berks County	PAG2000606046	Brooke Kramer 6 Industrial Drive Birdsboro, PA 19508	UNT to Monocacy Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Greene Township Franklin County	PAR10M239R	Sunset Townhomes Mike Weiner Gem Craft Homes 2205 Commerce Drive Suite A Forrest Hills, MD 21050	UNT Conococheague CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Washington Township Franklin County	PAG2002806035	Rouzerville Sheetz Bryan Soyka Sheetz 5700 6th Ave Altoona, PA 16602	Red Run CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Borough of Chambersburg Franklin County	PAG2002805056	Progress Village Edward Uglow DELM Developers 119 Aaron Court St. Thomas, PA 17252	UNT to Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Greene Township Franklin County	PAG2002806045	Clean Fill Site Edwin Martin David H Martin Excavating, Inc. 4961 Cumberland Hwy Chambersburg, PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Bradford County Windham Township	PAG2000806005	Central NY Oil & Gas Co. Barry Cigich 800 Robinson Rd. Owego, NY 13827	Wappasening Creek CWF Little Falls Creek CWF UNT to Wappasening Cold Brook CWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5, Box 5030-C Towanda, PA 18848 (570) 265-5539 Ext. 205
Lycoming County Muncy Creek Township	PAG2004106004	Duane Gordner 1929 Heidi Grey Rd. Hughesville, PA 17737	Glade Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Piatt Township	PAG2004106010	Raye and Thomas Bierly 239 Zionview Rd. Jersey Shore, PA 17740	UNT to West Branch Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Jersey Shore Borough	PAG2004106011	Lou Ditzel Jersey Shore Hospital 1020 Thompson Street Jersey Shore, PA 17740	West Branch Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Armstrong County East Franklin	PAG2000306002	Mary Ann Costan Deerwood Development 344 Shuster Drive Freeport, PA 16229	UNT to Allegheny River (WWF)	Armstrong County CD (724) 548-3425
Cambria County Chest Township	PAG2001106004(1)	Cambria County Conservation & Recreation Authority 401 Candlelight Drive, Suite 234 Ebensburg, PA 15931	Chest Creek (CWF) Rock Run (CWF) Kilbuck Run (CWF) Whiskey Run (CWF)	Cambria County CD (814) 472-2120
Fayette County North Union Township	PAG2002606001	Steve Andaloro 119 Windwoods Drive Hopwood, PA 15445	UNT to Redstone Creek (WWF)	Fayette County CD (724) 438-4497
Fayette County Dunbar Township	PAG2002606007	Gerald Means 2212 Ridge Boulevard Connellsville, PA 15425	UNTs to Youghiogheny River (WWF)	Fayette County CD (724) 438-4497
Fayette County Dunbar Township	PAG2002606011	Gerald Means 2102 Ridge Boulevard Connellsville, PA 15425	Opossum Run (WWF)	Fayette County CD (724) 438-4497
Fayette County North Union Township	PAG2002606013	Gary Burke Dynamic Materials Corp. P. O. Box 317 Mt. Braddock, PA 15465	Gist Run (TSF)	Fayette County CD (724) 438-4497
Washington County North Strabane Township	PAG2006306005	Cannery Casino Resorts William J. Paulos 221 North Rampart Boulevard Las Vegas, NV 89145	Chartiers Creek (WWF)	Washington County CD (724) 228-6774

*Facility Location:  
Municipality &  
County*

Armstrong County  
Redbank Township

*Permit No.*  
PAG2090306006

*Applicant Name &  
Address*  
Bureau of Abandoned  
Mine Reclamation  
Cambria Office  
286 Industrial Park Road  
Ebensburg, PA  
15931-4119

*Receiving  
Water/Use*  
Pine Run  
CWF

*Contact Office &  
Phone No.*  
Department of  
Environmental Protection  
Cambria Office  
286 Industrial Park Road  
Ebensburg, PA  
15931-4119  
(814) 472-1800

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

Hanover Township  
Lehigh County

*Permit No.*  
PAR212239

*Applicant Name &  
Address*  
Oldcastle APG  
Northeast, Inc.  
Lehigh Valley Block  
1960 Weaversville Road  
Allentown, PA  
18109-9328

*Receiving  
Water/Use*  
UNT to Catasaqua Creek  
CWF

*Contact Office & Phone  
No.*  
DEP—NERO  
Water Mgmt. Program  
2 Public Square  
Wilkes-Barre, PA  
18711-2511  
(570) 826-2511

Upper Nazareth  
Borough  
Northampton  
County

*Permit No.*  
PAR322203

*Applicant Name &  
Address*  
C. F. Martin & Co., Inc.  
510 Sycamore Street  
Nazareth, PA 18064-0329

*Receiving  
Water/Use*  
Shoeneck Creek  
WWF

*Contact Office & Phone  
No.*  
DEP—NERO  
Water Mgmt. Program  
2 Public Square  
Wilkes-Barre, PA  
18711-2511  
(570) 826-2511

South Huntingdon  
Township  
Westmoreland  
County

*Permit No.*  
PAR606170

*Applicant Name &  
Address*  
Maroney's Foreign  
Cars & Parts  
1304 Route 981  
Smithton, PA 15479

*Receiving  
Water/Use*  
Unnamed Feeder to  
Barren Run

*Contact Office & Phone  
No.*  
Southwest Regional  
Office:  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000

McKees Rocks  
Borough  
Allegheny County

*Permit No.*  
PAR806175

*Applicant Name &  
Address*  
Roadway Express, Inc.  
1077 Gorge Boulevard  
P. O. Box 471  
Akron, OH 44309

*Receiving  
Water/Use*  
Chartiers Run

*Contact Office & Phone  
No.*  
Southwest Regional  
Office:  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000

Center and Brush  
Valley Townships  
Indiana County

*Permit No.*  
PAR406103

*Applicant Name &  
Address*  
Evergreen Landfill, Inc.  
P. O. Box 195, Route 119  
North  
Luciousboro Road  
Coral, PA 15731

*Receiving  
Water/Use*  
UNT to Laurel Run

*Contact Office & Phone  
No.*  
Southwest Regional  
Office:  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000

*General Permit Type—PAG-4*

*Facility Location &  
Municipality*

Berks County  
Cumru Township

*Permit No.*  
PAG043650

*Applicant Name &  
Address*  
Robert M. Heist  
500 Heist Lane  
Mohnton, PA 19540

*Receiving  
Water/Use*  
Angelica Creek  
CWF

*Contact Office &  
Phone No.*  
DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4707

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allegheny County Marshall Township	PAG046111	Shirley R. Gleditsch 1545 Warrendale Bayne Road Baden, PA 15005	UNT to Big Sewickley Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Westmoreland County Penn Township	PAG046245	Dennis J. Gill Box 206, Slack Road Jeannette, PA 15644	Boquet Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny County Marshall Township	PAG046233	G. Scott Simons 1645 Pleasant Hill Road Baden, PA 15005	UNT to Big Sewickley Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Washington County Robinson Township	PAG046234	Carla A. Wilson 2833 Bigger Road Bulger, PA 15019-9774	Basin Source to Traverse Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Monroe Township Clarion County	PAG049266	Alpha Assembly of God 559 Maxwell Road Clarion, PA 16214	UNT to Brush Creek 17-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Township McKean County	PAG049260	Howard Burnett 341 Morgan Street Phoenixville, PA 19460	Fowler Brook 16-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bangor Borough Northampton County	PAG052220	Shop Quik 2 P. O. Box 158 Wind Gap, PA 18091	Martins Creek TSF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

*General Permit Type—PAG-8*

<i>Facility Location &amp; County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Dauphin County Harrisburg City	PAG083597	The Harrisburg Authority One Keystone Plaza Suite 104 Front and Market Streets Harrisburg, PA 17101		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location &amp; County/Municipality Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Conemaugh Township Indiana County PAG086106	Redevelopment Authority of the City of Johnstown Public Safety Building 4th Floor 401 Washington Street Johnstown, PA 15901	McConnell Farm	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Cumberland County Hampden Township PAG103527	Sunoco Partners Marketing & Teminals, LLC 525 Fritztown Road Sinking Spring, PA 19608	UNT to Cedar Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Industry Borough Beaver County PAG106101	Buckeye Pipe Line Company, LP P. O. Box 368 5002 Buckeye Road Emmaus, PA 18049	Ohio River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## SAFE DRINKING WATER

### Actions taken under the Pennsylvania Safe Drinking Water Act

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

#### Permit No. 46060504, Public Water Supply.

Applicant	<b>Horsham Water and Sewer Authority</b> 617 Horsham Road Horsham, PA 19044
Township	Horsham
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	Carroll Engineering Corporation 949 Easton Road, Suite 100 Warrington, PA 18976
Permit to Construct Issued	July 14, 2006

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Operations Permit issued to Borough of Wyomissing, 3060083, Wyomissing Borough, Berks County on 7/10/2006 for the operation of facilities approved under Construction Permit No. 0606506.**

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

#### Permit No. 4904501—Operation Public Water Supply.

Applicant	<b>Sunbury Municipal Authority</b>
Township or Borough	City of Sunbury

County **Northumberland**  
 Responsible Official **Dan W. Ramer**  
 General Manager  
 Sunbury Municipal Authority  
 462 South Fourth Street  
 Sunbury, PA 17801

Type of Facility **Public Water Supply—Operation**  
 Consulting Engineer **John P. Mazich, P. E.**  
 Uni-Tec Consulting Engineers,  
 Inc.  
 2007 Cato Avenue  
 State College, PA 16801

Permit Issued Date **7/11/2006**  
 Description of Action **Additional chemical feed systems including polyaluminum chloride, potassium permanganate, sodium carbonate and blended phosphate.**

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Operations Permit** issued to **Aqua Filter Fresh, Inc.**, One Commerce Drive, P. O. Box 14128, Pittsburgh, PA 15239, (PWS ID 5026504) Plum Borough, **Allegheny County** on July 17, 2006 for the addition of labels: Primo; Absopure; Horizon Coffee and Water Service; and Laurel Canyon Coffee Company.

**Permit No. 0206502MA, Minor Amendment.** Public Water Supply.

Applicant **Fawn-Frazer Joint Water Authority**  
 326 Donnellville Road  
 Natrona Heights, PA 15065

Borough or Township **Springdale Township**  
 County **Allegheny**

Type of Facility **Springdale Borough interconnection**  
 Consulting Engineer **Bankson Engineers, Inc.**  
 267 Blue Run Road  
 P. O. Box 200  
 Indianola, PA 15051

Permit to Construct Issued **June 30, 2006**

**Permit No. 0206501MA, Minor Amendment.** Public Water Supply.

Applicant **Western Allegheny County Municipal Authority**  
 403 Virginia Drive  
 Oakdale, PA 15071

Borough or Township **North Fayette Township**  
 County **Allegheny**

Type of Facility **McKee Road Water Storage Tank**  
 Consulting Engineer **Nichols & Slagle Engineering, Inc.**  
 333 Rouser Road  
 Airport Office Park  
 Building 4, Suite 600  
 Moon Township, PA 15108-2773

Permit to Operate Issued **June 30, 2006**

**Permit No. 0406501MA, Minor Amendment.** Public Water Supply.

Applicant **Municipal Authority of the Township of North Sewickley**  
 Borough or Township **North Sewickley Township**  
 County **Beaver**

Type of Facility **Wises Grove Tank**  
 Consulting Engineer **US Engineering, LLC**  
 75 Jardin Circle  
 Highland, IL 62249

Permit to Operate Issued **June 30, 2006**

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

**Permit No. 368W001-T2-MA2, Minor Amendment,** Public Water Supply

Applicant **Aqua Pennsylvania, Inc.**  
 Borough or Township **Sadsbury Township**  
 County **Crawford**

Type of Facility **Public Water Supply**  
 Permit to Construct Issued **07/12/2006**

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Port Clinton Borough	P. O. Box 246 Port Clinton, PA 19549	Schuylkill
West Brunswick Township	95 Municipal Road Orwigsburg, PA 17961	Schuylkill

*Project Description:* The approved plan provides for construction of a new sewer system for Port Clinton Borough, Schuylkill County and a portion of the SR 61 corridor between Port Clinton Borough's northern boundary line and the 3C's restaurant in West Brunswick Township, Schuylkill County. The Plan also provides for construction of a conveyance sewer to connect to Hamburg Municipal Authority's existing wastewater system for treatment and discharge to the Schuylkill River. The project will provide sewer services to 157 equivalent dwelling units (EDUs) in Port Clinton Borough and 3 EDUs in West Brunswick Township initially. 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.

**HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988**

**Proposed Consent Order and Agreement Lake City VOC Site; Girard and Lake City Boroughs, Erie County**

Under section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.1113), the Department of Envi-

ronmental Protection (Department) has agreed to a Consent Order and Agreement (Agreement) with R. J. York, LLC (Settlor) concerning the cleanup of the Lake City VOC Site (Site). The Site is an area of groundwater contaminated with industrial solvents beneath a mixed residential/industrial area, located in Girard and Lake City Boroughs, Erie County PA. In 2005, Settlor purchased an approximately 40-acre industrial property (Property) within the Site.

In the past wastes and other materials containing hazardous substances were dumped, spilled or otherwise disposed at the Site and these hazardous substances contaminated the groundwater beneath the Site. The Department investigation thus far has identified that VOCs are present in the groundwater beneath the Property. The hazardous substances present at the Site include the VOCs of Dichloroethylene, Trichloroethylene and Tetrachloroethylene. Polychlorinated Biphenyls have also been found in sediments at the property. Each of these substances is defined in section 103 of the HSCA (35 P. S. § 6020.103) as a "hazardous substance." The presence of these hazardous substances at the property constitutes a "release" and a "threat of release" of a hazardous substance, as defined in section 103 of the HSCA. As a person who owns the property at the time of the release and threat of release of a hazardous substance, the Settlor is a "responsible person" as defined in sections 103 and 701 of the HSCA (35 P. S. §§ 6020.103 and 6020.701). However, the Settlor qualifies for a de minimis settlement under section 707 of the HSCA and proposes to resolve any liability it may have concerning the Site with a de minimis settlement of \$500.

The specific terms of this settlement are set forth in the Agreement with the Settlor. The Department will receive and consider comments relating to the Agreement for 60 days from the date of this Public Notice. The Department has the right to withdraw its consent to the Agreement if the comments concerning the Agreement disclose facts or considerations that indicate that the Agreement is inappropriate, improper or not in the public interest. After the public comment period, the Department's settlement with Settlor shall be effective upon the date that the Department notifies Settlor, in writing, that this Agreement is final and effective in its present form and that the Department has filed a response to significant written comments to the Agreement, or that no such comments were received.

The Agreement is available for inspection and copying at the Department's office at 230 Chestnut Street, Meadville, PA. Comments may be submitted, in writing, to Gary Mechtly, Program Supervisor, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648. TDD users may contact the Department through the Pennsylvania Relay Service at (800) 645-5984.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require

the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Tri Cnty Federal Credit Union Site, Pennsburg Borough, Montgomery County.** Justin Lauterbach, RT Env., Svc., Inc., 510 Heron Dr., Pureland Complex, Suite 306, Bridgeport, NJ 08014 on behalf of Andrew Pistoria, Tri-County Area Federal Credit Union, 1550 Medical Dr., Pottstown, PA 19464 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with PAHs and arsenic. The Remedial Investigation Report and Cleanup Plan is intended to document remediation of the site to meet the Site-Specific Standard.

**Yoder Bros., Inc., Toughkenamon Yard Site, New Garden Township, Chester County.** Gregg Crystall, BrightFields, Inc., 801 Industrial St., Suite, 1, Wilmington, DE 19801 has submitted a Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Defense Depot Susquehanna PA, Former Aircraft Maintenance Shop (SWMU No. 42), Fairview Township, York County.** Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002, submitted a Final Report concerning remediation of groundwater contaminated with solvents. The report is intended to document remediation of the site to the Site-Specific Standard.



**Former Waynesboro Gas Company**, Waynesboro Borough and Washington Township, **Franklin County**. Corporate Environmental Solutions, LLC, 260 Millers Run Road, Bridgeville, PA 15017 and GEI Consultants, Inc., 455 Winding Brook Drive, Suite 201, Glastonburg, CT 06033 on behalf of Intermecc, Inc., 3601 Algonquin Road, Suite 575, Rolling Meadows, IL 60008, and PPL Gas Utilities Corporation 2 North Ninth Street, Allentown, PA 18101 submitted a Risk Assessment and Cleanup Plan concerning remediation of site soils, groundwater and sediment contaminated with lead, heavy metals, solvents, BTEX and PAHs. The applicant intends to remediate the site to the Statewide Health and Site-Specific Standards.

**Novelty Manufacturing Company**, Manheim Township, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Novelty Manufacturing, 1330 Loop Road, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard.

**Spears Residence**, Franklin Township, **York County**. Marshall Miller & Associates Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA, 17011, on behalf of Edward Spears, 1623 South Mountain Road, Dillsburg, PA, 17019, David Socks, (representing RN Transport), Response Environmental, Inc., 912 Spring Circle, Mechanicsburg, PA, 17055, and RN Transport, Inc., 2060 Bullfrog Road, Fairfield, PA, 17320, submitted a NIR and 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 Statewide Health Standard. The property is a private residence and will remain a private residence.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Weis Markets Inc., Milton Warehouse**, Milton Borough and West Chillisquaque Township, **Northumberland County**. Whittemore and Haigh Engineering, Inc., 200 Bethlehem Drive, Suite 201, Morgantown, PA 19543 on behalf of Weis Market, Inc., 100 South Second St., Sunbury, PA 17801 has submitted a Remedial Investigation Report/Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-specific Standard.

**Your Building Centers, Formerly Champion Parts, Inc.** Beech Creek Township, **Clinton County**. Conestoga-Rovers & Associates, 559 West Uwchlan Ave., Suite 12, Exton, PA 19341 on behalf of Champion Parts, Inc., 2500 West Avenue B, Hope, ZA, 16822 has submitted a combined Remedial Investigation Report and Risk Assessment concerning remediation of site soil and groundwater contaminated with trichloroethene, 1,1-dichloroethene, cis-1,2-dichloroethene, tetrachloroethene and vinyl chloride. The report is intended to document remediation of the site to meet the Site-Specific Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**National Institute for Occupational Safety and Health (NIOSH), Pittsburgh Research Laboratory (Pittsburgh) Landfill Site or NIOSH—Pittsburgh Landfill Site**, South Park Township, **Allegheny County**. S. B. Lal, P. E., Diversified Consulting Engineers, 1624 Citation Drive, South Park, PA 15129-8831

(on behalf of Barbara M. Heirendt, United States Department of Health and Human Services. Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, Pittsburgh Research Laboratory, P. O. Box 18070, Cochran Mills Road, Pittsburgh, PA 15236-0070) has submitted a Remedial Investigation and Risk Assessment Report concerning remediation of site soil and groundwater contaminated with inorganics, chlorinated solvents and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Pileski Residence**, Conemaugh Township, **Cambria County**. David Socks, Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with fuel oil No. 2. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Costco Wholesale Store**, West Homestead Borough, **Allegheny County**. Christopher Carlson, P. G., ATC Associates Inc., 2200 Garden Drive, Suite 200, Seven Fields, PA 16046 (on behalf of Heidi Macomber, Costco Wholesale Corp, 45940 Horseshoe Drive, Suite 150, Sterling, VA 20166) has submitted a Cleanup Plan concerning remediation of site soils contaminated with concentrations of thallium above Statewide Health Standard. Pathway elimination proposed by capping with a building footprint and parking lot. The report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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**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).**

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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.*

**Former Northern Shipping Facility**, City of Philadelphia, **Philadelphia County**. Jamey Stynchula, Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Charles Kamps, Philadelphia Waterfronts Partners, LP, P. O. Box 194, Penns Park, PA 18943 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil contaminated with inorganic and lead. The Remedial Investigation Report and Cleanup Plan was approved by the Department on July 14, 2006.

**Sico Gilbertsville**, Douglass Township **Montgomery County**. Megan M. Dunsmore, Onesky Engineering, Inc. 444 Creamery Way, Suite, 300, Exton, PA 19341 on behalf of Dillion Real Estate Co., Inc., 2800 E. Fourth St., Hutchinson, KS 67501 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with BTEK. The Remedial Investigation Report was approved by the Department on June 5, 2006.

**Umbrai Street Prop.**, City of Philadelphia, **Philadelphia County**. Paul Martino, P. G., 3001 Market St., Philadelphia, PA 19102 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with inorganics, PAHs, chlorinated and solvents. The Remedial Investigation Report and Cleanup Plan was approved by the Department on July 7, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former West Fairview Borough Building Property**, East Pennsboro Township, **Cumberland County**. Onesky Engineering 444 Creamery Way, Suite 300, Exton, PA 19341, on behalf of The SICO Company, P. O. Box 302, Mount Joy, PA 17522 and East Pennsboro Township, 98 South Enola Road, Enola, PA 17025, submitted a combined Remedial Investigation and Final Report concerning the remediation of groundwater contaminated with BTEX. The combined report demonstrated attainment of a combination of the Statewide Health and Site-Specific Standards, and was approved by the Department on July 11, 2006

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Former Ames Plaza**, Bald Eagle Township, **Clinton County**. Converse Consultants, 2738 West College Ave., State College, PA 16801 on behalf of Mill Hall Development, LLC, 121 Prosperous Place, Lexington, KY 40065 has submitted a Remedial Investigation Report/Final Report concerning remediation of site soil and groundwater contaminated with volatile and semivolatile organic compounds. The Remedial Investigation/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on July 11, 2006.

**V & H Motor Company, Inc.** East Buffalo Township, **Union County**. United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 on behalf of Roger Holtzapfle, V & H Motor Company, Inc., 2265 Old Turnpike Road, Lewisburg, PA 17837 has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 11, 2006.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Costco Wholesale Store, West Homestead Borough Allegheny County**. Christopher Carlson, P. G., ATC Associates, Inc., 2200 Garden Drive, Suite 200, Seven Fields, PA 16046 on behalf of Heidi Macomber, Costco Wholesale Corp., 45940 Horseshoe Drive, Suite 150, Sterling, VA 20166 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with concentrations of thallium above the Statewide Health Standard. The Remedial Investigation Report was approved by the Department on June 28, 2006.

## HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Hazardous Waste Transporter License Issued*

**Apollo Trade & Transport, Inc.**, 837 Boardman-Canfield Rd., Boardman, OH 44512; License No. PA-AH 0728. Effective 5/15/06.

*Hazardous Waste Transporter License Renewed*

**Tonawanda Tank Transport Service, Inc.**, 1140 Military Rd., Buffalo, NY 14217; License No. PA-AH 0429. Effective 7/7/06.

**Page E.T.C., Inc.**, P. O. Box 1290, Weedsport, NY 13166; License No. PA-AH 0338. Effective 7/3/06

**Harold Marcus Limited**, 15124 Longwoods Rd., R. R. 3, Bothwell, ON N0P 1C0; License No. PA-AH 0207. Effective 6/26/06.

**Maumee Express, Inc.**, 297 Zimmerman Lane, Langhorne, PA 19047; License No. PA-AH 0420. Effective 6/23/06.

**Suttles Truck Leasing, Inc.**, P. O. Box 129, Demopolis, AL 36723; License No. PA-AH 0332. Effective 6/22/06.

**Aqua-Tex Transport, Inc.**, P. O. Box 1204, Hamonton, NJ 08037; License No. PA-AH S179. Effective 6/22/06

**West Central Environmental Corp.**, P. O. Box 83, Rensselaer, NY 12144; License No. PA-AH 0422. Effective 6/14/06.

**Marisol Inc.**, 213 W. Union Ave., Bound Brook, NJ 08805; License No. PA-AH 0164. Effective 6/12/06.

**Pioneer Tank Lines, Inc.**, 12501 Hudson Rd. outh, Afton, MN 55001; License No. PA-AH 0600. Effective 6/8/06.

**Allstate Power Vac, Inc.**, 928 E Jazelwood Ave., Rahway, NJ 07065; License No. PA-AH 0339. Effective 6/6/06.

**Altom Transport, Inc.**, 4242 S Knox Ave., Chicago, IL 60632; License No. PA-AH 0693. Effective 5/18/06.

**National Waste Clean, Inc.**, 304 Pulaski St., South Plainfield, NJ 07080; License No. PA-AH 0528. Effective 5/9/06.

**Sunpro, Inc.**, 7640 Whipple Ave., NW, North Canton, OH 44720; License No. PA-AH 0659. Effective 5/9/06.

**David J. Winning Co.**, 5610 Aiken Rd., McKees Rocks, PA 15136; License No. PA-AH S100. Effective 5/9/06.

*Hazardous Waste Transporter License Expired*

**Schneider National Bulk Carriers, Inc.**, P. O. Box 2700, Green Bay, WI 54306; License No. PA-AH 0524. Expired 5/31/06.

**Ferguson Harbor, Inc.**, 65 Industrial Dr., Hendersonville, TN 37075; License No. PA-AH 0707. Expired 5/31/06.

*Hazardous Waste Transporter License Voluntarily Terminated*

**S & M Management, Inc.**, P. O. Box 1429, Milford, PA 18337; License No. PA-AH 0412. Voluntarily Terminated 6/27/06.

**Univar USA, Inc.**, 50 Eisenhower Dr., Old Bridge, NJ 08857; License No. PA-AH 0711. Voluntarily Terminated 5/31/06.

**INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE**

**Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Infectious and Chemotherapeutic Waste Transporter License Renewed*

**Med Trace, Inc.**, 927 Red Toad Rd., North East, MD 21901; License No. PA-HC 0220. Effective 6/22/06

**Med-Flex, Inc.**, P. O. Box 357, Hainesport, NJ 08036; License No. PA-HC 0207. Effective 7/12/06.

**HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES**

**Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. PAD087561015. Inmetco**, 245 Portersville Road, Ellwood City PA 16117, Ellwood City Borough, **Lawrence County**. RCRA Part B Hazardous Waste Renewal and Modification Application. Permit issued July 14, 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.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 30002. Bangor Quarry Ash Disposal Site**, Reliant Energy Northeast Management Company, 121 Champion Way, Suite 200, Canonsburg, PA 15317. A major permit modification approval, authorizing the placement of an alternate "subbase" design consisting of a combination 60 mil LLDPE liner and a more permeable coal ash layer (with maximum permeability of 0.0005 centimeter per second) in lieu of the existing approved coal ash or approved soil subbase layer in this captive Class II residual waste (coal ash) landfill located in Bangor Borough, **Northampton County**. The diversion channel TD-1 has also been modified to reduce the flow, and a new culvert will be installed. The permit was issued by the Regional Office on July 10, 2006.

**Permit modification 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.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 300742, Quaker Alloy**, Jackson Township, **Lebanon County**. The referenced permit is being revoked. By virtue of Quaker Alloy Inc. dissolution, and Quaker Alloy abandoning the permitted facility without providing for final closure.

Persons aggrieved by this action may appeal under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and the Administrative Agency Law (2 Pa.C.S. Chapter 5A) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, (717) 787-3483. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**Permit Deemed Administratively Complete 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. PAD003053758. Tecumseh Redevelopment Inc.**, 100 Maynard St, Williamsport, PA 17701, located in the City of Williamsport, **Lycoming County**. A Hazardous Waste Post-Closure Permit renewal application, prepared under the Federal RCRA and Pennsylvania Hazardous Waste Management Regulations, for three hazardous waste impoundments that were last used November 14, 1982, and officially closed August 23, 1990, was deemed administratively complete by the Williamsport Office on July 13, 2006.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**45-310-041GP3: ER Linde Construction, Inc.** (9 Collan Park, Honesdale, PA 18431) on July 11, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at Quarry Lane, Barrett Township, **Monroe County**.

**35-310-044GP3: Fabcor, Inc.** (1205 Mid Valley Drive, Jessup, PA 18434) on July 11, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at Glenmaura National Boulevard, Moosic Borough, **Lackawanna County**.

**35-329-002GP9: Fabcor, Inc.** (1205 Mid Valley Drive, Jessup, PA 18434) on July 11, 2006, to construct and operate portable diesel generators at Glenmaura National Boulevard, Moosic Borough, **Lackawanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**GP1-34-03003A: Empire Kosher Poultry, Inc.** (R. R. 5, Box 228, Mifflintown, PA 17059) on July 13, 2006, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Walker Township, **Juniata County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.*

**GP-62-178: Belden & Blake—Tidioute Unit No. 1** (Maguire Road, Warren, PA 16365) on July 31, 2006, for a natural gas fired compressor engine in Deerfield Township, **Warren County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0007B: Waste Management Disposal Service of PA, Inc.** (1513 Bordentown Road, Morrisville, PA 19067) on July 17, 2006, to operate a flare to back-up control device in Falls Township, **Bucks County**.

**09-0024E: Waste Management of PA** (200 Bordentown Road, Tullytown, PA 19007) on July 17, 2006, to operate a flare to back-up control device in Tullytown Borough, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-305-027: Mountaintop Anthracite, Inc.** (1550 Crestwood Road, Mountaintop, PA 18707) on July 11, 2006, to construct an anthracite coal drying screening and packaging plant in Wright Township, **Luzerne County**.

**39-309-064: Lafarge North America, Inc.** (5160 Main Street, Whitehall, PA 18052) on June 27, 2006, to modify cement kiln No. 2 (mixing fan) in Whitehall Township, **Lehigh County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**21-05026B: Carlisle Syntec, Inc.** (P. O. Box 7000, Carlisle, PA 17013) on July 12, 2006, to install an adhesive application line at the company's sheet roofing plant in Carlisle Borough, **Cumberland County**.

**36-03163A: Superior Finishing, LLC** (78 West Main Street, Reinholds, PA 17569-9513) on July 10, 2006, to operate two wood furniture surface coating booths in West Cocalico Township, **Lancaster County**.

**38-03019B: Allied Veterinary Cremation, Ltd.** (719 Lawn Road, Palmyra, PA 17078-9734) on July 13, 2006, to install a new animal crematory unit at their existing facility in South Londonderry Township, **Lebanon County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**32-00297E: Creps United Publications** (1163 Water Street, Indiana PA 15701) on July 12, 2006, to replace the existing Harris M200 press with a new heatset web offset lithographic HarrisV-30 press at the Christy Park Drive Facility in White Township, **Indiana 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.*

**09-0027E: Fres-Co Systems—USA, Inc.** (3005 State Road, Telford, PA 18969) on July 10, 2006, to operate a thermal oxidizer in West Rockhill Township, **Bucks County**.

**23-0082: Liberty Electric Power, LLC** (1000 Industrial Highway, Route 291, Eddystone, PA 19022) on July 10, 2006, to operate a power plant—500 MW in Eddystone Borough, **Delaware County**.

**46-0037Q: Cabot Supermetals** (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on July 10, 2006, to operate a wet dust collector in Douglass Township, **Montgomery County**.

**46-0037V: Cabot Supermetals** (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on July 10, 2006, to operate a gemco dryer building 19 in Douglass Township, **Montgomery County**.

**23-0093: Bryn Hill Industries** (Price and Pine Streets, Holmes, PA 19043) on July 14, 2006, to operate a foam product line in Ridley Township, **Delaware County**.

**46-0108A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) On July 14, 2006, to operate a cyclone and baghouse—asphalt in Marlborough Township, **Montgomery County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**41-00013B: Coastal Aluminum Rolling Mills, Inc.** (2475 Trenton Avenue, Williamsport, PA 17701) on July 13, 2006, to operate a coil coating line and associated air cleaning device (regenerative thermal oxidizer) on a temporary basis until November 10, 2006, in the City of Williamsport, **Lycoming County**. The plan approval has been extended.

**60-399-002: Ritz-Craft Corporation** (15 Industrial Park Road, Mifflinburg, PA 17844) on July 14, 2006, to operate two mobile/modular home assembly plants and a surface coating operation on a temporary basis to November 11, 2006, in Mifflinburg Borough, **Union County**. The plan approval has been extended.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00123: Hanson Aggregates BMC, Inc.** (P. O. Box 231, Easton, PA 18044) on July 17, 2006, to operate a batch asphalt plant, baghouse and emergency back-up air compressor to the Synthetic Minor Operating Permit in Nockamixon Township, **Bucks County**.

**46-00022: Arkema Inc.** (900 First Avenue, P. O. Box 61536, King of Prussia, PA 19406) on July 17, 2006, to operate a boiler, a few emergency generators, pilot plant operations and a laboratory to the Synthetic Minor Operating Permit in Upper Merion Township, **Montgomery County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**26-00121: Crown Cork & Seal Co., Inc.** (1840 Baldrige Avenue., Connellsville, PA 15425) on July 11, 2006, to operate a closure manufacturing facility in South Connellsville Borough, **Fayette County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**16-00136: Glenn O. Hawbaker, Inc.** (SR 3011, Clarion, PA 16214) on July 5, 2006, for a Natural Minor operating permit to produce crushed limestone products. This facility is located in Beaver Township, **Clarion County**.

**10-00293: Quality Aggregates, Inc.** (201 Deer Road, Boyers, PA 16020) on July 5, 2006, for a Natural Minor operating permit to manufacture crushed and screened limestone outside the town of Boyers, Marion Township, **Butler County**.

**42-00195: Ram Forest Products, Inc.** (Route 44, Shinglehouse, PA 16748) on July 11, 2006, for a Natural Minor operating permit to process timber resources into rough-cut and kiln dried lumber products in Ceres Township, **McKean County**.

**33-00144: National Fuel Gas Supply Corp.—Heath Station** (17447 Route 949, Heath Township, PA) on July 17, 2006, Operating Permit for a Natural Minor Permit to operate a natural gas compressor station and gas processing plant located in Heath Township, **Jefferson County**.

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**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.**

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*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**65-00065: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of their new Responsible Official for their Lower Burrell Sand and Aggregate Plant located in Lower Burrell, **Westmoreland County**. The Department has revised the Operating Permit.

**03-00208: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of their new Responsible Official for their Tarrtown Sand and Gravel Plant in East Franklin Township, **Armstrong County**. The Department has revised the Operating Permit.

**04-00698: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Thaddus Carr Dredge on the Ohio River in Industry Borough and Potter Township, **Beaver County**. The Department has revised the Operating Permit.

**65-00143: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Torrance Sand and Gravel Plant located in Derry Township, **Westmoreland County**. The Department has revised the Operating Permit.

**65-00807: Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Whitney Sand and Gravel Plant in Unity township, **Westmoreland County**. The Department has revised the Operating Permit.

**26-00288: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Springfield Pike asphalt and limestone processing plants in Connellsville, **Fayette County**. The Department has revised the Operating Permit.

**65-00659: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Adamsburg asphalt plant in Hempfield Township, **Westmoreland County**. The Department has revised the Operating Permit.

**63-00629: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Dunningville asphalt plant in Somerset Township, **Washington County**. The Department has revised the Operating Permit.

**04-00226: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Sewickley Creek Plant in Economy Borough, **Beaver County**. The Department has revised the Operating Permit.

**65-00073: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their Longbridge Bluestone (Latrobe) asphalt plant and quarry located in Ligonier Township, **Westmoreland County**. The Department has revised the Operating Permit.

**26-00020: Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on July 18, 2006, to incorporate the name of the new Responsible Official for their quarry in Bullskin Township, **Fayette County**. The Department has revised the Operating Permit.

**63-00027: Jessop Steel Co.** (500 Green Street, Washington, PA 15301) on July 10, 2006 was amended to include a second reheat furnace in the 110" rolling mill at the Washington Plant in Washington City, **Washington County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**24-00136: National Fuel Gas Supply Corp.—Sackett Station** (Forest Road 136 and Owls Nest Road, Ridgeway, PA 15857) on July 13, 2006, to amend the Synthetic Minor Operating Permit for the facility in Highland Township, **Elk County**. The amendment was to incorporate changes brought about through Plan Approval Number: 24-136A. EPA and public comment periods were addressed during the plan approval process.

**33-00147: Dominion Transmission Inc.—Big Run Station** (Township Road 638, Luthersburg, PA 15848) on July 12, 2006, to incorporate conditions relating to ERC's for the facility in Gaskill Township, **Jefferson County**.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).** The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

### Coal Permits Actions

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**30841316. Consol Pennsylvania Coal Company** (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** and West Finley Township, **Washington County**, ACOE Pittsburgh District. (Wind Ridge, PA, N: 14.9 inches; W: 12.8 inches to N: 15.5 inches; W: 13.4 inches and N: 15.6 inches; W: 12.5 inches to N: 15.7 inches; W: 12.9 inches.

This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize stream restoration in two portions of Enlow Fork of Wheeling Creek within State Game Land No. 302. Application received May 9, 2005. Permit issued July 10, 2006.

**56841605 and NPDES Permit No. PA0214761, Croner, Inc.** (P. O. Box 260, Friedens, PA 15541), to renew the permit for the Goodtown Preparation Plant in Brothersvalley Township, **Somerset County** and related MPDES permit for reclamation only. No additional discharges. Application received January 19, 2006. Permit issued July 10, 2006.

**63831302 and NPDES Permit No. PA0213608, Eighty Four Mining Company** (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Mine No. 84 in Amwell Township, **Washington County** to install the South West Mains No. 3 Air Shaft and boreholes. Surface Acres Proposed 11.8. Receiving stream: Redd Run, classified for the following use: TSF. Application received July 1, 2005. Permit issued July 10, 2006.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32990109 and NPDES No. PA0235148. Walter L. Houser Coal Company, Inc.**, 13448 SR 422, Suite 1, Kittanning, PA 16201, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Washington Township, **Indiana County**, affecting 56.9 acres. Receiving streams: UNTs to/and Sugarcamp Run classified for the following use: CWF.

There are no potable water supply intakes within 10 miles downstream. Application received March 27, 2006. Permit issued June 22, 2006.

**56950105 and NPDES No. PA0213136. Marquise Mining Corporation**, 3889 Menoher Boulevard, Johnstown, PA 15905, transfer of an existing bituminous surface mine from Pennsylvania Coal Company, Inc., 6675 Baltimore Pike, Littlestown, PA 17349 located in Stonycreek Township, **Somerset County**, affecting 245.0 acres. Receiving streams: UNTs to Wells Creek, UNTs to Stonycreek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Municipal Authority. Application received January 4, 2006. Permit issued June 22, 2006.

**56950105 and NPDES No. PA0213136. Marquise Mining Corporation**, 3889 Menoher Boulevard, Johnstown, PA 15905, permit renewal for reclamation only of a bituminous surface mine in Stonycreek Township, **Somerset County**, affecting 245.0 acres. Receiving streams: UNTs to Wells Creek and UNTs to Stonycreek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Municipal Authority. Application received January 4, 2006. Permit issued June 22, 2006.

**11060101 and NPDES No. PA0249882. CMT Energy, Inc.**, P. O. Box 223, Brisbin, PA 16620-0223, commencement, operation and restoration of a bituminous surface mine in Chest Township, **Cambria County**, affecting 33.1 acres. Receiving streams: UNTs to Chest Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 4, 2006. Permit issued July 13, 2006.

**32050105 and NPDES No. PA0249785. AMFIRE Mining, LLC**, One Energy Place, Latrobe, PA 15650, commencement, operation and restoration of a bituminous surface mine in Cherryhill Township, **Indiana County**, affecting 31.3 acres. Receiving streams: UNT to Two Lick Creek, Allen Run, and UT to Yellow Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Pennsylvania American Water Company. Application received April 22, 2005. Permit issued July 14, 2006.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03860111 and NPDES Permit No. PA0589144.** State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Permit revised to update conventional bonding and add augering of the Lower Freeport and Middle Kittanning coal seams at an existing bituminous surface mine located in East Franklin Township, **Armstrong County**, affecting 667.4 acres. Receiving streams: UNTs to the Allegheny River. Application received: April 20, 2006. Revised permit issued: July 10, 2006.

**26050112 and NPDES Permit No. PA0250805. Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mine located in Springhill Township, **Fayette County**, affecting 39.5 acres. Receiving streams: UNTs to Hope Hollow to Cheat River. Application received: October 19, 2005. Permit issued: July 12, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33040101 and NPDES Permit No. PA0242497. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Revision for a stream encroachment to conduct mining activities within 100 feet of UNT B to Mahoning Creek in Perry Township, **Jefferson County**. Application received: March 27, 2006. Permit Issued: July 11, 2006.

**33010102 and NPDES Permit No. PA0241890. McKay Coal Company, Inc.** (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous strip, auger and tiple refuse disposal operation in Perry Township, **Jefferson County** affecting 56.4 acres. Receiving streams: Two UNTs to Foundry Run. Application received: May 16, 2006. Permit Issued: July 10, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17813024 and NPDES No. PA0608777. E. M. Brown, Inc.** (P. O. Box 767, Clearfield, PA 16830), renewal for the continued operation and restoration of a bituminous surface mine in Bradford Township, **Clearfield County**, affecting 96.4 acres. Receiving streams: Devil's Run to a UNT to West Branch Susquehanna, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: April 17, 2006. Permit issued: July 6, 2006.

#### GOVERNMENT FINANCED CONSTRUCTION CONTRACT

**17-05-01. Whitetail Contracting** (287 Bloomington Ave. Ext., Curwensville, PA 16833). The Moshannon District Mining Office for the Department of Environmental Protection awarded a Government Financed Construction Contract to Whitetail Contracting on June 21, 2006, that will result in incidental coal removal necessary to accomplish reclamation of an abandoned mine land site affecting 18.5 acres. The site is located in Karthaus Township, **Clearfield County**. Application received: December 8, 2005. Permit issued: June 21, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**40850203R4. Silverbrook Anthracite, Inc.** (1 Market Street, Laflin, PA 18702), renewal of an existing anthracite surface mine operation in Newport Township, **Luzerne County** affecting 49.0 acres, receiving stream: none. Application received September 12, 2005. Renewal issued July 14, 2006.

#### Noncoal Permits Actions

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03910401 and NPDES Permit No. PA0592412. M & M Lime Co., Inc.** (215 Nichola Road, Worthington, PA 16262). NPDES renewal issued for continued reclamation only of a noncoal surface mining site located in West Franklin and Clearfield Townships, **Armstrong and Butler Counties**, affecting 85.7 acres. Receiving streams: Buffalo Creek. Application received: May 24, 2006. NPDES Renewal issued: July 11, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**37910103. ESSROC Cement Corp.** (P. O. Box 779, Bessemer, PA 16112) Renewal of NPDES Permit No. PA0208442 in North Beaver Township, **Lawrence County**. Receiving streams: UNT to Mahoning River,



UNT to Hickory Run and Hickory Run. Application received: May 23, 2006. Permit Issued: July 11, 2006.

**37060801. Beyond Corp., LLC** (2905 Hillsville Rd., Edinburg, PA 16116) Commencement, operation and restoration of a small noncoal topsoil operation in Mahoning Township, **Lawrence County** affecting 5.0 acres. Receiving streams: Mahoning River. Application received: January 23, 2006. Permit Issued: July 11, 2006.

**37960301. ESSROC Cement Corp.** (P. O. Box 779, Bessemer, PA 16112) Renewal of NPDES Permit No. PA0227188 in North Beaver and Mahoning Townships, **Lawrence County** affecting 308.0 acres. Receiving streams: UNT to the Mahoning River and UNT to Hickory Run. Application received: May 23, 2006. Permit Issued: July 12, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, (814) 342-8200.*

**14960802. Mountaintop Coal Co., Inc.** (500 West Sycamore Road, Snow Shoe, PA 16874), noncoal mining operation in Snow Shoe Township, **Centre County**. Restoration of 2.35 acres completed. Receiving Stream: UNT to North Fork of Beech Creek. Application received: June 28, 2006. Final bond release: July 6, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58052811. Herbert Kilmer** (R. R. 4, Box 56C, Montrose, PA 18801), commencement, operation in Harmony Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received September 22, 2005. Permit issued July 10, 2006.

**40062801. Dotzel Trucking** (1898 Slocum Road, Mountaintop, PA 18707), commencement, operation in Slocum Township, **Luzerne County** affecting 5.0 acres. Receiving stream: none. Application received February 23, 2006. Permit issued July 10, 2006.

**58060817. Bluerock Natural Resources, LLC** (R. R. 7, Box 7022, Montrose, PA 18801), commencement, operation in Middletown Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received March 13, 2006. Permit issued July 10, 2006.

**52042801. Grassie & Sons, Inc.** (P. O. Box 649, New Foundland, PA 18445-0649), commencement, operation in Greene Township, **Pike County** affecting 5.0 acres. Receiving stream: none. Application received March 5, 2004. Permit issued July 11, 2006.

**5476SM4A1C3 and NPDES Permit No. PA0612049. Glasgow, Inc.** (P. O. Box 1089, Glenside, PA 19038), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Montgomery Township, **Montgomery County**. Receiving stream: UNT to Little Neshaminy Creek. Application received May 25, 2006. Renewal issued July 11, 2006.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P. S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**27064004. Vertical Resources, Inc.** (R. D. 2, Box 132, Sugar Grove, PA 16350). Blasting activity permit for gas and oil exploration in Howe Township, **Forest County**. This blasting activity permit will expire on July 13, 2007. Application received: July 10, 2006. Application issued: July 13, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, (814) 342-8200.*

**53064001. Pennsylvania General Energy** (208 Liberty St., Warren, PA 16365), blasting for Borrow Pit located in Eulalia Township, **Potter County**. Permit issued July 11, 2006. Permit expires on January 11, 2007.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**22064118. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Winslett Development in West Hanover Township, **Dauphin County** with an expiration date of July 31, 2007. Permit issued July 10, 2006.

**36064168. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Crestwood Estates in Conoy Township, **Lancaster County** with an expiration date of July 10, 2007. Permit issued July 10, 2006.

**36064169. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Veranda Development in East Hempfield Township, **Lancaster County** with an expiration date of July 17, 2007. Permit issued July 10, 2006.

**36064170. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Clearbrook Development in East Donegal Township, **Lancaster County** with an expiration date of July 27, 2007. Permit issued July 10, 2006.

**21064152. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting for a development on Mountain View Road in Hampden Township, **Cumberland County** with an expiration date of October 15, 2006. Permit issued July 11, 2006.

**22064119. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Northwood Crossing in Susquehanna Township, **Dauphin County** with an expiration date of July 31, 2007. Permit issued July 11, 2006.

**38064117. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Beckley's Corner Estates in South Lebanon Township, **Lebanon County** with an expiration date of July 27, 2007. Permit issued July 11, 2006.

**40064121. Ed Wean Drilling & Blasting, Inc.** (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Hazle Springs Development in Hazle Township, **Luzerne County** with an expiration date of July 5, 2007. Permit issued July 11, 2006.

**46064126. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Sunnybrook Village in Lower Pottsgrove Township, **Montgomery County** with an expiration date of July 30, 2007. Permit issued July 11, 2006.

**22064117. Hall Explosives, Inc. (2981** Elizabethtown Road, Hershey, PA 17033), construction blasting for a single dwelling in Swatara Township, **Dauphin County** with an expiration date of December 30, 2006. Permit issued July 12, 2006.



**38064118. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Fox Hill Estates in South Londonderry Township, **Lebanon County** with an expiration date of July 31, 2007. Permit issued July 12, 2006.

**09064122. Eastern Blasting Co., Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting for Foxhall Estates in Newtown Township, **Bucks County** with an expiration date of August 1, 2007. Permit issued July 13, 2006.

**09064123. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for the Varga Tract in Wrihstown Township, **Bucks County** with an expiration date of August 1, 2007. Permit issued July 13, 2006.

**09064124. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Mill Road Bridge in Milford Township, **Bucks County** with an expiration date of December 29, 2006. Permit issued July 13, 2006.

**15064121. Horst Drilling & Blasting, Inc.** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting for Pelham Place in East Fallowfield Township, **Chester County** with an expiration date of July 12, 2007. Permit issued July 13, 2006.

**21064153. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for the Swarner Project in South Middleton Township, **Cumberland County** with an expiration date of July 31, 2007. Permit issued July 13, 2006.

**21064154. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Towns on the Meadow in Upper Allen Township, **Cumberland County** with an expiration date of July 31, 2007. Permit issued July 13, 2006.

**28064160. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for a home in Washington Township, **Franklin County** with an expiration date of July 31, 2007. Permit issued July 13, 2006.

**46064127. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Philadelphia Premium Outlets in Limerick Township, **Montgomery County** with an expiration date of December 29, 2007. Permit issued July 13, 2006.

**47064101. Kesco, Inc.** (127 Oneida Valley Road, Butler, PA 16001), construction blasting for PPL Montour Unit in Washingtonville Borough, **Montour County** with an expiration date of January 12, 2007. Permit issued July 13, 2006.

**48064117. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Penn's Ridge in Forks Township, **Northampton County** with an expiration date of August 1, 2007. Permit issued July 13, 2006.

**48064118. Ed Wean Drilling & Blasting, Inc.** (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Saddlecreek Development in Upper Mt. Bethel Township, **Northampton County** with an expiration date of July 13, 2007. Permit issued July 13, 2006.

**46064003. Joao & Bradley Construction** (P. O. Box 20345, Lehigh Valley, PA 18002) and AJT Blasting, LLC, (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Lower Road Sanitary Sewer in Franconia Township, **Montgomery County** with an expiration date of December 20, 2006. Permit issued July 14, 2006.

**51064001. Explo-Craft, Inc.** (P. O. Box 1332, West Chester, PA 19380), construction blasting for Target Storm and Water Lines in the City of Philadelphia, **Philadelphia County** with an expiration date of December 30, 2006. Permit issued July 14, 2006.

**Abel Construction Company, Inc.** (P. O. Box 476, Mountville, PA 17554), construction blasting for Bull Road Mini Storage Units in Dover Township, **York County** with an expiration date of July 30, 2007. Permit issued July 14, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the Pennsylvania Bulletin, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E09-880. Mark Oaks**, 4930 Magnolia Avenue, Oakford, PA 19053, Nockamixon Township, **Bucks County**, ACOE Philadelphia District.

To maintain a triple 24-inch CMP culvert across a UNT to Beaver Run (EV) associated with the driveway access to a proposed residential dwelling located in Bridgeton Township. The road crossing was originally constructed under an authorized Temporary Road Crossing, General Permit Registration No. GP080904302. The site is located just east of the intersection of Blue Spruce Way and Bridgeton Hill Road (Regielsville, PA-NJ USGS Quadrangle N: 7.9 inches; W: 1.6 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E23-458. Wawa Inc.**, 260 Baltimore Pike, Wawa, PA 19063, Aston Township, **Delaware County**, ACOE Philadelphia District.

To place fill in 0.07 acre of wetlands (PEM) associated with the construction of a Wawa Retail Store on a 2.14-acre lot located at 5008 Pennell Road. The project is situated at the intersection of Pennell (SR 452) and Marianville Roads in Aston Township, Delaware County (Marcus Hook, PA, Quadrangle N: 20.86 inches; W: 7.29 inches). The permittee has proposed 0.08 acre of offsite wetland replacement in Concord Township, Delaware County.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E15-748. Chester County Radio Inc.**, 105 W. Gay Street, West Chester, PA 19380, East Bradford Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a Radio Station transmission tower and appurtenances within FEMA delineated 100-year floodway of Taylor's Run (TSF-MF) and adjacent wetlands (PEM). Impacts associated with the project include:

1. Construction of a concrete base for the radio tower with three guide wires anchors and radial wires that encircle the tower base.
2. Excavation and minor fill in the wetlands to accommodate the foundations of the tower concrete pads, and the concrete anchor bases.
3. Minor grading and clearing to facilitate the construction of access driveway to the tower footprint areas.
4. Construction of a 6-foot high chain-linked fence for tower protection in wetlands and floodways.

The project will temporarily impact 0.78 acre of wetland and permanently impact 0.003 acre of wetlands in the 100-year floodway of Taylor's Run. The project site is located approximately 350 feet East of the intersections of Route 322 and Business Route 322 in East Bradford Township, Chester County (Unionville PA, Quadrangle N: 16.55 inches; W: 0.83 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E09-888. Middletown Township**, 3 Municipal Way, Langhorne, PA 19047, Middletown Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a new metal truss pedestrian bridge across Queen Anne Creek (WWF). The proposed bridge is 60-foot long by 8-foot wide with clear height above the 100-year flood elevation. The site is located about 2,500 feet southwest of intersection of Edgely Road and Newportville Road (Trenton West, NJ PA USGS Quadrangle N: 4.7 inches W: 16.4 inches) in Middletown Township, Bucks County.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E23-448. First Blackhawk, LLC**, P. O. Box 467, Concordville, PA 19331, Middletown Township, **Delaware County**, ACOE Philadelphia District.

To perform the following activities within the Ridley Creek (TSF-HQ) watershed associated with the proposed Bittersweet Way, a single-family residential subdivision:

1. To modify and extend an existing 36" CMP stormwater outfall structure and to fill the remaining abandoned eroded stormwater channel to facilitate the construction of lots 3 and 4. The pipe extension will begin at Manhole No. 3, consisting of approximately 126 linear feet of 36-inch R.C.P., and will extend to endwall EW No. 2 in Forebay 2. Work also includes installation and maintenance of an 8-inch PVC sanitary sewer line; a waterline crossing of the stormwater pipe; and modification to the existing pond.
2. To modify and extend a stormwater outfall in and along the UNT to Ridley Creek (TSF-HQ) for the widening of SR 4004 (Barren Road) to accommodate the required turning lanes into the subdivision. Work also includes installation and maintenance of an 8-inch PVC sanitary sewer line placed under the storm-sewer extension.
3. To construct and maintain 49 linear feet of 60-inch by 31.5-inch CMP open bottom arch culvert in and along an UNT to Ridley Creek and impacting 0.02 acre of wetland (PEM) associated with a common drive for lots 2—4. The work also includes installation and maintenance of an 8-inch PVC sanitary sewer line placed under the proposed culvert and the installation and maintenance of a temporary cofferdam.

This permit also includes an Environmental Assessment approval to construct an earthen embankment and appurtenant outlet works impacting 90 linear feet of stream and 0.02 acre of wetland (PEM) associated with the reconstruction of a currently breached on-stream nonjurisdictional dam, which will be used as a stormwater management facility. The operation of the dam will result in the secondary impact to 0.14 acre of wetland as a result of incidental and temporary backwater.

The project will result in impacts totaling 680 linear feet of watercourse and 0.23 acre of wetland (temporary and permanent). The site is located on the northeast corner of the Route 352 and Barren Road (Media, PA, USGS Quadrangle N: 7.9 inches; W: 9.2 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E38-145: Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699 in Bethel Township, **Lebanon County**, ACOE Baltimore District.

To remove the existing structures and then to construct and maintain single span bridge having a clear span of 103.5 feet on a 75° skew with a minimum underclearance of 11.7 feet across the Little Swatara Creek (WWF) on SR 1014, Section 004, Segment 0170, Offset 0418 and associated improvements in order to improve the safety condition of the road located at the Village of Greble (Bethel, PA Quadrangle N: 10.0 inches; W: 15.2 inches; Latitude: 40° 25' 48"; Longitude: 76° 21' 33") in Bethel Township, Lebanon County.

**E01-261: Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699 in East Berlin Borough, **Adams County** and Paradise Township, **York County**, ACOE Baltimore District.

To remove an existing dual span steel I-beam bridge having a total span of 85-feet and an underclearance of 13-feet and to construct and maintain a two span pre-stressed concrete spread box beam bridge, having a total span of 103.1-feet and an underclearance of 13.2 feet, carrying SR 0234, Section 008 over Beaver Creek (WWF) at a point on the Abbottstown, PA Quadrangle; N: 10.85 inches; W: 13.55 inches; Latitude 39° 5' 6" 05"; Longitude 76° 58' 18" in East Berlin Borough, Adams County and Paradise Township, York County.

**E06-603: Hamburg Municipal Authority**, 61 N 3rd Street, Hamburg, PA 19526 in Hamburg Borough, **Berks County**, ACOE Philadelphia District.

To remove the existing outfall pipe and then to construct and maintain a 30-inch diameter outfall pipe at the left bank of the Schuylkill River (WWF), and associated improvements for the proposed improvements of the Hamburg Treatment Plant located about 150 feet upstream of the Pa. 61 bridge (Hamburg, PA Quadrangle N: 9.46 inches, W: 16.27 inches; Latitude: 40° 33' 07", Longitude: 75° 59' 31") in Hamburg Borough, Berks County.

**E28-325: Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699 in Quincy Township, **Franklin County**, ACOE Baltimore District.

To remove a deteriorated steel stringer bridge and to construct and maintain: (1) 99 lineal feet of a 21-foot by 6-foot reinforced concrete box culvert; and (2) a gabion wall for streambank protection at the channel of an UNT to West Branch Antietam Creek (CWF) to improve public safety of SR 2019, Section 004, Segment 0060, Offset 2182 within the Village of Five Forks (Waynesboro PA Quadrangle N: 9.3 inches; W: 15.3 inches, Latitude 39° 48' 05"; Longitude: 77° 36' 30") in Quincy Township, Franklin County.

**E50-232: Richard E. Baum, Jr.**, 333 Church Road, Shermans Dale, PA 17090 in Carroll Township, **Perry County**, ACOE Baltimore District.

To construct and maintain a 12-foot by 7-foot by 14-foot long concrete box culvert with a 1-foot depression at a UNT to Shermans Creek (WWF) located about 900 feet south of Pine Grove School (Shermans Dale, PA Quadrangle N: 19.9 inches; W: 2.5 inches; Latitude 40° 21' 35"; Longitude: 77° 08' 33") in Carroll Township, Perry County. The project will involve a permanent impact of 14 lineal feet of stream channel.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E41-565. Ronald E. Tenerovich**, 812 Bush Hill Road, Williamsport, PA 17701. Water Obstruction and Encroachment Joint Permit, in Plunketts Creek Township, **Lycoming County**, ACOE Susquehanna River Basin District (Barbours, PA Quadrangle N: 9.90 inches; W: 5.15 inches).

To construct and maintain a 36-feet long by 12-feet wide steel I-beam bridge with a minimum underclearance of 9.5 feet on a skew of 90° over Plunketts Creek, 1.1 mile north of the intersection of SR 1006 and SR 1005 along SR 1005. This project proposes to permanently impact 20 linear feet of Plunketts Creek, which is, designated a HQ-CWF stream and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E47-083. PPL Montour, LLC, PPL Generation, LLC**, 2 North Ninth Street, Allentown, PA 18101-1179. Flue Gas Desulfurization Scrubber/Discharge Pipeline Project in Derry Township, **Montour County**, Baltimore ACOE District (Washingtonville PA Quadrangle N: 12.5 inches, W: 4.5 inches).

The permit number E47-083 is hereby amended to construct a 12-mile water pipeline to carry water removed from the residuum at the PPL plant back to the West Branch of the Susquehanna River. This amendment authorizes the temporary disturbance of 4.472 acres of palustrine emergent wetlands, 0.657 acre of palustrine scrub-shrub wetlands, and 1.552 acres of palustrine forested wetlands; and 768 feet of temporary stream channel disturbance at 23 waterways in the Chillisquaque Creek, Warrior Run and West Branch Susquehanna River watersheds, during installation of a 24-inch diameter wastewater discharge pipeline, from Washingtonville to Watsonstown, and an effluent diffuser extending into the West Branch Susquehanna River.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1525. Borough of Sewickley**, 601 Thorn Street, P. O. Box 428, Sewickley, PA 15143. To construct a dock in Sewickley Borough, **Allegheny County**, Pittsburgh ACOE District. (Ambridge, PA Quadrangle N: 6.41 inches; W: 8.78 inches and Latitude: 40° 32' 07.03"—Longitude: 80° 11' 17.48"). To construct and maintain a docking and recreational facility along the right bank of the Ohio River near River Mile 11.85. The dock is located at the end of Walnut Street in Sewickley Borough. There will be no long term tie-up or storage for boats. All docking will be temporary and short term. The project will provide recreational access to the river. Walking trails and viewing areas will be part of the improvements. A wooden deck overlook will be constructed with a smaller wooden deck located below to provide access to a new floating dock. Approximately 100 feet of riverbank will be impacted.

**E02-1528. Hammel Companies, Inc.**, 15 27th Street, Pittsburgh, PA 15222. To replace an existing timber river wall in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 14.5 inches; W: 15.0 inches and Latitude: 40° 27' 22"—Longitude: 79° 59' 04"). To remove the existing timber river wall and to construct and maintain a sheet pile wall approximately 250 feet in length in the channel and along the left bank of the Allegheny River (WWF) for the purpose of constructing a recreational trail. The project is located between 23rd Street and 24th Street and will impact 250.0 linear feet of stream channel.

**E03-437. Department of Transportation**, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. To replace a bridge in Rayburn Township, **Armstrong County**, Pittsburgh ACOE District. 1. To construct and maintain a replacement and relocation of an existing 68 LF, 8 foot wide by 3.5 foot clearance concrete bridge by a 120 LF long, 7 ft. diameter culvert depressed 6 inches with a drainage area of approximately 0.53 square mile; construct and maintain 180 LF of the adjacent stream; and fill and maintain 78 LF of existing stream (Mosgrove, PA Quadrangle N: 13.2 inches; W: 15.4 inches and Latitude: 40° 49' 32"—Longitude: 79° 29' 16"). 2. Construct and maintain an approximately 30 LF long extension to an existing 48-inch diameter culvert with a drainage area of 106 acres and relocated 320 LF of adjacent stream

(Mosgrove, PA Quadrangle N: 15.4 inches; W: 13.4 inches and Latitude: 40° 50' 0"—Longitude: 79° 28' 20"). 3. Fill and maintain 0.04 acre of PEM wetlands (Mosgrove, PA Quadrangle N: 13.5 inches; W: 15.2 inches and Latitude: 40° 49' 28"—Longitude: 79° 28' 58"). This project is associated with the widening of a section of SR 0028 from the intersection with Cowanshannock Creek and extending north approximately 2 miles. The road parallels and intersects at the above culvert locations with a UNT to Cowanshannock Creek (WWF).

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D37-026EA. Gale Siddall**, 216 Cemetery Lane, New Castle, PA 16105. Neshannock Township, **Lawrence County**. ACOE Pittsburgh District.

Project proposes to breach and remove Graceland Dam across a tributary to Neshannock Creek (TSF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 300 feet of stream channel. The dam is located approximately 300 feet east of the intersection of Graceland Road and Elizabeth Street (New Castle North, PA Quadrangle N: 4.05 inches; W: 10.2 inches).

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### SPECIAL NOTICES

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#### Program Award Information

**Program:** Stormwater Planning and Management  
**Amount:** \$ 9,000  
**Recipient:** Montour County Planning Commission  
**County:** Montour County  
**Municipalities:** Limestone Run Limestone Township  
 Mahoning Creek Derry Township, Valley Township, Mahoning Township Danville Borough, West Hemlock Township  
 Sechler Run Cooper Township, Mahoning Township, Danville Borough  
 Roaring Creek Mayberry Township  
 Chillisquaque Creek Anthony Township, Limestone Township, Derry Township Liberty Township, Valley Township and Washingtonville Borough  
**Contact:** Betsy Hack, Montour County Planning Commission, 112 Woodbine Lane Danville, PA 17821  
 Department of Environmental Protection: Barry Newman, M. S., P. E., (717) 772-5661  
**Purpose:** Complete Phase I "Scope of Study" report required for preparation of an Act 167 Storm Water Management Plan for the entire Montour County.  
**Comments:** An amendment for time extension was approved on May 31, 2006, for the same agreement.

#### Program Award Information

**Program:** Stormwater Planning and Management  
**Amount:** \$ 1,7891.91  
**Recipient:** Berks County Planning Commission  
**County:** Berks County

**Municipalities:** Sacony Creek Berks County: Topton, Lyons, Kutztown Boroughs, Rockland, Richland, Maxatawney, Longswamp, Greenwich, District, Albany Townships  
 Lehigh Co.: Weisenberg Township  
 Maiden Creek Berks Co.: Lenhartsville, Fleetwood Boroughs, Albany, Windsor, Greenwich, Perry, Ontaulanee, Maiden Creek, Muhlenberg, Alsace, Roscobmanon, Richland, Maxatawney Townships  
 Lehigh Co.: Lynn, Weidenberg Townships

**Contact:** Shannon Rossman, Berks County Planning Commission, Berks County Services, Reading, PA 19601-2591  
 Department of Environmental Protection: Barry Newman, M. S., P. E., (717) 772-5661

**Purpose:** Complete Phase II Storm Water Management Plan for Sacony and Maiden Creeks according to the revisions suggested by the Department of Environmental Protection.

**Comments:** An amendment was also approved on July 11, 2006, for time extension for the same agreement.

**Program Award Information**

**Program:** Stormwater Planning and Management  
**Amount:** \$ 12,000  
**Recipient:** Venango County Planning Commission  
**County:** Venango County  
**Municipalities:** Allegheny Township, Barkeyville Township, Canal Township, Cherrytree Township, Clinton Township, Clintonville Borough, Cooperstown Borough, Cornplanter Township, Cranberry Township, Emlenton Borough, Franklin City, Frenchcreek Township, Irwin Township, Jackson Township, Mineral Township, Oakland Township, Oilcreek Township, Pinegrove Township, Oil City, Pleasantville Borough, Plum Township, Polk Borough, President Township, Richland Township, Rouseville Township, Sandycreek Borough, Scrubgrass Township, Sugarcreek Borough, Utica Borough and Victory Township.

**Contact:** Judith Downs, Venango County Planning Commission, 1st Floor, Courthouse, 1168 Liberty Street, Franklin, PA 16323  
 Department of Environmental Protection: Barry Newman, M. S., P. E., (717) 772-5661

**Purpose:** Complete Phase I Storm Water Management Plan for All Watersheds of Venango County  
 [Pa.B. Doc. No. 06-1451. Filed for public inspection July 28, 2006, 9:00 a.m.]

**Availability of Rebates Through the Pennsylvania Hybrid Electric Vehicle Rebate Program**

The Department of Environmental Protection (Department) announces the availability of rebates to residents of this Commonwealth under the Pennsylvania's Hybrid Electric Vehicle Rebate Program. The program, administered by the Department through the Alternative Fuels Incentive Grant Program (AFIG), provides \$500 rebates to residents of this Commonwealth to assist individuals with the incremental costs of purchasing a new hybrid electric vehicle.

To qualify for the \$500 rebate, the hybrid electric vehicle must be registered in this Commonwealth and be operated primarily within this Commonwealth. The rebate will be offered on a first-come, first-served basis as long as funds are available. Rebate request forms and required documentation must be submitted to the Department no later than 6 months after the vehicle is purchased.

Rebates will be provided only for the purchase of the cleanest and most fuel-efficient hybrid vehicles. These "full hybrid" vehicles use the hybrid technology to significantly increase fuel economy while significantly reducing emissions. "Mild hybrids" that use the hybrid technology

to increase a vehicle's power and performance rather than significantly reducing emissions will not qualify for the rebates.

Rebate forms, along with additional information about the program, may be obtained on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Alternative Fuels) or by contacting Cleo Arp, Grant Officer, Bureau of Energy, Innovations, and Technology Deployment at (717) 772-8912 or [carp@state.pa.us](mailto:carp@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1452. Filed for public inspection July 28, 2006, 9:00 a.m.]

**State Board for Certification of Water and Wastewater Systems Operators Meeting**

The State Board for Certification of Water and Wastewater Systems Operators (Board) will conduct a conference call Board meeting on August 29, 2006, to discuss the Association of Boards of Certification (ABC) Testing Contract. The conference call will begin at 10 a.m. in Conference Room 9A, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the meeting should be directed to Cheri Sansoni at (717) 772-5158 or csansoni@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1453. Filed for public inspection July 28, 2006, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Conemaugh Ambulatory Surgery Facility for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Conemaugh Ambulatory Surgery Facility has requested an exception to the requirements of 28 Pa. Code §§ 553.1, 553.31, 555.1 and 555.2, 557.3 and 557.4, 567.2 and 569.1 and Chapter 563.

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1454. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Application of Crichton Rehabilitation Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Crichton Rehabilitation Center has requested an exception to the requirements of 28 Pa. Code §§ 101.31(1) and (2), 107.1, 115.1—115.6, 146.1 and 149.1 and 149.2.

The facility is also requesting an exception to the requirements of 28 Pa. Code § 153.1 (relating to mini-

mum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 10.6 (relating to dining, recreational and day spaces).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1455. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Application of Elmwood Endoscopy Center, PC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Elmwood Endoscopy Center, PC has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1456. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Application of Saint Vincent Health Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Saint Vincent Health Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-1457. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Application of Sunbury Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sunbury Community Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The facility also requests exception to 28 Pa. Code § 153.1, which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.6.B12 and B13 (relating to behavioral health unit).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-1458. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-9) will hold a public meeting on Friday, August 25, 2006, from 9:30 a.m. to 2:30 p.m. in 125N, Training Room A, Commonwealth Keystone Building, Commonwealth Avenue and Forster Streets, Harrisburg, PA.

For additional information, contact Arthur A. Florio, Public Health Program Administrator, Newborn Hearing Screening Program, Division of Newborn Disease Prevention and Identification at (717) 783-8143.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact the Newborn Hearing Screening Program at (717) 783-8143 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-1459. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities).

Beverly Healthcare—Uniontown  
129 Franklin Avenue  
Uniontown, PA 15401

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 201.17, 201.18(e), 205.6(a), 205.24(a), 205.25(a), 205.27, 205.36(g) and 205.39(b).

HealthSouth Transitional Rehabilitation Unit of Reading  
1623 Morgantown Road  
Reading, PA 19607-9455

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape, Braille) should contact the Division of Nursing Care Facilities at the address or phone numbers listed previ-

ously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-1460. Filed for public inspection July 28, 2006, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Medical Assistance Program Fee Schedule Revisions

The Department of Public Welfare (Department) announces that it will revise fees on the Medical Assistance (MA) Program Fee Schedule for select medical and radiological procedure codes, effective July 31, 2006.

The Pennsylvania Medicaid State Plan (State Plan) specifies that maximum fees for services covered under the MA Program are to be determined on the basis of the following: fees may not exceed the Medicare upper limit when applicable; fees must be consistent with efficiency, economy and quality of care; and fees must be sufficient to assure the availability of services to recipients.

The Department has determined that MA payment rates for 16 medical and radiological procedure codes are above the Medicare-approved amount for the same procedure codes. The Department is adjusting the MA Program Fee Schedule payment rates for these 16 procedure codes to equal the Medicare-approved amount. Revision of these fees is necessary to comply with the State Plan and to avoid a Federal disallowance.

The Department will revise the total fee (billed with no modifier) and the professional component fee (billed with modifier 26) for all of the following medical and radiological procedure codes. In addition and as set forth below, the Department will revise the technical component fee (billed with modifier TC) for procedure codes 73564 and 73610. These revisions are effective July 31, 2006.

#### Procedure Codes with Fees Exceeding 100% Medicare

<i>Code</i>	<i>Description</i>	<i>Professional Component Fee Revision (Billing with Modifier 26)</i>	<i>Technical Component Fee Revision (Billing with Modifier TC)</i>	<i>Total Fee Revision (Billing with No Modifier)</i>
70450	Computed tomography, head or brain; without contrast material(s)	\$43.01	No Change	\$120.51
70544	Magnetic resonance angiography, head; without contrast material(s)	\$60.68	No Change	\$328.09
71020	Radiologic examination, chest, two views, frontal and lateral;	\$11.04	No Change	\$26.04
71275	Computed tomographic angiography, chest, without contrast material(s), followed by contrast material(s) and further sections, including image post-processing	\$97.05	No Change	\$313.85
72146	Magnetic resonance (for example, proton) imaging, spinal canal and contents, thoracic; without contrast material	\$80.89	No Change	\$268.09
72148	Magnetic resonance (for example, proton) imaging, spinal canal and contents, lumbar; without contrast material	\$74.98	No Change	\$262.18
73564	Radiologic examination, knee; complete, four or more views	\$11.04	\$22.42	\$33.45
73610	Radiologic examination, ankle; complete, minimum of three views	\$8.80	\$18.73	\$27.53
74183	Magnetic resonance (for example, proton) imaging, abdomen; without contrast material(s), followed by with contrast material(s) and further sequences	\$114.00	No Change	\$673.01



<i>Code</i>	<i>Description</i>	<i>Professional Component Fee Revision (Billing with Modifier 26)</i>	<i>Technical Component Fee Revision (Billing with Modifier TC)</i>	<i>Total Fee Revision (Billing with No Modifier)</i>
78465	Myocardial perfusion imaging; tomographic (spect), multiple studies (including attenuation correction when performed), at rest and/or stress (exercise and/or pharmacologic) and redistribution and/or rest injection, with or without quantification	\$74.63	No Change	\$337.43
93307	Echocardiography, transthoracic, real-time with image documentation (2d) with or without m-mode recording; complete	\$47.75	No Change	\$142.75
93320	Doppler echocardiography, pulsed wave and/or continuous wave with spectral display (list separately in addition to codes for echocardiographic imaging); complete	\$19.84	No Change	\$66.34
93923	Noninvasive physiologic studies of upper or lower extremity arteries, multiple levels or with provocative functional maneuvers, complete bilateral study (for example, segmental blood pressure measurements, segmental doppler waveform analysis, segmental volume plethysmography, segmental transcutaneous oxygen tension measurements, measurements with postural provocative tests, measurements with reactive hyperemia)	\$23.40	No Change	\$93.45
93970	Duplex scan of extremity veins including responses to compression and other maneuvers; complete bilateral study	\$35.46	No Change	\$149.66
93971	Duplex scan of extremity veins including responses to compression and other maneuvers; unilateral or limited study	\$23.10	No Change	\$101.70
95903	Nerve conduction, amplitude and latency/velocity study, each nerve; motor, with f-wave study	\$32.54	No Change	\$41.52

#### *Fiscal Impact*

It is anticipated that these revisions will result in savings of \$2.130 million (\$1.199 million in State funds) in the Medical Assistance—Outpatient Program in Fiscal Year (FY) 2006-2007 and annualized savings of \$ 2.839 million (\$1.598 million in State funds) in FY 2007-2008.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent revision to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary of Public Welfare*

**Fiscal Note:** 14-NOT-481. No fiscal impact; (8) recommends adoption. This action is expected to generate savings of \$1.199 million in FY 2006-2007.

[Pa.B. Doc. No. 06-1461. Filed for public inspection July 28, 2006, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Cro\$\$word Doubler 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 Cro\$\$word Doubler.
2. *Price:* The price of a Pennsylvania Cro\$\$word Doubler instant lottery game ticket is \$3.00.

3. *Play Symbols:* Each Pennsylvania Cro\$\$word Doubler instant lottery game ticket will feature a "YOUR LETTERS" area and a crossword puzzle play area. The play symbols and their captions located in the "YOUR LETTERS" area are the letters A through and including Z. The play symbols located in the "Cro\$\$word Doubler" puzzle play area are: the letters A through and including Z, a black square and a "PENCIL." The "PENCIL" symbol is a free space, and when it appears in a winning combination of words, the prize won by that combination of words doubles.

4. *Prizes:* The prizes that can be won in this game are: \$3, \$5, \$10, \$20, \$40, \$50, \$100, \$200, \$500, \$1,000 and \$60,000.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Cro\$\$word Doubler instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets where the player completely uncovers 11 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets where the player completely uncovers 10 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets where the player completely uncovers 10 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets where the player completely uncovers 9 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$200.

(e) Holders of tickets where the player completely uncovers 8 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets where the player completely uncovers 9 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets where the player completely uncovers 8 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets where the player completely uncovers 7 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets where the player completely uncovers 6 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets where the player completely uncovers 7 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets where the player completely uncovers 5 words, using only the letters found in the "YOUR LETTERS" area and one of those uncovered words contains a "PENCIL" symbol, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets where the player completely uncovers 6 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets where the player completely uncovers 5 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets where the player completely uncovers 4 words, using only the letters found in the "YOUR LETTERS" area, on a single ticket, shall be entitled to a prize of \$3.

(o) A prize will be paid only for the highest Pennsylvania Cro\$\$word Doubler instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

7. *Game Play Instructions for the "Cro\$\$word Doubler" game are:*

(a) The player shall scratch the "YOUR LETTERS" area to reveal 18 letters. For each of the 18 letters revealed in the "YOUR LETTERS" area, the player shall remove the scratch-off material from the same letter each time it is found in the "Cro\$\$word Doubler" puzzle play area.

(b) When a player completely uncovers four or more words in the "Cro\$\$word Doubler" puzzle play area, the player is entitled to win a prize as described in Section 6.

(c) For purposes of this game, a word must contain at least three letters and cannot be formed by linking letters diagonally or by reading the letters from either the bottom to the top or right to left.

(d) Letters combined to form a word must appear in an unbroken horizontal or vertical string of letters in the "Cro\$\$word Doubler" puzzle play area. An unbroken string of letters cannot be interrupted by a black space and must contain every single letter square between two black spaces.

(e) Every single letter in the unbroken string must be revealed in the "YOUR LETTERS" area and be included to form a word.

(f) The possible complete words for each ticket in the game are shown on the "Cro\$\$word Doubler" puzzle play area of the ticket. The player must match all of the letters in a possible complete word in order to complete the word.

(g) When a "PENCIL" symbol appears in a winning combination of words, the player is entitled to double the prize won by that combination of words.

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>Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 12,000,000 Tickets</i>
4 WORDS	\$3	10	1,200,000
5 WORDS	\$5	16.67	720,000
6 WORDS	\$10	66.67	180,000
5 WORDS w/PENCIL	\$10	66.67	180,000
7 WORDS	\$20	100	120,000
6 WORDS w/PENCIL	\$20	100	120,000
7 WORDS w/PENCIL	\$40	200	60,000
8 WORDS	\$50	200	60,000
9 WORDS	\$100	4,000	3,000
8 WORDS w/PENCIL	\$100	4,000	3,000
9 WORDS w/PENCIL	\$200	12,000	1,000
10 WORDS	\$500	30,000	400
10 WORDS w/PENCIL	\$1,000	60,000	200
11 Words	\$60,000	600,000	20

PENCIL = Double the prize won.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cro\$Sword Doubler instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cro\$Sword Doubler prize money from winning Pennsylvania Cro\$Sword Doubler 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 Cro\$Sword Doubler instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Cro\$Sword Doubler or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-1462. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Pennsylvania Fire 'N' Dice 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 Fire 'N' Dice.

2. *Price:* The price of a Pennsylvania Fire 'N' Dice instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Fire 'N' Dice instant lottery game ticket will contain one play area consisting of ten separate "ROLLS." Each "ROLL" is played separately. Each "ROLL" features a "YOUR DICE" area and a "THEIR DICE" area. The play symbols and their captions located in the "YOUR DICE" area are: 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV) and Chip symbol (CHIP). The play symbols and their captions located in the "THEIR DICE" area are: 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN) and 11 (ELEVN).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" area of each "ROLL" are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$20,000 (TWY THO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000 and \$20,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania Fire 'N' Dice instant lottery game.

#### 7. *Determination of Prize Winners:*

(a) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$20,000 (TWY THO) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$20,000.

(b) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$500 (FIV HUN) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$50\$ (FIFTY) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$400 (FOR HUN) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$400.

(f) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$40\$ (FORTY) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$100 (ONE HUN) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$50\$ (FIFTY) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$50.

(j) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$40\$ (FORTY) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$40.

(l) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$20\$ (TWENTY)

appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$20.

(n) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any one of the "YOUR DICE" play symbols is a Chip symbol (CHIP), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in all ten "PRIZE" areas on a single ticket, shall be entitled to a prize of \$10.

(q) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$5.

(r) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$4.

(s) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets where the "YOUR DICE" play symbol is greater than the "THEIR DICE" play symbol in the same "ROLL," and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Dice Beat Their Dice, Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 10,800,000 Tickets</i>
\$1 × 2	\$2	18.75	576,000
\$2	\$2	21.43	504,000
\$1 × 4	\$4	33.33	324,000
\$2 × 2	\$4	33.33	324,000
\$4	\$4	50	216,000
\$1 × 5	\$5	75	144,000
\$5	\$5	75	144,000
\$1 × 10	\$10	375	28,800
\$1 × 10 w/CHIP	\$10	250	43,200
\$5 × 2	\$10	300	36,000
\$10	\$10	300	36,000
\$2 × 10	\$20	750	14,400
\$2 × 10 w/CHIP	\$20	375	28,800
\$10 × 2	\$20	750	14,400
\$20	\$20	750	14,400
\$4 × 10	\$40	1,500	7,200
\$4 × 10 w/CHIP	\$40	1,500	7,200
\$10 × 4	\$40	1,500	7,200
\$20 × 2	\$40	1,500	7,200
\$40	\$40	1,500	7,200

*When Any of Your Dice Beat Their Dice, Win With Prize(s) of:*

<i>Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 10,800,000 Tickets</i>
\$5 × 10	\$50	2,400	4,500
\$5 × 10 w/CHIP	\$50	2,400	4,500
\$10 × 5	\$50	2,400	4,500
\$50	\$50	2,400	4,500
\$10 × 10	\$100	6,000	1,800
\$10 × 10 w/CHIP	\$100	6,000	1,800
\$50 × 2	\$100	6,000	1,800
\$100	\$100	6,000	1,800
\$40 × 10	\$400	60,000	180
\$40 × 10 w/CHIP	\$400	60,000	180
\$400	\$400	60,000	180
\$50 × 10	\$500	60,000	180
\$50 × 10 w/CHIP	\$500	120,000	90
\$500	\$500	60,000	180
\$100 × 10	\$1,000	120,000	90
\$1,000	\$1,000	120,000	90
\$20,000	\$20,000	1,080,000	10

CHIP (CHIP) = Win all 10 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fire 'N' Dice instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Fire 'N' Dice, prize money from winning Pennsylvania Fire 'N' Dice 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 Fire 'N' Dice instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Fire 'N' Dice or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 06-1463. Filed for public inspection July 28, 2006, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority of 75 Pa.C.S.

§ 3368 (relating to speed timing devices), published at 35 Pa.B. 7068 (December 31, 2005) a notice of approved speed-timing devices and maintenance and calibration stations for use until the next comprehensive list is published.

By the authority contained in 75 Pa.C.S. § 3368(c)(2), the Department hereby gives notice of the addition of the following speed-timing devices to the list of approved electronic speed timing devices (radar) when used in the stationary mode only:

(1) Genesis GHD Hand-held model. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(2) Genesis GVP-D battery operated model. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

Comments, suggestions or questions should be directed to Peter Gertz, Manager, Admin/Tech Support Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Third Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-7016.

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

[Pa.B. Doc. No. 06-1464. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Finding

#### Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation (Department) plans to replace the existing Harmonyville Road Bridge that carries SR 4018 over French Creek in Warwick Township, Chester County. The bridge is located within and is a contributing element to the North Warwick Historic and Archaeological District, which is listed in the National Register of Historic Places.

Bridge replacement will be designed sympathetically to the historic nature of the area as part of the mitigation measures to minimize the visual impacts of the project on the historic district.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize effects.

No adverse environmental effect is likely to result from the replacement of this bridge.

RICHARD H. HOGG, P. E.,  
*Deputy Secretary for Highway Administration*

[Pa.B. Doc. No. 06-1465. Filed for public inspection July 28, 2006, 9:00 a.m.]

### Transfer of Roads in the Township of Logan, Blair County

The Department of Transportation, Bureau of Municipal Services, under the provisions of the act of May 21, 2004 (P. L. 233, No. 37), approved by the Governor on May 21, 2004, effective immediately, gives notice that the Township of Logan, by Resolution No. 06-08-06 D, adopted June 8, 2006, approved and authorized the transfer of SR 4016, in the Township of Logan, Blair County, for a distance of 4,096 feet or 0.776 mile to the Township of Logan, Blair County and the transfer of that section of Park Avenue in the Township of Logan, Blair County beginning at the existing Route T-307 (Park Avenue) Station 124 + 56.51 heading in a northerly direction to a point at Station 165 + 00.00, a distance of 4,043.49 feet or 0.766 mile and Amelia Avenue T-426 beginning at its intersection with SR 1009 (Frankstown Road) at Station 100 + 21.40; thence along T-426 in a northerly direction to its intersection with T-453 (Linn Street) at Station 109 + 50.00; thence along T-543 in a westerly direction to T-307 (Park Avenue) at station 118 + 00.00; thence along T-307 in a northerly direction to Park Avenue Extension at Station 124 + 56.51, a distance of 2,435.11 feet or 0.465 mile to be known as SR 1020 to the Commonwealth.

Further, this transfer shall be certified to the Office of Recorder of Deeds of Blair County.

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

[Pa.B. Doc. No. 06-1466. Filed for public inspection July 28, 2006, 9:00 a.m.]

### 2007 Disadvantaged Business Enterprise Participation in Federal Aviation Administration Funded Contracts

Under the authority contained in the Transportation Act for the 21st Century, act of June 9, 1998, Pub. L. No 105-178, 112 Stat. 113 (23 U.S.C.A. § 101), and in keeping with the requirements of 49 CFR Part 26 (relating to participation by disadvantaged business enter-

prises in Department of Transportation financial assistance programs), the Department of Transportation (Department) provides public notice of its 2007 goal for participation by Disadvantaged Business Enterprises (DBEs) in its Federally assisted contracts.

Pending receipt of public comments, the Department's 2007 goal is a work in progress.

As a recipient of Federal funds from the United States Department of Transportation (US DOT) through its agencies, including the Federal Aviation Administration (FAA), the Department must comply with the goal setting provisions of the US DOT DBE regulation, set forth in 49 CFR Part 26, effective March 4, 1999. The Department is mandated to submit a methodology and goal for Federally assisted contracts in accordance with the provisions of 49 CFR 26.45 and 26.51 (relating to how do recipients set overall goals; and what means do recipients use to meet overall goals). The methodology and goal must be submitted to the FAA by August 1, 2006. An important part of this process is providing notice to the public concerning the methodology used to arrive at the final goal and affording the public the opportunity to provide comments on the proposed goal.

To comply with the goal setting provisions of the DBE regulation, the Department employed the two-step process outlined in 49 CFR 26.45. Under step 1, the Department created a baseline goal using the goals of subrecipient airports. The first step in identifying qualifying recipients was to determine which recipients had received Airport Improvement Grants.

The Department calculated step 1 by calculating the ratio of DBE contractors to all contractors able to perform the pertinent work type at each subrecipient airport. When these goals are weighted according to the amount of Federal monies they receive, they yield the step 1 baseline goal.

Under Step 2 of the goal setting process, the Department examined all relevant evidence in its jurisdiction to determine what adjustments, up or down, were needed to arrive at the overall goal. Step 2 necessarily took into account other conditions or variables impacting DBEs in this Commonwealth including each airport's track record in utilizing DBE firms in the past and the records of similarly situated airports. As part of the adjustment phase, the Department gave due consideration to the specific types of work being contracted under the various AIG block grants.

Consistent with the public participation requirement for this process, the Department is making the proposed 2007 methodology and goal available for inspection and review for 45 days from the date of this notice.

The methodology and goal may be reviewed online at <http://pasdc.hbg.psu.edu/pasdc/dot/>.

The methodology and goal may also be reviewed at any of the following locations:

Bureau of Equal Opportunity  
Commonwealth Keystone Building  
400 North Street, 5th Floor  
Harrisburg, PA 17101  
(717) 787-5891  
Jocelyn I. Harper, Director

Engineering District 1-0  
255 Elm Street  
P. O. Box 398  
Oil City, PA 16301-398  
(814) 678-7105  
William G. Petit, P. E. District Executive

Engineering District 2-0  
1924-30 Daisy Street  
Clearfield, PA 16830  
(814) 765-0400  
Kevin R. Kline, P. E., District Executive

Engineering District 3-0  
715 Jordan Avenue  
Montoursville, PA 17754  
(570) 368-8686  
Sandra Tosca, P. E., Acting District Executive

Engineering District 4-0  
O'Neill Highway  
P. O. Box 111  
Dunmore, PA 18512  
(570) 963-4061  
Stephen J. Shimko, P. E., District Executive

Engineering District 5-0  
1713 Lehigh Street  
Allentown, PA 18103  
(610) 798-4100  
Amar C. Bhajandas, P. E., District Executive

Engineering District 6-0  
7000 Geerdes Blvd.  
King of Prussia, PA 19406  
(610) 205-6660  
Rina Cutler, Acting District Executive

Engineering District 8-0  
2140 Herr Street  
Harrisburg, PA 17103-1699  
(717) 787-6653  
Barry G. Hoffman, P. E., District Executive

Engineering District 9-0  
North Juniata Street  
P. O. Box 69  
Hollidaysburg, PA 16648  
(814) 696-7250  
Thomas A. Prestash, P. E., District Executive

Engineering District 10-0  
250 Oakland Avenue  
P. O. Box 429  
Indiana, PA 15701  
(724) 357-2806  
Joseph P. Dubovi, III, P. E., Acting District Executive

Engineering District 11-0  
45 Thoms Run Road  
Bridgeville, PA 15017  
(412) 429-5001  
H. Daniel Cessna, P. E., District Executive

Engineering District 12-0  
N. Gallatine Avenue Ext.  
P. O. Box 459  
Uniontown, PA 15401-0459  
(724) 439-7340  
Joseph J. Szczur, P. E., District Executive

Comments, questions or suggestions regarding this notice should be directed in writing to Jocelyn I. Harper, Director, Bureau of Equal Opportunity, Department of Transportation, P. O. Box 3251, Harrisburg, PA 17105-3251, fax (717) 772-4026.

Comments should be postmarked no later than September 12, 2006, for consideration.

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

[Pa.B. Doc. No. 06-1467. Filed for public inspection July 28, 2006, 9:00 a.m.]

### 2007 Disadvantaged Business Enterprise Participation in Federal Highway Administration Funded Contracts

Under the authority contained in the Transportation Act for the 21st Century, act of June 9, 1998, Pub. L. No 105-178, 112 Stat. 113 (23 U.S.C.A. § 101), and in keeping with the requirements of 49 CFR Part 26 (relating to participation by disadvantaged business enterprises in Department of Transportation financial assistance programs), the Department of Transportation (Department) provides public notice of its 2007 goal for participation by Disadvantaged Business Enterprises (DBEs) in its Federally assisted contracts.

Pending receipt of public comments, the Department's 2007 goal is a work in progress.

As a recipient of Federal funds from the United States Department of Transportation (US DOT) through its agencies, including the Federal Highway Administration (FHWA), the Department must comply with the goal setting provisions of the US DOT DBE regulation, set forth in 49 CFR Part 26, effective March 4, 1999. The Department is mandated to submit a methodology and goal for Federally assisted contracts in accordance with the provisions of 49 CFR 26.45 and 26.51 (relating to how do recipients set overall goals; and what means do recipients use to meet overall goals). The 2007 methodology and goal must be submitted to the FHWA by August 1, 2006. An important part of this process is providing notice to the public concerning the methodology used to arrive at the final goal and affording the public the opportunity to provide comments on the proposed goal.

To comply with the goal setting provisions of the regulation, the Department employed a two-step process, as outlined in 49 CFR 26.45. Under step 1; the Department created a baseline figure for the relative availability of "ready, willing and able DBEs" in a relevant market, derived from demonstrative evidence of local market conditions. To this end, the Department developed a definition of "ready, willing, and able DBEs" relative to any business "ready willing and able" to perform on Federally assisted Department contracts. The Department considered historical activity within specified market areas including research, engineering, service consulting and construction (prime contractors, subcontractors and suppliers). Additionally, the Department developed a ratio within market areas of "ready willing and able DBEs" relative to the universe of all other "ready willing and able" enterprises.

Under step 2, the Department examined all relevant evidence in its jurisdiction to determine what adjustments, up or down, are needed to arrive at the overall goal, taking into consideration other conditions or variables impacting DBEs in this Commonwealth. As part of this adjustment phase, the Department considered market potential based upon employment security data and other public data. The Department also considered cer-

tain changes relative to counting and certification that occurred as the result of the new regulation.

Consistent with the public participation requirement for this process, the Department is making the proposed 2007 methodology and goal available for inspection and review for 45 days from the date of this notice.

The methodology and goal may be reviewed online at <http://pasdc.hbg.psu.edu/pasdc/dot/>.

The methodology and goal may also be reviewed at any of the following locations:

Bureau of Equal Opportunity  
Commonwealth Keystone Building  
400 North Street, 5th Floor  
Harrisburg, PA 17101  
(717) 787-5891  
Jocelyn I. Harper, Director

Engineering District 1-0  
255 Elm Street  
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Oil City, PA 16301-398  
(814) 678-7105  
William G. Petit, P. E. District Executive

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Kevin R. Kline, P. E., District Executive

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715 Jordan Avenue  
Montoursville, PA 17754  
(570) 368-8686  
Sandra Tosca, P. E., Acting District Executive

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P. O. Box 111  
Dunmore, PA 18512  
(570) 963-4061  
Stephen J. Shimko, P. E., District Executive

Engineering District 5-0  
1713 Lehigh Street  
Allentown, PA 18103  
(610) 798-4100  
Amar C. Bhajandas, P. E., District Executive

Engineering District 6-0  
7000 Geerdes Blvd.  
King of Prussia, PA 19406  
(610) 205-6660  
Rina Cutler, Acting District Executive

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P. O. Box 69  
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(814) 696-7250  
Thomas A. Prestash, P. E., District Executive

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(724) 357-2806  
Joseph P. Dubovi, III, P. E., Acting District Executive

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(412) 429-5001  
H. Daniel Cessna, P. E., District Executive

Engineering District 12-0  
N. Gallatine Avenue Ext.  
P. O. Box 459  
Uniontown, PA 15401-0459  
(724) 439-7340  
Joseph J. Szczur, P. E., District Executive

Comments, questions or suggestions regarding this notice should be directed in writing to Jocelyn I. Harper, Director, Bureau of Equal Opportunity, Department of Transportation, P. O. Box 3251, Harrisburg, PA 17105-3251, fax (717) 772-4026.

Comments should be postmarked no later than September 12, 2006, for consideration.

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

[Pa.B. Doc. No. 06-1468. Filed for public inspection July 28, 2006, 9:00 a.m.]

## 2007 Disadvantaged Business Enterprise Participation in Federal Transit Administration Funded Contracts

Under the authority contained in the Transportation Act for the 21st Century, act of June 9, 1998, Pub. L. No. 105-178, 112 Stat. 113 (23 U.S.C.A. § 101), and in keeping with the requirements of 49 CFR Part 26 (relating to participation by disadvantaged business enterprises in Department of Transportation financial assistance programs), the Department of Transportation (Department) provides public notice of its 2007 goal for participation by Disadvantaged Business Enterprises (DBEs) in its Federally assisted contracts.

Pending receipt of public comments, the Department's 2007 goal is a work in progress.

As a recipient of Federal funds from the United States Department of Transportation (US DOT) through its agencies, including the Federal Transit Administration (FTA), the Department must comply with the goal setting provisions of the US DOT DBE regulation, set forth in 49 CFR Part 26, effective March 4, 1999. The Department is mandated to submit a methodology and goal for Federally assisted contracts in accordance with the provisions of 49 CFR 26.45 and 26.51 (relating to how do recipients set overall goals; and what means do recipients use to meet overall goals). The methodology and goal must be submitted to the FTA by August 1, 2006. An important part of this process is providing notice to the public concerning the methodology used to arrive at the final goal and affording the public the opportunity to provide comments on the proposed goal.

To comply with the goal setting provisions of the DBE regulation, the Department employed the two-step process outlined in 49 CFR 26.45. Under step 1; the Department first identified transit authorities receiving FTA funds from the Department during Fiscal Year (FY) 2007. These transit authorities were polled to see if they anticipated having contracting opportunity during FFY 2007. For each entity that anticipated having contracting opportunity during FFY 2007, the Department identified



the type of work being performed under the contract and counted ready, willing and able DBEs in those work types and divided it by the universe of ready, willing and able contractors in those work types. These ratios were weighted according to the projected FY 2007 contracting opportunity to create the step1 goal.

Under Step 2 of the goal setting process, the Department examined all relevant evidence in its jurisdiction to determine what adjustments, up or down, were needed to arrive at the overall goal. Step 2 necessarily took into account other conditions or variables impacting DBEs in this Commonwealth. As part of the adjustment phase, the Department gave due consideration to the geographical location of the predominantly rural Department FTA subrecipients. The Department also considered market potential based upon past DBE participation in similar projects and other public data.

Consistent with the public participation requirement for this process, the Department is making the proposed 2007 methodology and goal available for inspection and review for 45 days from the date of this notice.

The methodology and goal may be reviewed online at <http://pasdc.hbg.psu.edu/pasdc/dot/>.

The methodology and goal may also be reviewed at any of the following locations:

Bureau of Equal Opportunity  
Commonwealth Keystone Building  
400 North Street, 5th Floor  
Harrisburg, PA 17101  
(717) 787-5891  
Jocelyn I. Harper, Director

Engineering District 1-0  
255 Elm Street  
P. O. Box 398  
Oil City, PA 16301-398  
(814) 678-7105  
William G. Petit, P. E. District Executive

Engineering District 2-0  
1924-30 Daisy Street  
Clearfield, PA 16830  
(814) 765-0400  
Kevin R. Kline, P. E., District Executive

Engineering District 3-0  
715 Jordan Avenue  
Montoursville, PA 17754  
(570) 368-8686  
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(570) 963-4061  
Stephen J. Shimko, P. E., District Executive

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1713 Lehigh Street  
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P. O. Box 459

Uniontown, PA 15401-0459

(724) 439-7340

Joseph J. Szczur, P. E., District Executive

Comments, questions or suggestions regarding this notice should be directed in writing to Jocelyn I. Harper, Director, Bureau of Equal Opportunity, Department of Transportation, P. O. Box 3251, Harrisburg, PA 17105-3251, fax (717) 772-4026.

Comments should be postmarked no later than September 12, 2006, for consideration.

ALLEN D. BIEHLER, P. E.,

*Secretary*

[Pa.B. Doc. No. 06-1469. Filed for public inspection July 28, 2006, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Request For Information; Severity Adjustment Systems

To ensure that the Health Care Cost Containment Council (Council) adopts and maintains both scientifically credible and cost-effective methodology to collect and disseminate data reflecting provider quality and effectiveness, the Council is issuing a Request For Information (RFI) on severity adjustment systems/methodologies. The purpose of this RFI is to obtain information on risk adjustment/severity adjustment systems that would allow the Council to analyze the performance, reliability, operational cost and financial viability of these systems with regard to meeting the Council's data collection and reporting requirements.

Copies of the RFI are available by contacting Cherie Elias at the Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6787 or [celias@phc4.org](mailto:celias@phc4.org).

MARC P. VOLAVKA,

*Executive Director*

[Pa.B. Doc. No. 06-1470. Filed for public inspection July 28

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check its website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

*Final-Form  
Reg. No.*

*Agency/Title*

*Received*

*Public Meeting*

4-84

Department of Community and Economic  
Development  
Manufactured Housing

7/18/06

8/10/06

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-1471. Filed for public inspection July 28, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

**United Services Automobile Association and USAA  
Casualty Insurance Company; Homeowners Rate  
and Rule Revision; Rate Filing**

On July 7, 2006, the Insurance Department (Department) received from United Services Automobile Association and USAA Casualty Insurance Company a filing for a rate level and rule revision for homeowners insurance.

United Services Automobile Association requests an overall 3.9% decrease amounting to \$1.164 million annually, to be effective January 1, 2007.

USAA Casualty Insurance Company requests an overall 3.9% decrease amounting to \$716,000 annually, to be effective January 1, 2007.

Unless formal administrative action is taken prior to September 5, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1472. Filed for public inspection July 28, 2006, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Document Number Revision

The July 22, 2006, issue of the *Pennsylvania Bulletin* (Volume 36, No. 29, pages 3791—3966) contained incorrect document numbers. The following table lists the incorrect number and its corrected version:

*Incorrect Document Number    Correct Document Number*

1259	1372
1260	1373
1261	1374
1262	1375
1263	1376
1264	1377
1265	1378
1266	1379
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<i>Incorrect Document Number</i>	<i>Correct Document Number</i>
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MARY JANE PHELPS,  
*Director*  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 06-1473. Filed for public inspection July 28, 2006, 9:00 a.m.]

**PENNSYLVANIA PUBLIC  
UTILITY COMMISSION**

**Captioned Telephone Voice-Carry-Over Service;  
Request for Proposals**

Enclosed is a Request for Proposal (RFP) issued by the Pennsylvania Public Utility Commission (Commission),

Bureau of Fixed Utility Services (FUS), for captioned telephone voice-carry-over relay service (CTVRS). Through this RFP, the Commission is seeking technology to enable individuals who are hard-of-hearing and speech-enabled to communicate, within and to and from Pennsylvania, by telephone with other individuals and businesses by access to telecommunications service that is functionally equivalent to regular telephone service. The nature of the captioning is up to the prospective contractor so long as the requisite speed, accuracy, and reliability of the captioning requirements are met or exceeded.

Questions concerning the RFP must be submitted via email to Robert A. Rosenthal, Director, FUS, at [rosenthal@state.pa.us](mailto:rosenthal@state.pa.us). All questions submitted by noon on August 18, 2006, will be responded to in writing at the pre-proposal conference. The pre-proposal conference is scheduled for August 22, 2006, at 2:00 p.m., in Hearing Room 5 in the Commonwealth Keystone Building in Harrisburg, PA. The Commonwealth Keystone Building, 400 North St., is located on the southwest corner of Forster and Commonwealth Avenues. Attendance at the pre-proposal conference by prospective contractors is optional. Please RSVP by email your intention to attend or not attend the pre-proposal conference. Requests for meeting room accommodations and/or access to a conference bridge should be emailed to Director Rosenthal at least 48 hours prior to the pre-proposal conference.

Responses to this RFP must be complete and consistent with the instructions set forth in the RFP. Responses to this RFP are due in hand at the FUS offices, 3rd Floor West, Commonwealth Keystone Building in Harrisburg, by 1:30 p.m. on September 11, 2006. The mail-box rule is NOT APPLICABLE. Responses will be filed at Folder 13 of the M-00900239 Telephone Relay Service docket.

Thank you for your interest in CTVRS. We look forward to meeting with you to discuss this request.

Sincerely,

Tom Charles  
*CTVRS Committee Chair*

**REQUEST FOR PROPOSALS  
FOR  
CAPTIONED TELEPHONE VOICE-CARRY-OVER  
RELAY SERVICE  
(CTVRS)  
ISSUING OFFICE:  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
RFP NUMBER:  
2005-2  
DATE OF ISSUANCE:  
July 29, 2006**

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**REQUEST FOR PROPOSALS FOR  
CAPTIONED TELEPHONE VOICE-CARRY-OVER RELAY SERVICE (CTVRS)**

**PART I**

**GENERAL INFORMATION FOR THE CONTRACTOR**

**I-1. PURPOSE AND BACKGROUND INFORMATION.** This Request for Proposals (RFP) is intended to provide interested persons with sufficient information to enable them, as prospective contractors, to prepare and submit proposals for consideration by the Pennsylvania Public Utility Commission (Commission or PUC) for captioned telephone voice-carry-over relay service (CTVRS). CTVRS users receive both the voice and written captions of the conversation. CTVRS combines the spoken word with the printed word visible on the telephone set during a telephone conversation. It also includes voice mail, E-911, and other customary telephone services. CTVRS users are individuals with the ability to speak and be understood over a telephone and typically fall into one or more of the following categories:<sup>1</sup>

- Individuals with significant hearing loss.
- Late-deafened individuals accustomed to using the telephone.
- Hearing aid and cochlear implant users of all ages.
- Individuals who are deaf and have speech skills.

The Commission conducted a stand-alone trial (CapTel Trial) using the proprietary captioning technology of Ultratec Inc. (Ultratec), the private call center of CapTel Inc. (CTI), and the proprietary customer premises equipment from Weibrecht Inc. (WCI). This trial has evolved into Interim Service. The CapTel Trial and Interim Service providers have indicated that their business plans do not contemplate entering into a long-term arrangement to provide CTVRS in Pennsylvania or to any state either under a certificate of public convenience or pursuant to a contract. The CapTel Trial and the Interim Service used voice recognition captioning, which has proved faster than the typed text of regular telephone relay service (TRS) service.

Proposals in response to this RFP may propose using the Ultratec/CTI/WCI proprietary system or some other system functionally equivalent to regular telephone service. While the Commission will not be a party to any arrangements the contractor has made or may make with Ultratec/CTI/WCI or with any other entity for the provision of CTVRS, such arrangements must be disclosed in the proposal (or prior to the time such an arrangement is entered into if undertaken after the proposal is submitted or after a contract is awarded). Details of such arrangements may be designated "proprietary" if they meet the regulatory standards for proprietary treatment. *See* 52 Pa. Code § 5.423(a).

The Commission is seeking CTVRS that is functionally equivalent to regular telephone service. The nature of the captioning is up to the prospective contractor so long as the requisite speed, accuracy, and reliability of the captioning is met or exceeded.

**I-2. ISSUING OFFICE.** This RFP is issued by the Pennsylvania Public Utility Commission, Bureau of Fixed Utility Services. The Commission ensures safe, reliable, and reasonably priced electric, natural gas, water, telephone, and transportation service for Pennsylvania consumers by regulating public utilities and by serving as a responsible steward of competition.

<sup>1</sup> The term "CTVRS user" also may include the person calling someone with a CTVRS telephone.

The Issuing Office is the sole point of contact in the Commonwealth of Pennsylvania (Commonwealth) for this RFP (except for Disadvantaged Business or Enterprise Zone matters, in which case, *see* Section I-12 and I-13 for contact information).

**First Class Mail and Overnight Mailing Address for Issuing Office:**

Pennsylvania Public Utility Commission  
Bureau of Fixed Utility Services  
Robert A. Rosenthal, Director  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
Phone: 717-783-5242  
FAX: 717-787-4750

Inquiries may be directed to Director Rosenthal, or his designee, at 717-783-5242 or [rrosenthal@state.pa.us](mailto:rrosenthal@state.pa.us).

**I-3. SCOPE.** This RFP contains instructions governing the proposals to be submitted and the material to be included therein, a description of the service to be provided, requirements that must be met to be eligible for consideration, general evaluation criteria, and other requirements to be met by each proposal.

**I-4. PROBLEM STATEMENT.** The Commission is seeking to ensure that the hard-of-hearing, speech-enabled population of Pennsylvania have access to functionally equivalent telephone service by providing individuals and businesses in Pennsylvania access to CTVRS or other technology that accomplishes the same goal as CTVRS. *See* Part IV, Work Statement, for a detailed description of the work to be done and the standards according to which the work must be done.

**I-5. TYPE OF CONTRACT.** The successful contractor will negotiate with the Commission a detailed contract consistent with the standard Commonwealth contract terms and conditions for services.

Payments to the contractor on a contract entered into as a result of this RFP will be made based upon the rate schedule adopted for a fixed fee contract with reimbursement monthly for actual minutes of use. To the extent that any changes as a result of contract negotiations affect the cost of performing the contract, adjustments to the compensation described in the proposal will be negotiated with the selected contractor.

**I-6. REJECTION OF PROPOSALS.** The Commission reserves the right to reject any and all proposals or portions thereof received as a result of this RFP.

**I-7. INCURRING COSTS.** The Commission is not liable for any cost incurred by prospective contractors prior to issuance of a contract. The contractor shall not begin compensable work until so notified by the Commission's Project Officer.

**I-8. PRE-AWARD NEGOTIATIONS WITH RESPONSIBLE PROSPECTIVE CONTRACTOR.** Pre-award negotiations may be undertaken with a prospective contractor whose proposal as to financial fitness, technical competence, managerial expertise, regulatory compliance, and cost show it to be qualified, responsible, and capable of performing the work currently and in the future. Such a responsive proposal is one that also conforms in all material respects to the requirements and criteria in the RFP.

**I-9. AMENDMENT TO THE RFP.** If it becomes necessary to revise any part of this RFP, an amendment will be posted on the Commission website and issued to all prospective contractors that received the basic RFP if prior to the response date.

**I-10. RESPONSE DATE.** To be considered, a proposal or any addendum thereto must arrive at the Issuing Office on or before the date and time specified in the cover letter. Prospective contractors mailing proposals should

allow normal mail delivery time to ensure timely receipt of their proposals. **Proposals and addenda received after the time and date specified in the cover letter will not be considered regardless of the reason for the late submission.**

**I-11. PROPOSALS.** To be considered, prospective contractors must submit a complete response to this RFP, using the format provided in Part II. Each proposal must be submitted by mailing eight (8) hard copies and one (1) electronic copy (Word, Word-compatible, or PDF) on disk to Director Rosenthal at the Issuing Office address. Prospective contractors shall make no other distribution of proposals. Each proposal must be signed by an official authorized to bind the prospective contractor to its provisions. For this RFP, a proposal must remain valid for at least 120 days or for the duration of negotiations, whichever is longer. Moreover, except as otherwise noted herein, the contractor commitments and representations in the proposal of the selected contractor and obligations specified in the RFP will become contractual obligations and binding on the selected contractor if a contract is entered into unless expressly excluded in the contract. Burdens or obligations any proposal seeks to place on the Commission shall not be binding on the Commission unless expressly accepted by the Commission in the contract. Confidentiality of communications obligations survive the termination of this contract.

**I-12. DISADVANTAGED BUSINESS INFORMATION.**<sup>2</sup> The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration-certified small disadvantaged businesses or 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the Offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin, or gender.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Minority and Women Business Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 787-6708

<sup>2</sup> If the contract resulting from this RFP involves the use of Federal highway, transit, or aviation funds originating from the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA), or the National Highway Transportation Safety Administration (NHTSA), then the requirements of the Federal Disadvantaged Business Enterprise (DBE) Program set forth in Title 49 Code of Federal Regulations Part 26 must be adhered to in lieu of the standard requirements and criteria set forth in this RFP at Sections I-12, I-13, II-7, III-3c, and IV-14.



Fax: (717) 772-0021  
Email: [gs-bmwbo@state.pa.us](mailto:gs-bmwbo@state.pa.us)

Program information and a database of BMWBO-certified minority- and women-owned businesses can be accessed at [www.dgs.state.pa.us](http://www.dgs.state.pa.us), DGS Keyword: BMWBO. The federal vendor database can be accessed at <http://www.ccr.gov> by clicking on Dynamic Small Business Search (certified companies are so indicated).

**I-13. SMALL BUSINESSES IN ENTERPRISE ZONES INFORMATION.** The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as Designated Enterprise Zones, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes, but is not limited to, an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small businesses located in Designated Enterprise Zones. Information on the location of Designated Enterprise Zones can be obtained by contacting:

Aldona M. Kartorie  
Center for Community Building  
PA Department of Community and Economic Development  
4<sup>th</sup> Floor, Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120-0225  
Phone: (717) 720-7409  
Fax: (717) 787-4088  
Email: [akartorie@state.pa.us](mailto:akartorie@state.pa.us)

**I-14. MANNER OF PROVIDING SERVICE.** The contracted service may be provided in any of several manners, including, but not limited to:

- Entirely by the entity awarded the contract,
- By a joint venture,
- By an administrator dealing with a service provider, or
- By an entity in the role of prime contractor with any combination of subcontractors.

To the extent that an entity or entities other than the prospective contractor will be intrinsically involved with the provision of the subject contract service or any part of the subject contract service, such other entity or entities must be fully identified in the proposals. A prospective contractor that contemplates the use of any other entity or entities must provide in its proposal all financial, managerial, and technical information relating to the other entity's/entities' fitness to provide the service, as is required of the prospective contractor.

If at any time after a contract is awarded, the selected contractor contemplates entering into any arrangement relative to the subject contract service by which another entity or entities would be intrinsically involved in the provision of the subject contract service or any part or aspect of the subject contract service, such other entity or entities must be fully identified and will be subject to a review of fitness prior to the Commission approving such an arrangement.

**I-15. CONTRACTOR RESPONSIBILITIES.** The contractor will be required to assume responsibility for all services offered in its proposal, including those of any subcontractors, affiliates, joint venturers, or other entities

involved in the provision of service. Further, the Commission will consider the contractor to be the sole point of contact with regard to contractual matters.

**I-16. ECONOMY OF PREPARATION.** The proposal should be a straight-forward, concise description of the prospective contractor's ability to meet the requirements of the RFP.

**I-17. DISCUSSIONS FOR CLARIFICATION.** Prospective contractors may be required to make an oral or written clarification of their proposal to the Commission's Evaluation Committee to ensure thorough mutual understanding and contractor responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

**I-18. BEST AND FINAL OFFERS.** To obtain best and final offers from prospective contractors, the Commission may do one or more of the following: (a) enter into negotiations, (b) schedule oral presentations, and (c) request revised proposals.

**I-19. COPIES OF PREVIOUS WORK.** Prospective contractors should provide copies of any recent, relevant work product for review by the staff. These work products should be submitted at the same time as the proposal and may be redacted, as necessary, to preserve confidentiality.

**I-20. NEWS RELEASES.** News releases pertaining to the RFP will not be made without prior Commission approval, and then only in coordination with the Issuing Office.

**I-21. DISCLOSURE OF PROPOSAL CONTENTS.** Proposals will be held in confidence and will not be revealed or discussed with competitors, unless disclosure is required to be made (i) under the provisions of any Commonwealth or United States statute or regulation, or (ii) by rule or order of any court of competent jurisdiction. If a contract is executed, however, the successful proposal submitted in response to this RFP shall be subject to disclosure. All material submitted with the proposal becomes the property of the Pennsylvania Public Utility Commission and may be returned only at the Commission's discretion. Proposals submitted to the Commission may be reviewed and evaluated, at the discretion of the Commission, by any person other than competing contractors. The Commission has the right to use any or all ideas presented in any proposal. Selection or rejection of the proposal does not affect this right.

**I-22. TERM OF CONTRACT.** The contract will commence on the Effective Date, which shall be fixed by the Issuing Office after all approvals required by the Commonwealth contracting procedures have been obtained and the contract has been fully executed by the contractor and by the Commission. The contract will be for a term beginning on the Effective Date and ending on June 30, 2009. The contract may be extended for one (1) subsequent 2-year period and one (1) subsequent 90-day period at the option of the Commission.

**I-23. NON-EXCLUSIVE OPERATIONS.** The opportunity and obligation to provide CTVRS service under a contract awarded pursuant to this RFP is not guaranteed to be an exclusive franchise. Because of the fixed time limits, rate controls, and remedies built into this process, the Commission will not actively seek to obtain multiple CTVRS providers at this time, but will not preclude alternate qualified providers or technologies from attempting to serve market demands now or in the future.

**I-24. COMMISSION PARTICIPATION.** A staff Project Officer will be designated by the Commission to coordinate the activities of the contractor with the Commission to ensure satisfactory performance of the contract when awarded. The Commission's Project Officer or his/her designee(s) will be the sole source of contact for the contractor in any discussions with the Commission.

**I-25. COST DATA.** All Cost Data for the proposal shall be submitted in a separately sealed envelope and kept separate from the technical proposal. **Failure to meet the separately-sealed requirement will result in disqualification of the proposal.** Only one (1) copy of Cost Data is necessary.

**I-26. DISADVANTAGED BUSINESSES DATA.** All Disadvantaged Business information required for the proposal (*See also* Section II-7) shall be submitted in a separately bound and sealed document and kept separate from the technical and cost sections of the proposal. The dollar value designated for Disadvantaged Business commitments must be placed in a separate sealed envelope within the separately bound and sealed Disadvantaged

Business document of the proposal. **Failure to meet these requirements will result in no points being awarded to the prospective contractor regarding the enhancement and utilization criteria.**

**I-27. CONTRACTOR'S REPRESENTATIONS AND AUTHORIZATIONS.** Each prospective contractor, by submitting its proposal, understands, represents, and acknowledges the following:

- a. All information provided by, and representations made by, the prospective contractor in the proposal are material and important and will be relied upon by the Issuing Office in awarding the contract(s). Any misstatement shall be treated as fraudulent concealment from the Issuing Office of the true facts relating to the submission of this proposal. A misrepresentation shall be punishable under 18 Pa. C.S. § 4904.
- b. The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other contractor or potential contractor.
- c. Neither the price(s) nor the amount of the proposal, and neither the approximate price(s) nor the approximate amount of this proposal, have been disclosed to any other firm or person who is a contractor or potential contractor, and they will not be disclosed on or before the proposal submission deadline specified in the cover letter to this RFP.
- d. No attempt has been made or will be made to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- e. The proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal. In this regard, the contractor must complete and execute the Noncollusion Affidavit, attached hereto as Appendix A, and submit it with the contractor's proposal. **Failure to file a Noncollusion Affidavit with the contractor's proposal will result in the proposal being disqualified.**
- f. To the best knowledge of the person signing the proposal for the contractor, the contractor, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted, found liable, or pled guilty for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as disclosed by the contractor in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the contractor and except as otherwise disclosed by the contractor in its proposal, the contractor has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the contractor that is owed to the Commonwealth.
- h. The contractor is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government, and if the contractor cannot certify, then it shall submit along with the proposal a written explanation of why such certification cannot be made.
- i. The contractor has not, under separate contract with the Issuing Office, made any recommendations to the Issuing Office concerning the need for the services described in the proposal or the specifications for the services described in the proposal.
- j. Each contractor, by submitting its proposal, authorizes all Commonwealth agencies to release to the Commission information related to liabilities to the Commonwealth including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.
- k. Until the selected contractor receives a fully executed and approved written contract from the Issuing Office there is no legal and valid contract, in law or in equity, and the contractor should not begin to perform.

**I-28. NOTIFICATION OF SELECTION.** The prospective contractor whose proposal is determined to be the most responsible and advantageous to the Commission, as determined by the Issuing Office, after taking into consideration all of the evaluation factors, shall be notified in writing of its selection for negotiation.

**I-29. RFP PROTEST PROCEDURE.**

**a. Who May File a Protest.** Any actual or prospective contractor that is aggrieved in the solicitation or award of the contract may file a protest.

**b. Time and Place for Filing.**

**i.** A protest by a party not submitting a proposal must be filed within seven (7) days after the protesting party knew or should have known of the alleged facts giving rise to the protest, but no later than the proposal submission deadline specified in the cover letter to the RFP. Entities that submitted a proposal may file a protest within seven (7) days after the protesting entity knew or should have known of the alleged facts giving rise to the protest, but in no event may a protest be filed later than seven (7) days after the date of the notice of selection. The date of filing is the date of receipt of the protest by the Commission.

**ii.** A protest must be in writing and filed with:

Pennsylvania Public Utility Commission  
 Karen Moury, Director of Operations  
 P.O. Box 3265  
 Harrisburg, PA 17105-3265  
 Phone: (717) 772-8883  
 FAX: 717-787-3417

**c. Contents of Protest.** A protest shall state all grounds upon which the protesting party asserts the RFP or selection was improper. The protesting party may submit with the protest any documents or information it deems relevant.

**d. Notice of Protest.** The Issuing Office shall notify the successful contractor of the protest if selection has been made. If the protest is received before selection and substantial issues are raised by the protest, all contractors who appear to have a substantial and reasonable prospect of selection shall be notified and may file their agreement/disagreement with the protest within five (5) days after receipt of notice of the protest.

**e. Stay of Procurement.** Upon receipt of a timely protest, the Issuing Office shall not proceed further with the solicitations or with the award of the contract and shall suspend performance under the contract, if awarded, unless: the Director of Operations (DO) makes a written determination that the protest is clearly without merit or that award of the contract without delay is necessary to protect the substantial interests of the Commonwealth.

**f. Response and Reply.** Within 15 days of receipt of the protest, the Contracting Officer may submit to the DO and to the protesting party a response to the protest. The protesting party may file a reply to the response within 10 days of the date of the response.

**g. Procedures.** The DO shall review the protest and any response or reply. The DO may decide the merits of the protest on the written, submitted documentation; request and review any additional documents or information necessary to render a determination; or, in the DO's sole discretion, conduct a hearing.

**h. Determination.** The DO shall promptly, but in no event later than 60 days from the filing of the protest, issue a written determination. The determination shall:

**i.** State the reason for the decision.

- ii. Inform the protesting contractor of its right to file an action in Commonwealth Court within 15 days of the mailing date of the decision.

The DO shall send a copy of the determination to the protesting party and any other person determined to be affected by the decision. The DO may elect a designee to carry out the procedures in this part.

**I-30. BREACH OF CONTRACT AND PENALTIES.** Unexcused failure to carry out the duties and responsibilities of the contract shall put the contractor in breach of the contract. Penalties for breach of the contract shall accrue per-day, per-failure, to be recovered by an action of assumpsit. Each day of a continuing failure shall be a separate and distinct breach. The amount of penalty when finally determined may be deducted from any sums owing under the contract. Additionally, the Commission shall have the right to terminate the contract if breached.

**I-31. SEPARATION OF OPERATIONS.** It is recognized that the contractor may provide other telecommunications services, either as a public utility or not, within the Commonwealth or elsewhere. To the extent that there are resources jointly used in the CTVRS operations and other operations, the cost of such jointly used resources must be clearly delineated and allocated such that the Pennsylvania CTVRS operations do not subsidize the other operations.

**I-32. QUESTIONS ABSENT A PRE-PROPOSAL CONFERENCE.** In the absence of a pre-proposal conference for this RFP, please forward any questions to the Issuing Officer according to the following information. If a prospective contractor has any questions regarding this RFP, the prospective contractor must submit the questions by e-mail with the subject line "RFP 2005-2 CTVRS Question" to the Issuing Officer named in Section I-2 of this RFP. Any questions must be submitted via e-mail **no later than** noon August 18, 2006. Prospective contractors shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the questions with answers on the Commission's website by August 23, 2006. All questions and answers as posted on the Commission's website are considered as an addendum to, and part of, this RFP.

## PART II

### INFORMATION REQUIRED FROM PROSPECTIVE CONTRACTORS

Proposals must be submitted in the format, including heading descriptions, outlined below. Prepare consecutively numbered pages with index tabs for each section outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. Each proposal shall consist of three (3) separately sealed submittals. The submittals are as follows: (i) Technical Submittal, in response to Sections II-1 through II-5 and II-9 hereof (eight hard copies and one electronic copy on disk); (ii) Cost Submittal, in response to Section II-6 hereof (one hard copy); and (iii) Disadvantaged Business/Enterprise Zone Submittal, in response to Section II-7 hereof (one hard copy).

The Commission reserves the right to request additional information that, in the Commission's opinion, is necessary to verify that the prospective contractor's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the contract.

The Commission may make such investigations as it deems necessary to determine the ability of the prospective contractor to perform the work, and the prospective contractor shall furnish to the Commission all such information and data for this purpose as requested by the Commission. The Commission reserves the right to reject any proposal if the evidence submitted by, or investigation of, such prospective contractor fails to satisfy the Commission that such contractor is properly qualified to carry out the obligations of the agreement and to complete the work specified.

**II-1. STATEMENT OF THE PROBLEM.** State in succinct terms your understanding of the problem presented or services required by this RFP.

**II-2. MANAGEMENT SUMMARY.** Include a narrative description of the proposed effort and a descriptive list of the items to be delivered and services to be provided.

**II-3. WORK PLAN.** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as reference points. The task descriptions should be in sufficient depth to afford the Commission a thorough understanding of your work plan. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained.

**II-4. PRIOR EXPERIENCE AND REFERENCES.** Submit a statement of similar work. Experience shown should be work done by individuals and any subcontractor(s) who will be assigned to this project. Projects referred to should be identified with the name of the client, including the name, address, and phone number of a responsible person who may be contacted.

**II-5. PERSONNEL.** Include the names and résumés of all personnel and subcontractor(s) who will be engaged in the work, identifying their education and specific experience/role(s), particularly CTVRS and utility-related experience.

**II-6. COST AND PRICE ANALYSIS.** The information requested in this section is required to support the reasonableness of your quotation. The rate shall be submitted in such detail that all elements of debt, equity (capital costs), and operating expenses are provided in schedule form. Each element of the rate that adds to produce one session minute of use (MOU) shall be detailed in schedule form, including any subcontractor costs. The MOU rate and adherence to contract provisions will be subject to Commission audit in conformity with Commission rules, regulations, orders, and policies. There should be a scaled-in volume discount pricing as MOUs increase. **This portion of the proposal must be bound and sealed separately from the remainder of the proposal. Failure to meet this requirement will result in automatic disqualification of the proposal.**

**II-7. DISADVANTAGED BUSINESS SUBMITTAL.**

**a. Disadvantaged Business Information.**

- i) To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:
  - 1) A Small Disadvantaged Businesses certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.
  - 2) Small Disadvantaged Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. § 636(a)) as an 8(a) or small disadvantaged business must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.
  - 3) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must attest to the fact that the business has 100 or fewer employees.
  - 4) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

- ii) All businesses claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business Submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:
- 1) Be rooted in treatment that the business person has experienced in American society, not in other countries.
  - 2) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
  - 3) Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the Offeror has established that a business is socially disadvantaged by clear and convincing evidence.

- iii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
- 1) The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business.
  - 2) The business name, address, name and telephone number of the primary contact person for each Small Disadvantaged Business included in the proposal. The Offeror must specify each Small Disadvantaged Business to which it is making commitments. The Offeror will not receive credit for stating that it will find a Small Disadvantaged Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
  - 3) The specific work, goods or services each Small Disadvantaged Business will perform or provide.
  - 4) The estimated dollar value of the contract to each Small Disadvantaged Business.
  - 5) Of the estimated dollar value of the contract to each Small Disadvantaged Business, the percent of the total value of services or products purchased or subcontracted that will be provided by the Small Disadvantaged Business directly.
  - 6) The location where each Small Disadvantaged Business will perform these services.
  - 7) The timeframe for each Small Disadvantaged Business to provide or deliver the goods or services.
  - 8) The amount of capital, if any, each Small Disadvantaged Business will be expected to provide.
  - 9) The form and amount of compensation each Small Disadvantaged Business will receive.

## NOTICES

- 10) For a joint venture agreement, a copy of the agreement, signed by all parties.
- 11) For a subcontract, a signed subcontract or letter of intent.
- iv) The Offeror is required to submit only **one** copy of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.
- v) The Offeror must include the dollar value of the commitment to each Small Disadvantaged Business in the same sealed envelope with its Disadvantaged Business Submittal. The following will become a contractual obligation once the contract is fully executed:
  - 1) The amount of the selected Offeror's Disadvantaged Business commitment;
  - 2) The name of each Small Disadvantaged Business; and
  - 3) The services each Small Disadvantaged Business will provide, including the timeframe for performing the services.
- vi) A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
- vii) An Offeror that qualifies as a Small Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

**b. Enterprise Zone Small Business Participation.**

- i) To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:
  - 1) Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.
  - 2) Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
  - 3) Proof of United States citizenship of the owners of the business.
  - 4) Certification that the business employs 100 or fewer employees.
  - 5) Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
  - 6) Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.



- ii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
- 1) The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.
  - 2) The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
  - 3) The specific work, goods or services each Enterprise Zone Small Business will perform or provide.
  - 4) The estimated dollar value of the contract to each Enterprise Zone Small Business.
  - 5) Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.
  - 6) The location where each Enterprise Zone Small Business will perform these services.
  - 7) The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.
  - 8) The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.
  - 9) The form and amount of compensation each Enterprise Zone Small Business will receive.
  - 10) For a joint venture agreement, a copy of the agreement, signed by all parties.
  - 11) For a subcontract, a signed subcontract or letter of intent.
- iii) The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:
- 1) The amount of the selected Offeror's Enterprise Zone Small Business commitment;
  - 2) The name of each Enterprise Zone Small Business; and
  - 3) The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

**II-8. FINANCIAL REVIEW.** The contractor and all subcontractors must each provide proof of financial capability to undertake and successfully perform the project. Therefore, to satisfy this requirement, the applicant shall submit a certified financial statement, including all applicable notes that reflect the assets, liabilities, net worth,

revenues and expenses, profit or loss and cash flow for the most recent calendar year or the most recent fiscal year. In addition, the contractor and all subcontractors must each provide a signed copy of the most recent federal and state tax returns and a bank reference. If these documents are not available, please explain why not. New entities should submit a set of prospective financial statements, compiled by a CPA, for the first year of operations. Alternatively, new entities may submit a parent's financial information as a substitute for historical information on the newly formed subsidiary, coupled with a commitment from the parent to support the subsidiary's endeavors pursuant to the RFP and resulting contract.

**II-9. TIME ESTIMATES.** For each task in the Work Plan, estimate the number of staff hours required for completion. Include a Project Schedule type display, time- related, showing each event. In addition, provide a schedule indicating the estimated staff hours each individual (project management or lead personnel, professional support personnel, and administrative support personnel) will spend on the various functions or task areas. **Note that the schedule of estimated staff hours each individual will spend on the various task areas for implementation and for ongoing service must be included in the Technical Submittal WITHOUT ASSOCIATED COSTS as well as in the separately bound Cost Submittal with associated costs.** Again, the Technical Submittal must not include any cost data.

### **PART III**

#### **CRITERIA FOR SELECTION**

**III-1. MANDATORY RESPONSIVENESS REQUIREMENTS.** To be eligible for selection, a proposal must be (a) timely received from a prospective contractor, (b) properly signed by the prospective contractor, and (c) formatted such that all Cost Data and Disadvantaged Business/Enterprise Zone information are kept separate from and not included in the Technical Submittal.

**III-2. EVALUATION.**

- a. All proposals received shall be subject to evaluation by a committee of qualified Commission personnel and Commission invitees for the purpose of selecting the proposal that most closely meets the requirements of the RFP.
- b. Disadvantaged Business Participation and Enterprise Zone Small Business Participation factors will be evaluated by BMWBO and submitted to the Commission's evaluation committee as a combined score.
- c. The committee's selection shall be subject to the approval of the Commission. The Commission reserves the right to exercise discretion in selecting the qualified contractor that best meets the RFP requirements and the needs of the Commission.

**III-3. CRITERIA FOR SELECTION.** The following criteria will be used in evaluating the proposals and in making the selection. They are listed in relative importance from the highest to the lowest weighted factors:

- a. **Operational, Technical, and Functional Aspects.**
  - i. **Work Plan.** Emphasis here is on the soundness of the prospective contractor's approach to providing CTVRS. Also considered in this category will be the prospective contractor's compliance with specific RFP requirements.

- ii. Prior Work and References.** This includes the ability of the prospective contractor to meet the terms of the RFP, especially regarding the quality, relevancy, and recentness of projects completed by the contractor. Knowledge and technical expertise in the telecommunications industry, particularly with regard to CTVRS, will be considered. References will be contacted by members of the evaluation committee.
- iii. Professional Personnel.** This refers to the competence and appropriate assignment of the project management or lead personnel, professional support personnel, and administrative support personnel who are proposed for each task area. Qualifications of personnel will be measured by education and experience, with particular emphasis on experience with projects similar to that described in the RFP.
- b. Cost.** While this area will be weighted heavily, it will not necessarily be the deciding factor in the selection process.
- c. DB/EZSB Participation. (To be scored by DGS)**
- i. Disadvantaged Business Participation:** Evaluation will be based upon the following in order of priority:

<b>Priority Rank 1</b>	Proposals submitted by Small Disadvantaged Businesses.
<b>Priority Rank 2</b>	Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.
<b>Priority Rank 3</b>	Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.
<b>Priority Rank 4</b>	Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the above-listed priority ranking.

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than **40%** of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than **40%** of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

- ii. Enterprise Zone Small Business Participation:** The following options will be considered as part of the final criteria for selection:

<b>Priority Rank 1</b>	Proposals submitted by an Enterprise Zone Small Business will receive the highest score.
<b>Priority Rank 2</b>	Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.
<b>Priority Rank 3</b>	Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.
<b>Priority Rank 4</b>	Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

#### **PART IV**

##### **WORK STATEMENT**

##### **OPERATIONAL, TECHNICAL, AND FUNCTIONAL STANDARDS**

**IV-1. COMPLIANCE WITH STANDARDS.** All minimum standards, regulations, orders, and policies adopted by the FCC or this Commission are incorporated and required in this RFP whether or not they are specifically mentioned, named, or referred to in this RFP. Any future standards, regulations, orders, and policies that the FCC or the Commission may implement while this contract is in force will apply and must be adhered to by the contractor. In particular, all CTVRS providers (contractors and sub-contractors) will comply with or exceed the FCC guidelines and mandatory minimum standards at 47 C.F.R. § 64.604.

**IV-2. CTVRS SPECIFICATIONS AND AVAILABILITY.** The proposal should provide details as to the methods of meeting the following minimum CTVRS standards:

- a. Provide CTVRS 24 hours a day, 7 days a week, and 365 days a year. Explain how service will be maintained during scheduled and unscheduled maintenance periods, network and power outages, and outages otherwise attributed to Acts of God. *See* Appendix D for the applicable service level agreement (SLA).
- b. Develop and describe contingency plans for maintaining 24/7/365 operational status. Each potential contractor must certify that it and its affiliates, suppliers, and subcontractors to be involved in the provision of CTVRS meet or exceed the requirements set forth in Appendix E – Certification Relative to Business Continuity. This certification must be renewed annually by the contractor. *See* Appendix E for the requisite initial and annual certification form. The requirement of 24/7/365 operations applies at all times, and specifically during impairment of contractor’s service or of underlying supplier’s service regardless of whether the subcontractor is intrinsically involved in the CTVRS service (e.g., third-party call center, trunk lines, etc.) or is providing other goods or services (e.g., power, manpower, etc.), including but not limited to:
  - i. Adequate and immediate auxiliary power for call center operation during commercial power failure.

- ii. Adequate and immediate back-up or redundancy for service-affecting outages and disruptions, regardless of whether such outages or disruptions are scheduled, routine, maintenance-driven, otherwise unforeseen or unplanned, or attributed to Acts of God.
  - iii. Uninterruptible power supply.
- c. Comply with P.01 customary TRS industry standards. Traffic Reports indicating CCS (hundred call seconds) loads and grade of service on all CTVRS trunks are due to the Commission by the 15<sup>th</sup> day of each month for the previous month's traffic. See Appendix D for the applicable SLA.
- d. Provide adequate and immediate auxiliary power for call center operation during commercial power failure. Provide adequate and immediate back-up or redundancy for service-affecting outages and disruptions, regardless of whether such outages or disruptions are scheduled, routine, maintenance-driven, otherwise unforeseen or unplanned, or attributed to Acts of God. Develop and describe contingency plans for outages of contractor's service or of underlying suppliers – whether intrinsically involved in the CTVRS service (e.g., third-party call center, trunk lines, etc.) or providing other goods or services (e.g., power, manpower, etc.) Prospective contractors must explain how they will accomplish this, especially in the event of service disruptions.
- e. Allow CTVRS users to place all network call types commonly supported by TRS.
- f. Make available to users the opportunity to speak with a CA's supervisor in the event of an issue with service. Supervisors should be available 24 hours a day, 7 days a week, and 365 days a year for such matters. Minutes spent talking with supervisors are not compensable as CTVRS minutes even if CTVRS services are required to handle the communication. See Appendix D for the applicable SLA.
- g. Provide a single toll-free access phone number for CTVRS users. All calling party calls to the call center must be toll-free. See Appendix C – Outsourcing Programs Using 800 Service for information on opting into the Commonwealth's 800 Service contract. While CTVRS is not an outsourced application, the contractor may be able to participate in the Commonwealth's 800 Service contract. Such participation is voluntary on the part of the contractor and the 800 Service provider.
- h. Allow access to the call center via "711" abbreviated dialing.
- i. Relay local, intrastate, interstate, and international calls that originate or terminate in Pennsylvania.
- j. Impose no restrictions on a user for the length or number of calls placed through the CTVRS center.
- k. Appropriately reroute any TRS calls that are not CTVRS calls, including but not limited to VCO, HCO, STS, VRS, 2-line VCO, and TTY calls, or any other non-CTVRS call.
- l. Provide 911/E-911 access to all users. Establish and maintain appropriate contacts and connectivity with the Pennsylvania Public Safety Answering Points (PSAPs).
- m. Provide CTVRS in English and Spanish for users who use either English or Spanish as the language of preference for the relay call. Translation from one language to the other is not required.
- n. Provide 3-way calling, speed dialing, and interrupt.
- o. Maintain user profiles at the option of users, which may include such information as frequently called numbers, preferred carriers, and user's email address for notification purposes. Such information is to be afforded the same confidential treatment as the contents of calls made. Transfer user profiles to new service provider at the end of the contract/extension period if so directed by Commission or requested by users. Absent specific alternate instructions from Commission or users, destroy user profiles at the end of the contract/extension period.

- p. Provide appropriate billing information for toll/IXC (interexchange) calls to appropriate billing entities. Route toll/IXC calls to and from users via the originating party's preferred carrier of choice. Prospective contractors must detail how calls will be routed and billed if the originating caller does not have a specified preferred carrier of choice.
- q. Respond to complaints and service, network, or equipment inquiries from users and/or the Commission in a timely and professional, responsive manner. Provide and maintain contact information for handling and escalating complaints and service, network, or equipment inquiries. Any situation that has caused or will cause complaints from more than five (5) users or that has or will last more than five (5) hours in duration must be brought to the Commission's attention and to all users' attention as soon as it is realized that the situation has met or will meet these parameters. Periodic status reports, an all-clear report, and a subsequent root-cause analysis will be required as specified by the Commission in accordance with the nature of the situations as they arise. Each failure to provide any of the requisite notices or reports will be a separate breach of the contract. *See Appendix D for the applicable SLA.*
- r. Explain how quality and quantity of CTVRS service will be measured and how failures to meet standards and expectations will be detected and recorded. Prospective contractors must propose a system of penalties to apply in the event of failure to meet requisite standards and expectations, to the extent not otherwise specified in this RFP.
- s. Maintain an average speed of answer of 9.9 seconds or less for 85% of the calls on a daily basis. Provide sufficient call center capacity such that abandoned or lost calls do not exceed 2% of total call volume. These standards apply separately to calls in queue for party-to-party calls and to calls in queue for a supervisor. Two-line call and single-line call should be measured separately unless they are in the same queue. *See Appendix D for the applicable SLA.*
- t. Explain how users and the Commission will be kept advised of changes to service and of the status and expected resolution of any service-affecting conditions. Seven (7) days advance notice to the Commission and registered users is required for any changes affecting more than 5% of the registered users. Forty-eight hours notice is required for any notice affecting 5% or less of the registered users. For any after-the-fact notice, notice must be provided to the Commission within five (5) hours if equivalent alternate service has been placed in service with no break in service. Breaks in service require immediate notice to the Commission and notice to registered users as to how to obtain equivalent alternate service in the interim.
- u. Maintain and publicize a point of contact within the contractor's organization for user and Commission questions and complaints if the contractor does not plan to actively operate the CTVRS system in-house and on-premises. Minutes spent talking with this point of contact and in escalation activities are not compensable as CTVRS minutes even if CTVRS services are required to handle the communication.
- v. Maintain and publicize a website and toll-free service with user and potential user information and contractor contact information. Minutes spent talking with in accessing such information are not compensable as CTVRS minutes even if CTVRS services are required to handle the communication.
- w. Maintain and publicize informational materials for users on contractor, Commission, and FCC complaint and complaint escalation procedures sufficient for users to know the proper procedures for filing or escalating complaints.

**IV-3. COMMUNICATION ASSISTANT (CA) STANDARDS.** The proposal should provide details as to the methods of meeting the following minimum CA standards:

- a. CAs must have the requisite experience, expertise, skills, knowledge, and education and be adequately trained to accurately caption in a professional manner the words spoken by the hearing party without intervening in the communication between the parties.

- b. CAs must keep the existence and content of all calls confidential and must not maintain any records of conversation content in any form. Paper and/or electronic storage of any communications conducted over the relay will not be permitted in order to safeguard confidentiality. Confidentiality of communications obligations survive the termination of this contract. Prospective contractors must provide a copy of the confidentiality agreement that CAs will be asked to sign.
- c. CAs must meet or exceed the current FCC standards for TRS minimum transcription speed.
- d. CAs shall not limit the length of a call or limit the number of calls and shall stay with the call for a minimum of ten (10) minutes when answering and placing a call.
- e. CAs shall not disconnect a call against the wishes of the originating and terminating parties but shall have a supervisor take over the call if necessary.
- f. CAs will transfer any emergency call to the appropriate PSAP. In addition, the CA must pass along the caller's telephone number to the PSAP operator when a caller disconnects before being connected to emergency services.

**IV-4. CTVRS USER EQUIPMENT.** The proposal should provide details as to the methods of meeting the following minimum equipment standards:

- a. CTVRS must be compatible with the existing population of captioned telephones in use in Pennsylvania. This includes the existing CapTel Trial equipment and Interim Service equipment. If this is not technically feasible, prospective contractors must explain how change out of the existing equipment would occur.
- b. CTVRS users must be kept informed of the status of the call through the equipment display window, such as dialing, ringing, busy, disconnected, or on hold, throughout the call session. The system must provide feedback to callers regarding the call status within ten seconds after a caller has provided the number to call and continue to provide feedback until the call is answered or deemed not answered.
- c. User equipment must be capable of being moved from one premises to another by the user.
- d. The contractor is responsible for ALL matters relating to user equipment, except with regard to the equipment used by consumers who qualify for the Telecommunications Device Distribution Program (TDDP or TDD Program) equipment distribution. (See 35 Pa. C.S. § 6701.3).
- e. Efforts should be made to seek the best price on the equipment to be sold to the residents of Pennsylvania. This includes the options of refurbished equipment and bulk purchasing of equipment.
- f. Except with regard to consumers who qualify for the TDD Program, the user will be responsible for the cost of user equipment. No user equipment costs are to be rolled into the MOU rate.
- g. Prospective contractors must detail their warranty and maintenance plans for user equipment.
- h. Prospective contractors must detail plans for upgrading user equipment.
- i. Contractors may not impose any unreasonable barriers on customer-provided user equipment.
- j. End users shall have the option of either single-line or 2-line service.
- k. Prospective contractors must provide a detailed description of the operation of their 2-line CTVRS as contrasted with single-line CTVRS.

**IV-5. GENERAL REQUIREMENTS.** The proposal should provide details as to the methods of meeting the following minimum general standards:

- a. Permit the users to select the toll/IXC carrier or local exchange carrier of their choice in accordance with federal and state laws as well as Commission rules and regulations.
- b. Make arrangements for a default toll/IXC carrier in the event the user does not have one.
- c. Provide CTVRS access in high traffic or public access areas such as airports, shopping malls, and other areas where public telephones are located. Prospective contractors must explain how they would accomplish this.

**IV-6. SESSION MINUTES OF USE.** CTVRS shall be billed on a session minute basis, defined as follows: The clock starts the moment a relay caller connects to the first switch point of the CTVRS that connects the call to a CA and ends at the time the call is disconnected from both the CA and the last relay user. This includes start-up, relay call conversation, and wrap-up. It does not include holding time waiting for initial contact with a CA. Each CTVRS call must have its MOUs measured as the total of its session minutes and seconds.

Individual calls must not be rounded up to the next full minute, *e.g.*, one minute and ten seconds (*i.e.*, 70 seconds) is not billed as two minutes. A one-month billing cycle and the total call minutes and seconds (summed over the billing cycle) must be used for billing purposes. For example, if 100 calls were made during a billing cycle and each call is 70 seconds (in session minutes), the total billed MOU for the cycle is 116; the 40 seconds are truncated as illustrated:

$$\begin{aligned}
 &70 \text{ seconds/call} \times 100 \text{ calls} = 7000 \text{ seconds} \\
 &7000 \text{ seconds} \div 60 \text{ seconds/minute} = 116 \text{ minutes \& 40 seconds} \\
 &\text{truncated to 116 minutes for the month}
 \end{aligned}$$

**IV-7. PAYMENT RESPONSIBILITIES.**

- a. The contractor shall have the sole responsibility for the complete effort of the contracted CTVRS, and payments will only be made to the contractor. The contractor has the sole responsibility for all payments to any/all sub-contractors under the contract.
- b. The contractor will invoice the Pennsylvania TRS fund administrator on a monthly basis for the intrastate services provided for the previous month, with a copy to the Commission's Bureau of Fixed Utility Services.
- c. The contractor will invoice the National Exchange Carriers Association (NECA) on a monthly basis for the interstate and international services provided for the previous month, with a copy to the Commission's Bureau of Fixed Utility Services.

**IV-8. RATE.** The rate charged to the Pennsylvania TRS fund for the session MOUs for CTVRS must be just and reasonable and in conformity with the Commission rules, regulations, policies, and orders for rates and service, such as those in Title 66 of the Pennsylvania Consolidated Statutes and Title 52 of the Pennsylvania Code. *See* Section II-6 for a detailed explanation of rate elements. **The rate portion of the proposal must be bound and sealed separately from the remainder of the proposal. Failure to meet the separately-sealed requirement will result in automatic disqualification of the proposal.**

**IV-9. CUTOVER FROM INTERIM SERVICE AND GROWTH OF CTVRS.**

- a. The transition from Interim Service to the contracted CTVRS must take place without interrupting captioning service for the existing users. Cutover should be seamless for existing CTVRS users. Prospective contractors must explain how they would handle any change-over/cut-over issues to ensure a seamless transition.



- b. It is expected that there will be approximately 450 CTVRS existing users as a result of the CapTel Trial and Interim Service by the time of migration to contractor operations. Prospective contractors may obtain information on the number of existing CTVRS users and past growth rates from the Issuing Officer.
- c. To the extent that a request from one prospective contractor for information described in Section IV-9b is submitted and answered, the information will be provided to all prospective contractors, consistent with Section I-32 of this RFP.
- d. New users are to be added in a non-discriminatory, consistent, "first-come, first-served" basis, with due regard for user preference for new or refurbished equipment.
- e. Proposed contractors must be prepared to add at least 35 new users each month if demand warrants.
- f. Growth at rates between 36 and 74 new users per month may be handled or wait-listed at the contractor's option, consistent with Section IV-9h.
- g. Growth at a rate greater than 75 new users a month must be coordinated with Commission staff to ensure that adequate TRS funds are available.
- h. The rates of expansion specified in Sections IV-9e-g may be adjusted, based upon demand and TRS fund availability, in conjunction with the annual TRS surcharge recalculation process so long as notice of a request to adjust the expansion is given to the other party by April 1 prior to the recalculation process. Such adjustments should reflect demand for CTVRS and TRS fund availability.
- i. Prospective contractors must provide a firm timeline for how quickly they will be able to convert from Interim Service to the contracted CTVRS.

**IV-10. OUTREACH.** Prospective contractors must present a plan for a comprehensive, effective, and measurable outreach campaign to develop public awareness of the service and provide information about the service to communities statewide. The campaign should include grassroots education to Pennsylvania seniors, educational workshops, a brochure, media advertising, an accessible website, and media relations. All materials must be understandable and accessible by a majority of the communities of persons with disabilities. The plan must provide a statistical method of measuring the effectiveness of the outreach and a methodology for making adjustments to the plan based on performance. The Commission will retain the right to continue the theme of any outreach if it so chooses after the expiration of any contract entered into pursuant to this RFP.

**IV-11. USER INPUT AND SATISFACTION.**

- a. CTVRS users must be asked to provide input on the quality of service by means of an annual survey (or similar device). The intent of the survey is to determine whether those using the contractor's CTVRS are satisfied with the service and whether there are any issues that need to be addressed or features to be added. Prospective contractors must present their plans for annual user evaluations of the system. The plans should explain methods for quantifying user input and how the recommendations from these evaluations will be incorporated into the CTVRS. Prospective contractors must advise the Commission how they will annually conduct the user surveys and notify the Commission and the TRS Board of the results of the user surveys.
- b. Ad hoc user comments (favorable and unfavorable) are to be forwarded to the Commission monthly through the Staff Analyst and to the TRS Board quarterly.
- c. The survey results and other user input may not be further disseminated without express authorization from the Commission.

**IV-12. CONTRACTOR RESPONSIBILITIES TO THE PENNSYLVANIA TRS ADVISORY BOARD, THE PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY, AND OTHER GROUPS.**

- a. The contractor must cooperate with the Board in matters concerning the CTVRS program. A contractor representative must attend the Pennsylvania Telecommunications Relay Service Advisory Board (TRS Board) quarterly meetings and report to the Board the condition and status of the CTVRS. The report must include but is not limited to MOU, customer complaints and new technologies that impact CTVRS and services.
- b. The contractor must cooperate with the Pennsylvania Department of Labor and Industry or its designee in matters concerning the TDD Program.
- c. The contractor must participate in meetings with the Commission, Commission staff, other agencies, consumers, and consumer groups as may be required.

**IV-13. CONTRACTOR REPORTING REQUIREMENTS.**

- a. All contractor reports shall be submitted to the Commission's Secretary's Bureau with a copy to the Bureau of Fixed Utility Services.
- b. Monthly reports will be required from the contractor. The monthly report must contain: the type of call (single-line, two-line, then broken down into answering machine, international, interstate, intrastate, toll-free), session minutes, average session minutes, call counts, and call types with a call count for each. The report must also have a weekly summary of the call count and session minutes by day and date. A separate section will show the month's summary of consumer service complaint logs. The consumer complaint log must include all complaints regarding CTVRS in the Commonwealth, regardless of the entity fielding or resolving the complaint call, and must retain the log for the duration of the contract. The log must include, at a minimum, the filed date of the complaint, the nature of the complaint, the date of resolution, and an explanation of the resolution. The monthly report must also contain the SLA results for the preceding month. The reports are due the 15<sup>th</sup> day of the month following the month being reported.
- c. The contractor must timely submit to the Commission, so that the Commission may report to the FCC annually, an annual summary log indicating the number of complaints received for the 12-month period ending each May 31<sup>st</sup>. The report must be submitted to the Commission on or before June 20<sup>th</sup> of each year. The report must also include the annual **Certification Relative to Business Continuity** set forth in Appendix E.
- d. The contractor shall be responsible for maintaining all records and reports relating to CTVRS that may be required by the FCC and the Commission. Such reports must include, but not be limited to, traffic detailing:
  - i. Blockage rates, defined as the number of calls reaching a busy signal when calling the relay service.
  - ii. Average number of calls waiting for system or operator answer.
  - iii. Average length of time waiting for system or operator answer.
  - iv. Area codes and state from which the calls originate.
- e. The contractor shall be responsible for maintaining the accounting and financial records, in accordance with accounting procedures and generally accepted accounting principles, of expenses that are incurred in operating the CTVRS as a stand-alone entity.
- f. The contractor is responsible for the professional quality, technical accuracy, and timely completion and submission of all deliverables, services or commodities required under this contract. The contractor, without additional compensation or cost to the TRS relay fund, shall correct or revise any errors, omissions, or other deficiencies in its deliverables and other services.

g. The prospective contractor must provide documentation detailing methods and procedures, training guidelines, and code(s) of confidentiality to enforce the CA standards as presented in section IV-3.

h. By February 15<sup>th</sup> of each year, the contractor must supply the Commission's Bureau of Fixed Utility Services with a statement of the estimated minutes of CTVRS use and the annual charges for the ensuing 12-month period from July 1<sup>st</sup> through June 30<sup>th</sup>. The estimated costs must be detailed in schedule form showing the breakdown of costs to arrive at a per-MOU cost.

**IV-14. CONTRACT REQUIREMENTS—DISADVANTAGED BUSINESS PARTICIPATION AND ENTERPRISE ZONE SMALL BUSINESS PARTICIPATION.** All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

The selected contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The selected contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the Issuing Office and BMWBO within 10 workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

**NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.**

## PART V

### GLOSSARY

711 – Abbreviated dialing code for accessing all types of relay services anywhere in the United States.

911/E-911/Enhanced 911 Emergency Service – Abbreviated dialing of 911 on the telephone to connect to the proper PSAP for emergency response and provide Automatic Location Identification and Automatic Numbering Information (ALI/ANI).

Access Line – Facility that allows the customer of a local exchange company or radio communications service to access the local or toll network, with the exception of dedicated facilities such as private lines.

ASL/American Sign Language – Visual language based on position, movement, shape, and orientation of the hands in relation to each other and the body.

CA/Communications Assistant – Relay provider employee who transliterates or interprets conversation between two or more end users of traditional TRS or CTVRS calls.

Call Release – Feature that allows a CA to sign-off or be released from the telephone line after the CA has set up the call.

CapTel Service – Proprietary Voice Carry-Over (VCO) type relay service using voice recognition software and specially trained operators to provide the CA function of the service.

Commission – Pennsylvania Public Utility Commission.

Common Carrier or Carrier – An entity that provides communications services to the general public. It is typically licensed or certificated by a state or federal government agency.

Contractor (or Prime Contractor) – Entity awarded a contract with the Commission under the RFP if that entity subcontracts out any portion of the subject services.

CTVRS – Captioned Telephone Voice-Carry-Over Relay Service.

Firm, Fixed Fee – An all-inclusive fee consisting of direct and indirect costs, including but not limited to direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction, and any other costs must be reflected in the overall cost per minute. No additional fees or costs shall be paid by the Commission or Fund Administrator unless there is an approved change in the scope of work.

Hearing Carry Over (HCO) – Form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. Two-line HCO allows TRS users to use one telephone line for hearing and the other for sending TTY messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between two HCO users.

Interrupt – Allows the parties to the conversation to interrupt each other and not have to wait until the CA finishes a translation.

Mandatory – "Must," "shall," "will," "is required," or "are required" identify a mandatory action, factor, or item.

May – Denotes something that has possible alternatives or that is not mandatory.

Non-English Language Relay Service – Relay service that allows persons with hearing or speech disabilities who use a language other than English to communicate with voice telephone users in the shared language other than English, through a CA who is fluent in that language.

Prospective Contractor – Entity, person, corporation, or partnership that chooses to submit a proposal in response to the RFP.

Prime Contractor (or Contractor) – Entity awarded a contract with the Commission under the RFP if that entity subcontracts out any portion of the subject services.

Project Officer – Person or designee authorized by the Commission to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

PSAP/Public Safety Answering Point – Facility that has been designated to receive 911/E911 calls and route them to emergency services personnel as provided in 47 C.F.R. § 64.3000(c).

PUC – Pennsylvania Public Utility Commission.

Responsible Prospective Contractor – Prospective contractor that submits a responsive proposal and that has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services or items as contemplated under the RFP.

RFP/Request for Proposal – The document that sets forth minimum essential contractual and performance requirements, and solicits proposals to meet the needs of the Commission, including all documents and amendments (attached, incorporated by reference, or issued subsequently) used for soliciting proposals.

Session Minutes of Use (MOU) – The amount of time billed for each completed call. The clock starts when a relay caller connects to the first switch point of the CTVRS that connects the call to a CA and stops when the call is disconnected from both the CA and the last relay user. This includes start-up, relay call conversation, and wrap-up. It does not include holding time waiting for initial contact with a CA. Each CTVRS call must have its MOUs measured as the total of its session minutes and seconds. Individual calls must not be rounded up to the next full minute, *e.g.*, one minute and ten seconds (*i.e.*, 70 seconds) is not billed as two minutes. A one-month billing cycle and the total call minutes and seconds (summed over the billing cycle) shall be used for billing purposes. For example, if 100 calls were made during a billing cycle and each call is 70 seconds (in session minutes), the total billed MOU for the cycle is 116; the 40 seconds are truncated as illustrated:

$$\begin{aligned} 70 \text{ seconds/call} \times 100 \text{ calls} &= 7000 \text{ seconds} \\ 7000 \text{ seconds} \div 60 \text{ seconds/minute} &= 116 \text{ minutes \& 40 seconds} \\ &\text{truncated to 116 minutes for the month} \end{aligned}$$

Speed Dialing – A relay service feature that allows a relay service user to place a call using a stored number maintained by the relay service facility. In the context of CTVRS, speed dialing allows a CTVRS user to give the CA a short-hand name or number for the user's most frequently called telephone numbers.

State – Commonwealth of Pennsylvania.

STS/Speech-to-Speech Relay Service – A relay service that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person.

TDDP/TDD Program/Telecommunications Device Distribution Program – The program administered by the Hiram G. Andrews Center (HGAC) whereby qualifying individuals may obtain specific adaptive telecommunication equipment without cost.

Three-way Calling – A TRS feature that allows more than two parties to be on the telephone line at the same time with the CA.

TRS or Telecommunications Relay Service – Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable 2-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services. TRS supersedes the terms dual party relay system, message relay services, and TDD Relay.

TTY or Text Telephone – A machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term TDD or telecommunications device for the deaf, and TT. For many users, a computer functions as their TTY.

User Profile – A list of a user's preferences, frequently called numbers, and other information maintained by the contractor, at the user's request, to facilitate and expedite the completion of calls using CTVRS.

VCO/Voice Carry-Over – A form of relay service whereby the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation. Two-line VCO is a VCO service that allows relay service users to use one telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY relay service call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between two VCO users. This service allows a person with partial hearing ability to hear the other party and see an electronic transmission of the incoming words in almost real time; it further allows the person to voice his or her own conversation back to the other party.

VRS/Video Relay Service – A relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.

## PART VI

### CONTACT INFORMATION

Bureau of Minority & Woman Business Opportunities (BMWBO)  
 Department of General Services (DGS)  
 North Office Building, Room 611  
 Harrisburg, PA 17125  
 717-787-6708  
 gs-bmwbo@state.pa.us

Designated Enterprise Zones  
 Department of Community and Economic Development (DCED)  
 Aldona M. Kartorie  
 400 North Street, 4<sup>th</sup> Floor  
 Harrisburg, PA  
 17120-0225  
 717-720-7409  
 akartorie@state.pa.us

Pennsylvania Public Utility Commission  
 P.O. Box 3265  
 Harrisburg, PA 17105-3265  
 Issuing Office: Bureau of Fixed Utility Services  
 Robert A. Rosenthal, Director  
 717-783-3850

Website: <http://www.puc.state.pa.us/general/announcements.aspx>  
 (Announcements Page)

## APPENDIX A

## NONCOLLUSION AFFIDAVIT

## INSTRUCTIONS FOR NONCOLLUSION AFFIDAVIT

1. This Noncollusion Affidavit is material to any contract/purchase order awarded pursuant to this bid. According to *Section 4507 of Act 57 of May 15, 1998, 62 Pa. C. S. § 4507*, governmental agencies may require Noncollusion Affidavits to be submitted with bids.

2. This Noncollusion Affidavit must be executed by the member, officer or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.

3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.

4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an affidavit must be submitted separately on behalf of each party.

5. The term "complementary bid" as used in the affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.

6. Failure to submit an affidavit with the bid proposal in compliance with these instructions may result in disqualification of the bid.

**NONCOLLUSION AFFIDAVIT**

Contract/Requisition No. \_\_\_\_\_

State of \_\_\_\_\_:

County of \_\_\_\_\_: s.s.

I state that I am \_\_\_\_\_ **(Title)** of \_\_\_\_\_ **(Name of Firm)** and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and, officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

**(1)** The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

**(2)** Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.

**(3)** No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.

**(4)** The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.

**(5)** \_\_\_\_\_ **(Name of Firm)** its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that \_\_\_\_\_ **(Name of Firm)** understands and acknowledges that the above representations are material and important, and will be relied on by **(Name of Purchasing Agency)** in awarding the contract(s)/ purchase order(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the Purchasing Agency of the true facts relating to the submission of this bid.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signatory's Name)

\_\_\_\_\_  
(Signatory's Title)

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public My Commission Expires \_\_\_\_\_



## APPENDIX B

## STANDARD TERMS AND CONDITIONS

<http://www.dgs.state.pa.us/dgs/lib/dgs/forms/comod/procurementforms/std274.doc>

## APPENDIX C

**Outsourcing Programs Using 800 Services**  
Office of Administration  
Agency Briefing Paper  
July 2004 and Revised March 16, 2005

**Overview:** This paper addresses outsourced application(s) that incorporate services on various Commonwealth Contracts. This paper addresses Inbound Toll Free (800 Services) as follows:

**Part I. Outsourcing applications to a Business Partner who obtains service from the Commonwealth's Inbound Toll Free (800 Services) Contract number ME 381368 using AT&T's 800 Services on their OneNet billing platform.**

**Part II. Outsourcing applications to a Business Partner who does not use AT&T but another Toll Free (800 Services) carrier like Sprint, MCI, etc.**

**Part III. AT&T's cost data under Commonwealth's Contract ME 381368 with AT&T.**

**Part I. Outsourcing applications to a Business Partner who obtains service from the Commonwealth's Inbound Toll Free (800 Services) Contract number ME 381368 using AT&T's 800 Services on their OneNet billing platform.**

**1. Question:** Will AT&T agree to allow the Commonwealth's awarded outsourcing vendor (Business Partner) to purchase off AT&T's Inbound Toll Free (800 Services) under the Commonwealth's contract number ME 381368?

**Answer:** Yes, AT&T is willing to extend the contract to a Business Partner because the traffic belongs to a Commonwealth application.

**2. Question:** If a Business Partner issues an order for a T1(s) or T45(s), from their AT&T contract, would the Business Partner be penalized if they cancel the order to use the Commonwealth's contract?

**Answer:** Yes. The cancellation charge applies. This can be addresses by:

- a. Creating language in the outsourcing bid that encourages (but not requires) an outsourcer to use the Commonwealth's 800 contract, or
- b. Allowing the T1(s) or T45 (s) to be installed, after which AT&T can transfer the facilities to the Commonwealth's contract, at no charge, using the OneNet billing platform.

**3. Question:** Can AT&T supply a Business Partner with usage on a CD and send it directly to them in order to meet their commitments of service?

**Answer:** Yes. Reference #4.

4. Question: Can a Business Partner be invoiced directly?

Answer: Yes. This can be accomplished in two ways, both of which provide a free paper invoice.

a. AT&T will send a CD with the call detail, monthly and at no cost, if the Business Partner signs an agreement that includes a term and minimum level of usage. This amount can be nominal, but AT&T needs the agreement to keep the traffic on Commonwealth's contract and to prevent having it switched from plan to plan. In this arrangement, the Business Partner would have its own contract and network with the Commonwealth rates.

b. AT&T will send a monthly CD with the call detail after making the Business Partner a subset of the Commonwealth network and contract by creating a bill partition in the Commonwealth's Contract for the Business Partner. There is a \$100.00 monthly charge for this arrangement.

5. Question: Can the Business Partner handle the troubles/service assurance issues directly without going through the agency?

Answer: Yes. The Business Partner or the agency may use AT&T's on line Business Direct when issuing trouble tickets that gives it the ability to check the status of the trouble ticket through Business Direct.

6. Question: Can the agency add/change 800 numbers incorporated into this new business partner account?

Answer: Yes, but the Commonwealth needs to have an agreement in writing that the 800 numbers themselves would be transferred back to the Commonwealth at the end of the Business Partner contract. The Business Partner could add it to the contract with the agency. Given the arrangement above, there is really no need to execute a transfer of service agreement. Keeping ownership of the Toll Free numbers is clearly in the Commonwealth's best interest. For the most part, Business Partners are very reputable providers, but this issue has surfaced in other arrangements that did not conclude as anticipated. If required, it is recommended that the agreement stipulate that Commonwealth can have the numbers transferred back AT ANY TIME. This is an important consideration that should be carefully crafted by the agency in its contract with the Business Partner.

7. Question: Is there a requirement to maintain a minimum level of usage to keep the contracted rates?

Answer: AT&T requires a Business Partner to sign an agreement that includes a term and minimum level of usage. This amount can be nominal, but need the agreement to help AT&T keep the traffic on Commonwealth's contract and prevent having it switched from plan to plan. In this arrangement, the Business Partner would have its own contract and network with Commonwealth rates. If this is not possible, AT&T can make it subset of the Commonwealth's network and contract. This would involve creating a bill partition in the Pennsylvania OneNet for the Business Partner. There is a \$100 monthly charge for this arrangement.

8. Question: Besides the contracting agency, who would be the Business Partners' contacts concerning the Commonwealth's 800 contract?

Answer:

**Commonwealth of Pennsylvania Staff:**

Valerie Long, Manger Network Administration  
Office of Administration, Bureau of Infrastructure & Operations  
1 Technology Park  
Harrisburg, PA 17110-2913  
717-772-4236  
Email: [vlong@state.pa.us](mailto:vlong@state.pa.us)

Georgia Baer, Telecommunications Administrator

Appendix C -- Outsourcing Programs Using 800 Services  
2 of 7

Office of Administration, Bureau of Infrastructure & Operations  
 1 Technology Park  
 Harrisburg, PA 17110-2913  
 717-772-8124  
 Email: [gbaer@state.pa.us](mailto:gbaer@state.pa.us)

**AT&T Staff:**

Edward H. Sheeche, Client Business Manager,  
 Suite 401, 214 Senate Avenue  
 Camp Hill, PA 17011-2336,  
 800-752-2882, ext. 632  
 717-731-6632  
 Cellular: 717-877-3446  
 Pager: 800-258-0000, PIN: 2202385  
 Email: [esheeche@att.com](mailto:esheeche@att.com)

David L. Oyler, Program Manger,  
 Suite 401, 214 Senate Avenue,  
 Camp Hill, PA 17011-2336,  
 717-731-6631  
 Cellular: 717-951-6443  
 Email: [doyler@att.com](mailto:doyler@att.com)

**9. Question:** Who is responsible if the Business Partner does not pay the invoices?

**Answer:** Business Partners have sole responsibility for paying their invoices and would be in default with AT&T. In the Commonwealth's contract ME 381368 authorized users (Business Partners) shall be responsible for payment of services ordered under Contract ME 381368.

**Part II. Outsourcing applications to a Business Partner who does not use AT&T but another Toll Free (800 Services) carrier like Sprint, MCI, etc.**

**1. Question:** Can an agency's Business Partner use AT&T's Toll Free Services when the Business Partner doesn't use AT&T's Toll Free (800 Services), but uses another carrier?

**Answer:** No.

**2. Question:** What is required when an agency needs to transfer an existing Toll Free services 800 number from AT&T to its Business Partner when the Business Partner doesn't use AT&T's Toll Free services?

**Answer:** The FCC established an independent organization (RespOrg) to handle the transfer of 800 numbers from one carrier to another carrier. The Business Partner's Toll Free carrier, not AT&T, will provide the carrier's form to be completed and signed by the agency and sent to the RespOrg for transferring the agency's Toll Free numbers from AT&T to the Business Partner's Toll Free carrier.

**3. Question:** Should the agency have an agreement in their contract with their Business Partner stipulating that when their contract expires, the Toll Free Numbers are transferred back to the Agency?

**Answer:** Yes. Keeping ownership of the Toll Free numbers is clearly in the Commonwealth's best interest. For the most part, Business Partners are very reputable providers, but this issue has surfaced in other arrangements that did not conclude as anticipated. It is recommended that the agreement stipulate that the Commonwealth can have the 800 numbers transferred back AT ANY TIME. This is an important consideration that should be carefully crafted by the agency in its contract with the Business Partner.

**Part III. AT&T's cost data under Commonwealth's Contract ME 381368 with AT&T using AT&T's OneNet Billing Platform.**

Appendix C -- Outsourcing Programs Using 800 Services  
 3 of 7

Attached is AT&T's 15-page cost package. For convenience, quick reference information follows and is taken from AT&T's attached cost proposal; Attachments F, T-1 & T-45 cost data, and Attachment G, under option 2 Dedicated (Megacom) services cost data.

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Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



# Cost Proposal Contents

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## I. Cost Summary

AT&T is pleased to present its proposal to the Commonwealth of Pennsylvania for Toll Free Inbound Telephone Services. AT&T has met the Commonwealth's requirements as stated in Section II-7 as follows:

1. AT&T has submitted all requested information in the form specified.
2. AT&T will hold the proposed prices firm for a minimum of 120 calendar days or until execution of the contract, whichever is longer.
3. The cost data provided includes all charges for the services to be furnished.
4. All prices quoted will remain firm through the three years of the contract unless reduced based on the discount for usage growth.

### Call Rounding and Minimum Billing Charges

AT&T bills calls in complete seconds. For example, a call measured at 62.4 seconds or at 62.9 seconds is billed at 62 seconds. This method provides lower call billing times than alternative methods.

AT&T has a minimum time requirement of 30 seconds on all toll free calls. Every call less than or equal to 30 seconds will be billed at 30 seconds. Calls over 30 seconds will be billed at the actual time (actual number of seconds).

### Cost Factors and Considerations

AT&T has proposed highly competitive rates that will allow the Commonwealth to meet its financial objectives while retaining the most reliable, feature rich inbound calling services available in the industry. In addition, AT&T's proposal to the Commonwealth contains extensive value-added features and benefits that must be factored into the "total cost of service" analysis. Following are just a few examples of how AT&T will deliver the lowest total cost of service to the Commonwealth.

For over 30 years, AT&T has worked with agencies and organizations to develop and implement innovative, cost-effective toll free solutions to satisfy the Commonwealth's communications requirements. AT&T has been a good steward of its existing contract with the Commonwealth and has invested heavily to demonstrate its corporate, economic, and personal commitments to Pennsylvania.



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As the Commonwealth well knows, changing telecommunications service providers can be expensive (in terms of both resources and actual cost) and extremely disruptive to the daily operations of users and agencies. The cost of change is a real cost to be factored into the best value analysis.

AT&T's experience and commitment to the Commonwealth in providing the most reliable, cost-effective toll free services possible are unmatched. By selecting AT&T to continue providing its toll free services, the Commonwealth will avoid the inevitable risks, disruptions, and high costs associated with such a change. Following are just a few of the cost factors associated with change.

*"In discussing the cost of operating a network, always begin by exploring the amount of change the enterprise expects will occur in its network. That is because a large percentage of the problems most enterprises experience are due to a change that was made to the network or to the applications running on the network. Therefore, the cost of design, configuration, performance monitoring, and fault management is basically the cost of supporting change." (GartnerGroup, R-08-4644)*

**Planning.** Creating and maintaining an accurate inventory containing agency information, toll free numbers, network features, and operational characteristics for approximately 1,000 network users is a time consuming process – for both the Commonwealth and the provider. AT&T has already developed this information, thus relieving user agencies of this burden

**Network Design.** Matching features and tools with Agency requirements is paramount to error-free conversions and ongoing operational efficiency. AT&T has already accomplished this task and stands ready to continuously improve the network design through the implementation of this project.

**Commonwealth Lost Productivity.** The process of implementing and converting the Commonwealth's large number of toll free services to another vendor would require OA and Agency staffs to devote large amounts of time for planning, designing and fault management produced by the conversion and cutover activities. Other vendors will need to plan, design, RESPORG, and cutover approximately 1,000 numbers, as well as install more than 48 T1s. This would be a major implementation effort and would subject the Commonwealth to service disruptions during the transition period.

The Commonwealth would have to expend a significant amount of time and resources in supporting the transition of services to another vendor. A significant amount of time would have to be spent by agencies in designing, planning, and implementing new services, as well as resolving potential startup programs. With AT&T, the Commonwealth will avoid these costs, which lowers the total cost of AT&T's bid.

Lost productivity at the user level and caller frustration are also by products of transition. With AT&T, the Commonwealth can focus on its mission critical operations versus its network services. Equally important, the Commonwealth can continue to provide government services and support its constituency without interruption.



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**User Training and Call Center Efficiencies.** Agencies are already familiar with AT&T's procedures, tools, and features – thus requiring minimal training time. Call center employees are proficient in using AT&T's services and will not have to be retrained – thus ensuring against lost productivity and end user dissatisfaction.

There are 27 Category 1 Agencies affected by this bid. AT&T's bid is likely to save at least an average of 50 hours in planning, design and lost productivity and 30 hours in training time, per agency. Assuming an average loaded hourly labor rate of \$29, the Commonwealth will avoid approximately \$63,000 in costs, which again lowers the total cost of AT&T's bid.

**Statewide Toll Free Network.** AT&T, by virtue of its existing contracts with many Category 2 agencies, is the only vendor that can keep the Commonwealth's statewide toll free network intact. This is valuable for several reasons. The Commonwealth's total aggregate usage with AT&T will be much higher than possible with other vendors, thus allowing larger volume discounts to be leveraged across all users. Having all agencies sharing a common toll free platform will enhance feature interoperability and facilitate inter-agency communications.

Additionally, although Category 2 agencies are not the focus of this procurement, they will benefit significantly from the retention of AT&T as the single statewide provider.

**Realization of Cost Savings.** With AT&T, the Commonwealth will begin to see cost savings within 60 days of contract execution. Users will not have to wait until new services are planned and implemented to realize cost savings.

Category 1 Agencies spent approximately \$6.8 million on Toll Free Services in 2002. That breaks down to \$567,000 monthly. AT&T's rates in this bid are roughly 25% less than the previous contract or \$142,000 monthly. AT&T can most likely deliver these rates 60 days sooner than any other vendor, which results in additional savings of \$284,000 to the Commonwealth.

**Together these "Cost of Change" considerations should reduce AT&T's total cost of service by more than \$347,000 in addition to the Category 2 Leverage benefits that were not calculated.**



*By retaining AT&T as the provider of toll free services, the Commonwealth will avoid the high costs of transition – both in actual dollar costs and in personnel time required to manage, coordinate, validate, test, and oversee a transition of services, as well as the high costs associated with disruption in government services.*





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## II. Cost Attachments

AT&T has submitted all price/cost information on the appropriate Attachments D-H as specified in the RFP.





**ATTACHMENT D  
 DISCOUNT BASED ON USAGE GROWTH**

**Contract years one (1) through three (3)  
 Historical Reference:**

**Minutes of use: 86,529,189 /2000 64,651,684/2001 67,000,965/2002**

**Total baseline minutes of traffic: 45,000,000**

This figure shall be the total traffic in minutes for the twelve (12) consecutive months immediately preceding the month of contract execution, and shall be inserted at the time of contract execution. The total baseline minutes of traffic shall be recalculated at each annual contract anniversary date and shall consist of the total traffic volume in minutes for the previous twelve (12) consecutive months.

In the table below, enter the percent (%) decrease to be applied to the cost per minute proposed for each category on Attachment G, as a result of the cumulative total traffic volume from the contract execution/contract anniversary date forward increasing by 5 percent (5%), 10 percent (10%), etc. over the total baseline minutes of traffic as defined above. It is expected that the Contractor shall apply the reduced rate(s) to the total traffic billed for the first billing period succeeding the billing period in which the threshold is met.

<b>Percentage by which baseline is exceeded</b>	<b>percent (%) decrease in cost per minute</b>
5 percent	<u>0%</u>
10 percent	<u>1.5%</u>
15 percent	<u>1.5%</u>
20 percent	<u>2.8%</u>
25 percent	<u>2.8%</u>
30 percent	<u>2.8%</u>



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**ATTACHMENT E  
FEATURE COSTS**

FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)
<b>Alternate Routing</b>	\$20.00	\$150.00	Per Toll-Free number (capped at \$5000.00 per month); initial
		\$50.00	Per Toll-Free number; add/change/delete
		\$75.00	Per "Routing on Demand"(change to secondary location only)
	\$0.03	\$0.00	Per call routed to alternate destination
<b>ANI</b>	\$650.00	\$0.00	Per non-ISDN trunk group
	\$0.01	\$0.00	Per ISDN call information delivered
<b>*Area Code Routing</b>	\$30.00**	\$25.00	Per Toll-Free number
<b>Busy</b>	\$20.00	\$150.00	Per Toll-Free number; initial
		\$50.00	Per Toll-Free number; add/change/delete
		\$75.00	Per "Routing on Demand"(change to secondary location only)
	\$0.03	\$0.00	Per call routed to alternate destination
<b>Call Allocation</b>	\$30.00**	\$25.00	Per Toll-Free Number
<b>Call Blockage</b>	See "Caller Recognition Routing"		
<b>Call Prompter</b>	\$55.00	\$0.00 – \$420.00	\$0.00 – Amateur Voice Per announcement; new or changed \$120.00 – Professional Voice Per announcement; new or changed \$240.00 – Professional Voice Expedite Per announcement; new or changed \$100.00 - Semi-Professional Voice - Emergency Update Per announcement changed \$420.00 - Foreign Language Per announcement; new or changed
	\$0.07	\$0.00	Per announcement played
	\$0.06	\$0.00	Per minute of announcement played
<b>*Caller Recognition Routing</b>	\$30.00**	\$25.00	Per Toll-Free number
<b>Contingency Planning Features</b>			
SAFER	\$0.00	\$100.00	Per Toll-Free number per customer location
800 Service Assurance	\$0.00	\$0.00	



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FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)
<b>Courtesy Response</b>	\$55.00	\$0.00 – \$420.00	\$0.00 – Amateur Voice Per announcement; new or changed \$120.00 – Professional Voice Per announcement; new or changed \$240.00 – Professional Voice Expedite Per announcement; new or changed \$100.00 - Semi-Professional Voice - Emergency Update Per announcement changed \$420.00 - Foreign Language Per announcement; new or changed
	\$0.07	\$0.00	Per announcement played
	\$0.06	\$0.00	Per minute of announcement played
<b>Day of Week Routing</b>	\$30.00**	\$25.00	Per Toll-Free number
<b>DNIS</b>	\$0.00	\$0.00	
<b>Direct Access Toll-Free Routing Control (Quick Call Allocator)</b>	\$0.00	\$0.00	
<b>Toll-Free Routing Control (Route-It!)</b>	\$150.00	\$0.00	Per Toll-Free number per month per billing account (capped at \$750.00/month)
<b>En-route Announcements</b>	\$55.00	\$0.00 – \$420.00	\$0.00 – Amateur Voice Per announcement; new or changed \$120.00 – Professional Voice Per announcement; new or changed \$240.00 – Professional Voice Expedite Per announcement; new or changed \$100.00 - Semi-Professional Voice - Emergency Update Per announcement changed \$420.00 - Foreign Language Per announcement; new or changed
	\$0.07	\$0.00	Per announcement played
	\$0.06	\$0.00	Per minute of announcement played
<b>*Exchange Routing</b>	\$30.00**	\$25.00	Per Toll-Free number
<b>Follow Me 800</b>	N/A	N/A	
<b>Indirect Access</b>	\$0.00	\$0.00	



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Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)
Intelligent Call Processing	\$0.060 - \$0.040	\$0.00	Recurring per call charge based on usage level (number of calls per month): \$0.060 for 1-750,000 calls \$0.055 for 750,001-1,500,000 calls \$0.050 for 1,500,001-2,250,000 calls \$0.045 for 2,250,001-3,000,000 calls \$0.040 for 3,000,001 and over calls
	\$4000.00	\$0.00	Per month per STP pair
	\$0.00	\$5000.00	Installation charge per arrangement
	\$0.00	\$50.00	Change charge per occurrence
ISDN - Alternate Destination Redirection	\$20.00	\$150.00	Per Toll-Free number (capped at \$5000.00 per month); initial
		\$50.00	Per Toll-Free number; add/change/delete
		\$75.00	Per "Routing On Demand" (change to secondary location only)
	\$0.03	\$0.00	Per call routed to alternate destination
ISDN - Flexible B Channel Allocation	\$0.00	\$0.00	
ISDN - Information Indicator Digits	\$0.01	\$0.00	Per call
ISDN Flexible B Channel Allocation	\$0.00	\$0.00	
*ISDN - ANI	\$0.01	\$0.00	Per call
*ISDN - D Channel Backup	\$104.00	\$0.00	Per D-channel (per Attachment F)
*ISDN - Non-Facility Associated Signaling	\$0.00	\$0.00	
Next Available Agent	\$0.00	\$50.00	Per activation of customer specified "Maximum Calls Allowed" value
	\$0.00	\$50.00	Per activation of customer specified "maximum Calls in Queue" value
	\$10.00	\$0.00	Per queue slot
	\$0.00	\$150.00	Per initial queue arrangement
	\$0.00	\$150.00	Subsequent changes to queue arrangement, per occurrence
	\$0.015	\$0.00	Per 6 seconds (or fraction) help in queue



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FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)
	\$55.00	\$0.00 – \$420.00	\$0.00 – Amateur Voice Per announcement; new or changed \$120.00 – Professional Voice Per announcement; new or changed \$240.00 – Professional Voice Expedite Per announcement; new or changed \$100.00 - Semi-Professional Voice - Emergency Update Per announcement changed \$420.00 - Foreign Language Per announcement; new or changed
	\$0.03	\$0.00	Per dialed number, per call redirected (\$10.00/month minimum, \$5000.00/month maximum)
	\$0.00	\$150.00	Per routing plan; initial installation
	\$0.00	\$150.00	Per routing plan, per occurrence; subsequent changes
<b>Network Reliability Features - SAFER</b>	\$0.00	\$100.00	Per Toll-Free number per customer location
<b>IVR</b>	See "Additional Features & Capabilities"		
<b>IVR Database Applications</b>	See "Additional Features & Capabilities"		
<b>Overflow to Switched Service</b>	\$0.00	\$0.00	
<b>Percentage Allocation Routing</b>	\$30.00**	\$25.00	Per Toll-Free number
		\$50.00	Per activation of Customer specified allocation percentage performed by AT&T
<b>Point of Call Routing</b>	See "Area/Exchange Code Routing"		
<b>Post Answer</b>	See "Transfer Connect"		
<b>Remote Agent</b>	See "Next Available Agent"		
<b>Ring/No Answer</b>	\$20.00	\$150.00	Per Toll-Free number (capped at \$5000.00 per month); Initial
		\$50.00	Per Toll-Free number; add/change/delete
		\$75.00	Per (Routing On Demand" (change to secondary location only)
		\$0.03	\$0.00
<b>*Routing on Demand</b>	\$20.00	\$0.00	Per Toll-Free number
		\$0.00	\$50.00
<b>Security Features</b>	\$0.00	\$0.00	



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 Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)	
Select Routing	\$20.00	\$0.00	For each stored Toll-Free Select Routing plan for non Toll-Free RCS-Online and non Toll-Free RCS-RMI user	
		\$50.00	Per activation of customer specified Toll-Free Select Routing plan performed by AT&T	
Status Information	See "En-route Announcement"			
Speech Recognition	See "Call Prompter"			
Time of Day Routing	\$30.00**	\$25.00	Per Toll-Free number	
Transfer Connect	\$0.00	\$1500.00	Per Toll-free number per arrangement (Courtesy Transfer)	
	\$0.00	\$2500.00	Per Toll-Free number per arrangement (Consult & Transfer/Conference & Transfer)	
	\$0.00	\$150.00	Subsequent changes, per order	
	Courtesy Transfer	\$0.04	\$0.00	Per completed call
		OR \$0.20		OR Per redirection attempt
	Consult & Transfer	\$0.05	\$0.00	Per completed call
		OR \$0.30		OR Per redirection attempt
	Conference & Transfer	\$0.07	\$0.00	Per completed call
		OR \$0.35		OR Per redirection attempt
		\$0.0013		\$0.00
Speed Dial Codes	\$0.00-\$750.00	\$0.00	Per Toll-Free number per month	
			\$0.00	0-10 codes
			\$200.00	11-500 codes
			\$400.00	501-1000 codes
			\$750.00	1001-2000 codes
	\$150.00	Subsequent changes, per order		
<b>Additional Features and Capabilities</b>				
Routing Plan Installation/Change Charges		\$0.00 - \$5.00	\$0.00 Per branch per Routing Plan 201 branches and up \$5.00 Per branch per Routing Plan (\$25.00 min.) 1-200 branches	
Expedite Charge		\$800.00	Per order	



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FEATURE	RECURRING	NON-RECURRING	UNIT OF MEASURE FOR BILLING (per record, per call, per minute, etc.)
<b>Value Added Optional Services (Described in Section IV-13)</b>			
Service A - Uniform Standards		\$137.50	Per hour
		\$500	One time setup charge
Service B - Professional Voice		\$165.00	Per hour
		\$275.00	One time setup charge
Service C - IVR Development		\$137.50	Per hour
		\$300.00	One time setup charge
Service D - Monitoring & Evaluation		\$82.50	Per hour
		\$640.00	One time setup charge
Service E - VRU/IVR Hosting (Switch Time)		\$22.00	Per hour
		\$3820.00	One time setup charge
Service F - Voice Backup for Web Site		\$44.00	Per hour
Service G - Customer Service Training		\$82.50	Per hour
		\$400.00	One time setup charge
Service H - Redundancy/Disaster Recovery Site			Per hour
		\$43,296.00	One time setup charge
Notes: For Services A thru H all costs are exclusive of line costs. For Service H, declaration charges and personnel costs are separate.			

\*Indicates mandatory features

\*\* The recurring and non-recurring charges associated with these Routing Features are per toll-free number only. Any number of Basic Routing features can be combined for the single monthly charge of \$30.00. For example, any combination of Area Code Routing, Call Allocation, Caller Recognition Routing, Day of the Week Routing, Exchange Routing, Percentage Allocation Routing and/or Time of Day Routing can be used on a toll free number for a single monthly charge of \$30.00.





RFP Number 10 608 03 000 – Contract Number ME 381368  
Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



**ATTACHMENT F**  
**NETWORK ACCESS COSTS STATEWIDE**

SERVICE TYPES	RECURRING	NON-RECURRING
Switched Service	\$0	\$0
T1.5 (0 mile)	\$255	\$0
T1.5 (3 mile)	\$255	\$0
T45 (0 mile)	\$4,974.06	\$0
T45 (3 mile)	\$7,086.04	\$0
<b>Other</b>		
ISDN PRI	\$104	\$0

List all costs associated with making the service fully operational.  
If additional space is required, please attach separate sheets in this format.





**ATTACHMENT G  
 OTHER COSTS STATEWIDE**

List all costs per Toll Free number, other than access costs, associated with making the service fully operational. Charges specifically for transferring 800 numbers from one Contractor to another are not acceptable. Cost to be per an 800 Number or per a trunk group within a T1.5. The usage price/cost per minute must be carried out to four (4) decimal points. Example: .0627

The rates for Toll Free (800) calls under the Commonwealth's contract ME381368 will be reduced 2.8% effective 3/19/05 and appear for the first time on the 4/19/05 invoices.

The new rates are as follows:

Commonwealth of Pennsylvania AT&T Rate Schedule March 19, 2005			
Service	Jurisdiction		Rate Per Minute
800 Inbound Switched	PA Intrastate	IntraLATA	\$0.0583
		InterLATA	\$0.0705
	Interstate	All Service Areas	\$0.0533
800 Inbound Dedicated	PA Intrastate	IntraLATA	\$0.0340
		InterLATA	\$0.0340
	Interstate	All Service Areas	\$0.0331

800 SERVICE	RECURRING	USAGE	NON-RECURRING
<b>SERVICE CHARGE (OPTION 1): Not using this option</b>			
Switched	\$0	N/A .0682	\$0
Dedicated	\$0	N/A .0352	\$0
<b>SERVICE CHARGE (OPTION 2): This is the option that the Commonwealth selected 8/30/03-3/18/05</b>			
<b>Switched (ReadyLine)</b>			
Switched Interstate	\$0	.0550	\$0
Switched IntraLATA	\$0	.0600	\$0
Switched Intrastate	\$0	.0726	\$0
<b>Dedicated (Megacom)</b>			



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 Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



800 SERVICE	RECURRING	USAGE	NON-RECURRING
Dedicated Interstate	\$0	.0341	\$0
Dedicated IntraLATA	\$0	.0350	\$0
Dedicated Intrastate	\$0	.0350	\$0
NOTE: AT&T is willing to provide either Switched and Dedicated rates (Option 1) as requested by the Commonwealth or jurisdictional pricing (Option 2). AT&T recommends Option 2 for optimal cost performance.			
<b>INSTALLATION:</b>			
<b>Switched</b>	\$0		\$0
Per routing arrangement	\$0		\$0
Record Change	\$0		\$0
Service Area Change	\$0		\$0
Expedite Charge	\$0		\$25
<b>Dedicated</b>	\$0		\$0
Initial Routing Arrangement	\$0		\$0
Additional Routing Arrangement	\$0		\$0
Addition of access facilities, per order	\$0		\$0
Reduction of access facilities per order	\$0		\$0
Change of access facilities per order	\$0		\$0
Expedite	\$0		\$500
NPA Change Charge	\$0		\$0

NOTE: If additional space is required, please attach separate sheets in this format.

**ATTACHMENT H**

**CHARGES FOR REPORTS: PAPER, FILE TRANSFER, DIAL UP, CD-ROM**

REPORT TITLES	DESCRIPTION	NON-RECURRING	RECURRING
Paper Reports		\$0	\$0
Summary	Summary of Charges Detail of Service Usage Summary of Usage by Toll Free Number Executive Summary		
Call Detail	All calls sorted by Toll Free Number by Date		
Billing Edge CD	Monthly Invoice on CD including Reports and	\$0	\$0



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 Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



REPORT TITLES	DESCRIPTION	NON-RECURRING	RECURRING
	Database Initial Copy per customer Additional Copies per customer	\$250	\$100 Monthly
Call Detail Analysis (OCDD)	On-line Call Detail Data provides Real Time access to Toll Free Call Detail		\$75 Monthly Minimum usage charge applies, or if over 37,500 records per month the following usage charges: \$.002 per call attempt for the first 1,000,000 call attempts per month \$.001 per call attempts over 1,000,000 per month

NOTE: Examples of invoices and reports are provided on the sample Billing Edge CD-ROM located in Appendix 2 of the Technical Proposal.



RFP Number 10 608 03 000 – Contract Number ME 381368  
 Commonwealth of Pennsylvania Toll Free Inbound Telephone Services



**ADDITIONAL COSTS**

Item	DESCRIPTION	NON-RECURRING	RECURRING
Toll Free Call Attempts Analysis – Real Time	Real-time access to call detail	\$0	\$.001 per call attempt, per month, for all call attempts up to the cap level. \$5800 maximum monthly usage charge (cap). \$75 minimum monthly usage charge.
Voice Performance Monitoring and Control (NPM)	Monitor and control the performance of dedicated network access facilities.	\$0	Monthly Recurring Charge: \$100.00 per trunk group viewed, per account, per month. Maximum Monthly Cap: The monthly fee (per customer 144 account) is capped at \$5,000 per month. Minimum Monthly Charge: \$100 per customer 144 account.



Commonwealth of Pennsylvania AT&T Rate Schedule March 19, 2005			
Service	Jurisdiction		Rate Per Minute
800 Inbound Switched	PA Intrastate	IntraLATA	\$0.0583
		InterLATA	\$0.0705
	Interstate	All Service Areas	\$0.0533
800 Inbound Dedicated	PA Intrastate	IntraLATA	\$0.0340
		InterLATA	\$0.0340
	Interstate	All Service Areas	\$0.0331

Commonwealth of Pennsylvania AT&T Rate Schedule September 1, 2003			
800 SERVICE	RECURRING	USAGE	NON-RECURRING
<b>SERVICE CHARGE (OPTION 1): Not using this option.</b>			
Switched	\$0	N/A .0682	\$0
Dedicated	\$0	N/A .0352	\$0
<b>SERVICE CHARGE (OPTION 2): This is the option that the Commonwealth selected from 9/1/03 to 3/18/05.</b>			
<b>Switched (ReadyLine)</b>			
Switched Interstate	\$0	.0550	\$0
Switched IntraLATA	\$0	.0600	\$0
Switched Intrastate	\$0	.0726	\$0
<b>Dedicated (Megacom)</b>			
Dedicated Interstate	\$0	.0341	\$0
Dedicated IntraLATA	\$0	.0350	\$0
Dedicated Intrastate	\$0	.0350	\$0
NOTE: AT&T is willing to provide either Switched and Dedicated rates (Option 1) as requested by the Commonwealth or jurisdictional pricing (Option 2). AT&T recommends Option 2 for optimal cost performance.			
<b>INSTALLATION:</b>			
Switched	\$0		\$0
Per routing arrangement	\$0		\$0
Record Change	\$0		\$0
Service Area Change	\$0		\$0

Appendix C -- Outsourcing Programs Using 800 Services  
5 of 7

<b>Commonwealth of Pennsylvania</b>			
<b>AT&amp;T Rate Schedule</b>			
<b>September 1, 2003</b>			
<b>800 SERVICE</b>	<b>RECURRING</b>	<b>USAGE</b>	<b>NON-RECURRING</b>
Expedite Charge	\$0		\$25
<b>Dedicated</b>	\$0		\$0
Initial Routing Arrangement	\$0		\$0
Additional Routing Arrangement	\$0		\$0
Addition of access facilities, per order	\$0		\$0
Reduction of access facilities per order	\$0		\$0
Change of access facilities per order	\$0		\$0
Expedite	\$0		\$500
NPA Change Charge	\$0		\$0

**ATTACHMENT F  
NETWORK ACCESS COSTS STATEWIDE**

<b>SERVICE TYPES</b>	<b>RECURRING</b>	<b>NON-RECURRING</b>
Switched Service	\$0	\$0
T1.5 (0 mile)	\$255	\$0
T1.5 (3 mile)	\$255	\$0
T45 (0 mile)	\$4,974.06	\$0
T45 (3 mile)	\$7,086.04	\$0
Other		
ISDN PRI	\$104	\$0

**List all costs associated with making the service fully operational.  
If additional space is required, please attach separate sheets in this format.**

**ATTACHMENT G  
OTHER COSTS STATEWIDE**

List all costs per Toll Free number, other than access costs, associated with making the service fully operational. Charges specifically for transferring 800 numbers from one Contractor to another are not acceptable. Cost to be per an 800 Number or per a trunk group within a T1.5. The usage price/cost per minute must be carried out to four (4) decimal points. Example: \$0.0627

**The rates for Toll Free (800) calls under the Commonwealth's contract ME381368 will be reduced 2.8% effective 3/19/05 and appear for the first time on the 4/19/05 invoices.**

**The new rates are as follows:**



**APPENDIX D**  
**SERVICE LEVEL AGREEMENTS (SLAs)**

**Provisions applicable to all SLAs:**

Statistics and monthly SLA reports shall be provided each month by the contractor on or before the 15<sup>th</sup> day of the month following the month being measured.

Credits incurred as a result of the SLAs will be applied as bill credits for subsequent billings except in the final four months of the contract, or any extension thereof, when they shall be replaced by cash settlements.

Percentages of monthly billing applied as bill credits apply to both intrastate MOUs billed to the PA TRS Fund and to interstate MOUs billed to NECA.

<b>24/7/365 Availability</b>	<b>Callers must have unlimited access to CTVRS (or to a functional equivalent for emergency or scheduled outages) on a 24x7x365 basis</b>
<b>Definitions</b>	<p>Availability: The ability of CTVRS callers to have access to CTVRS expressed as availability 99.6% of total time in any given month.</p> <p>Close Time: Actual time when the Commission confirms the problem has been resolved; must have Commission concurrence before ticket closure.</p> <p>Degradation of service: Inability of CTVRS to respond to more than 7% of incoming calls within the specified answer time.</p> <p>Loss of service: Inability of CTVRS to respond to incoming calls within the specified answer time.</p> <p>Maintenance and Backup Schedule: All maintenance and backup schedules to be developed by contractor and agreed to by the Commission. System(s) maintenance and system(s) upgrades must be scheduled in advance. Downtime beyond the agreed upon duration will cause a ticket to be created at the discretion of the Commission and, at the Commission's discretion, counted against the total downtime for that month.</p> <p>Open Time: Actual time when the degradation or loss of service commences, as first reported to or by the contractor, whichever is earlier.</p> <p>Resolve Time: Actual elapsed time the degradation or loss of service has taken to be remedied.</p> <p>Trouble Tickets: This SLA shall apply to all trouble tickets addressing degradation or loss of service regardless of the standards and categories of calls and queues.</p> <p>Exclusions: Agreed-upon maintenance and backup time; agreed-upon functional equivalency time.</p>
<b>Is Baseline Required?</b>	No
<b>What is Being Measured?</b>	Incoming availability to CTVRS 24/7/365 by all callers.
<b>Standard</b>	30 minutes or less of degradation or loss of service time per month.
<b>How is it Being Measured Or Calculated?</b>	<p>Closed trouble ticket resolve times will be summed monthly to calculate unavailability. An open trouble ticket will be held to the next month.</p> <p>The calculation will be the monthly summary of time for all degradation and loss of service tickets based on the following formula:</p> <ul style="list-style-type: none"> <li>• Average number of days in a month = 30.4</li> <li>• <math>30.4 \times 24 = 730</math> (rounded) hours per month</li> <li>• <math>1.0000 - .9996 = 0.0004</math></li> <li>• <math>0.0004 \times 730 = 29.2</math>, rounded to 30 minutes of allowed unavailability per month.</li> </ul>
<b>Remedy</b>	<p>In the event of more than 30 minutes unavailability in any given month, the contractor will be assessed the following remedies :</p> <ol style="list-style-type: none"> <li>1. 31 minutes to 60 minutes: 0.5% of the month's billing.</li> <li>2. 61 minutes to 10 hours: 1% of the month's billing, per hour or fraction of an hour, PLUS the remedy in #1.</li> <li>3. Greater than 10 hours: 2% of the month's billing, per hour or fraction of an hour, PLUS the remedies in #1 and #2.</li> </ol>
<b>Commission Responsibilities</b>	The Commission must indicate written acceptance of the operational system.

Appendix D – Service Level Agreements

<b>Call Center Call Abandon</b>	<b>Abandoned or lost calls must remain less than 2 percent of the total call volume.</b>
<b>Definitions</b>	<p>This SLA applies separately to calls in queue for party-to-party calls and to calls in queue for a supervisor.</p> <p>Abandoned: Calls in queue that are abandoned by the caller without connecting to a CA or to a supervisor.</p> <p>[To be determined and agreed-up prior to executing a contract is whether the party-to-party queue is to be measured separately for single-line and two-line calls or in the aggregate or whether all three categories (single-line, two-line, and aggregate) will be measured.]</p> <p>Exclusions: Calls in a queue that are abandoned in less time than the time-required-to-answer threshold.</p>
<b>Is Baseline Required?</b>	No
<b>What is Being Measured?</b>	The percent of calls to the call center and to supervisors that are abandoned.
<b>Standard</b>	Less than 2% abandoned calls.
<b>How is it Being Measured Or Calculated?</b>	<p><math>(\text{Abandoned calls for month}) \div (\text{Total calls for month}) = \text{Percent abandoned (per queue category)}</math>.</p> <p>Abandoned calls must be less than or equal to 2% per queue category.</p>
<b>Remedy</b>	<p>If the calculated results are higher than agreed upon percentages for a given month, the contractor will be given the next month to meet agreed upon percentages.</p> <p>If the percentages for the second month continue above specifications, the contractor will be assessed 2% of that month's billing.</p> <p>For each ensuing consecutive month after the second month, the contractor will be assessed 3% of that month's billing.</p>
<b>Software Tools/Other Tools</b>	Statistics dependant on ACD administrative reports.
<b>Commission Responsibilities</b>	None

<b>Required to Answer</b>	<b>All calls to be responded to in 5 rings or less.</b>
<b>Definitions</b>	This SLA applies to all CTVRS calls to the CTVRS call center, to a CTVRS supervisor, or escalated off-site.
<b>Is Baseline Required?</b>	No
<b>What is Being Measured?</b>	Average time to answer incoming calls to the CTVS or about the CTVRS.
<b>Standard</b>	Calls responded to in 30 seconds (5 rings or less).
<b>How is it Being Measured Or Calculated?</b>	95% of calls are to be responded to within 30 seconds or less.
<b>Remedy</b>	<p>Should the calculated results be between 95% and 90% of calls responded to within 30 seconds for a given month, the contractor will be given the next month to meet the standard.</p> <p>Should the calculated results be between 95% and 90% of calls responded to within 30 seconds for two or more months in a row or less than 90% for any given month, the contractor will be assessed 2% of the monthly billing for the measured month(s).</p>
<b>Software Tools/Other Tools</b>	Statistics dependant on ACD administrative reports.
<b>Commission Responsibilities</b>	None

<b>P.01 Grade of Service</b>	All facilities for CTVRS will be engineered to provide a grade of service equal to or greater than a P.01 grade of service.
<b>Definitions</b>	This SLA shall apply to all CTVRS operations. <b>All Facilities</b> - Trunk side voice grade and digital facilities at any node location serving as a traffic aggregation point such as: <ul style="list-style-type: none"> <li>• Dedicated incoming/outgoing access and/or egress facilities</li> <li>• Connections to a tandem that serves a LEC switch</li> <li>• Egress facilities from long distance carriers</li> <li>• Services provided directly from / to a local switch</li> </ul>
<b>Is a Baseline Required?</b>	No.
<b>What is Being Measured?</b>	Grade of service (GoS) access to trunks and lines used for CTVRS <ul style="list-style-type: none"> <li>• GoS during the busy hour each day of each month</li> <li>• Number of times busy hour that GoS is worse than grade P.01 during a month</li> </ul>
<b>Standard</b>	P.01 GoS
<b>How is it Being Measured Or Calculated?</b>	Traffic studies on dedicated access and egress facilities will be performed on a monthly basis at the CTVRS call center for incoming and outgoing traffic for all queue types. A GoS must be calculated for each hour.
<b>Remedy</b>	For each queue: <ol style="list-style-type: none"> <li>1. If GoS is P.02 or P.03 for the busy hour for four or more days in a month, a penalty of 0.5% is to be assessed for the fourth day and each additional day failing to meet P.01 during the busy hour.</li> <li>2. If GoS during the busy hour is worse than P.04 for any day in the month, a penalty of 1% of the monthly billing for that month will be assessed for the first occurrence; 1.5% for the second occurrence; 2% for the third and each additional occurrence.</li> <li>3. If either item 1 or item 2 Remedy is invoked for a second month during any six-month (6) period; all penalties will be multiplied by a factor of 3.</li> </ol>
<b>Software Tools/ Other Tools</b>	Contractor agreement with 800 provider(s) and other inward traffic providers to provide monthly traffic reports to support P.01.
<b>Commission Responsibilities</b>	None.

## APPENDIX E

## CERTIFICATION RELATIVE TO BUSINESS CONTINUITY

CTVRS is a 24/7/365 operation. As such, the Commission expects continuous operation of CTVRS during man-made disasters, natural disasters, war- or hostility-caused disasters, pandemics, or other situations or catastrophes that can or may result in possible or actual human suffering, loss of life, hardship, substantial damage or loss of property, or interruption of commerce. These lists are not all-inclusive and are for illustrative, not limiting, purposes. As a CVTRS contactor, you (and any affiliates, subcontractors, or suppliers upon whom you rely for the provision of CTVRS) will be required to have a plan or plans addressing physical security, cyber security, emergency response, pandemic, and business continuity and/or “all hazards/contingencies.” An all-hazards/contingencies plan ensures the continuity or uninterrupted provision of CTVRS, regardless of the cause of potential interruption of service. This involves the on-going identification and review of the all the elements that go into CTVRS, including but not limited to, business succession, business recovery, business resumption, contingency planning, and staffing, regardless of cause of interruption. Accordingly, each potential contractor must certify that it and its affiliates, suppliers, and subcontractors to be involved in the provision of CTVRS meet or exceed the requirements set forth in Appendix E – Certification Relative to Business Continuity.

This certification must be included in the response to the RFP from each prospective contractor. Additionally, this certification must be renewed annually by the contractor in conjunction with the contractor’s annual filing.

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**Certification Relative to Business Continuity**

With respect to the CTVRS operations:

1. Does your company have a physical security plan?
2. Does your company have a cyber security plan?
3. Does your company have an emergency response plan?
4. Does your company have a disaster recovery plan?
5. Does your company have a pandemic response plan?
6. Does your company have a business continuity plan?
7. Does your company have an all-hazards/contingencies plan?
8. Have your plan(s) been reviewed in the last year and are they updated as needed?
9. Are your plan(s) tested at least annually?
10. Are your plan(s) already on file with any federal agency or with this Commission? If so which agency? (Do not file a copy of your plans with the Commission unless we specifically request that you do so.)
11. Do your essential suppliers and your subcontractors have the same or greater level of plans as your own?

Attach a sheet with an explanation of what your safeguards are if “No” or “N/A” is supplied as a response to a question.

The foregoing questions and the answers thereto comprise a certification that must be verified by the officer having control of the security planning for the prospective contractor.

“I am authorized to complete this form on behalf of \_\_\_\_\_ [name of corporation/partnership/proprietorship], being the \_\_\_\_\_ [position] of this corporation/partnership/proprietorship, and I verify that the facts set forth above are true and correct to the best of my knowledge, information, and belief. This verification is made pursuant to 52 Pa. Code § 1.36, and the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).”

Name of Officer: \_\_\_\_\_

Signature of Officer: \_\_\_\_\_

Phone Number of Officer: \_\_\_\_\_

[Pa.B. Doc. No. 06-1474. Filed for public inspection July 28, 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 August 21, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

**A-00122960. Aaron's Transportation Services, LLC** (323 Sherbrook Blvd., Upper Darby, Delaware County, PA 19082)—persons in paratransit service, from points in the County of Delaware, to all State and Federal Correctional Institutions, located in Pennsylvania, and return.

**A-00122964. Jack Martin Maciupa t/a Independent Taxi** (217 Cleveland Avenue No. 3, Ross Township, Allegheny County, PA 15214)—persons, upon call or demand, between points in Allegheny County.

**A-00122969. Secrets Limousine Service, LLC** (Blue Bell, Montgomery County, PA 19422)—a limited liability company of this Commonwealth—persons in limousine service, from points in the Counties of Montgomery, Delaware, Chester, Bucks and Lehigh, to points in Pennsylvania, and return. *Attorney:* Andrew D. Santana, Esquire, Fox Rothschild, LLP, 1250 South Broad Street, P. O. Box 531, Lansdale, PA 19446.

#### Application of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as *common carriers* for transportation of *persons* as described under the application.

**A-00119213, F. 1, Am-A. Heather Noumeh t/a Royal Limousine Service** (922 Kearney Street, Allentown,

Lehigh County, PA 15690)—inter alia—persons, in limousine service, from points in Lehigh County, to points in Pennsylvania and return: *So As To Permit* the transportation of persons in limousine service from points in the Counties of Northampton, Berks, Montgomery, Bucks, Monroe, Luzerne, Schuylkill, Wayne, Lackawanna, Delaware, Lebanon, Dauphin and Lancaster, to points in Pennsylvania, and return.

#### Application of the following for the approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

**A-00101718, F.1. Central Air Freight Services, Inc.** (P. O. Box 99, Hazleton, McKean County, PA 18201), a corporation of the Commonwealth—certificate of Public Convenience for the discontinuance of the right to transport, as a common carrier by motor vehicle: Persons upon call or demand at the Hazleton Community Airport located in Hazle Township, Luzerne County.

#### Motor Carrier Petitions for Reinstatement/Reconsideration of Authority

The following Petitions for Reinstatement/Reconsideration of common carrier operating authority in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered sufficient notice to all carriers holding authority from this Commission. Persons seeking to intervene must file notice of intervention, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before August 21, 2006.

**A-00098529. Ira S. Davis Storage Company, Inc., t/a A-Apollo Transfer, Inc.** (P. O. Box 9708, Philadelphia, PA 19140)—petitions the Commission to reinstate its authority to transport, as a common carrier by motor vehicle, household goods in use, from points in the City and County of Philadelphia, to points in Pennsylvania within an airline distance of 100 statute miles of the Philadelphia City Hall, and vice versa.

**A-00115079. Osborne-Davis Transportation Company, Inc.** (3939 Germantown Avenue, Philadelphia, PA 19140)—petitions the Commission to reinstate its authority to transport, as a common carrier by motor vehicle,

property, excluding household goods in use, between points is this Commonwealth.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1475. Filed for public inspection July 28, 2006, 9:00 a.m.]

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### Water Service

**A-230073F0011. Pennsylvania-American Water Company.** Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply wastewater service to the public in a portion of Highland Township, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 14, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania-American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1476. Filed for public inspection July 28, 2006, 9:00 a.m.]

# PHILADELPHIA REGIONAL PORT AUTHORITY

## Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-050.1, General Construction and Project #06-049.4, Electrical Construction, New Terminal Gate Facilities & Security Improvements at Tioga Marine Terminal (TMT) until 2 p.m. on Thursday, August 24, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 1, 2006. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$75 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held August 10, 2006, at 10 a.m. at the PRPA Office, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 06-1477. Filed for public inspection July 28, 2006, 9:00 a.m.]



# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

### DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreasury.org](http://www.patreasury.org).

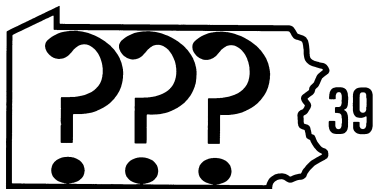
Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

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## SERVICES

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### Miscellaneous

**RFP #2006-OS-1** The Pennsylvania State System of Higher Education (PASSHE) is soliciting proposals from vendors for office supplies for its 14 universities, and the Office of the Chancellor. RFP #2006-OS-1 may be obtained at PASSHE website: <http://www.passhe.edu/content/?/office/finance/procurement/opportunities/2006-os-1>. A pre-proposal conference is scheduled for July 11, 2006 at 11:00 A.M. at the Dixon University Center in Harrisburg, Pennsylvania. Proposals are due at the issuing office by 10:00 A.M. on August 4, 2006.

**Department:** State System of Higher Education  
**Location:** Harrisburg, PA  
**Duration:** 5 Years  
**Contact:** Scott Bailey, 717-720-4155

[Pa.B. Doc. No. 06-1478. Filed for public inspection July 28, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*

# A Business Opportunity for You. . . .

The publication of the Pennsylvania Code and Bulletin has always been accomplished by contracts between the Commonwealth and private contractors.

The Commonwealth is preparing bid documents for a multi-year contract to begin July 1, 2007. The Commonwealth seeks your input and participation.

Further information can be obtained from:  
Pennsylvania Code and Bulletin  
Legislative Reference Bureau  
647 Main Capitol Building  
Harrisburg, PA 17120  
(Telephone: 717-783-1530)