

PENNSYLVANIA BULLETIN

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No. 382, September 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

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 293 Judicial Administration No. 1

Order

Per Curiam

And now, this 18th day of September, 2006 it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The fees outlined in the Financial Regulations are effective as of January 1, 2007.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 17. GOVERNANCE OF THE SYSTEM

CHAPTER 35. Budget and Finance

Subchapter A. General Provisions

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, Philadelphia Municipal Court and Philadelphia Traffic Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2007, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

- (1) Actions involving \$500 or less..... \$43.00
- (2) Actions involving more than \$500 but not more than \$2,000..... \$57.50
- (3) Actions involving more than \$2,000 but not more than \$4,000..... \$71.50
- (4) Actions involving more than \$4,000 but not more than \$8,000..... \$107.50
- (5) Landlord-tenant actions involving less than \$2,000..... \$64.50
- (6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000..... \$78.50
- (7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000..... \$107.50
- (8) Order of execution..... \$32.50
- (9) Objection to levy..... \$14.50
- (10) Reinstatement of complaint..... \$7.50
- (11) Entering Transcript on Appeal or Certiorari..... \$4.00

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2007, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

- (1) Custody cases, except as provided in section 1725(c)(2)(v)..... \$6.50

(b) *Criminal cases.*—In calendar year 2007, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) Summary conviction, except motor vehicle cases..... \$41.00
- (2) Summary conviction, motor vehicle cases, other than paragraph (3)..... \$32.50
- (3) Summary conviction, motor vehicle cases, hearing demanded..... \$39.50
- (4) Misdemeanor..... \$46.50
- (5) Felony..... \$54.00

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2007, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- (1) Entering transcript of judgment from another member of the minor judiciary.... \$7.50
- (2) Marrying each couple, making record thereof, and certificate to the parties..... \$36.00

(3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) \$14.50

(4) Issuing a search warrant (except as provided in subsection (d))..... \$14.50

(5) Any other issuance not otherwise provided in this subsection \$14.50

42 Pa.C.S. § 3571.

In calendar year 2007, Commonwealth portion of fines, etc.

* * * * *

(2) Amounts payable to the Commonwealth:

(i) Summary conviction, except motor vehicle cases..... \$14.20

(ii) Summary conviction, motor vehicle cases other than subparagraph (iii) \$14.20

(iii) Summary conviction, motor vehicle cases, hearing demanded \$14.20

(iv) Misdemeanor \$18.60

(v) Felony \$28.80

(vi) Assumpsit or trespass involving:

(A) \$500 or less \$17.95

(B) More than \$500 but not more than \$2,000 . \$28.80

(C) More than \$2,000 but not more than \$4,000 \$42.90

(D) More than \$4,000 but not more than \$8,000 \$71.65

(vii) Landlord-tenant proceeding involving:

(A) \$2,000 or less..... \$28.70

(B) More than \$2,000 but not more than \$4,000 \$35.70

(C) More than \$4,000 but not more than \$8,000 \$50.15

(viii) Objection to levy \$7.25

(ix) Order of execution \$21.67

(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs))..... \$10.15

(xi) Order of possession \$15.00

(xii) Custody cases (except as provided in section 1725(c)(2)(v)) \$5.20

[Pa.B. Doc. No. 06-1897. Filed for public inspection September 29, 2006, 9:00 a.m.]

**PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
[204 PA. CODE CH. 211]**

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 294 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 18th day of September, 2006, it is Ordered pursuant to Article V , Section 10(c) of the

Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2005 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2005 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 294 Judicial Administrative Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2005 was 3.4% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, March 30, 2006.)

[Pa.B. Doc. No. 06-1898. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

**PART I. RULES OF APPELLATE PROCEDURE
[210 PA. CODE CH. 1]**

Order Amending Pa.R.A.P. 124; No. 173 Appellate Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 15th day of September, 2006, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rule of Appellate Procedure 124 is amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 124. Form of Papers; Number of Copies.

(a) *Size and other physical characteristics.*—All documents filed in an appellate court shall be on 8 1/2 inch by 11 inch paper and shall comply with the following requirements:

(1) The document shall be prepared on white paper (except for covers, dividers, and similar sheets) of good quality.

(2) The first sheet (except the cover of a paperback) shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.

(3) The text must be double spaced, but quotations more than two lines long may be indented and single spaced. Except as provided in subdivision (2) [, margins]. **Margins** must be at least one inch on all four sides.

(4) The lettering shall be clear and legible and no smaller than point [11] 12. The lettering shall be on only one side of a page, except that exhibits and similar supporting documents and paperbooks may be lettered on both sides of a page.

* * * * *

Explanatory Comment—2006

The 2006 amendment changes the required type size from “no smaller than point 11” to “no smaller than point 12” and conforms the type size requirements to Pa.R.C.P. No. 204.1 and Pa.R.Crim.P. 575.

[Pa.B. Doc. No. 06-1899. Filed for public inspection September 29, 2006, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 19]

Proposed Amendment to Rule 1925; Proposed Recommendation No. 62

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure 1925. The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

Proposed new material is bold while deleted material is bold and bracketed.

All communications in reference to the proposed amendment should be sent no later than October 31, 2006 to:

Dean R. Phillips, Chief Counsel
D. Alicia Hickok, Deputy Counsel
Appellate Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or Fax to
717-795-2116

or E-Mail to
appellaterules@pacourts.us

The Explanatory Report which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

By the Appellate Court Procedural Rules Committee

HONORABLE THOMAS A. WALLITSCH,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1925. Opinion in Support of Order.

(a) *General rule.*—Upon receipt of the notice of appeal, the judge who entered the order [**appealed from**] **giving rise to the notice of appeal**, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief statement, in the form of an opinion, of the reasons for the order, or for the rulings or other [**matters**] **errors** complained of, or shall specify in writing the **specific** place in the record where such reasons may be found.

If the appeal is based upon an order or ruling issued by a judge that was not the judge at trial, the trial judge may request that the judge who made the interim ruling draft a statement in accordance with the standards above to explain the reasons for his or her decision.

(b) *Direction to file statement of [matters] errors complained of on appeal; instructions to the appellant and trial court.*—

[**The lower court forthwith**] If the trial judge desires clarification of the errors complained of on appeal, the trial judge may enter an order directing the appellant to file of record in the [**lower**] trial court and serve on the trial judge a concise statement of the [**matters**] **errors** complained of on [**the**] appeal [**no later than 14 days after entry of such order. A failure to comply with such direction may be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of**].

(1) *Filing and Service.* Appellant shall file of record the statement of errors complained of and concurrently shall serve the trial judge. Filing of record and service on the trial judge shall be in person or by mail as provided in Pa.R.A.P. 121(a)

and shall be complete on mailing if appellant obtains a United States Postal Service form in compliance with the requirements set forth in Pa.R.A.P. 1112(c). Service on parties shall be concurrent with filing and shall be by any means of service specified under Pa.R.A.P. 121(c).

(2) *Time for Filing and Service.* The trial judge shall allow the appellant at least 21 days from the date of the order's entry on the docket for the filing and service of the statement of errors complained of on appeal. Upon application of the appellant and for good cause shown, the trial judge may enlarge the time period initially specified or permit a supplemental statement to be filed. In extraordinary circumstances, a trial judge may allow for the filing of a statement or supplemental statement nunc pro tunc.

(3) *Contents of Order.* The trial judge's order directing the filing and service of a statement of errors complained of on appeal shall specify:

(i) the date the statement of errors complained of shall be filed and served;

(ii) that the statement of errors complained of shall be filed of record;

(iii) that the statement of errors complained of shall be served on the trial judge pursuant to subparagraph (b)(1);

(iv) that any issue not properly included in a statement timely filed and served pursuant to subdivision (b) shall be deemed waived.

(4) *Requirements; Waiver.*

(i) The statement of errors complained of on appeal shall set forth only those errors for which the appellant intends to seek review. The trial judge shall not require the citation of authorities; however, appellant may choose to include pertinent authorities in the statement.

(ii) The statement shall briefly identify each ruling that the appellant intends to challenge with sufficient detail to identify all pertinent issues for the trial judge.

(iii) Each ruling identified in that manner will be deemed to include every subsidiary issue fairly included therein; any rulings not included in the statement of errors complained of shall be deemed waived.

(iv) If the appellant cannot readily discern the basis for the trial judge's decision, he must preface the statement with an explanation as to why his statement of errors complained of has identified the errors in only general terms. In such a case, the generality of the statement of errors complained of will not be grounds for finding waiver.

(v) The trial judge shall not require appellant or appellee to file a brief, memorandum of law, or response as part of or in conjunction with the statement of errors complained of.

(c) *Remand.*

(1) Upon application of the appellant and for good cause shown, an appellate court may remand in either a civil or criminal case for clarification as to any questions of timeliness.

(2) Upon application of the appellant and for good cause shown, an appellate court may remand

in a civil case for the filing nunc pro tunc of a statement of errors complained of on appeal or for amendment of a timely filed and served statement and for the preparation and filing of a corresponding opinion by the trial court.

(3) If an appellant in a criminal case was ordered to file a statement of errors complained of on appeal and failed to do so, upon application of the appellant and for good cause shown, the appellate court may remand for the filing of a statement of errors complained of on appeal nunc pro tunc and for the preparation and filing of a corresponding opinion by the trial court.

(4) In a criminal case, counsel may file of record and serve on the trial judge a statement of intent to file an *Anders/McClendon* brief in lieu of filing a statement of errors complained of. If, upon review of the *Anders/McClendon* brief, the appellate court believes that there are potentially meritorious issues for review, those issues will not be waived; instead, the appellate court may remand for the filing of a statement of errors complained of, a supplemental opinion pursuant to 1925(a), or both. The trial court may, but is not required to, replace appellant's counsel.

[(c)] (d) *Opinions in errors on petition for allowance of appeal.*—Upon receipt of notice of the filing of a petition for allowance of appeal under Rule 1112(b) (appeals by allowance), the appellate court below which entered the order sought to be reviewed, if the reasons for the order do not already appear of record, shall promptly file of record at least a brief statement, in the form of an opinion, of the reasons for the order.

Official Note: [Subdivisions (a) and (b) of this rule are based on former Supreme Court Rule 56 and eliminate the blanket requirement of the prior practice for a service of a statement of matters complained of. See also former Superior Court Rule 46 and former Commonwealth Court Rule 25. Subdivision (c) of this rule is intended to provide the Supreme Court and the parties with at least a brief informal memorandum of the reasons for the decision of the appellate court below. See *In re Harrison Square Inc.*, 470 Pa. 246, 368 A.2d 285 (1977).]

Subdivision (a) This subdivision permits the trial judge to ask for a statement of errors complained of on appeal if the record is inadequate and the trial judge needs to clarify the errors complained of. The revisions clarify that a trial judge may refer the 1925(a) opinion to another judge if the trial judge did not issue the ruling in question. There may be times when more than one judge will issue 1925(a) opinions. The time period for transmission of the record is specified in Pa.R.A.P. 1931 and is unaffected by these amendments.

Subdivision (b)(1) This subdivision maintains the requirement that the statement be both filed of record in the lower court and served on the trial judge. Service on the trial judge may be accomplished by mail or by personal service. The date of mailing will be considered the date of service upon the trial judge only if counsel obtains a United States Postal Service form from which the date of mailing can be verified, as specified in Pa.R.A.P. 1112(c). Counsel is advised to retain date-stamped copies of the postal forms (or pleadings if served by

hand), in case questions arise later as to whether the statement was timely served on the trial judge.

Subdivision (b)(2) This subdivision extends the time period for drafting the statement from 14 days to at least 21 days, with the trial court permitted to enlarge the time period or to allow the filing of a supplemental statement upon good cause shown. In *Commonwealth v. Mitchell*, 2006 Pa. LEXIS 1286 (July 19, 2006), the Court expressly observed that a statement filed “after several extensions of time” was timely. An enlargement of time upon timely application might be warranted if, for example, there was a serious delay in the transcription of the notes of testimony or in the delivery of the order to appellate counsel. A trial court should also enlarge the time or allow for a supplemental statement when new counsel is retained or appointed. A supplemental statement may also be appropriate when the ruling challenged was so non-specific—e.g., “Motion Denied”—that counsel could not be sufficiently definite in his or her initial 1925(b) statement.

A nunc pro tunc statement will generally be allowed only when there has been a breakdown in the process constituting extraordinary circumstances. See, e.g., *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 577 Pa. 231, 248-49, 843 A.2d 1223, 1234 (Pa. 2004) (“We have held that fraud or the wrongful or negligent act of a court official may be a proper reason for holding that a statutory appeal period does not run and that the wrong may be corrected by means of a petition filed nunc pro tunc.”) Courts have also allowed nunc pro tunc relief when “non-negligent circumstances, either as they relate to appellant or his counsel” occasion delay. *McKeown v. Bailey*, 1999 PA Super. 135, ¶ 6, 731 A.2d 628, 630 (Pa. Super. 1999). However, even when there is a breakdown in the process, the appellant must attempt to remedy it within a “very short duration” of time. *Id.*; *Amicone v. Rok*, 2003 PA Super. 500, 839 A.2d 1109 (Pa. Super. 2003) (recognizing a breakdown in process, but finding the delay too long to justify nunc pro tunc relief).

Subdivision (b)(3) This subdivision specifies what a trial judge must advise appellants when ordering a statement of errors complained of on appeal.

Subdivision (b)(4) This subdivision sets forth the parameters for the statement of errors complained of on appeal and should aid counsel in complying with the concise-yet-sufficiently-detailed requirement by allowing counsel to rely on the fact that subsidiary issues will be deemed included if the overarching issue is identified. This provision has been taken from the United States Supreme Court rules. See Sup. Ct. R. 14.1. It recognizes that there may be times that an appellant cannot be specific, because of the non-specificity of the ruling complained of on appeal. In such instances, appellants are encouraged to seek leave to file a supplemental 1925(b) statement to clarify their position in response to the trial court’s more specific 1925(a) opinion. This subsection also allows—but does not require—appellant to state the authority upon which it challenges the ruling in question, but it expressly states that a 1925(b) statement is not a brief and appellant shall not file a brief with the 1925(b) statement.

Subparagraph (c)(1) applies to both civil and criminal cases and allows an appellate court to seek additional information—whether supplementation of the record or additional briefing—if it is not apparent whether an initial or supplemental statement of errors appealed from was timely filed or served.

Subparagraph (c)(2) allows an appellate court to remand a civil case to allow an initial or supplemental statement of errors appealed from and/or a supplemental opinion.

Subparagraph (c)(3) allows an appellate court to remand in criminal cases when the appellant has failed to respond to an order to file a statement of errors complained of on appeal. Currently, the appeal must be quashed if no timely statement of errors appealed from is filed or served; however, because the failure to file and serve a timely statement is a failure to perfect the appeal, it is presumptively prejudicial and “clear” ineffectiveness. See, e.g., *Commonwealth v. Halley*, 582 Pa. 164, 870 A.2d 795 (Pa. 2005); *Commonwealth v. West*, 2005 Pa. Super. 269, 880 A.2d 654 (Pa. Super. 2005). Because of the clear ineffectiveness, direct appeal rights are restored through a post-conviction relief process. *Id.* However, the judicial resources expended and delay occasioned by such a process may prejudice either the defendant or the Commonwealth. Accordingly, the proposed amendments allow the court to determine on direct appeal whether there is an instance of clear ineffectiveness, and, if so, to remand for appellant to file a statement of errors complained of and the trial judge to file a corresponding 1925(a) opinion. This is similar to the circumstances in *Commonwealth v. Mitchell*, 2006 Pa. LEXIS 1286 (July 19, 2006), where the appellant originally instructed counsel not to raise any issues on appeal, and, although the trial court requested a statement of errors, counsel did not file one because the appellant directed him not to. When the appellant expressed a desire to revoke his waiver, upon application, the Supreme Court remanded and restored his direct appeal rights.

Subparagraph (c)(4) This subdivision clarifies the special expectations and duties of a criminal lawyer. Even lawyers seeking to withdraw pursuant to the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967) and *Commonwealth v. McClendon*, 495 Pa. 467, 434 A.2d 1185 (Pa. 1981) are obligated to comply with all rules, including the filing of a 1925(b) statement. See *Commonwealth v. Myers*, 2006 Pa. Super. 58, 897 A.2d 493 (Pa. Super. Mar. 22, 2006); *Commonwealth v. Ladamus*, 2006 PA Super. 65, 896 A.2d 592 (Pa. Super. Mar. 29, 2006). However, because a lawyer will not file an *Anders/McClendon* brief without concluding that there are no non-frivolous issues to raise on appeal, this amendment allows a lawyer to file, in lieu of a statement of errors, a statement that no errors have been raised because the lawyer is (or intends to be) seeking to withdraw under *Anders/McClendon*. At that point, the appellate court will remand only if it finds potentially non-frivolous issues during its constitutionally-required review of the record.

Subparagraph (d) was formerly (c). The text has not been revised.

EXPLANATORY REPORT

This Explanatory Report is not part of the rule or note. It is intended to explain to the bench and bar the considerations that have informed the proposed rule change. This Recommendation, which is published for comment, proposes amendments to Pa.R.A.P. 1925 and its note that address certain issues arising from its application, especially issues pertaining to waiver. The following is a discussion of the purpose of Rule 1925, its application by the appellate courts, and issues that have arisen regarding application of the rule—including a brief discussion of the waiver doctrine. The Committee believes that the proposed amendments to the rule balance the interests of both bench and bar.

Rule 1925(a)

Rule 1925(a) requires trial court judges to prepare an opinion or otherwise state the reasons for their ruling. This is to aid the appellate courts in evaluating the claims of error raised on appeal. While other jurisdictions do not require trial court opinions, because Pennsylvania's appellate courts lead the nation in the number of appeals relative to the number of judges, the preparation of trial court opinions is deemed necessary to assist the appellate process.

The first paragraph of Rule 1925(a) remains the same, while the 2006 proposed amendment would clarify that if a complex issue was decided pre-trial by a judge different from the trial judge, the trial judge may request that the other judge prepare an opinion regarding that ruling. Such a referral is not necessary in every case or even in most cases where another judge has made a pre-trial ruling, and a request is not mandatory upon the other judge to prepare such an opinion.

Rule 1925(b)

Waiver on Appeal for Non-Compliance with the Timing, Filing and Service Requirements

Because trial judges are required to write opinions under Rule 1925(a) in a relatively short time, see Pa.R.A.P. 1931(a) and (b), the trial judges have the option under Rule 1925(b) to request the appellant to file what is currently called a "statement of matters complained of on appeal." The recommendation proposes to change "matters" to "errors" in order to clarify that the purpose of the Rule 1925(b) statement is to identify the bases for the appeal. Under both the existing rule and the recommendation, a trial judge does not have to request a Rule 1925(b) statement, but may do so to clarify the issues to prepare the Rule 1925(a) opinion. For example, in criminal cases, parties may appeal without filing post-sentence motions, and the trial judge may wish to ascertain what allegations of error appellant intends to raise on appeal. Likewise, if there have been many issues raised in post-sentence motions in criminal cases or post-verdict motions in civil cases, the trial judge may wish to ascertain which of those issues will be pursued on appeal. The trial judge should not be required to address issues in a Rule 1925(a) opinion that appellant knows will not be raised in the appellate court.

Because of the importance of the Rule 1925(a) opinion to the appellate courts, and the importance of a Rule 1925(b) statement to assist the trial court in preparing a Rule 1925(a) statement, cases from the Pennsylvania Supreme Court have underlined the necessity for appellants to follow the rules and file and serve on the trial judge timely Rule 1925(b) statements when ordered.

In *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (Pa. 1998), the Pennsylvania Supreme Court held that

failure to file a Rule 1925(b) statement when requested to do so will result in waiver. See also *Commonwealth v. Butler*, 571 Pa. 441, 812 A.2d 631 (2002) (applying *Lord* to a PCRA). Subsequent to *Lord*, some Superior Court panels declined to find waiver when the untimeliness of the Rule 1925(b) statement was determined not to have impeded appellate review, in that the trial court addressed those issues in its Rule 1925(a) opinion. See *Commonwealth v. Alsop*, 2002 Pa. Super. 146, 799 A.2d 129 (Pa. Super. 2002); *Commonwealth v. Ortiz*, 2000 Pa. Super. 13, 745 A.2d 662 (Pa. Super. 2002). However, in companion cases decided in 2005, *Commonwealth v. Castillo*, 585 Pa. 395, 888 A.2d 775 (Pa. 2005) and *Commonwealth v. Schofield*, 585 Pa. 389, 888 A.2d 771 (Pa. 2005), the Supreme Court affirmed the bright line waiver rule in *Lord* and expressly disapproved the rulings in *Alsop* and *Ortiz*, thus denying broad discretion to appellate court judges to accept late-filed or incomplete Rule 1925(b) statements. *Schofield* also held that the formalities of the rule must be followed—including the requirements that the 1925(b) statement be filed of record and served on the trial judge and that appellant must follow through to make sure that the filings are part of the certified record on appeal (see Pa.R.A.P. 1931 and Explanatory Comment—2004). If appellants fail to follow these requirements, they will have waived the issues raised on appeal.

However, the Supreme Court also recognized in *Castillo* that under certain circumstances an appellant could properly seek relief from the literal application of Rule 1925(b). *Castillo*, 585 Pa. at 400, 403 n.6, 888 A.2d at 778, 780 n.6 (not disputing the Commonwealth's contention that the burden of Rule 1925(b) is minimal because appellants "may proactively seek from the trial court an extension of time to file or the ability to amend a statement if needed" and that remand to permit amendment of a Rule 1925(b) statement as in *Commonwealth v. Moran*, 2003 Pa. Super. 166, 823 A.2d 923 (Pa. Super. 2003) was "not inconsistent with" *Lord* or *Butler*.)

The Pennsylvania Supreme Court has made it clear that the proper functioning of the appellate process requires that a trial judge has sufficient information to prepare his or her Rule 1925(a) opinions. While exceptions may be made when the interests of justice require, an unfettered exercise of discretion would be inappropriate because it could lead to "unsupportable distinctions between similarly situated litigants." *Castillo*, 585 Pa. at 402, 888 A.2d at 779.

The 2006 revisions to Rule 1925(b) are designed to make it clear that the requirements of the rule are mandatory and will result in waiver if not strictly followed. Revisions have been made to ensure that this is clear to practitioners. At the same time, following *Castillo*, the revisions are designed to amplify and standardize those situations where the interests of justice require some flexibility in the application of the rule.

There has been considerable concern among practicing attorneys about the application of the rule and the risks of waiver. The revisions have been drafted after considering input from many individual attorneys as well as the organized bar and they have attempted to balance the need for a uniform application of the rule and the ability to provide relief when circumstances require. While the new rule attempts to provide appellants and courts with the means to avoid unjust waivers, it does not provide courts with unfettered discretion to excuse the consequences of non-compliance.

Waiver on Appeal for Non-Conciseness or Vagueness

The 2006 amendments also attempt to address the concern of the Bar raised by cases in which courts found waiver: (a) because the Rule 1925(b) statement is too vague; or (b) because the Rule 1925(b) statement is so repetitive and voluminous that it does not enable the trial judge to focus on issues that are likely to be raised on appeal. Opinions of the intermediate appellate courts have condemned both practices. See, e.g., *Lineberger v. Wyeth*, 2006 PA Super. 35, ¶ 14, 894 A.2d 141, 154 (Pa. Super. 2006); *Kanter v. Epstein*, 2004 Pa. Super. 470, 866 A.2d 394, 401 (Pa. Super. 2004), appeal denied, ___ Pa. ___, 880 A.2d 1239 (Pa. 2005), cert. denied sub nom *Gadon & Rosen, P.C. v. Kanter*, 2006 U.S. LEXIS 76 (Jan. 9, 2006).

While conciseness and vagueness are very case-specific inquiries, certain observations may be helpful. First, the 1925(b) statement is only the first step in framing the issues to be raised on appeal, and the requirements of Pa.R.A.P. 2116 are even more stringent. Thus, the 1925(b) statement of errors complained of on appeal should be viewed as an initial winnowing. Second, when appellate courts have been critical of sparse or vague 1925(b) statements, they have not criticized the number of issues raised but the paucity of useful information contained in the statement. The more carefully the appellant frames the 1925(b) statement, the more likely it will be that the trial judge will be able to articulate the rationale underlying the decision and provide a basis for counsel to determine the advisability of appealing that issue. Thus, counsel should begin the winnowing process at the 1925(b) stage and should articulate specific rulings with which he/she takes issue and why he/she takes issue with them (note, for example, that the *Lineberger* court found the omission of any reference to the *Nanty-Glo* rule from the 1925(b) statement to be a waiver).

There is no adverse consequence to an appellant who, upon reviewing a trial court's 1925(a) statement, decides to limit the scope or number of questions to raise on appeal—or even to withdraw the appeal altogether. In the United States Supreme Court, the standard has been explained thus: the questions should be “expressed concisely in relation to the circumstances of the case, without unnecessary detail. The questions should be short and should not be argumentative or repetitive.” Sup. Ct. R. 14.1.

Waiver on Appeal in Criminal Cases

In a criminal case, there are additional considerations that must be addressed, some of which are constitutional. Accordingly, while the courts have held that the only remedy a civil appellant can receive is whatever monetary recovery can be had upon a malpractice suit, a criminal appellant can have his/her appeal rights restored when counsel fails to comply with the 1925(b) order, because the failure to perfect an appeal is “clear” ineffectiveness. See, e.g., *Commonwealth v. Halley*, 582 Pa. 164, 870 A.2d 795 (Pa. 2005); *Commonwealth v. West*, 2005 PA Super. 269, 880 A.2d 654 (Pa. Super. 2005). The proposed rule allows the appellate court to remand upon such finding of “clear ineffectiveness” rather than require the appeal to be quashed and then reinstated through a post-conviction relief proceeding.

Further, appellate courts must ensure that an appellant's constitutional right to appeal has been satisfied by ensuring that a lawyer be allowed to withdraw from representation only if there are no non-frivolous issues for appeal. A lawyer seeking to withdraw must therefore

follow the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967) and *Commonwealth v. McClendon*, 495 Pa. 467, 434 A.2d 1185 (Pa. 1981). Appellate courts have held that during the period the lawyer is still representing the appellant, he or she has an obligation to comply with all rules, including the filing of a 1925(b) statement. See *Commonwealth v. Myers*, 2006 Pa. Super. 58, 897 A.2d 493 (Pa. Super. Mar. 22, 2006); *Commonwealth v. Ladamus*, 2006 Pa. Super. 65, 896 A.2d 592 (Pa. Super. Mar. 29, 2006). As noted above, if a lawyer is seeking to withdraw, he or she has concluded that there are no non-frivolous issues to be raised. It follows, then, that the lawyer cannot articulate issues for the purpose of a 1925(b) opinion. For this reason, the amended rule will allow a lawyer to file a statement of errors complained of on appeal (in compliance with the rules of timeliness, filing, and service) that indicates that the lawyer intends to file an *Anders/McClendon* brief. At the same time, the appellate court is still constitutionally required to assure itself that there are no non-frivolous issues to be raised. If, during that review, the appellate court concludes that there are potentially non-frivolous issues to be raised, it may remand for a statement of errors complained of and a corresponding trial court opinion addressing those issues.

[Pa.B. Doc. No. 06-1900. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 4, 1000, 1700 AND 2250]

Amendment of Rules Governing Joinder of Additional Defendants; Proposed Recommendation No. 218

The Civil Procedural Rules Committee proposes that the rules of civil procedure governing the joinder of additional defendants be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than November 9, 2006 to:

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

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

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 400. SERVICE OF ORIGINAL PROCESS SERVICE UPON PARTICULAR PARTIES

Rule 425. Additional Defendants.

(a) Original process shall be served upon an additional defendant who is not already a party to the action in the same manner as if he **or she** were an original defendant. **[Copies of all pleadings filed in the action shall be served with the complaint against the additional defendant.]** The joining party, upon request, shall furnish copies of all or specified pleadings filed in the action.

Official Note: [Prior pleadings must be served with the complaint whether the complaint is original process served upon the additional defendant or a pleading served under Rule 440.]

See Rule 213(b) for the right of an additional defendant to move for a severance and Rule 1006(d) for the right to move for a change of venue.

(b) The defendant or additional defendant shall serve a copy of his complaint upon every prior party **[but need not attach copies of any pleadings previously filed in the action]**.

CHAPTER 1000. ACTIONS
Subchapter A. CIVIL ACTION
PLEADINGS

Rule 1017. Pleadings Allowed.

(a) Except as provided by Rule 1041.1, the pleadings in an action are limited to

- (1) a complaint[,] and an answer thereto,

Official Note: The term “complaint” includes a complaint to join an additional defendant.

- (2) a reply if the answer contains new matter **[or]**, a counterclaim **or a cross-claim**,

- (3) a counter-reply if the reply to a counterclaim **or cross-claim** contains new matter,

- (4) a preliminary objection and **[an answer] a response** thereto.

* * * * *

Rule 1031. Counterclaim.

(a) The defendant may set forth in the answer under the heading “Counterclaim” any cause of action cognizable in a civil action which the defendant has against the plaintiff at the time of filing the answer.

Official Note: See Rule 2256 governing counterclaims in an action involving an additional defendant.

See Rule 213(a) and (b) governing consolidation and severance of causes of action.

* * * * *

Rule 1031.1. Cross-claim.

Any party may set forth in the answer or reply under the heading “Cross-claim” a cause of action against any other party to the action that the other party may be

- (1) solely liable on the underlying cause of action or

Official Note: The term “underlying cause of action” refers to the cause of action set forth in the plaintiff’s complaint or the defendant’s counterclaim.

- (2) liable to or with the cross-claimant on any cause of action arising out of the transaction or occurrence or

series of transactions or occurrences upon which the underlying cause of action is based.

Official Note: Subparagraph (2) permits a cross-claimant to raise a claim that another party is liable over to the cross-claimant or jointly and severally liable with the cross-claimant.

The right to assert a cross-claim in a class action is limited by Rule 1706.1 to the grounds set forth in that rule.

CHAPTER 1700. CLASS ACTIONS

Rule 1706.1. Joinder of Additional Defendants. Cross-Claims.

Any defendant or additional defendant may only join as an additional defendant any person **[, whether or]** not a party to the action, **or may assert a cross-claim against another party to the action**, who may be

- (1) solely liable on the plaintiff’s cause of action[;], or

* * * * *

Official Note: [The three bases of joinder provided by this rule are identical to the bases of joinder provided by Rule 2252(a)(1) through (3) governing the joinder of additional defendants generally.]

The right of joinder under Rule 1706.1 of an additional defendant based upon liability “on the plaintiff’s cause of action” is not as broad as the right under Rule 2251(b) governing the joinder of additional defendants generally

Similarly, the right of cross-claim under this rule is not as broad as the right under Rule 1031.1 governing cross-claims generally.

CHAPTER 2250. JOINDER OF ADDITIONAL DEFENDANTS

Rule 2252. Right to Join Additional Defendants.

(a) Except as provided by Rule 1706.1, any **[defendant or additional defendant] party** may join as an additional defendant any person **[whether or]** not a party to the action who may be

- (1) solely liable on the **[plaintiff’s] underlying cause of action**, or

Official Note: The term “underlying cause of action” refers to the cause of action set forth in the plaintiff’s complaint or the defendant’s counterclaim.

- (2) **[liable over to the joining party on the plaintiff’s cause of action, or] Rescinded.**

- (3) **[jointly or severally liable with the joining party on the plaintiff’s cause of action, or] Rescinded.**

- (4) liable to **or with** the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the **[plaintiff’s] underlying cause of action** is based.

Official Note: Paragraph (4) permits a joining party to join an additional defendant who may be liable over to the claimant or jointly and severally liable with the joining party.

The joinder of an additional defendant in a class action is limited by Rule 1706.1 to the grounds set forth in **[subparagraphs (1) to (3)] that rule.**

(b) [If the person sought to be joined is not a party to the action the] The joining party may file as of course a praecipe for a writ or a complaint.

(1) If the joinder is by writ, the joining party shall file a complaint within twenty days from the filing of the praecipe for the writ. If the joining party fails to file the complaint within the required time, **[the plaintiff or the additional defendant joined] any other party** may seek a rule to file the complaint and an eventual judgment of non pros in the manner provided by Rule 1037(a) for failure to file a complaint.

* * * * *

(d) [If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint, assert in the answer as new matter that such party is alone liable to the plaintiff or liable over to the joining party or jointly or severally liable to the plaintiff or liable to the joining party directly setting forth the ground therefor. The case shall proceed thereafter as if such party had been joined by a writ or a complaint] Rescinded.

Official Note: See Rule 1031.1 governing cross-claim for the procedure to assert a claim against a person already a party to an action.

Rule 2253. Time for Filing Praecipe or Complaint.

(a) Except as provided by Rule 1041.1(e), neither a praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by complaint, shall be filed by the original defendant or an additional defendant later than

(1) sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof, or

(2) the time for filing his or her answer,

whichever is later, unless such filing is allowed by order of the court or by the written consent of all parties approved by and filed with the court. The praecipe for a writ to join an additional defendant or the complaint joining the additional defendant shall be filed within twenty days after notice of the court order or the court approval of the written consent or within such other time as the court shall fix.

* * * * *

Rule 2255. Procedure.

* * * * *

[(b) No pleadings shall be filed between the additional defendant and any party other than the one joining the additional defendant except that the additional defendant may file a counterclaim against the plaintiff.] Rescinded.

* * * * *

Explanatory Comment

In the spring of 2006, the Civil Procedural Rules Committee published for comment Recommendation No. 208 which, inter alia, proposed to add notes to Rules 2252(d) and 2255(b) governing joinder of additional defendants to make clear that Rule 2255(b) does not bar the

assertion of a cross-claim between parties to an action. The sense of the comments received to the publication was that the rules remained antiquated and that the matter was of sufficient importance to be included in the text of the rules rather than in notes. The Committee has revised the proposal in light of these comments.

The present recommendation proposes the following revisions:

I. Cross-claim

Rule 2252 governing joinder of an additional defendant was amended in 1969 by adding subdivision (d) providing that "If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint," assert the claim in the answer as new matter. This amendment was described in the commentary to the 1969 amendments to Rule 2252 as "the equivalent of the cross-claim between two defendants under the federal rules." However, the term "cross-claim" did not appear in the rules.

The present recommendation proposes that the assertion of a claim by one party against another party be a matter of pleading rather than joinder of parties. The claim is to be pleaded as a cross-claim under proposed new Rule 1031.1. The claims which may be asserted in a cross-claim are identical to those which serve as bases for joining an additional defendant under revised Rule 2252(a) discussed below.

II. Joinder of Additional Defendants

1. The recommendation proposes that Rule 2252(a) be amended to limit the rules governing joinder of additional defendants to the joinder of persons not already parties to an action:

... any **[defendant or additional defendant] party** may join as an additional defendant any person **[, whether or]** not a party to the action . . .

2. The joinder may be effected by "any party," not simply the defendant or additional defendant as under the present rule. This revision acknowledges that a plaintiff may join an additional defendant in his or her capacity as defendant on a counterclaim. In light of this revision, subparagraphs (a)(1) and (4) describing the bases for joining an additional defendant refer to the "underlying cause of action": rather than the "plaintiff's cause of action." A new note explains the term "underlying cause of action" as referring to "the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim."

3. Subdivision (a)(2) and (3) setting forth liability over and joint or several liability as bases for joining an additional defendant are to be deleted as they are subsumed in subdivision (a)(4) which provides for joinder of a person who is

(4) liable to **or with** the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the **[plaintiff's] underlying** cause of action is based.

A note explains that this provision includes the joinder of a person as "an additional defendant who may be liable over to the claimant or jointly and severally liable with the joining party."

4. Current Rule 2255(b) prohibiting the filing of pleadings between an additional defendant and "any party other than the one joining the additional defendant" is to be rescinded.

5. The time for joinder of an additional defendant without leave of court under present Rule 2253(a) is "sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof." It frequently occurs, however, that if a defendant has filed preliminary objections, he or she is not in a position to join an additional defendant within the sixty-day time period. In addition, if an additional defendant is joined just prior to the end of the sixty-day period, that additional defendant may have no opportunity to timely join another additional defendant as the sixty-day period may have expired. Consequently, it is proposed that Rule 2253(a) be amended to provide that an additional defendant may be joined without leave of court within the existing sixty-day period provided by the present rule or within "the time for filing his or her answer," whichever is longer. This revision will allow the joining party to join an additional defendant without leave of court either after disposition of preliminary objections or after expiration of the sixty-day period but, in either case, within the time for filing his or her answer.

III. *Conforming Amendments*

Rule 420 governing service upon an additional defendant is revised to delete the burdensome requirement that the joining party serve with the complaint copies of all pleadings in the action. Rather, "[t]he joining party, upon request, shall furnish copies of all or specified pleadings filed in the action."

Rule 1017 governing pleadings allowed is revised to provide a numerical list of pleadings which may be filed. The revised rule in subdivision (a)(2) and (3) includes a reference to the cross-claim proposed under new Rule 1031.1.

The note to Rule 1031(a) governing counterclaims is revised by adding a paragraph cross-referring to Rule 2256 relating to counterclaims in an action involving an additional defendant.

Rule 1706.1 governing joinder of an additional defendant in a class action is revised to permit a party to assert a cross-claim against another party to the action on the grounds limited by that rule.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-1901. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONROE COUNTY

Amendment to Rule of Civil Procedure 1301 Compulsory Arbitration—Scope; 15 admin 2006, 7099 CV 06

Order

And Now, this 12th day of September, 2006, Monroe County Local Rule of Civil Procedure Number 1301 is amended as follows in conformity with the provisions of Section 7361 (b) of Title 42 of the Pennsylvania Consoli-

dated Statutes, Compulsory Arbitration effective thirty (30) days after publication the in *Pennsylvania Bulletin*.

It Is Further Ordered that seven (7) certified copies of this Order and the attached Rule of Civil 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 Civil Procedural Rules Committee of the Supreme Court of Pennsylvania; one copy to the *Monroe County Legal Reporter* for publication, and that one copy shall be filed with the Prothonotary of Common Pleas of Monroe County.

By the Court

RONALD E. VICAN,
President Judge

Compulsory Arbitration

Rule 1301—Scope

1. All civil cases where the amount in controversy (exclusive of interest and costs) shall be Fifty Thousand (\$50,000.00) Dollars or less except those involving title to real estate, equity cases, mandamus, quo warranto and mortgage foreclosure, shall first be submitted to a Board of Arbitrators in accordance with Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361. The amount in controversy shall be determined from the pleadings or by agreement of counsel. The Court may of its own motion or upon the motion of any parties strike from the trial list and certify for arbitration any case which should have been arbitrated in the first instance.

2. No case shall be scheduled for arbitration until (1) the expiration of 30 days from the most recent service either of (a) the complaint upon an original or an additional defendant; or (b) a counterclaim upon the plaintiff; and (2) unless counsel for the moving party certifies at the time of filing of Praeceptum for the trial list that:

a. All preliminary objections have been finally determined;

b. Counsel for the moving party has completed all discovery and knows of no pending discovery on the part of opposing counsel which will delay hearing;

c. The moving party and witnesses are available and ready to proceed to hearing;

3. Form: A case shall be listed for arbitration by filing a Praeceptum in the form attached to this rule.

4. Notice: Notice of the date, time and place of arbitration shall be provided to counsel for the parties or if unrepresented, to the party directly by the Court Administrator, and shall include the following provision pursuant to Pa.R.C.P. 1303(a)(2):

"This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

Form—Praecipe for Arbitration

COURT OF COMMON PLEAS OF MONROE COUNTY

FORTY-THIRD JUDICIAL DISTRICT COMMONWEALTH OF PENNSYLVANIA

NO. _____ PRAECIPE FOR ARBITRATION 43 J.D.R.C.P. 1301

vs.

TO THE PROTHONOTARY OF SAID COURT: ARBITRATION NO. _____

- Appoint arbitrators in the above case
() Amount in controversy is \$50,000.00 or less.
() The case has been at issue more than thirty days.
() Order of the Court.
() Judgment has been entered Sec Leg, Assessment of Damages only.
() Estimated time required for hearing is ___ hours.
() There is Companion Case No. _____
() Other

The case is to be tried by and notices sent to:

Form with fields for Attorney(s) for Plaintiff(s) or Pro Se Plaintiff, Attorney(s) for Defendant(s) or Pro Se Defendant, Address, and Phone Number.

I CERTIFY that all preliminary objections have been finally determined; that I have completed all discovery and know of no discovery on the part of opposing counsel which will delay a hearing; that the moving party and witnesses are available and ready to proceed.

I CERTIFY that a copy of this Praecipe has been provided to the following by the moving party.

Form with fields for Name, Address, and Dated: _____, 20 ____ Attorney for the

[Pa.B. Doc. No. 06-1902. Filed for public inspection September 29, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 65]

Fishing; Musky Enhancement Program

The Fish and Boat Commission (Commission) amends Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking modifies the seasons, sizes and creel limits for muskellunge, muskellunge hybrids and pickerel and modifies the season for northern pike. In addition, the final-form rulemaking creates the Musky Enhancement Program (Program).

A. *Effective Date*

The final-form rulemaking will go into effect on January 1, 2007.

B. *Contact Person*

For further information on this final-form rulemaking, contact Laurie E. Shepler, Chief Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. *Statutory Authority*

The amendments to § 61.1 (relating to Commonwealth inland waters) and the addition of § 65.16 (relating to Musky Enhancement Program) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The final-form rulemaking is designed to update, modify and improve the Commission's regulations regarding muskellunge and muskellunge hybrids, northern pike and pickerel. The specific purpose of the amendments is described in more detail under the summary of changes.

E. *Summary of Changes*

(1) *Muskellunge and muskellunge hybrids.* The Commission solicited information from muskellunge and tiger muskellunge (musky) anglers to guide enhancement of fishing opportunities for these species in this Commonwealth. As part of its efforts, the Commission convened a musky workgroup that included representatives from the musky fishing community as well as the broader angling community, including black bass anglers. The Commission also solicited water-specific fishing quality information from musky anglers through a volunteer survey and examined and summarized available biological information describing muskellunge and tiger muskellunge in this Commonwealth.

Following a formal opinion gathering process, the workgroup formulated the following goal statement: "To enhance musky fishing through advanced fish culture methods, education and harvest management while considering habitat potential." The workgroup also formulated a number of draft objectives that identified specific prioritized needs, including enhancing muskellunge and tiger muskellunge density and size-structure through alternative harvest restrictions. The workgroup addressed a variety of topics, including recommending that the total

number of waters or water sections managed for muskellunge (currently 150) be reduced to provide opportunities for more intensive management on fewer waters.

The workgroup further proposed that density and size structure could be enhanced by further restricting harvest on waters Statewide following review of simulation results that examine alternative size limits. In addition, the workgroup proposed further restrictions on selected waters where biologists determined that density could be further enhanced. Under the workgroup's proposals, the Statewide minimum size limit would be 36 inches and the "enhanced" minimum size limit would be 45 inches. Another option discussed by the workgroup was a Statewide size limit of 40 inches in the event that an "enhanced" option was not adopted by the Commission.

As a result of the input gathered from the workgroup and the independent assessment of the Commission's biologists, the Commission proposed to increase the minimum size limit for muskellunge and muskellunge hybrids from 30 inches to 36 inches, to reduce the daily limit from two (combined species) to one and to allow for a year-round open season on Commonwealth inland waters. The Commission also proposed the Program to designate waters for more intensive development of musky populations. The Commission proposed that for waters regulated and managed under the Program, the season would be open year-round, the minimum size limit would be 45 inches and the daily limit would be one. In addition to this proposal, the Commission sought public comments on an alternative proposal. The alternative proposal set the Statewide limit for muskellunge and muskellunge hybrids at 40 inches and did not include the Program.

On final-form rulemaking, the Commission amended § 61.1 to provide for a year-round open season, a minimum size limit of 40 inches and a daily limit of one on Commonwealth inland waters. This section, as amended, will read as set forth in Annex A. The Commission also adopted § 65.16, as set forth in the proposed rulemaking, to provide for a Program that includes a year-round open season, a minimum size limit of 45 inches and a daily limit of one.

Muskellunge and tiger muskellunge are a long-lived, low-density species that, at maximum, occur at densities of one legal fish per surface acre in this Commonwealth's waterways. Diet studies carried out in this Commonwealth and elsewhere show that muskellunge and tiger muskellunge primarily prefer soft-rayed fishes and most studies show, including those in this Commonwealth, that catostomids (suckers) are the primary prey fish of large muskellunge. Consequently, impacts to other game fish and panfish species are expected to be limited. The increased size limit may facilitate greater levels of natural recruitment in the native range of muskellunge (western Pennsylvania) where rather dramatic improvements in water quality and species diversity have occurred in recent decades. Currently, natural recruitment Statewide is very low with Commission stocking programs accounting for an estimated 98% of angler trips. Although increased size limits, coupled with water quality improvements, may foster some additional natural recruitment, it is expected that Commission stocking programs will continue to provide the bulk of recreational fishing opportunities now and into the future.

(2) *Northern pike.* Northern pike fisheries occur in 59 waterways open to public fishing across this Common-

wealth. Most fisheries are sustained through natural reproduction and occur in the upper Allegheny drainage (northwest Pennsylvania). Angler catch rates are frequently high in the spring, often encompassing a portion of that period corresponding to the closed season. To provide the Commonwealth's anglers with expanded opportunities to catch and, if desired, harvest northern pike, the Commission proposed a year-round open season, a reduced minimum size limit of 18 inches, and an increased creel limit of four on Commonwealth inland waters.

Amur pike or Amur pike hybrids have not been sustained through a stocking program in this Commonwealth since the early 1970s and no longer occur in this Commonwealth. The Commission therefore proposed that they be removed from the species list in § 61.1.

On final-form rulemaking, the Commission amended § 61.1 to provide for a year-round open season while retaining the current minimum size limit of 24 inches and the current daily limit of two. This section, as amended, will read as set forth in Annex A.

(3) *Pickereel*. Pickerel fisheries occur in 73 waterways open to public fishing across this Commonwealth. These populations are largely confined to the central and eastern end of this Commonwealth with the highest number of waters (27) in northeastern Pennsylvania. Virtually all populations are sustained through natural reproduction. Angler catch rates are frequently high in the spring, often encompassing a portion of the closed season. To provide this Commonwealth's anglers with expanded opportunities to catch and, if desired, harvest chain pickerel in the spring, the Commission proposed a Statewide year-round open season on Commonwealth inland waters. The Commission also proposed that the minimum size limit be increased from 15 inches to 18 inches. Analytical predictions indicate that populations with average growth rates will increase in density in conjunction with this change. Additionally, the minimum size limit of 18 inches provides necessary protections in the spring and other times of the year to sustain populations through natural reproduction. The Commission further proposed that the daily limit be reduced to four.

On final-form rulemaking, the Commission adopted the amendment to § 61.1 as set forth in the proposed rulemaking. This section, as amended, will read as set forth in Annex A.

F. Paperwork

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

H. Public Involvement

The proposed rulemaking was published at 36 Pa.B. 1656 (April 8, 2006). Regarding the proposed amendments pertaining to muskellunge and muskellunge hybrids, the Commission received a total of 116 comments—74 prior to the official comment period, 40 during and 2 after. With respect to the specifics of the proposed rulemaking, the comments were as follows: 16 commentators support the year-round open season, while 7 oppose it; 23 commentators support the 36-inch minimum size limit, while 9 oppose it; 48 commentators support the reduction in the creel limit to 1 per day, while 6 oppose it; 59 commenta-

tors support the enhanced management program, while 2 oppose it; and 71 commentators support the 40-inch minimum size limit, while 2 oppose it.

Several commentators support a minimum size limit greater than 40-inches: four support a 45-inch minimum, four support a 50-inch minimum and one supports a larger than 50-inch minimum. Eight commentators support a year-round catch and release regulation for muskies. Four commentators support a catch and release regulation during the spawning season, while one opposes this approach.

Fifteen commentators support a minimum size limit on the enhanced management waters greater than the proposed 45 inches. Of those commentators, 2 support a 48-inch minimum and 13 support a 50-inch minimum.

Regarding the proposed amendments pertaining to northern pike, the Commission received a total of 12 comments—10 before the start of the official comment period and 2 after. The Commission did not receive comments during the official comment period. Five commentators oppose the open season, while four support it. Commentators opposed to the year-round open season want protection for spawning periods. Seven commentators oppose the 18-inch minimum size limit, while two support it and one commentator wants to lower the size limit even further. Five commentators want the Commission to increase the minimum size limit from its current 24 inches. Three of those commentators propose 30 inches, one proposes 36 inches and one proposes 40 inches. Four commentators oppose increasing the creel limit to four, while one supports it.

Regarding the proposed amendments pertaining to pickerel, the Commission received a total of six comments—five before the start of the official comment period and one after. The Commission did not receive comments during the official comment period. One commentator supports decreasing the creel limit to four, while one supports decreasing it to five. Two commentators oppose the open season for pickerel, while three support it. Four commentators support the 18-inch minimum size limit, while one opposes it. Copies of all public comments were provided to the Commissioners.

Findings

The Commission finds that:

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

(2) A public comment period was provided and the comments were received were considered.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 65, are amended by adding § 65.16 to read as set forth in 36 Pa.B. 1656 and by amending § 61.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Executive Director will submit this order, 36 Pa.B. 1656 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 36 Pa.B. 1656 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2007.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: Fiscal Note 48A-181 remains valid for the final adoption of the subject regulations.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Open year-round	40 inches	1
PICKEREL		18 inches	4
NORTHERN PIKE		24 inches	2
WALLEYE and hybrids (Saugeye)	January 1—March 14; and 12:01 a.m. first Saturday in May to midnight, December 31	15 inches	6
SAUGER		12 inches	6
AMERICAN SHAD***	Open year-round	No minimum	6
HICKORY SHAD***	Closed year-round		0
GIZZARD SHAD ***	Open year-round	No minimum	50
HERRING***	Open year-round	No minimum	50
	* * * * *		

*For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are "rivers."

**Note: Approved trout waters are closed to fishing from March 1 to opening day of regular trout season in April unless included in the Early Season Trout Stocked Waters Program. See § 65.10 (relating to Early Season Trout Stocked Waters Program).

***Note: Unlawful to take, catch or kill American shad, hickory shad and alewife and blueback herring (collectively known as river herring) in Susquehanna River and its tributaries. See §§ 61.4 and 61.7.

[Pa.B. Doc. No. 06-1903. Filed for public inspection September 29, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

Patient Records

The State Board of Chiropractic (Board) proposes to amend §§ 5.1 and 5.51 (relating to definitions; and patient records) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under sections 302(3) and 506(a)(15) of the Chiropractic Practice Act (act) (63 P. S. §§ 625.302(3) and 625.506(a)(15)).

Background and Need for the Amendment

A licensee who “[f]ail[s] to maintain chronological documentation of patient care in accordance with regulations prescribed by the Board” is subject to disciplinary action under section 506(a)(15) of the act. Section 5.51(c) currently requires that “[t]he patient record shall contain sufficient information to document the clinical necessity for chiropractic care rendered, ordered or prescribed.” This language does not provide licensees with clear guidance as to what information would be sufficient to document clinical necessity.

Description of the Proposed Amendments

The proposed rulemaking amends § 5.51(c) to set forth in more detail what must be included in the patient record, to document diagnosis, as well as the clinical necessity for care and any treatment provided. In general, the record must contain sufficient information to document that treatment, care or service provided: (1) was reasonably expected to improve the patient’s condition at the time it was rendered; (2) prevented the onset of any permanent disability; (3) assisted the patient to achieve maximum functional capacity in performing the patient’s daily activities; (4) alleviated the patient’s pain; (5) mitigated the severity of the patient’s symptoms; (6) ameliorated the patient’s condition; (7) prevented the worsening of the patient’s condition; (8) slowed the natural progression of the patient’s condition or disease; (9) was appropriate for the patient’s symptoms, reinjuries, exacerbations and diagnoses of the patient’s conditions or injuries; (10) was provided consistent with the treating doctor’s diagnosis; or (11) was provided consistent with the patient’s active symptomatology or abnormal physical findings, or both. The record concerning diagnostic tests must address: (1) the doctor of chiropractic’s rationale for ordering the diagnostic test so that without the diagnostic test the doctor of chiropractic could not establish a differential diagnosis to a reasonable degree of chiropractic certainty; (2) the extent to which the diagnostic test facilitated the doctor of chiropractic’s proper or effective management or control of the patient’s condition, including monitoring of condition which may result in a change of treatment; or (3) how the diagnostic test quantified an objective status of the patient’s condition or functional capacity.

The proposed rulemaking requires that the patient record contain documentation sufficient to demonstrate

that therapeutic treatment, care or services was reasonably expected to improve, restore or prevent the progression of an illness, injury, disease, disability, defect, condition or the functioning of a body member. The record must demonstrate that any elective care was provided to enhance human performance and the sense of well-being. The record must demonstrate that any maintenance care sought to promote health or maintain functional status, or both. The record must demonstrate that any palliative care was rendered to relieve continued pain and to positively affect the patient’s symptomatology, as well as demonstrate the need for the frequency of palliative care. The record for preventive service must include a history and documentation of examination, counseling and risk factor reduction. Finally, the record must demonstrate that supportive care was provided following an aggravation, exacerbation or recurrence following at least two trials of therapeutic withdrawal that have failed to sustain previous therapeutic gains, though the record need not demonstrate functional improvement beyond the previously established maximum therapeutic level.

Additionally, the proposed rulemaking amends § 5.1 (definitions) to define the terms “elective care,” “exacerbation,” “maintenance care,” “palliative care,” “preventative service,” “recurrence” and “supportive care” for use in applying the proposed standards.

Regulated Community

The Board solicited input from and provided an exposure draft of this proposed rulemaking to professional associations, interested parties and other stakeholders. In addition, the Board considered the impact the proposed rulemaking would have on the regulated community and on public health, safety and welfare. The Board finds that the proposed rulemaking addresses a compelling public interest as described in this preamble.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth or its political subdivisions. The proposed rulemaking will not impose additional paperwork requirements on the private sector, other than the regulated community.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Deborah L. Smith, Administrator, State Board of Chiropractic, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference No. 16A-4313 (patient records) when submitting comments.

JONATHAN W. MCCULLOUGH, DC, Chairperson

Fiscal Note: 16A-4313. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 5. STATE BOARD OF CHIROPRACTIC

Subchapter A. GENERAL PROVISIONS

§ 5.1. Definitions.

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

* * * * *

Elective care—Treatment delivered in the absence of symptoms or positive findings following examination or testing.

Exacerbation—A marked deterioration of the patient's condition due to an acute flare-up of the condition initially or currently being treated.

* * * * *

Maintenance care—Treatment after maximum therapeutic benefit has been achieved, which:

- (i) Does not positively affect the patient's symptomatology.
(ii) Is not based upon abnormal clinical findings.
(iii) Has not resulted in an improvement in the functional status.
(iv) Has not been established as justified for palliative or supportive care.

* * * * *

Palliative care—Treatment for a chronic or permanent condition that does not cure or make further improvement in the underlying injury or disease and is rendered without goals of functional improvement or expectation of slowing the natural progression of the condition.

* * * * *

Preventive service—Service provided for a patient without symptoms or for a patient that has reached maximum improvement and does not need supportive or palliative care. A service provided based upon findings uncovered during a preventive service examination is not a preventive service.

* * * * *

Recurrence—A return of the symptoms of a previously treated condition that has been quiescent.

* * * * *

Supportive care—Treatment for a condition once maximum therapeutic benefit has been established and after therapeutic treatment has been withdrawn.

* * * * *

Subchapter E. MINIMUM STANDARDS OF PRACTICE

§ 5.51. Patient records.

* * * * *

(c) The patient record [shall] must contain sufficient information to document the diagnosis and the clinical necessity for chiropractic care rendered, ordered or prescribed, and any treatment, care or service provided.

(1) Documentation of treatment, care or service provided must contain information that the treatment, care or service satisfies at least one of the following:

- (i) Was reasonably expected to improve the patient's condition at the time it was rendered.
(ii) Prevented the onset of any permanent disability.
(iii) Assisted the patient to achieve maximum functional capacity in performing the patient's daily activities.
(iv) Alleviated the patient's pain.
(v) Mitigated the severity of the patient's symptoms.
(vi) Ameliorated the patient's condition.
(vii) Prevented the worsening of the patient's condition.
(viii) Slowed the natural progression of the patient's condition or disease.
(ix) Was appropriate for the patient's symptoms, re-injuries, exacerbations and diagnoses of the patient's conditions or injuries.
(x) Was provided consistent with the treating doctor's diagnosis.
(xi) Was provided consistent with the patient's active symptomatology or abnormal physical findings, or both.

(2) Documentation concerning diagnostic tests must address at least one of the following:

- (i) The rationale for ordering the diagnostic test so that without the diagnostic test the doctor of chiropractic could not establish a differential diagnosis to a reasonable degree of chiropractic certainty.
(ii) The extent to which the diagnostic test facilitated the proper or effective management or control of the patient's condition, including monitoring of condition.
(iii) How the diagnostic test quantified an objective status of the patient's condition or functional capacity.

(3) Documentation must be sufficient to demonstrate that any therapeutic treatment, care or service was reasonably expected to improve, restore or prevent the progression of any illness, injury, disease, disability, defect, condition or the functioning of any body member.

(4) Specific treatment or care must be documented as follows:

(i) Regarding elective care, the patient record must demonstrate how human performance and the sense of well-being was enhanced.

(ii) Regarding maintenance care, the patient record must demonstrate how health or functional status, or both, was sought to be promoted.

(iii) Regarding palliative care, the patient record must demonstrate how the care was intended to relieve continued pain and to positively affect the patient's symptomatology, and to demonstrate the need for the frequency of palliative care.

(iv) Regarding preventive service, the patient record must include a history and documentation of examination, counseling and risk factor reduction.

(v) Regarding supportive care, the patient record must contain documentation of at least two trials of withdrawal of therapeutic treatment that have failed to sustain previous therapeutic gains following an aggravation, exacerbation or recurrence. The patient record need not demonstrate functional improvement beyond the previously established maximum therapeutic level.

* * * * *

[Pa.B. Doc. No. 06-1904. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

[49 PA. CODE CH. 42]

Orders

The State Board of Occupational Therapy Education and Licensure (Board) proposes to amend § 42.25 (relating to oral orders) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will take effect upon final publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 5(b) of the Occupational Therapy Practice Act (act) (63 P. S. § 1505(b)) authorizes the Board to promulgate and adopt rules and regulations not inconsistent with law as it deems necessary for the performance of its duties and the proper administration of the act.

Background and Purpose

Board members and licensees have noted the lack of clarity to the organization of current § 42.25. The section heading is "oral orders" although it discusses both written and oral orders. To clarify the organization of § 42.25, the

Board proposes to divide the text into two subsections: (a) written orders; and (b) oral orders.

Section 14 of the act (63 P. S. § 1514) authorizes an occupational therapist to implement direct occupational therapy to an individual for a specific medical condition based on a referral from a licensed physician, podiatrist or optometrist. The act does not require that the referral be written. Current § 42.25 requires that the referral be in the form of a written order unless the urgency of the medical circumstances requires immediate treatment, in which case an oral order may be accepted. While the Board continues to express a preference for written orders over oral orders for the implementation of therapy, the current language has proven needlessly restrictive and difficult to interpret by practitioners in the field. In a typical situation, the occupational therapist in a setting such as a long-term care facility may receive an oral order rather than a written order. It may be very desirable, although not necessarily urgent, to begin therapy. It may be impractical to receive a written order. The Board proposes to amend § 42.25 by adopting the standard for long-term care facilities that permits oral orders for medication or treatment to be accepted when "it is impractical for the orders to be given in a written manner by the responsible practitioner" as set forth in 28 Pa. Code § 211.3 (relating to oral and telephone orders).

Prior to adopting this proposed rulemaking, the Board sent an exposure draft of the rulemaking to various persons and entities identified as having an interest in its rulemaking. The Board received responses from the Department of Occupational Therapy of the School of Health and Rehabilitation Sciences of the University of Pittsburgh and from the Pennsylvania Occupational Therapy Association. Both supported the proposed rulemaking.

Description of Amendments

The proposed rulemaking renames and reorganizes § 42.25. The new heading is "orders" because the section includes both written and oral orders. Subsection (a) deals with written orders and subsection (b) deals with oral orders. Second, both subsections would permit an occupational therapist to accept a referral in the form of an order issued by a licensed physician, licensed optometrist or licensed podiatrist. Third, while subsection (b) maintains the preference for written orders over oral orders, receiving an oral order would be acceptable when it is impractical for a written order to be given by the responsible practitioner.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will not have a fiscal impact on, or create additional paperwork for, the regulated community or the political subdivisions of the Commonwealth.

Sunset Date

The Board continuously monitors the effectiveness of the regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Herbert Abramson, Board Counsel, State Board of Occupational Therapy Education and Licensure, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ELLEN L. KOLODNER,
Chairperson

Fiscal Note: 16A-676. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 42. STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

MINIMUM STANDARDS OF PRACTICE

§ 42.25. [Oral orders] Orders.

(a) [An occupational therapist shall accept a referral in the form of a written order from a licensed physician, licensed optometrist or licensed podiatrist in accordance with section 14 of the act (63 P.S. § 1514) unless the urgency of the medical circumstances requires immediate treatment. In these circumstances, an occupational therapist may accept an oral order for occupational therapy from a licensed physician, licensed optometrist or licensed podiatrist, if the oral order is immediately transcribed, including the date and time, in the patient's medical record and signed by the occupational therapist taking the order.

(b) The countersignature of the licensed physician, licensed optometrist or licensed podiatrist shall be obtained within 5 days of receipt of the oral order in the case of an occupational therapist providing ordered services in a private office setting. In the case of an occupational therapist providing services in a setting that is independent of the prescribing physician's, optometrist's or podiatrist's office, the countersignature on a written copy of the order may be mailed or faxed to the occupational therapist.

(c) In the case of an occupational therapist providing services in a facility licensed by the Department of Health, the countersignature of the licensed physician, licensed optometrist or licensed podiatrist shall be obtained in accordance with applicable regulations of the Department of Health governing the facility, including 28 Pa. Code §§ 211.3 and 601.31 (relating to oral and telephone

orders; and acceptance of patients, plan of treatment and medical supervision).]

Written orders. An occupational therapist shall accept a referral in the form of a written order from a licensed physician, licensed optometrist or licensed podiatrist.

(b) Oral orders.

(1) An occupational therapist may accept a referral in the form of an oral order if it is impractical for the order to be given in writing by the responsible licensed physician, licensed optometrist or licensed podiatrist.

(2) An occupational therapist receiving an oral order shall immediately transcribe the order in the patient's medical record, including the date and time the order was received, and shall sign the medical record.

(3) The occupational therapist in a private office setting who has received an oral order shall obtain the countersignature of the practitioner who issued the order within 5 days of receiving the order.

(4) If the occupational therapist who receives an oral order provides services in a setting that is independent of the prescriber's setting, the occupational therapist may accept the countersignature of the ordering practitioner on a written copy of the order that is mailed or faxed to the occupational therapist.

(5) If an occupational therapist provides services in a facility licensed by the Department of Health, the countersignature of the ordering practitioner shall be obtained in accordance with the applicable regulations of the Department of Health governing the facility, including 28 Pa. Code §§ 211.3 and 601.31 (relating to oral and telephone orders; and acceptance of patients, plan of treatment and medical supervision).

[Pa.B. Doc. No. 06-1905. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE BOARD OF PHYSICAL THERAPY

[49 PA. CODE CH. 40]

Biennial Renewal Fees

The State Board of Physical Therapy (Board) proposes to amend § 40.5 (relating to fees) to read as set forth in Annex A. The proposed rulemaking increases the biennial license renewal fee for physical therapists from \$37 to \$90, increases the biennial renewal fee for certificates to practice physical therapy without a referral from \$37 to \$45 and increases the registration renewal fee for physical therapist assistants from \$20 to \$45.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The increased fees will be effective for the renewal period beginning January 1, 2009.

Statutory Authority

Section 8(b) of the Physical Therapy Practice Act (act) (63 P. S. § 1308(b)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures.

Background and Purpose

The Board's current biennial license renewal fees for physical therapists and physical therapist assistants were adopted at 18 Pa.B. 4952 (November 5, 1988). The Board's current biennial renewal fees for certificates to practice physical therapy without a referral were adopted at 34 Pa.B. 3700 (July 16, 2004). Under section 8(b) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises virtually all of its revenue through biennial renewal fees.

At Board meetings in January and March, 2006, the Department of State's Offices of Revenue and Budget presented a summary of the Board's revenue and expenses for Fiscal Year (FY) 2003-2004 and FY 2004-2005, and projected revenue and expenses through FY 2012-2013. The Offices of Revenue and Budget projected a deficit of \$282,664.81 in FY 2007-2008, a deficit of \$205,664.81 in FY 2008-2009, a deficit of \$549,664.81 in FY 2009-2010, a deficit of \$485,664.81 in FY 2010-2011, a deficit of \$853,664.81 in FY 2011-2012 and a deficit of \$814,664.81 in FY 2012-2013. The major reason for the deficits is that the renewal fees have not been increased since 1988. Those fees have carried the Board for almost 18 years. In addition, the need for an increase in fees is the result of an increase in the number of opened disciplinary cases over the last 3 fiscal years. In FY 2002-2003, there were 21 opened legal cases; in FY 2003-2004, there were 36 opened legal cases; and in FY 2004-2005, there was an all time high of 65 opened legal cases. As of May 11, 2006, there were 35 opened legal cases. The increase in the number of cases also resulted in an increase in hearing examiner expenses. As a result of the projected deficits, the Offices of Revenue and Budget recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 8(b) of the act. The Budget Office anticipates that the proposed new biennial renewal fees will enable the Board to meet its estimated expenditures for at least 8 years.

Although the proposed fee increase is significant, it is not surprising. As already stated, the fees for physical therapists and physical therapist assistants have not been increased since 1988. Also, in spite of the proposed increases, the Board's new fees will still be lower than the surrounding states. For example, the following renewal fees are charged by neighboring states: biennial renewal fee for physical therapists in New Jersey is \$110 and the biennial renewal fee for a physical therapist assistant is \$100; in New York, physical therapists pay a triennial renewal fee of \$155 and physical therapist assistants pay a triennial renewal fee of \$50; in Delaware, physical therapists pay a biennial renewal fee of \$90 and physical therapist assistants pay a biennial renewal fee of \$90; physical therapists and physical therapist assistants pay a biennial renewal fee of \$120 in Ohio; in West Virginia, physical therapists pay a biennial renewal fee of \$120 and physical therapist assistants pay a biennial renewal fee of \$80; and in Maryland, physical therapists pay a

biennial renewal fee of \$175 and physical therapist assistants pay a biennial renewal fee of \$150.

Description of Proposed Amendments

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend § 40.5 to increase the fee for biennial renewal of licenses for physical therapists from \$37 to \$90, to increase the fee for biennial renewal of certificates to practice physical therapy without a referral from \$37 to \$45 and to increase the fee for biennial renewal of registrations to practice as physical therapist assistants from \$20 to \$40.

Fiscal Impact

The proposed rulemaking increases the biennial renewal fee for physical therapists, holders of a certificate to practice physical therapy without a referral and physical therapist assistants. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees. However, the proposed rulemaking should not create additional paperwork for the private sector.

Sunset Date

The act requires that the Board monitor its revenue and cost on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-6511, Biennial Renewal Fees, when submitting comments.

CHARLES E. MEACCI, PT,
Chairperson

Fiscal Note: 16A-6511. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS

GENERAL PROVISIONS

§ 40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

* * * * *

Biennial renewal..... **§ [37]90**

* * * * *

Biennial renewal of Certificate to Practice
Physical Therapy without a referral..... **§ [37]45**

* * * * *

Physical therapist assistants:

* * * * *

Biennial renewal of registration..... **§ [20]45**

* * * * *

[Pa.B. Doc. No. 06-1906. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Recordkeeping

The State Board of Veterinary Medicine (Board) proposes to amend § 31.22 (relating to recordkeeping rationale) to read as set forth in Annex A. The proposed rulemaking provides greater specificity to the Board's existing recordkeeping regulation. In addition, the proposed rulemaking sets forth the proper procedures for a veterinarian who is retiring or closing an office. Finally, the proposed rulemaking provides mandates for veterinary medical records from vaccine clinics.

Effective Date

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

Statutory Authority

Section 27.1 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.27a) requires the Board to promulgate regulations setting forth recordkeeping standards.

Background and Need for Amendment

Through the adjudication of numerous disciplinary cases over the past several years, the Board has determined the need to set additional requirements in its regulation of veterinary medical recordkeeping.

The reasons for this proposed rulemaking are threefold. First, the proposed rulemaking mandates contents of

medical records and further defines acceptable standards of veterinary medical recordkeeping practice in this Commonwealth. Second, the Board proposes minimum standards of records when veterinarians provide service in vaccination clinics. Finally, the Board proposes to add paragraph (10) to provide mandates for veterinarians who are retiring or closing their veterinary practices.

The Board is aware of the public health benefits of vaccination clinics. Public health vaccination clinics inoculate animals against diseases, such as rabies, that pose a threat to human health. Public health clinics are relatively common in this Commonwealth and serve to promote public health and safety. Animal health vaccination clinics inoculate animals against diseases, such as distemper, that pose a threat to animal health. Some animal owners do not obtain routine animal health vaccinations at a veterinary office. Thus, animal health vaccination clinics, while not ideal, serve to promote animal health and welfare.

Veterinarians have expressed confusion over the minimum recordkeeping requirements for these clinics. The proposed rulemaking recognizes that the acceptable and prevailing standards of practice for recordkeeping for public health and animal health vaccination clinics require only a minimum of information as compared to the entire veterinary medical record, of which vaccine history is but one part. The proposed rulemaking protects the public by mandating that a veterinarian who participates in a vaccination clinic provide a means for clients to obtain information should an adverse reaction occur.

Finally, the Board has received numerous inquiries regarding a veterinarian's recordkeeping responsibilities when closing a veterinary practice, which the Board also addresses in this proposed rulemaking.

Description of Proposed Amendments

The general requirement that records be kept so that a veterinarian may, by reading the record, proceed with the proper care and treatment of an animal has been moved from current § 31.22(1). The proposed rulemaking would adopt the problem oriented medical record (POMR) or similar recordkeeping system. POMR is a recognized standard form of all medical recordkeeping. It involves creation of a record listing subjective and objective data, assessment and evaluation and a treatment plan. POMR recordkeeping is taught in all schools of veterinary medicine as the standard for veterinary practice. The Board also proposes language to note that the Board reviews veterinary medical records to determine the advice given and treatment recommended and performed by a veterinarian. Current paragraph (1) is deleted.

Proposed paragraph (1) is a general provision that requires a separate veterinary medical record for each patient, herd or group, as appropriate. This requirement accounts for differences in practice between veterinarians whose patients are companion animals and veterinarians whose patients are production animals. Proposed paragraph (1) also requires that veterinary medical records be accurate, legible and complete, as more fully set forth in proposed paragraph (3). Finally, proposed paragraph (1) requires that the veterinary medical record identify the treating individual after each entry. This requirement assists in communication among members of a practice or a subsequent treating veterinarian and allows for accurate review of the treatment provided to an animal.

Proposed paragraph (2) sets forth specific requirements for identifying the patient, herd or group. This paragraph is drafted to apply to both companion and production animals.

Proposed paragraph (3) sets forth the specific requirements for documenting the animal's medical history, tests, diagnoses and treatment provided.

Proposed paragraph (4) sets forth requirements for documentation of client communication. This documentation is not mandated for production animal records. Production animal owners or herdsman are generally knowledgeable and veterinarians for production animals often communicate telephonically with clients when veterinarians are not in offices where they could easily place notes in the clients' records. In these cases, the customary and acceptable practice is for veterinarians to record only that information that is medically significant. In addition, Federal law and regulation stringently regulate the recordkeeping requirements for these veterinarians. The Board concluded that it was not necessary to mandate that client communication be documented in production animal medical records.

The Board proposes to move the current mandate that veterinarians retain records for 3 years from current paragraph (1) to proposed paragraph (5).

The Board proposes to renumber paragraphs (2)—(4) as paragraphs (6)—(8). In proposed paragraph (8), the Board provides a time frame for the provision of veterinary medical records. The Board determined that a period of 3 business days from receipt of the client's written request for records was reasonable and would be workable even if the veterinarian were out of the office when the request was sent.

The Board proposes to add paragraph (9) regarding veterinary medical records for vaccination clinics. The proposed rulemaking balances the need for pertinent information with the need for brevity in the vaccination clinic setting by requiring only the most important information be recorded in that setting.

The Board proposes to add paragraph (10) to provide mandates for veterinarians who are retiring or closing their veterinary practices.

Regulated Communities

In drafting this proposed rulemaking, the Board solicited input from the State and regional veterinary medical associations. In addition, the Board specifically solicited input from production animal veterinarians.

Fiscal Impact

The proposed rulemaking should not have any fiscal impact on the Board's licensees or any other public or private group or sector.

Paperwork Requirements

The proposed rulemaking sets forth the existing acceptable standards of practice for recordkeeping. The proposed rulemaking does not enlarge the time that veterinarians must maintain veterinary medical records. There are not additional paperwork requirements created by the proposed rulemaking.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional

Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert Kline, Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

THOMAS J. MCGRATH, D.V.M.,
Chairperson

Fiscal Note: 16A-5719. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

PROFESSIONAL CONDUCT

§ 31.22. Recordkeeping [**rationale**].

Veterinary medical records serve as a basis for planning animal care and as a means of communicating among members of the veterinary practice. The records furnish documentary evidence of the animal's illness, hospital care and treatment and serve as a basis for review, study and evaluation of the care and treatment rendered by the veterinarian. **A veterinary medical record shall be kept in a problem-oriented or similar format that allows any veterinarian, by reading the record, to proceed with the care and treatment of the animal and allow the Board or other agency to determine the advice and treatment recommended and performed. This section does not apply to laboratory animal practice.**

(1) [**Record retention. A veterinarian shall maintain veterinary medical records of an animal so that any veterinarian coming into a veterinary practice may, by reading the veterinary medical record of a particular animal, be able to proceed with the proper care and treatment of the animal. Records shall be maintained for a minimum of 3 years from the date that the animal was last treated by the veterinarian.]**

Record required. A veterinarian shall maintain a separate veterinary medical record for each patient, herd or group, as appropriate, which accurately, legibly and completely reflects the evaluation and treatment of the patient or patients. The

veterinary medical record must identify the treating individual after each chart entry.

(2) *Identity of patient.* The veterinary medical record must include, at a minimum, the following information to identify the patient, herd or group:

- (i) Client identification.
- (ii) Appropriate patient identification, which may include species, breed, age, sex, weight, name or identity number or numbers, color and identifying markings, and whether neutered, spayed or intact.
- (3) *Minimum content of record.* The veterinary medical record must include:
 - (i) Vaccination history.
 - (ii) Previous medical history, presenting symptoms and complaint.
 - (iii) Date of each examination.
 - (iv) Diagnosis.
 - (v) Results and findings of pathological or clinical laboratory examination.
 - (vi) Findings of radiological examination.
 - (vii) Medical or surgical treatment.
 - (viii) Other diagnostic, corrective or therapeutic procedures.
 - (ix) Documentation of drugs administered, prescribed or dispensed, including dosage.
 - (x) Documentation of surgical and dental procedures, including type and dosage of anesthesia, and dental charting.
- (4) *Communication with client.* The veterinary medical record of any animal, except a production animal, shall document communication with the client, including the client's consent to or rejection of recommended diagnostic tests, treatments and drugs.
- (5) *Retention of records.* Records shall be maintained for a minimum of 3 years from the date that the animal was last treated by the veterinarian.

[(2)] (6) * * *

[(3)] (7) * * *

[(4)] (8) *Release of information to clients.* A veterinarian shall release a summary or a copy of the veterinary medical records of an animal to the client [upon] within 3 business days of receipt of the client's written request. A veterinarian may charge a reasonable fee for duplicating veterinary medical records and for preparation of veterinary medical record file summaries for release to clients. A veterinarian may not withhold the release of veterinary medical records or summaries to clients for nonpayment of a professional fee. The release of veterinary medical records or summaries to clients under these circumstances does not constitute a waiver by the veterinarian of the fee claimed.

(9) *Veterinary medical records for vaccination clinics.* A veterinarian providing veterinary medical services to the public for a public health vaccination clinic or an animal health vaccination clinic shall prepare a veterinary medical record that includes, at a minimum, an identification of the client and patient, the vaccine lot number, and the date and dosage administered. A veterinarian who provides veterinary medical services to a vaccination clinic shall provide a means for clients to obtain advice pertaining to postvaccine reactions for the 24-hour period immediately following the time of vaccination.

(10) *Veterinary records of retiring veterinarian or a veterinary practice that is closing.* A veterinarian shall notify clients, in writing, at least 30 days prior to the date of a planned retirement or closing of a veterinary practice. The written notice must include instructions on how to obtain copies of veterinary medical records from the veterinarian or other custodian of the records and the name, address and telephone number of the person purchasing the practice, if applicable. Veterinary medical records must remain available to clients for 3 years after the date the veterinarian retires or the practice is closed. If prior notice could not be provided, a successor veterinarian shall notify clients within 60 days of the date the successor takes over the practice.

[Pa.B. Doc. No. 06-1907. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATEMENTS OF POLICY

Title 37—LAW

OFFICE OF THE VICTIM ADVOCATE

[37 PA. CODE CH. 801]

Guidelines for the Implementation of the Domestic and Sexual Violence Victim Address Confidentiality Program—Statement of Policy

This statement of policy is adopted under the authority of 23 Pa.C.S. Chapter 67 (relating to Domestic and Sexual Violence Victim Address Confidentiality Act) (act). Section 6712(1) of the act (relating to rules and regulations) directs the Office of the Victim Advocate (OVA) to “adopt and use guidelines which shall be published in the *Pennsylvania Bulletin*. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P. L. 769, No. 240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P. L. 633, No. 181), known as the Regulatory Review Act.”

Purpose

The OVA publishes this statement of policy for the implementation of the Domestic and Sexual Violence Victim Address Confidentiality Program (ACP) approved by the General Assembly. This statement of policy implements the act, which permits eligible persons to receive a confidential substitute address provided by the OVA. This statement of policy reflects the statutory changes affecting the act and 75 Pa.C.S. (relating to vehicles) and procedures affecting State and local government agencies impacted by the ACP.

Requirements

This statement of policy enumerates and details the requirements of the act in the following structure:

Sections 801.1 and 801.2 (relating to scope; and definitions) provide the scope of the statement of policy and the definitions of words and terms used in the act.

Section 801.3 (relating to persons eligible for participation) provides the scope of eligibility for participation.

Sections 801.11 and 801.12 (relating to application; and certification) provide procedures for application to the ACP and the certification process.

Section 801.13 (relating to use of substitute address) provides for the proper use of the ACP substitute address by State and local government agencies.

Sections 801.14 and 801.15 (relating to marriage licenses; and certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license) explain specific situations whereby the ACP participant can utilize the substitute address rather than the actual address.

Section 801.16 (relating to ACP participant responsibility) provides procedures for ACP participants to notify the OVA of a change of address or name.

Section 801.17 (relating to cancellation, expiration and voluntary withdrawal) provides procedures for cancellation and expiration from the ACP and voluntary withdrawal.

Section 801.21 (relating to agency of use of substitute address) provides procedures for the use of the substitute address.

Section 801.22 (relating to ACP records and release of information) explains the status of ACP records in the hands of the OVA as well as what information will be released by the OVA pertaining to requests for information in these records.

Section 801.23 (relating to disclosure of actual address) provides procedures pertaining to the disclosure of the actual address by the OVA if certain requirements are satisfied by the person or entity that is requesting disclosure.

Sections 801.31 and 801.32 (relating to agency request for waiver; and waiver review) provide procedures for government agencies requesting disclosure of the actual address by the OVA. These sections also set forth the process that government agencies should follow should they wish to appeal a decision of the OVA pertaining to the waiver process.

Affected Parties

Victims of domestic violence, sexual assault or stalking, as defined in the act, benefit by having clear guidelines regarding eligibility, application and waiver procedures. Additionally, this statement of policy is intended to provide guidance and direction to State and local government agencies and victim service agencies, including domestic violence programs and sexual assault programs.

Effective Date

This statement of policy will become effective March 30, 2007.

Sunset Date

This statement of policy is effective until regulations are promulgated or July 2007, whichever occurs first.

CAROL LAVERY,
Victim Advocate

(Editor's Note: Title 37 of the Pa. Code is amended by adding a statement of policy in §§ 801.1—801.3, 801.11—801.17, 801.21—801.23 and 801.31—801.33 to read as set forth in Annex A.)

Fiscal Note: 41-19. (1) Victim/Witness Services Restricted Revenue Account within the General Fund; (2) Implementing Year 2006-07 is \$52,000; (3) 1st Succeeding Year 2007-08 is \$54,000; 2nd Succeeding Year 2008-09 is \$56,000; 3rd Succeeding Year 2009-10 is \$58,000; 4th Succeeding Year 2010-11 is \$59,000; 5th Succeeding Year 2011-12 is \$61,000; (4) 2005-06 Program—\$6,804,158; 2004-05 Program—\$6,817,846; 2003-04 Program—\$5,981,737; (7) Victim/Witness Services; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART XI. OFFICE OF THE VICTIM ADVOCATE

CHAPTER 801. DOMESTIC AND SEXUAL VIOLENCE VICTIM ADDRESS CONFIDENTIALITY PROGRAM—STATEMENT OF POLICY

GENERAL PROVISIONS

Sec.	
801.1.	Scope.
801.2.	Definitions.
801.3.	Eligibility.

PROGRAM

- 801.11. Application.
- 801.12. Certification.
- 801.13. Use of substitute address.
- 801.14. Marriage licenses.
- 801.15. Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.
- 801.16. ACP participant responsibility.
- 801.17. Cancellation, expiration and voluntary withdrawal.

ADDRESS

- 801.21. Agency use of substitute address.
- 801.22. ACP records and release of information.
- 801.23. Disclosure of actual address.

WAIVER

- 801.31. Agency request for waiver.
- 801.32. Waiver review.
- 801.33. Waiver appeal process.

GENERAL PROVISIONS**§ 801.1. Scope.**

This chapter sets forth standards and procedures relating to participation in the ACP on or after June 1, 2005, as well as waiver requests from entities that have an interest in obtaining an ACP participant's actual address.

§ 801.2. Definitions.

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

ACP—The Domestic and Sexual Violence Victim Address Confidentiality Program. See 23 Pa.C.S. § 6703 (relating to Address Confidentiality Program).

ACP authorization card—A card issued by the Office of the Victim Advocate under § 801.12 (relating to certification).

ACP code—An identifying number unique to each ACP participant.

Act—The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701–6713).

Agent for service of process—A third party agent for the formal delivery of a writ, summons or other legal process.

Cohabitant—A person who is a member of the same household as an ACP participant who is certified by OVA to participate in ACP.

OVA—The Office of Victim Advocate.

Victim service provider—A State or local agency that provides services to victims of domestic violence, sexual assault or other crimes.

(b) The definitions in 23 Pa.C.S. § 6702 (relating to definitions) are incorporated by reference.

§ 801.3. Eligibility.

(a) Except as otherwise provided in the act, the following persons are eligible for participation:

- (1) Victims of domestic violence.
- (2) Victims of sexual assault.
- (3) Victims of stalking.
- (4) A minor child who is a member of the same household as an ACP participant.
- (5) An adult who is a cohabitant of an ACP participant.
- (6) An ACP participant who notifies OVA of the ACP participant's intent to continue participation prior to expiration of the 3-year ACP certification period.

(b) An adult who is a cohabitant of an ACP participant shall apply separately for participation.

(c) Minor children who are enrolled with an adult ACP participant are required to apply separately upon reaching 18 years of age.

(d) Commonwealth residency is not a requirement for ACP participation. ACP applicants who do not provide a Commonwealth residential address will be enrolled as a "Non-PA Resident." This designation will appear on the ACP participant's ACP authorization card.

PROGRAM**§ 801.11. Application.**

(a) An application may be filed by any eligible person on the form provided by OVA.

(1) An eligible ACP participant may apply, in person, at a victim service provider.

(2) The role of the victim service provider is to:

(i) Assist the eligible person in determining whether ACP should be part of the person's overall safety plan.

(ii) Explain ACP services and limitations.

(iii) Explain ACP participants' responsibilities.

(iv) Assist the person eligible for participation with the completion of application materials.

(b) The completed application must include:

(1) An affidavit from the applicant describing, in detail, a perpetrator's violent actions or threatened violent actions, or course of stalking conduct and describing, in detail, the applicant's fear of future violent acts of abuse, sexual assault or stalking, or all, by the perpetrator.

(2) Designation of OVA as the applicant's agent for service of process.

(3) An applicant's mailing address to which mail can be forwarded by OVA.

(4) An applicant's actual address and telephone number, if different from the applicant's mailing address.

(5) A listing of any minor children residing at the actual address, each minor child's date of birth and each minor child's relationship to the applicant.

(6) When applicable, a listing of all pending civil and criminal proceedings, including, but not limited to, domestic relations, family court, child custody or Protection From Abuse proceedings, in which the applicant or minor child is a victim, witness, plaintiff or defendant.

(7) When applicable, an explanation of the applicant's probation or parole supervision requirements (Federal, State or county) as well as the name and phone number of the applicant's probation or parole officer.

(8) A signed statement affirming that information provided on the ACP application is true and acknowledging the applicant's duty to notify OVA of any change in information provided on the application.

(9) The date and signature of the applicant and the signature of any person who assisted in the preparation of the application.

(c) Completed applications shall be submitted to the ACP substitute address by mail. Applications submitted by means of facsimile or electronic mail will not be accepted.

(d) Application packets must contain the following completed materials:

(1) Completed and signed ACP application form.

(2) Criminal/civil case information.

(3) Affidavit.

(4) Signed ACP authorization card.

(e) Upon receipt, OVA will determine if the applicant meets the prescribed criteria for eligibility for enrollment in ACP in accordance with 23 Pa.C.S. § 6704 (relating to persons eligible to apply), which are incorporated by reference.

(f) For purposes of ACP, residents of temporary housing (30 days or less), such as emergency domestic violence shelter, are not eligible to enroll in ACP until a permanent, residential address is obtained, unless otherwise determined by OVA, at the sole discretion of OVA.

(g) OVA will contact the applicant if additional information is necessary for OVA to determine the eligibility of the applicant or minor child for participation in ACP.

§ 801.12. Certification.

(a) If OVA determines that an applicant is eligible for participation in ACP, the ACP participant is assigned a unique ACP number, known as an ACP code.

(b) ACP participant data will be entered into OVA's confidential records.

(c) An ACP authorization card is created and certified by OVA. The ACP authorization card contains the ACP participant's substitute address.

(d) Certification is valid for 3 years unless the certification is withdrawn by OVA, at the sole discretion of OVA, or canceled by the ACP participant prior to the expiration of the 3-year period.

(e) If the ACP participant is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case, OVA will provide, upon certification, notice of the ACP participant's substitute address to appropriate court officials in which an ACP participant is a victim, witness, plaintiff or defendant. Appropriate officials may include, but not be limited to, the county district attorney, clerks of court or other agencies with prosecutorial authority.

(f) If an ACP participant who is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case cancels, withdraws or expires from ACP participation, OVA will provide notice to any appropriate court officials previously notified.

(g) Upon certification by OVA, the ACP participant will receive the following:

(1) Notification of the participant's enrollment in ACP.

(2) A completed and laminated ACP authorization card with the ACP participant's ACP code on the ACP authorization card.

(3) ACP materials advising the ACP participant how to use ACP when the ACP participant is dealing with Commonwealth and local agencies.

(h) If OVA determines, in the sole discretion of OVA, that an applicant or minor child does not meet the criteria for ACP certification, the applicant will receive notice of this decision from OVA.

§ 801.13. Use of substitute address.

(a) The substitute address shall be used in the following format on all mail sent to an ACP participant:

Participant Name, (ACP # _____)
P. O. Box _____
Harrisburg, PA 17105

(b) OVA will accept only first class, registered and certified mail on behalf of an ACP participant at the substitute address.

(c) OVA will not forward magazines, packages, articles of bulk mailing or any other items of mail.

(d) OVA may arrange, at the discretion of OVA, to receive and forward other classes or kinds of mail at the ACP participant's expense.

(e) ACP participant mail received at OVA will be repackaged and forwarded, by means of first class mail, to the ACP participant's actual address within 3 business days of receipt at OVA. Mail that is forwarded by OVA will use the ACP PO box as a return address.

§ 801.14. Marriage licenses.

(a) ACP participants may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(b) ACP participants residing with the participant's parents may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(c) Adult children of an ACP participant may use the substitute address as the ACP participant's residential address when applying for a marriage license.

§ 801.15. Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.

(a) ACP participants may use the substitute address as the ACP participant's actual address when applying to the Department of Transportation (PennDOT) for:

(1) A vehicle certificate of title.

(2) A perfection of a security interest in a vehicle.

(3) Vehicle registration, including the process of self-certification of financial responsibility.

(4) Applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

(b) ACP participants are responsible for any fee associated with the issuance of an updated Commonwealth driver's license or identification card.

(c) ACP participants shall utilize a centralized address provided by PennDOT when applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

§ 801.16. ACP participant responsibility.

ACP participants shall:

(1) Notify OVA of any change in the information provided to OVA during the ACP certification procedure.

(2) Provide the ACP participant's actual address to OVA but can opt to receive mail forwarded by OVA at an alternative address.

(3) Accept all mail forwarded to them by OVA.

(4) Designate OVA as the ACP participant's legal agent for service of process and maintain responsibility for all legal documents received by OVA on behalf of the ACP participant.

(5) Present the ACP participant's ACP authorization card to Commonwealth and local government agencies to receive ACP privileges.

(6) Notify OVA of any name change or change of actual address within 5 calendar days of the date that the change occurs.

§ 801.17. Cancellation, expiration and voluntary withdrawal.

(a) ACP participation will expire 3 years after the date of ACP certification. The date of expiration will be indicated on the ACP authorization card.

(b) At least 60 days prior to the expiration of certification, OVA will send written notification to the ACP participant's actual address to afford the ACP participant the option of continuing the ACP participant's certification.

(c) An ACP participant may voluntarily withdraw from ACP at any time by advising OVA in writing of the participant's intent to withdraw. OVA will verify, to the extent possible, the accuracy of the request to ensure that the ACP participant is making the request knowingly and voluntarily.

(d) OVA may, in its sole discretion, cancel an ACP participant's certification if the following occurs:

(1) The ACP participant provides false information on any part of the application.

(2) The ACP participant fails to notify OVA of a change of name or change of address within 5 calendar days of the date that the change occurred.

(3) The ACP participant's mail is returned to OVA as nondeliverable.

(e) Mail that is returned to OVA as nondeliverable will be retained for 5 business days before being returned to the sender as nondeliverable.

(f) ACP participants whose participation is canceled, withdrawn or expires may reapply for participation in ACP.

ADDRESS

§ 801.21. Agency use of substitute address.

(a) Commonwealth and local government agencies will accept the substitute address indicated on an ACP participant's authorization card whenever the participant's actual address is required except as set forth in 23 Pa.C.S. § 6707(2) (relating to agency use of designated address), which is incorporated by reference.

(b) The substitute address shall be in the following format on all mail sent to an ACP participant by a Commonwealth or local government agency:

Jane Doe, (ACP # _____)
P. O. Box _____
Harrisburg, PA 17105

(c) Commonwealth and local government agencies may not require an ACP participant to disclose the participant's actual address.

(d) Commonwealth and local government agencies may contact OVA during regular business hours to verify a person's participation in ACP and the substitute address.

§ 801.22. ACP records and release of information.

(a) Records regarding ACP applicants and participants are the property of OVA. This includes the following records:

(1) ACP applications.

(2) Actual residential, work or school addresses of ACP participant.

(3) Records related to Commonwealth or local government agencies' requests for waiver.

(b) OVA will verify the enrollment status of an ACP participant to Commonwealth and local government agencies. No other information regarding ACP participants will be released to any entities or persons except as provided in this section and § 801.23 (relating to disclosure of actual address) or as permitted and agreed to by the ACP participant in writing.

§ 801.23. Disclosure of actual address.

(a) OVA will disclose the actual address of ACP participants in accordance with 23 Pa.C.S. § 6708 (relating to disclosure of actual address), which is incorporated by reference.

(b) Government agencies may request emergency disclosure of an ACP participant's actual address by contacting the phone number established by OVA.

(c) For government agencies making requests for emergency disclosure, the requirements are contained in 23 Pa.C.S. § 6710(c) (relating to emergency disclosure), which are incorporated by reference.

(d) OVA will disclose an ACP participant's actual address in accordance with the standards in 23 Pa.C.S. § 6710(b), which are incorporated by reference.

(e) Determinations regarding the emergency disclosure of an ACP participant's actual address will be made solely at the discretion of the Victim Advocate or a designee of the Victim Advocate.

WAIVER

§ 801.31. Agency request for waiver.

(a) A Commonwealth or local government agency requesting disclosure of an ACP participant's actual address shall provide OVA with the information in 23 Pa.C.S. § 6709(a) (relating to waiver process), which is incorporated by reference, and specify in the written statement which persons shall have access to the actual address information, where the actual address information shall be maintained and how the actual address information shall be maintained.

(b) The completed request for a waiver shall be sent to OVA by certified mail.

(c) Upon receipt of an agency waiver request, OVA will contact the ACP participant in accordance with 23 Pa.C.S. § 6709(b), which is incorporated by reference.

(d) Whenever possible, the ACP participant may be given the opportunity to be heard by the Victim Advocate or Victim Advocate's designee regarding the waiver request. Notice and the opportunity to be heard regarding disclosure of an ACP participant's actual address will not be provided to an ACP participant if the requirements of 23 Pa.C.S. § 6709(b)(3) are met, which are incorporated by reference.

(e) OVA may grant the waiver request of Commonwealth and local government agencies if the ACP participant provides written consent to OVA to disclose the ACP participant's actual address.

§ 801.32. Waiver review.

(a) Promptly after receiving a complete waiver request as set forth in § 801.31 (relating to agency requests for waiver) from a Commonwealth or local government agency, OVA will review the request and determine whether to grant or deny the waiver request.

(b) OVA may require additional information during the review of the waiver request, and the request for information will toll the waiver review process until the Commonwealth or local government agency complies with OVA's request for additional information.

(c) OVA will grant a request for waiver from a Commonwealth or local government agency in accordance with 23 Pa.C.S. § 6709(d) (relating to waiver process), which is incorporated by reference.

(d) When OVA grants a waiver to a Commonwealth or local government agency, OVA will provide, in writing, to the requesting agency the following:

- (1) The ACP participant's actual address.
- (2) A description of the scope of permitted use of the ACP participant's actual address.
- (3) A listing of the names or classes of persons permitted to have access to and use of the actual address.
- (4) An explanation that the agency receiving the actual address is required to limit access to and use of the actual address.

(e) When the permitted use of the actual address is only for a set period of time, OVA will provide a date that the granted waiver expires. Upon reaching the expiration date, the agency which obtained a waiver will be required to no longer maintain, use or have access to the ACP participant's actual address and shall delete all references to the participant's actual address from all of its files.

(f) Any Commonwealth or local government agency receiving a waiver by OVA shall comply with 23 Pa.C.S. § 6709(f), which is incorporated by reference.

§ 801.33. Waiver appeal process.

(a) When OVA denies a request for a waiver, the Commonwealth or local government agency requesting the waiver will be notified of the refusal, in writing, by OVA and provide the reasons for denial of the waiver.

(b) Within 15 calendar days of receiving written notice of the waiver denial, the Commonwealth or local government agency may file a written exception with OVA. The exception must:

- (1) Have attached a copy of the letter from OVA denying the original waiver request.
- (2) State the reason that and the grounds upon which the original waiver request should be granted.
- (3) Specifically respond to the reasons stated by OVA for denying the original waiver request.

(c) The filing of an exception to OVA shall be submitted by certified mail and the date of actual delivery to OVA controls for purposes of time calculations.

(d) If a Commonwealth or local government agency timely files exceptions, OVA will review the exception request in accordance with 23 Pa.C.S. § 6709(i) (relating to waiver process), which is incorporated by reference.

(e) A Commonwealth or local government agency may appeal the final determination of OVA in accordance with 23 Pa.C.S. § 6709(j), which is incorporated by reference.

[Pa.B. Doc. No. 06-1908. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-00051926]

Acquisitions of Water and Wastewater Systems

The Pennsylvania Public Utility Commission, on August 17, 2006, adopted a final policy statement order which seeks to increase the number of mergers and acquisitions of small, nonviable water companies to foster regionalization and enhance the viability of jurisdictional water and waster systems in this Commonwealth.

Public Meeting held
August 17, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Terrence J. Fitzpatrick; Kim Pizzigrilli

Final Policy Statement on Acquisitions of Water and Wastewater Systems; Doc. No. M-00051926

Final Policy Statement

By the Commission:

Introduction

By Order entered December 5, 2005 at the previously-captioned docket, this Commission issued an amendment to the existing policy statement regarding the acquisition of water and wastewater systems in the form of a proposed policy statement. This order addresses the comments to the Commission's proposed policy statement and sets forth a final policy statement on the acquisition of water and wastewater systems in Pennsylvania.

Background

On March 11, 2005, Aqua Pennsylvania, Inc. (Aqua) filed a petition with the Commission in which it requested the Commission to issue a proposed statement of policy regarding water and wastewater system acquisitions. Aqua's draft proposed policy statement was essentially an amendment to the Commission's existing policy statement regarding water and wastewater system acquisitions at § 69.711. Aqua's proposed Policy Statement set forth several substantive duties and procedural obligations for acquiring utilities, most notably, a requirement that the acquiring utility prepare an original cost study within six months of closing. In support of its petition, Aqua asserted that the adoption of its proposed policy statement would enhance the Commission's and the Department of Environmental Protection's (DEP) continued goals of promoting water system viability and regionalization and would provide a workable system under which acquiring companies could continue acquisitions and, concomitantly, ensure fair treatment of customers.

The Commission determined that comments on Aqua's petition would be helpful in reaching a final determination on the necessity of issuing an amended policy statement regarding acquisitions of water and wastewater systems in Pennsylvania. The notice requesting comments from interested parties regarding Aqua's petition was published at 35 Pa.B. 2366 (April 16, 2005). The Commission received comment from various parties on Aqua's petition for a proposed policy statement.¹

¹ The National Association of Water Companies - Pennsylvania Chapter (NAWC), the Pennsylvania Office of Consumer Advocate (OCA), the Pennsylvania Municipal Authority Association (PMAA), and a private individual, Lawrence G. Spielvogel, all filed comments to Aqua's petition.

Upon its review of those comments, the Commission issued a revised proposed policy statement regarding the acquisition of water and wastewater systems. The revised proposed policy statement was published at 36 Pa.B. 824 (February 18, 2006). The Commission received comments from Rhoads & Sinon LLP (Rhoads), Aqua Pennsylvania Inc. (Aqua), York Water Company (York Water), Pennsylvania American Water Company (PAWC), the Pennsylvania Office of Consumer Advocate (OCA), and the Pennsylvania Office of Small Business Advocate (OSBA).

Rhoads & Sinon LLP

Rhoads states that the proposed policy statement addresses only a small portion of the problem in dealing with non-viable water systems. Rhoads states that the policy statement does not address the problem of non-viable systems that do not have the rate base or resources to provide adequate service and for which there is no viable provider of last resort. Rhoads suggests that a cooperative effort between the Commission, the DEP, and local municipalities would be ideal.

Aqua Pennsylvania Inc.

Aqua states that it generally supported the revised proposed policy statement. Aqua notes that Pennsylvania Class A water utilities historically have assisted the Commission's efforts to consolidate the numerous water and wastewater systems by acquiring investor-owned companies and municipal operations. Accordingly, Aqua acknowledges that the revised proposed policy statement will give clear and fair guidance to acquiring companies, customers and Commission staff on important acquisition issues. Additionally, Aqua states that it was in favor of an allowance of additional rate of return basis points as a means to encourage the acquisition of smaller, less viable water and wastewater systems that fall outside of the parameters of 66 Pa.C.S. § 1327.

Nevertheless, Aqua also offers some limited changes. Aqua states that it was opposed to the language contained in proposed §§ 69.711(d)(2)(i)(C) and 69.721(e)(1)(iii) regarding the mandatory treatment of tap-in fees and hook-up fees and contributions. Aqua states that the nature and use of tap-in fees and hook-up fees vary greatly between municipal entities. Aqua notes that some entities actually invested the fees in their system, while others used the fees as revenues. Aqua asserts that since the facts of every acquisition may be different with regard to tap-in fees and hook-up fees, the policy statement should not bind the acquiring utility to a particular treatment. Aqua states that all that should be required of the acquiring utility is that it obtain tap-in and hook-up fee records from the seller so that it can present the information and the treatment of those fees can be resolved in the context of a formal rate case.

Additionally, Aqua objects to the second sentences of proposed §§ 69.711(d)(2)(iii) and 69.721(e)(3). Aqua states that the terms "direct or indirect" contributions in aid of construction (CIAC) creates ambiguity and should be deleted from these sentences. Aqua asserts that the examination of a system's original cost will reveal either the existence or non-existence of actual CIAC. Aqua further asserts that to guess as to what should be treated as CIAC would create uncertainty for accounting purposes and subject the acquiring utility to arbitrary and capricious CIAC estimations, which will have the effect of discouraging acquisitions.

Furthermore, Aqua states that while it supported the notion of an acquiring utility submitting an original cost study or statement of reliance on Commission or seller

records prior to the next rate filing, it was concerned with the 6-month timeframe set forth in § 69.711(e) of the proposed policy statement. Aqua proposes that the timeframe be shortened to four months because it allows for a more timely inclusion of acquisitions in rate base.

Lastly, Aqua states that it supports the premise of proposed § 69.711(f) that the use of the purchase price per customer is relevant in determining the reasonableness of the purchase price of a water and wastewater system. Nevertheless, to remove any inconsistency, Aqua asserts that the phrase "in most situations" be removed from the second sentence of this subsection.

York Water Company

York Water states that it has been a strong supporter of the Commission's policy of encouraging larger, well-run water companies to acquire smaller, troubled water systems. Additionally, York Water states that since it is a purchaser of water systems throughout the York County area, it has substantial experience in determining the original cost of acquired facilities, and in preparing documentation in support of acquisition incentives for submission in subsequent base rate proceedings.

York Water's first comment concerned proposed § 69.711(b)(2)(i), which involves acquisitions for a price below depreciated original cost (negative acquisition adjustment). York Water recommends that the final clause of the first sentence be revised to read:

... provided that the difference between the acquisition cost and *depreciated* original cost should be amortized as an addition to income over a *reasonable* period of time *or be passed through to ratepayers by such other methodology* that is determined by the Commission. (Emphasis indicates York Water's new language to be inserted in policy statement).

York Water asserts that this revision tracks the provisions of section 1327 of the Public Utility Code. York Water further recommends that the final sentence of this subsection be revised to state affirmatively the statutory exception to any pass through to ratepayers. York Water suggests the following language be inserted:

No amortization or pass through will be required when the acquisition involves a matter of a substantial public interest.

York Water's second comment concerns proposed § 69.711(d)(2)(v). This subsection provides that an acquiring utility should reconcile and explain any differences between the original cost valuation and the Commission's records at the time the original cost (OC) study is filed with the Commission. York Water states that many of the acquisitions that it conducts are of municipal systems that are not regulated by the Commission, or are small utilities that may never have submitted original cost valuations to the Commission. York Water asserts that this subsection of the policy statement should be revised to recognize that Commission records may not exist.

Furthermore, York Water states that it is unclear what records are to be considered in such reconciliation. Accordingly, York Water recommends that this provision be revised to state:

In the case of an acquisition of a water or wastewater system that is regulated by the Commission, the acquiring utility should reconcile and explain any discrepancies between the acquiring utility's original cost plant-in-service valuation and the Commission's record, to the extent reasonably known and available to the acquiring utility, at the same time the supporting documentation for the study is filed.

York Water also has concerns regarding the 6-month timeframe for submitting to the Commission a newly prepared original cost plant-in-service valuation of the acquired system or statement in reliance on existing records set forth in § 69.711(e). York Water proposes that this timeframe should be shortened, particularly when the acquiring utility intends to rely upon existing records of the acquired utility or of the Commission.

Additionally, York Water notes that proposed § 69.711(e) indicates that the acquisition adjustment is not to be included in the next rate filing if the acquiring utility is unable to provide the Commission with an OC valuation more than six months before its next rate filing. However, York Water asserts that in order to be consistent with proposed § 69.721(f), it should not just be the acquisition adjustment that is not presented in the next rate case, but the entire acquisition should not be included. York Water further asserts that if the acquisition adjustment is not permitted to be reflected in a rate case under this provision, the acquiring utility, at its option, should not be required to reflect revenues resulting from the acquisition in that rate case.

York Water also had concerns about the proposed Commission staff audit of the valuation. York Water suggests that the policy statement should be clarified so that it states that the results of the audit, which is not an on-the-record proceeding, are not binding on any party, but may be presented in the acquiring utility's next rate case, subject to applicable evidentiary rules.

Lastly, York Water seeks clarification regarding proposed § 69.711(e)(2)(ii). York Water is uncertain as to what represents a Commission request. York Water encourages the Commission to make it clear that a request does not have to appear in a formal order or document from the Commission. York Water notes that occasionally it will receive informal requests from Commission staff to consider an acquisition of a troubled small utility adjacent to its service territory. York Water suggests that an acquisition that occurs following such an informal request should also qualify under this exception.

Pennsylvania American Water Company

PAWC states that it is strongly supportive of the Commission's goal of promoting water system viability and regionalization, and that it generally supports the Commission-revised proposed policy statement. However, PAWC has some concerns regarding various provisions of the policy statement.

PAWC first takes exception to proposed § 69.711(d)(2)(i)(C). PAWC disagrees with the conclusion that tap-in fees and hook-up fees booked by the seller as revenue must be booked as contributions. PAWC states that if tap-in fees or hook-up fees are booked by the seller as revenue, they should not be included as contributions. PAWC notes that when tap-in fees are booked by the seller as revenue, they are part of the seller's revenue requirement needed to support that utility's expenses, not its capital base. PAWC further notes that since the buyer usually assumes the seller's tariff, requiring the buyer to restate these revenues as contributions does not provide the buyer with adequate revenue to support the business. PAWC asserts that this will become a disincentive to regionalization and consolidation. Moreover, PAWC notes that a utility may have financed the entire cost of its asset base with debt while using tap-in fees to reduce its revenue requirement. PAWC goes on to state that requiring the buyer to restate these tap-in fees as contributions

means that the buyer would automatically have to assume an unfavorable adjustment in order to acquire the system.

Secondly, like Aqua, PAWC has concerns regarding proposed § 69.711(d)(2)(iii). In identifying the procedure for booking CIAC, this subsection of the Commission proposed policy statement references "direct and indirect CIAC." PAWC states that the distinction between "direct" and "indirect" CIAC is undefined and therefore confusing. PAWC notes that the term "CIAC" is defined in the National Association of Regulatory Utility Commissioners Uniform System of Accounts without distinction with regard to its being direct or indirect.

Thirdly, like the other commentators, PAWC has concerns regarding the fact that in order to request an acquisition adjustment, the acquiring utility had a 6-month timeframe to submit an OC study to the Commission prior to its next rate case filing. PAWC asserts that this requirement in proposed § 69.711(e) is onerous and unnecessary, and counter-productive to the Commission's goals of promoting regionalization and acquisition of small non-viable water and wastewater systems. PAWC further asserts it is not reasonable to presume a seller's willingness to sell a water or wastewater system and the acquirer's completion of an original cost study will coincide so far in advance of the acquiring utility's next rate case. PAWC recommends that the 6-month requirement be changed to 30 days, which is consistent with the notice requirement for filing a rate case.

Finally, PAWC has a concern with proposed § 69.711(f). PAWC states that it agreed that purchase price per customer is a factor to be considered, but objects to giving this one metric such elevated status. PAWC suggests that this subsection be revised to identify the purchase price per customer as one of the listed considerations without singling it out for special consideration.

Office of Consumer Advocate

The OCA submits that the Commission-revised proposed policy statement is more consistent with section 1327 of the Code, 66 Pa.C.S. § 1327, than Aqua's original policy statement. However, OCA submits that some of the proposed sections are still not consistent with section 1327 and are not necessary to set forth in a policy statement because they are already set forth in the statute.

The OCA has some concerns regarding acquisition incentives. In particular, the OCA's chief concern with the rate of return premium set forth in proposed § 69.711(b)(1) is to ensure that the Commission carefully applies this acquisition premium and that it be placed in the proper context in each case. Additionally, the OCA had concerns with proposed § 69.711(b)(5). The OCA asserts that this provision is too open-ended and vague and requested that it be deleted from the policy statement.

Additionally, the OCA seeks clarification of proposed § 69.711(d). The OCA states that the language at the beginning of this subsection could be interpreted so that the following subsections are the only type of documentation needed to justify an acquisition adjustment. The OCA notes, however, that it is clear under section 1327(a) of the Code that the acquiring utility is required to meet all of the criteria listed in section 1327(a). The OCA recommends that the proposed subsection should be revised so that it is clear that it does not address the criteria required under section 1327(a), which would allow the acquiring utility to include the acquisition

adjustment in its rates, but only addresses the determination of the original cost of the acquired utility. Moreover, the OCA states that there is no requirement in § 1327 that the acquiring utility perform an OC study. The OCA further states that an OC study should only be required when there is no other way of determining the net original cost or when there is a good deal of assurance that the records of the seller are inaccurate.

Furthermore, the OCA has significant concerns regarding proposed § 69.711(e). The OCA states that it was concerned about the situation where Commission staff completes the audit of the OC study of the acquired system and then releases its findings before the acquiring utility files its next rate case. The OCA cautions that the Commission, in the context of the policy statement, considers the audit to be a final determination regarding the original cost for ratemaking purposes, the policy statement goes beyond what can be done in a policy statement and presents a due process violation. Moreover, the OCA states that this subsection of the policy statement is inconsistent with section 1327 because the timing set forth in that provision is not envisioned under 66 Pa.C.S. § 1327(b).

Lastly, the OCA has concerns regarding proposed § 69.711(f). The OCA states that the purchase price per customer alone is not an appropriate way to judge the reasonableness of the purchase price for purposes of meeting section 1327(a)(6). The OCA further states that this information alone is not sufficient to judge whether the acquisition is in the best interests of the acquiring utility's existing customers because the purchase price per customer is not meaningful for ratemaking purposes.

Office of Small Business Advocate

The OSBA's sole concern is with proposed § 69.721(g). The OSBA states that awarding a rate of return premium to an acquiring utility may impose an unreasonable burden on the pre-acquisition customers of the acquiring utility. The OSBA suggests that the same standard that applies when an acquiring utility qualifies for an acquisition adjustment—the rates charged to its preacquisition customers will not increase unreasonably because of the acquisition—should apply when a larger utility is acquiring a viable utility. The OSBA also notes that larger utilities have been regularly acquiring smaller utilities that do not qualify as non-viable. The OSBA asserts that since these acquisitions have occurred without a rate of return premium, the economic gain to the acquiring utility has apparently been a sufficient incentive. Accordingly, the OSBA requests that this subsection be deleted from the Commission's proposed policy statement.

Discussion

After reviewing the comments to the proposed policy statement, we will revise portions of the policy statement so that it is more consistent with the parameters of section 1327 of the Code and tracks sound accounting practices.

First, we address Rhoads comments. Rhoads suggests that a cooperative effort between the Commission, the Department of Environmental Protection, and local municipalities would be ideal to discuss and address many of the issues faced by non-viable water system operators. We note the Commission has established a Small Water Company Task Force that includes representation by DEP, PENNVEST and the OCA. Additionally, the Commission also interacts with DEP regional offices on a regular basis about problem company situations and compliance. Furthermore, we interact with counties, mu-

nicipalities and their planning offices when we process applications for certificates of public convenience. The Commission is also a member of DEP's Technical Assistance Center Advisory Board (TAC Board), which includes the Pennsylvania Municipal Authorities Association and the Association for Boroughs and Townships. The TAC meets quarterly and often discusses water utilities' problems and solutions. We believe that we currently have in place appropriate mechanisms to bring all parties of interest together and address their concerns to insure adequate service to the public. Nonetheless, expansion of our interaction with other relevant entities continues to be an important component in achieving the elimination of non-viable water and wastewater companies.

We note that York Water had a concern regarding proposed § 69.711(b)(2)(i), which involves acquisitions for a price below depreciated original cost (negative acquisition adjustment). Specifically, York Water recommends that this provision should be more consistent with 66 Pa.C.S. § 1327(e). In order to remove any substantial ambiguity regarding this subsection, we will adopt York Water's recommended language and revise this subsection of the policy statement so that it is more consistent with section 1327(e) of the Code.

The OCA believes that proposed § 69.711(b)(5) is too open-ended and vague. This subsection references additional acquisition incentives that may be considered by the Commission. We agree with OCA's assessment. We note that larger utilities have been regularly acquiring smaller non-viable utilities and that the acquisition adjustments that have been in existence since 1990 have apparently been a sufficient incentive for acquiring utilities. Therefore, we will delete this subsection from the policy statement.

York Water and the OCA both suggest that we clarify proposed § 69.711(d) of the policy statement regarding documentation for an acquisition adjustment. We note that the OCA stated that the language at the beginning of this subsection could be interpreted so that the following subsections are the only type of documentation needed to qualify for an acquisition adjustment. We acknowledge that it is clear that the acquiring utility is required to meet all of the criteria listed in 66 Pa.C.S. § 1327(a)(1)–(9) before it is eligible to claim an acquisition adjustment to its rate base. Therefore, we agree with the OCA's recommendation that this subsection should be revised so that it is clear it does not address the criteria required under section 1327(a)(1)–(9) of the Code, but only addresses the documentation that should be provided by the acquiring utility to support a requested acquisition adjustment during its next rate case. It should be understood that the acquiring utility is still required to meet all of the eligibility criteria outlined in 66 Pa.C.S. § 1327(a)(1)–(9) before it can request inclusion of the acquisition adjustment in its rate base. Therefore, we will modify proposed § 69.711(d) accordingly.

Additionally, York Water stated that it had concerns regarding proposed § 69.711(d)(v) of the policy statement. This subsection provides that an acquiring utility should reconcile and explain any differences between the original cost valuation and the Commission's records at the time the OC study is filed with the Commission. York Water asserted that this subsection of the policy statement should be revised to recognize that Commission records may not exist. Furthermore, York Water stated that it is unclear what records are to be considered in such reconciliation. Accordingly, York Water recommended that this provision be revised to state:

In the case of an acquisition of a water or wastewater system that is regulated by the Commission, the acquiring utility should reconcile and explain any discrepancies between the acquiring utility's original cost plant-in-service valuation and the Commission's record, to the extent reasonably known and available to the acquiring utility, at the same time the supporting documentation for the study is filed.

We adopt York Water's proposed revision to § 69.711(d)(v).

We note that both Aqua and PAWC had concerns regarding the treatment of tap-in fees and hook-up fees set forth in §§ 69.711(d)(2)(i)(C) and 69.721(e)(1)(iii) of the proposed policy statement. Accordingly, we will revise both sections so that the acquiring utility is not required to give tap-in fees and hook-up fees mandatory treatment as contributions. Additionally, both Aqua and PAWC had concerns with the proposed policy statement's distinction between "direct" and "indirect" CIAC. We note that PAWC indicated that CIAC is defined in the National Association of Regulatory Utility Commissioners Uniform System of Accounts without distinction with regard to its being direct or indirect. Therefore, we will revise §§ 69.711(d)(2)(iii) and 69.721(e)(3) in order to eliminate any distinction.

Aqua, York Water, PAWC and the OCA all had concerns with the timeframe set forth in §§ 69.711(e) and 69.721(f) of the Commission-proposed policy statement. Aqua stated that while it supported the notion of an acquiring utility submitting an OC study or statement of reliance on Commission or seller records prior to the next rate filing, Aqua was concerned with the 6-month timeframe. Aqua proposed that the timeframe be shortened to four months because it allows for a more timely inclusion of acquisitions in rate base.

York Water also had concerns regarding the 6-month timeframe set forth in the subsections. York Water proposed that this timeframe should be shortened, particularly when the acquiring utility intends to rely upon existing records of the acquired utility or of the Commission.

Additionally, York Water suggested that if the acquisition adjustment cannot be included in the next rate filing because the acquiring utility was unable to provide the Commission with an OC valuation more than six months before its next rate filing, then the entire acquisition should not be included in the acquiring utility's next rate case. York Water further determined that if the rate base is not permitted to be reflected in a rate case under this provision, the acquiring utility, at its option, should not be required to reflect revenues resulting from the acquisition in that rate case.

PAWC asserted that the 6-month timeframe in proposed §§ 69.711(e) and 69.721(f) is onerous and unnecessary, and counter-productive to the Commission's goals of promoting regionalization and acquisition of small non-viable water and wastewater systems. PAWC recommended that the 6-month requirement be changed to 30 days, which is consistent with the notice requirement for filing a rate case.

The OCA also had concerns regarding the timeframe of submitting the supporting documentation for the acquisition adjustment. In particular, OCA states that the proposed subsection is inconsistent with section 1327 of the Code because the timing set forth in that provision is not envisioned under 66 Pa.C.S. § 1327(b).

Additionally, the OCA and York Water also had other significant concerns regarding proposed § 69.711(e). Both parties were concerned about the situation where Commission staff completes the audit of the OC study of the acquired system and releases its findings publicly before the rate case is filed.

Lastly, York Water had concerns about the exception set forth in proposed § 69.711(e)(2)(ii) of the policy statement. York Water noted that occasionally it will receive informal requests from Commission staff to consider an acquisition of a troubled small utility adjacent to its service territory. York Water suggests that an acquisition that occurs following such an informal request should also qualify under this exception.

In light of these concerns regarding this subsection, we believe that it is appropriate to make several modifications to the proposed policy statement. We note OCA's comment that proposed § 69.711(e) of the policy statement appears to be inconsistent with section 1327(b) of the Code. We agree with this assessment. We recognize that an acquiring utility that is eligible to receive a 1327(a) acquisition adjustment can request such an adjustment before the acquisition is consummated or prior to its next filed rate case. See 66 Pa.C.S. § 1327(b). Therefore, we will modify § 69.711(c) of the policy statement so that it states expressly that an acquiring utility can elect to request a 1327(a)-acquisition adjustment in accordance with section 1327(b) of the Code or during its next rate case. Nevertheless, given the interrelationship of acquisition adjustments and just and reasonable rates, the Commission prefers that an acquiring utility request a 1327(a) acquisition adjustment during its next filed rate case and not outside the context of a rate case.

Additionally, we note that section 1327 of the Code does not require that an original cost study be performed each time an acquiring utility wants to include an acquisition adjustment. However, the Commission acknowledges that one of the primary reasons for this policy statement was to provide guidance as to when and whether an acquiring utility should prepare an original cost study. In fact, Aqua previously noted in this proceeding that, in many instances, Commission staff desires the acquiring company to prepare an original cost study in order to support the acquiring utility's request for an acquisition adjustment to its rate base.

However, it is recognized that requesting the acquiring utility for such specific bookkeeping information as part of the application process for the acquisition is not appropriate. See *Application of Pa. Suburban Water Co. and Eagle Rock Utility Corp.*, Docket Nos. A-210104F0023 and A-210075F2000 (Order entered March 5, 2005) (*Eagle Rock*). § 69.711(e) was an attempt to address this concern. Therefore, we believe it is appropriate to modify proposed § 69.711(e) of the policy statement so as to indicate clearly that when the acquiring utility elects to request an acquisition adjustment during its next rate case, the acquiring utility should file the supporting documentation set forth in the policy statement. Although, we suggest that the acquiring utility, if it makes a claim for an acquisition adjustment outside of the context of a rate case, should also file adequate documentation to support its request for an acquisition adjustment as well.

Additionally, we will revise the timeframe in proposed § 69.711(e) to four months. We agree with Aqua that a 4-month timeframe allows for a more timely inclusion of acquisitions in rate base. Moreover, we agree with York Water's assertion that if the acquisition adjustment is not

included in the next rate case because the acquiring utility is unable to provide the Commission with an OC valuation in sufficient time, then the acquiring utility should not include any revenues or expenses related to the acquisition, including the requested acquisition adjustment, in its next filed rate case.

We note that York Water and the OCA had significant concerns about Commission staff audits of OC valuations. We believe that it is appropriate to clarify the purpose of such an audit. If staff completes an audit before the rate case is filed, the results of the audit will not be binding on any party, but rather the audit report will be made available to the public and the report can be presented in the acquiring utility's next rate case, subject to applicable evidentiary rules. This will cure any due process concerns.

Finally, we understand York Water's concern regarding staff's informal requests to acquire a troubled small utility adjacent to its service territory. However, we believe that the existing language in the proposed policy statement is sufficient and clearly encompasses informal requests from the Commission. If York Water still has concerns whether informal requests fall within this exception, York Water can always take steps on its own to memorialize any informal request from staff. We note, however, that regardless of whether it is considered an "informal" request from the Commission by the acquiring utility, the acquisition must still meet the requirements of section 1327 of the Code.

Aqua and PAWC both had concerns regarding the use of the purchase price per customer as outlined in proposed § 69.711(f). Aqua stated that while it believes that the purchase price per customer is relevant in determining the reasonableness of the purchase price of a water or wastewater system, in order to remove any inconsistency, the phrase "in most situations" should be removed from the second sentence of this subsection. PAWC suggested that this subsection be revised to identify the purchase price per customer as one of the listed considerations without singling it out for special consideration. In light of these comments, we will modify this subsection so that the purchase price per customer is listed only as one of several relevant factors to be considered in determining the reasonableness of the purchase price of the water and wastewater system.

The OSBA had a significant concern about allowing an acquisition adjustment to be requested when a large utility acquires a viable water and wastewater system. In particular, the OSBA noted that even without a rate of return premium, larger utilities have been regularly acquiring smaller utilities that do not qualify as non-viable. Consequently, the OSBA asserts that the economic gain to the acquiring utility has apparently been a sufficient incentive. Nevertheless, as we noted earlier, acquisitions of smaller systems by larger more viable systems will likely improve the overall long-term viability of the water and wastewater industry. Additionally, these types of acquisitions will also enhance the quality of ratepayers' daily lives, promote community economic development and provide environmental enhancements. We strongly believe that these types of acquisitions generally serve public policy goals and that some sort of acquisition premium for this category of acquisition is appropriate.

Based upon the comments received and our consideration of the issues raised, we adopt this final policy statement as set forth in Annex A; *Therefore*,

It Is Ordered:

1. That 52 Pa. Code Chapter 69 is amended by amending § 69.711 and adding § 69.721 to read as set forth in Annex A.

2. That the Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

3. That the Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. That a copy of this order and Annex A shall be served upon the office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all jurisdictional water and wastewater utilities, the Department of Environmental Protection, the National Association of Water Companies-Pennsylvania Chapter, the Pennsylvania Rural Water Association, the Pennsylvania Municipal Authority Association, Rhoads & Sinon LLP and Lawrence G. Spielvogel.

5. That this policy statement shall become effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNUITY,
Secretary

Fiscal Note: Fiscal Note 57-246 remains valid for the final adoption of the subject regulations.

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

ACQUISITIONS OF SMALL NONVIABLE WATER AND WASTEWATER SYSTEMS—STATEMENT OF POLICY

§ 69.711. Acquisition incentives

(a) *General.* To accomplish the goal of increasing the number of mergers and acquisitions to foster regionalization, the Commission will consider the acquisition incentives in subsection (b). The following parameters shall first be met in order for Commission consideration of a utility's proposed acquisition incentive. It should be demonstrated that:

(1) The acquisition serves the general public interest.

(2) The acquiring utility meets the criteria of viability that will not be impaired by the acquisition; that it maintains the managerial, technical and financial capabilities to safely and adequately operate the acquired system, in compliance with 66 Pa.C.S. (relating to the Public Utility Code), the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) and other requisite regulatory requirements on a short and long-term basis.

(3) The acquired system has less than 3,300 customer connections; the acquired system is not viable; it is in violation of statutory or regulatory standards concerning the safety, adequacy, efficiency or reasonableness of service and facilities; and that it has failed to comply, within a reasonable period of time, with any order of the Department of Environmental Protection or the Commission.

(4) The acquired system's ratepayers should be provided with improved service in the future, with the necessary plant improvements being completed within a reasonable period of time.

(5) The purchase price of the acquisition is fair and reasonable and the acquisition has been conducted through arm's length negotiations.

(6) The concept of single tariff pricing should be applied to the rates of the acquired system, to the extent that it is reasonable. Under certain circumstances of extreme differences in rates, or of affordability concerns, consideration should be given to a phase-in of the rate difference over a reasonable period of time.

(b) *Acquisition incentives.* In its efforts to foster acquisition of suitable water and wastewater systems by viable utilities when the acquisitions are in the public interest, the Commission seeks to assist these acquisitions by permitting the use of a number of regulatory incentives. Accordingly, the Commission will consider the following acquisitions incentives:

(1) *Rate of return premiums.* Under 66 Pa.C.S. § 523 (relating to performance factor considerations), additional rate of return basis points may be awarded for certain acquisitions and for certain associated improvement costs, based on sufficient supporting data submitted by the acquiring utility within its rate case filing. The rate of return premium as an acquisition incentive may be the most straightforward and its use is encouraged.

(2) *Acquisition adjustment.* When the acquiring utility's acquisition cost differs from the depreciated original cost of the water or wastewater facilities first devoted to public use, the difference may be treated as follows for ratemaking purposes:

(i) *Credit acquisition adjustment.* Under 66 Pa.C.S. § 1327(e) (relating to acquisition of water and sewer facilities), when a utility pays less than the depreciated original cost of the acquired system, the acquiring utility may book and include in rate base the depreciated original cost of the acquired system, provided that the difference between the acquisition cost and depreciated original cost should be amortized as an addition to income over a reasonable period of time or be passed through to ratepayers by another methodology that is determined by the Commission. The acquiring utility may argue that no amortization or pass through is appropriate when the acquisition involves a matter of substantial public interest.

(ii) *Debit acquisition adjustment.* Under 66 Pa.C.S. § 1327(a), when a utility pays more than the depreciated original cost of the acquired system, the acquiring utility may book and include in rate base the excess of acquisition cost over depreciated original cost of the acquired system, provided that the utility can meet the requirements of 66 Pa.C.S. § 1327(a). When the acquisition does not qualify under 66 Pa.C.S. § 1327(a), the debit acquisition adjustment should be treated in accordance with generally accepted accounting principles and not be amortized for ratemaking purposes.

(3) *Deferral of acquisition improvement costs.* In cases when the plant improvements are of too great a magnitude to be absorbed by ratepayers at one time, rate recovery of the improvement costs may be recovered in phases. There may be a one time treatment—in the

initial rate case-of the improvement costs but a phasing—in of the acquisition, improvements and associated carrying-costs may be allowed over a finite period.

(4) *Plant improvement surcharge.* Collection of a different rate from customers of the acquired system upon completion of the acquisition could be implemented to temporarily offset extraordinary improvement costs. In cases when the improvement benefits only those customers who are newly acquired, the added costs may be allocated on a greater than average level—but less than 100%—to the new customers for a reasonable period of time, as determined by the Commission.

(c) *Procedural implementation.*

(1) An acquiring utility that has met the criteria set forth in 66 Pa.C.S. § 1327(a)(1)—(9) for inclusion of a debit acquisition adjustment in its rate base, may elect to have this acquisition adjustment considered on a case-by-case basis as set forth in 66 Pa.C.S. § 1327(b), or as part of its next rate case filing. The acquiring utility should file the supporting documentation outlined in subsection (d) to support the requested acquisition adjustment.

(2) The appropriate implementation procedure to qualify for the other acquisition incentives in subsection (b) would be to file the appropriate supporting documentation during the next filed rate case.

(3) In acquisition incentive filings, the burden of proof rests with the acquiring utility.

(d) *Documentation to support inclusion of acquisition adjustment.* When an acquiring utility elects to have the acquisition adjustment to its rate base considered as a part of its next rate case filing, the acquiring utility should file the following documentation to support the acquisition adjustment to its rate base:

(1) *Statement of reliance on existing records.* An acquiring utility may elect to rely in whole or in part upon the original cost records of the seller or Commission in determining the original cost of the used and useful assets of the acquired system.

(2) *Preparation of data to support acquisition adjustment.* An acquiring utility, upon its own election, may file an original cost plant-in-service study with the Commission to support its requested acquisition adjustment to its rate base. An original cost study is one method of determining the valuation costs of the property of a public utility. It requires the acquiring utility to develop realistic plant balances and accumulates the records and accounting details that support those balances. Disputes regarding the acquiring utility's original cost valuation of the assets of the acquired system will be resolved in the context of a rate proceeding when interested parties will have an opportunity to be heard.

(i) *Contents of an original cost plant-in-service study.* When an acquiring utility elects to submit its own original cost of plant-in-service valuation, the acquiring utility is obligated to exercise due diligence and make reasonable attempts to obtain, from the seller, documents related to original cost. In particular, as part of its exercise of due diligence, the acquiring utility should request from the seller, for purposes of determining the original cost plant-in-service valuation, the original cost of the assets being acquired and records relating to contributions in aid of construction (CIAC), such as the following:

(A) Accounting records and other relevant documentation and agreements of donations or contributions, services, or property from states, municipalities or other government agencies, individuals, and others for construction purposes.

(B) Records of unrefunded balances in customer advances for construction (CAC).

(C) Records of customer tap-in fees and hook-up fees.

(D) Prior original cost studies.

(E) Records of local, State and Federal grants used for construction of utility plant.

(F) Relevant PennVEST or Department of Environmental Protection records.

(G) Any Commission records.

(H) Summary of the depreciation schedules from all filed Federal tax returns.

(I) Other accounting records supporting plant-in-service.

(ii) *Failure of seller to provide cost-related documents.* The failure of a seller to provide cost-related documents, after reasonable attempts to obtain the data, will not be a basis for the Commission's denial of the inclusion of the value of the acquired system's assets in its proposed rate base. Because the documents obtained from the seller may be incomplete and may result in an inaccurate valuation, the acquiring utility will not be bound by the incomplete documents from the seller in the preparation of its original cost plant-in-service valuation.

(iii) *Procedure for booking CIAC.* The acquiring utility, at a minimum, should book as CIAC contributions that were properly recorded on the books of the system being acquired. If evidence supports other CIAC that was not booked by the seller, the acquiring utility should make a documented effort to determine the actual CIAC and record the contributions for ratemaking purposes, such as lot sale agreements or capitalization vs. expense of plant-in-service on tax returns.

(iv) *Plant retired/not booked/not used and useful.* The acquiring utility should identify all plant retirements and plant no longer used and useful, and complete the appropriate accounting entries.

(v) *Reconciliation with commission records.* In the case of an acquisition of a water or wastewater system that is regulated by the Commission, the acquiring utility should reconcile and explain any discrepancies between the acquiring utility's original cost plant-in-service valuation and the Commission's records, to the extent reasonably known and available to the acquiring utility, at the same time the supporting documentation for the study is filed.

(e) *Time to submit original cost valuation.* When the acquiring utility elects to request an acquisition adjustment, it should submit a copy of its newly prepared original cost plant-in-service valuation of the acquired system or a statement of reliance of the existing records of the Commission or the seller to the Commission's Secretary's Bureau, the Bureau of Audits, the Bureau of Fixed Utility Services, the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate at least 4 months prior to the date that the acquiring utility plans to make its next rate case filing with the Commission.

(1) The Commission staff may conduct an audit of the original cost valuation, but if no staff audit is completed

and released at public meeting before the date of the rate case filing, the Commission's determination of the original cost valuation in the rate case will be deemed final action on the original cost valuation and any associated acquisition adjustment, absent subsequently discovered fraud or misrepresentation. When staff completes an audit before the rate case is filed, the results of the audit will not be binding on any party, but rather the audit report will be made available to the public and the report can be presented in the acquiring utility's next rate case, subject to applicable evidentiary rules.

(2) When the acquiring utility makes a rate case filing sooner than the 4-month window, the acquiring utility should not include any revenues or expenses related to the acquisition, including the requested acquisition adjustment in its proposed rate base unless it includes the original cost valuation with the rate filing and one of the following circumstances applies:

(i) A compelling reason exists for requesting the acquisition adjustment in the current rate filing.

(ii) The acquisition was requested or otherwise directed by the Commission.

(iii) No statutory party objects to the inclusion of the acquisition adjustment to the proposed rate base of the acquiring utility.

(f) *Purchase price of the water and wastewater system.* The factors relevant to the reasonableness of the purchase price of the acquired water and wastewater system include:

(1) Promotion of long-term viability.

(2) Promotion of regionalization.

(3) Usage per customer.

(4) Growth rates.

(5) Cost of improvements.

(6) Age of the infrastructure.

(7) Return on equity.

(8) Existing rates.

(9) Purchase price per customer.

ACQUISITIONS OF VIABLE WATER AND WASTEWATER SYSTEM—STATEMENT OF POLICY

§ 69.721. Water and wastewater system acquisitions.

(a) *General.* The Commission believes that further consolidation of water and wastewater systems within this Commonwealth may, with appropriate management, result in greater environmental and economic benefits to customers. The regionalization of water and wastewater systems through mergers and acquisitions will allow the water industry to institute better management practices and achieve greater economies of scale. To further this goal, the Commission sets forth the guidance in this section regarding the acquisition of water and wastewater systems. Guidance specifically applicable to the acquisition of nonviable systems is set forth in § 69.711 (relating to acquisition incentives).

(b) *Inclusion of acquisition assets in rate base.* After the approval of an acquisition, as evidenced by the receipt of a certificate of public convenience, an acquiring utility may request the inclusion of the value of the used and useful assets of the acquired system in its rate base. A request will be considered during the acquiring utility's next filed rate case proceeding. See 66 Pa.C.S. § 1311(a) (relating to valuation of and return on the property of a public utility).

(c) *Method of valuation of acquisition assets.* The assets of the acquired system should be booked at the original cost of the acquired system when first devoted to the public service less the applicable accrued depreciation and related contributions. See 66 Pa.C.S. § 1311(b).

(d) *Determining original cost of acquisition assets.* An acquiring utility may use various methods to support its valuation of the original cost of the used and useful assets of the acquired water or wastewater system. For example, an acquiring utility may elect to rely in whole or in part upon the original cost records of the seller or the Commission in determining the original cost of the used and useful assets of the acquired system that are to be included in its rate base.

(e) *Preparation of an original cost of plant-in-service valuation.* The Commission will not require an acquiring utility to submit a full original cost plant-in-service study in order to determine the value of the assets of the acquired system. An acquiring utility, upon its own election, may file an original cost study with the Commission to support its valuation of the assets of the acquired water and wastewater system proposed to be included in its rate base. A full original cost plant-in-service study is one method of determining the valuation costs of the property of a public utility. It requires the acquiring utility to develop realistic plant balances and accumulates the records and accounting details that support those balances. Disputes regarding the acquiring utility's original cost valuation of the acquired assets will be resolved in the context of a rate proceeding in which all interested parties will have an opportunity to be heard.

(1) *Contents of an original cost plant-in-service study.* The acquiring utility is obligated to exercise due diligence and make reasonable attempts to obtain, from the seller, documents related to original cost. In particular, as part of its due diligence, the acquiring utility should request from the seller, for purposes of determining the original cost plant-in-service valuation, the original cost of the assets being acquired and records relating to contributions in aid of construction (CIAC), such as the following:

(i) Accounting records and other related documentation and agreements of donations or contributions, services, or property from states, municipalities or other government agencies, individuals, and others for construction purposes.

(ii) Records of unrefunded balances in customer advances for construction (CAC).

(iii) Records of customer tap-in fees and hook-up fees.

(iv) Prior original cost studies.

(v) Records of local, State and Federal grants used for construction of utility plant.

(vi) Relevant PennVEST or Department of Environmental Protection records.

(vii) Any Commission records.

(viii) Summary of the depreciation schedules from all filed Federal tax returns.

(ix) Other accounting records supporting plant-in-service.

(2) *Failure of seller to provide cost-related documents.* The failure of a seller to provide cost-related documents, after reasonable attempts to obtain the data, will not be a basis for the Commission's denial of the inclusion of the value of the acquired system's assets in its proposed rate base. Because the documents obtained from the seller may be incomplete and may result in an inaccurate valuation, the acquiring utility will not be bound by the incomplete documents from the seller in the preparation of its original cost plant-in-service valuation.

(3) *Procedure for booking CIAC.* The acquiring utility, at a minimum, should book as CIAC contributions that were properly recorded on the books of the system being acquired. If evidence supports other CIAC that was not booked by the seller, the acquiring utility should make a documented effort to determine the actual CIAC and record the contributions for ratemaking purposes, such as lot sale agreements or capitalization versus expenses of plant-in-service on tax returns.

(4) *Plant retired/not booked/not used and useful.* The acquiring utility should identify all plant retirements and plant no longer used and useful and complete the appropriate accounting entries.

(5) *Reconciliation with commission records.* In the case of an acquisition of a water or wastewater system that is regulated by the Commission, the acquiring utility should reconcile and explain any discrepancies between the acquiring utility's original cost plant-in-service valuation and the Commission's records, to the extent reasonably known and available to the acquiring utility, at the same time the supporting documentation for the study is filed.

(f) *Time to submit original cost valuation.* When the acquiring utility elects to request inclusion of its acquisition in its rate base, it should submit a copy of its newly prepared original cost plant-in-service valuation of the acquired system or a statement of reliance of the existing records of the Commission or the seller to the Commission's Secretary's Bureau, the Bureau of Audits, the Bureau of Fixed Utility Services, the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate at least 4 months prior to the date that the acquiring utility plans to make its next rate case filing with the Commission.

(1) The Commission staff may conduct an audit of the original cost valuation, but if no staff audit is completed and released at public meeting before the date of the rate case filing, the Commission's determination of the original cost valuation in the rate case will be deemed final action on the original cost valuation, absent subsequently discovered fraud or misrepresentation. When staff completes an audit before the rate case is filed, the results of the audit will not be binding on any party, but rather the audit report will be made available to the public and the report can be presented in the acquiring utility's next rate case, subject to applicable evidentiary rules.

(2) When the acquiring utility makes a rate case filing sooner than the 4-month window, the acquiring utility should not include any revenues or expenses related to the acquisition, including the requested acquisition adjustment in its proposed rate base unless it includes the original cost valuation with the rate filing and one of the following circumstances applies:

(i) A compelling reason exists for requesting the acquisition in the current rate filing.

(ii) The acquisition was requested or otherwise directed by the Commission.

(iii) No statutory party objects to the inclusion of the acquisition to the proposed rate base of the acquiring utility.

(g) *Acquisition incentives.* In its efforts to foster the acquisitions of smaller, less viable water and wastewater systems by larger more viable systems, the Commission, under 66 Pa.C.S. § 523 (relating to performance factor consideration), has broad latitude to allow the acquiring utility to request a rate of return premium in a subsequent rate case. The allowance of a rate of return premium, as an acquisition incentive for an acquisition that falls outside of the parameters of 66 Pa.C.S. § 1327 (relating to acquisition of water and sewer utilities), may be requested by those utilities that have a demonstrated track record of acquiring and improving the service provided to the customers of smaller and less viable water systems. The allowance of additional rate of return basis points may be awarded based on sufficient supporting data submitted by the utility within its rate case filing.

[Pa.B. Doc. No. 06-1909. Filed for public inspection September 29, 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 September 19, 2006.

BANKING INSTITUTIONS

Interim Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-18-06	Unity Bank of Pennsylvania Forks Township Northampton County	Forks Township	Effective
Interim bank is being chartered solely to facilitate the ability of Unity Bank, Clinton, NJ, a New Jersey-chartered bank, to establish a branch office in Pennsylvania. The Interim will be immediately merged with and into Unity Bank, a wholly owned subsidiary of Unity Bancorp, Inc., Clinton, NJ.			

Holding Company Acquisition

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-1-06	Juniata Valley Financial Corporation, Mifflintown, to acquire up to 39.2% of the outstanding common stock of The First National Bank of Liverpool, Liverpool, under the provisions of section 112 of the Banking Code of 1965	Mifflintown	Effective
9-18-06	Unity Bancorp, Inc., Clinton, New Jersey, to acquire 100% of Unity Bank Pennsylvania, Forks Township, PA, which will be merged with and into Unity Bank, Clinton, NJ, the wholly owned subsidiary of Unity Bancorp, Inc.	Clinton, NJ	Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-12-06	CommunityBanks, Millersburg, and Sentry Trust Company, Chambersburg Surviving Institution— CommunityBanks, Millersburg <i>Branch Acquired by means of Merger:</i> 785 Fifth Avenue Chambersburg Franklin County	Millersburg	Approved and Effective 9-15-06

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-12-06	Keystone Nazareth Bank & Trust Company Bethlehem Northampton County	Giant Food Store 1241 Blakeslee Boulevard Lehighton Carbon County	Filed
9-12-06	Integrity Bank Camp Hill Cumberland County	301 Colonial Road Harrisburg Lower Paxton Township Dauphin County	Opened
9-14-06	Abington Savings Bank Jenkintown Montgomery County	Lansdale Pavillion 407 South Broad Street Lansdale Montgomery County	Approved

NOTICES

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-14-06	Bank of Hanover and Trust Company Hanover York County	1120 Fairfield Road Gettysburg Adams County	Approved
9-14-06	Lafayette Ambassador Bank Easton Northampton County	North Third Street Coopersburg Lehigh County	Approved
9-18-06	Prudential Savings Bank Philadelphia Philadelphia County	23 North 3rd Street Philadelphia Philadelphia County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-13-06	Minersville Safe Deposit Bank & Trust Company Minersville Schuylkill County	Discontinuance of Three Branch Offices Located at: Fourth and Sunbury Streets Minersville Schuylkill County 100 West Main Street Girardville Schuylkill County 339 Main Street Lavelle Schuylkill County	Approved
9-14-06	Omega Bank State College Centre County	1100 Spring Garden Drive Middletown Dauphin County	Filed
9-14-06	Omega Bank State College Centre County	51 South Street Steelton Dauphin County	Filed
9-14-06	Omega Bank State College Centre County	1110 East Simpson Street Mechanicsburg Cumberland County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
9-14-06	Sentry Trust Company Chambersburg Franklin County	Amendment to Article Third of the Articles of Incorporation in its entirety to read as follows: "The purpose for which the institution is incorporated is to convert to a bank and trust company and immediately thereafter merge with and into CommunityBanks, a bank and trust company organized and existing under the laws of the Commonwealth of Pennsylvania."	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Charter Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
9-6-06	Lehigh Valley Educators Credit Union Allentown Lehigh County	Allentown	Withdrawn

Notice represented a request for conversion from an occupational-based credit union to a community-based charter to serve "all people who live, work, worship, attend school in, and businesses and other legal entities in Lehigh and Northampton County, in the Commonwealth of Pennsylvania."

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
9-18-06	American Pride Credit Union Altoona Blair County	Altoona	Effective

Represents conversion from an occupational-based credit union to a community-based charter; the conversion will be completed by filing Articles of Amendment with the Department of State.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
9-13-06	Freedom Credit Union, Philadelphia, and SE Family Federal Credit Union, Philadelphia Surviving Institution— Freedom Credit Union, Philadelphia	Philadelphia	Approved
9-14-06	Butler Armco Employees Credit Union, Butler, and Butler County Postal Employees Federal Credit Union, Butler Surviving Institution— Butler Armco Employees Credit Union, Butler	Butler	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
9-18-06	American Pride Credit Union Altoona Blair County	Amendment to Article XIII of the Articles of Incorporation provides for a change in the field of membership of said credit union to read as follows: "The field of membership of this credit union will include persons who live, work, worship, attend school, perform voluntary service, or participate in associations, and businesses and other legal entities, including wholly-owned subsidiaries of businesses, located in Blair County Pennsylvania or Bedford County Pennsylvania; Members of their immediate families."	Effective

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

VICTORIA A. REIDER,
Acting Secretary

[Pa.B. Doc. No. 06-1910. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Summary Notice

The Department of Community and Economic Development (Department) proposes to adopt the Commonwealth's Action Plan (Plan) for Federal Fiscal Year (FFY) 2007 (Plan) and the Program Year that starts on January 1, 2007. The 2007 Action Plan is an update of the Commonwealth's Consolidated Plan for FFY 2004-2008. The Action Plan discussed herein is the third annual update of the Consolidated Plan for FFY 2004-2008 submitted by the Commonwealth.

The 2007 Plan updates documents previously submitted to the United States Department of Housing and Urban Development (HUD). These documents include the nonhousing community development plan and any

changes that the Department may have implemented concerning the four programs administered by the Commonwealth. The programs administered by the Department are the Community Development Block Grant, the Home Investment Partnerships (HOME), and the Emergency Shelter Grant programs. The Department of Health administers the Housing Opportunities for Persons with AIDS program.

This summary is designed to provide an opportunity for citizens, local governmental officials and interested organizations of this Commonwealth to comment about the Plan. Written comments should be submitted to Karen Overly Smith, Center for Community Development, Department of Community and Economic Development, 400 North Street, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120-0225. Written comments must be received by October 28, 2006, to be included as testimony in the Plan.

Public Hearings

Two public meetings will be scheduled. The first public meeting will be conducted electronically by means of the

Internet. The format will be more accessible in that persons who wish to make a comment or discuss policy may participate on November 3, 2006, directly from their personal computer or from any computer location that has Internet access, such as their public library. Access to the public hearing by means of the Internet will occur between 10 a.m. and 12 p.m.

Any individual or organization may give testimony or comments by means of the Internet. Comments will be accepted about topics related to community development, housing, the content of the Commonwealth's draft Plan for FFY 2007 and the process by which the public input is gathered. The Commonwealth encourages public participation in this process.

Persons who want to participate must register in advance online by means of the Internet. Contact Karen Overly Smith at (717) 214-5340 to receive registration instructions for the Internet meeting at least 24 hours prior to the meeting date. Internet public hearing access will be open from 10 a.m. to 12:00 on November 3, 2006. During the hearing, if support is required, call (717) 214-5340.

An additional in-person public hearing has been scheduled from 10 a.m. to 12:00 p.m. on November 6, 2006, in the Pennsylvania Public Utility Commission Hearing Room 2, Commonwealth Keystone Building, Plaza Level, 400 North Street, Harrisburg, PA 17120-0225.

Note: The public hearing may be shortened if there is minimal response.

Persons who want to speak must call to schedule a time to give oral testimony at the hearing. The hearing will be shortened if there is no one to testify or if there is minimal response. Contact Karen Overly Smith at (717) 214-5340 to schedule your oral testimony after October 26, 2006, and no later than November 3, 2006.

Individuals who have a disability and wish to attend the public meeting should contact Karen Overly Smith, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225 or (717) 214-5340 to discuss how the Department can accommodate their needs. Text telephone calls can be placed through the Pennsylvania Relay System at (800) 654-5984. Calls will be relayed to the Department's number listed previously.

Purpose

The Commonwealth's 2007 Plan is the third update to the 5-year Consolidated Plan for FFY 2004-2008. This Plan will describe how the programs will be administered in 2007. HUD must approve this Plan for the Common-

wealth and organizations within the State to receive funding under most HUD housing and community development programs. Applicants for funding from Federal housing programs must obtain certification that their proposed use of HUD assistance will be consistent with the applicable Plan for the area. The Consolidated Plan creates a unified strategy for housing and community development programs, as well as the necessary linkages for building successful neighborhoods and communities.

The Plan will have a major impact on the type, location and number of affordable housing units generated and preserved in this Commonwealth, as well as the infrastructure and public facilities, services and other economic and community development initiatives that communities in this Commonwealth will undertake.

Content

The Consolidated Plan for FFY 2004-2008 will be updated by means of this document. The most significant change is the implementation of HUD's new performance measures system. Updates also include a proposal to use HOME funds in a pilot effort for tenant-based rental assistance with preference given to persons with disabilities. This pilot is another step in the Department's partnership with the Housing Finance Agency to administer HOME funds.

Public Review

The Consolidated Plan is available on the Internet or in hardcopy for public comment October 7, 2007, through November 7, 2006, at the following locations:

1. County Offices, Department of Community and Economic Development Regional Offices and the Commonwealth's 27 District Libraries: call (717) 214-5340 for the locations.

2. Audio cassette copies of the Consolidated Plan can be obtained by contacting the Tri-County Branch of the Pennsylvania Association of the Blind: Patricia Summers, Coordinator, Harrisburg Area Radio Reading Services, 1800 North Second Street, Harrisburg, PA 17102, (717) 238-2531.

3. The Draft Plan 2007 can be viewed on the Internet at www.newPA.com. The final plan will be made available again at these same locations following HUD approval.

DENNIS YABLONKSY,
Secretary

[Pa.B. Doc. No. 06-1911. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in

accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0083194 (Sewage/Transfer)	Blue Mountain Service Plaza—HMSHost Turnpike/Travel Plazas P. O. Box 8 Middletown, PA 17057	Cumberland County Hopewell Township	Newburg Run 7B	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0041327	Pennsylvania College of Technology Schneebeli Earth Science Center 203 Allenwood Camp Lane Montgomery, PA 17752	Lycoming County Clinton Township	UNT to Black Hole Creek SWP 10C	Y
PA0033162	Martha's Furnace MHP, LLC Eagle Valley Road Julian, PA 16844	Centre County Huston Township	UNT to Bald Eagle Creek 9C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0035114	Torpedo Specialty Wire R. D. 2 Route 27 Pittsfield, PA 16340	Pittsfield Township Warren County	Gar Run 16-B	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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

Application No. PA 0248614, Concentrated Animal Feeding Operation (CAFO), Mr. and Mrs. Joseph Conners, 2819 Powells Valley Road, Halifax, PA 17032-9627.

Mr. and Mrs. Joseph Conners has submitted an NPDES permit application for the Joseph Conners Farm located in Wayne and Jefferson Townships, **Dauphin County**. The CAFO is situated near UNTs of Powell Creek and North Fork Powell Creek (Watershed 6-C), which are classified as a TSF and CWF, respectively. The CAFO has a target animal population of approximately 734 animal equivalent units consisting of 4,000 finishing swine, 75,000 broilers, 8 horses and 4 steers. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the above address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA 0248339, Sewage, **Snow Time, Inc. d/b/a Whitetail Mountain Operating Corp.**, 13805 Blairs Valley Road, Mercersburg, PA 17236. This facility is located in Montgomery Township, **Franklin County**.

Description of activity: The application is for issuance of an NPDES permit for new discharge of treated sewage.

The receiving stream, UNT Licking Creek is in Watershed 13-C and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, Maryland is located on the Potomac River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.100 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N	3.5		7
Total Phosphorus	Monitor and Report		
Total Residual Chlorine	0.4		1.34
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(3-15 to 4-30)			
(10-1 to 11-30)	4,000/100 ml as a geometric average		

In addition to the effluent limits, the permit contains the following major special conditions: Discharge is authorized during the nonsnowmaking season from March 15 through November 30.

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Application No. PA 0008869, Industrial Waste and Stormwater, P. H. Glatfelter Company, 228 South Main Street, Spring Grove, PA 17362-0500. The facilities are located in Spring Grove Borough and Jackson Township, **York County**.

Description of activity: The application is for renewal of an NPDES permit for existing discharges of stormwater and treated industrial waste.

The receiving stream, Codorus Creek is in Watersheds 7-H and is classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Co. is located on the Susquehanna River, approximately 32 miles downstream.

The proposed final effluent limits for Outfall 001 (industrial waste, stormwater and POTW sewage effluent) for a design flow of 13.7 mgd are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH (Standard Unit)		From 6.0 to 9.0 inclusive	
Dissolved Oxygen		Minimum of 5.0 mg/l at all times	
Total Suspended Solids	18	36	45
BOD ₅			
(5-1 to 10-31)	14	25	25
(11-1 to 4-30)	17	34	38
NH ₃ -N			
(5-1 to 10-31)	1.5	3.0	3.8
(11-1 to 4-30)	2.0	4.0	5.0
Color			
(Upstream)	Monitor and Report	Monitor and Report	XXX
(Influent)	Monitor and Report	Monitor and Report	XXX
(Effluent)			
(5-1 to 10-31)	140	280	350
(11-1 to 4-31)	123	246	307
Color (Downstream)	Monitor and Report	Monitor and Report	XXX
Absorbable Organic Halides (AOX)	Monitor and Report	Monitor and Report	XXX
Temperature			
(Effluent)	XXX	Monitor and Report	110° F
(Upstream)	Monitor and Report	Monitor and Report	XXX
(Downstream)	*	*	XXX
Hourly Instream Temperature Change	XXX	Monitor and Report	2.0° F
Total Phosphorus	XXX	2.0	2.5
Fecal Coliform	XXX	Monitor and Report	XXX
Total Kjeldahl Nitrogen	Monitor and Report	XXX	XXX
NO ₂ -N + NO ₃ -N	Monitor and Report	XXX	XXX
Total Nitrogen	Monitor and Report	XXX	XXX
Chloroform	0.02	0.04	0.05
COD			
(Influent)	Monitor and Report	Monitor and Report	XXX
(Effluent)	Monitor and Report	Monitor and Report	XXX
Total Aluminum	XXX	Monitor and Report	XXX
2,3,7,8-TCDD	XXX	0.035 pg/l	XXX
2,3,7,8-TCDF	XXX	Monitor and Report	XXX

* The proposed final instream temperature limits at the downstream point of compliance are as follows:

January—50° F (average monthly) and 62° F (maximum daily); February—52° F (average monthly) and 59° F (maximum daily); March—55° F (average monthly) and 68° F (maximum daily); April—63° F (average monthly) and 75° F (maximum daily); May—72° F (average monthly) and 79° F (maximum daily); June—82° F (average monthly and maximum daily); July—87° F (average monthly and maximum daily); August—87° F (average monthly and maximum daily); September—81° F (average monthly and maximum daily); October—69° F (average monthly) and 76° F (maximum daily); November—61° F (average monthly) and 70° F (maximum daily); and December—53° F (average monthly) and 66° F (maximum daily).

The proposed effluent limits for Outfall 002 (noncontact cooling water) for a design flow of 15.1 mgd are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH (Standard Units)		from 6.0 to 9.0 inclusive	
Total Suspended Solids	XXX	Monitor and Report	XXX
BOD ₅	XXX	Monitor and Report	XXX
Temperature			
(Effluent)	Monitor and Report	Monitor and Report	110°F
(Upstream)	Monitor and Report	Monitor and Report	XXX

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Stream Flow at Gage (5-1 to 10-31)	21.3 cfs minimum 7-day average	XXX	XXX
(11-1 to 4-30)	15.8 cfs minimum 7-day average	XXX	XXX

The proposed effluent limits for Internal Monitoring Points MP-101 and MP-102 (bleach plant effluents from Softwood and Hardwood lines, respectively) are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Kappa Number	*	Monitor and Report	XXX
Color	Monitor and Report	Monitor and Report	XXX
Chloroform	Monitor and Report	Monitor and Report	XXX
2,3,7,8-TCDD	XXX	< 10 pg/l	XXX
2,3,7,8-TCDF	XXX	31.9 pg/l	XXX
Trichlorosyringol	XXX	<0.0025	XXX
3,4,5-Trichlorocatechol	XXX	<0.005	XXX
3,4,6-Trichlorocatechol	XXX	<0.005	XXX
Tetrachlorocatechol	XXX	<0.005	XXX
3,4,5-Trichloroguaiacol	XXX	<0.0025	XXX
3,4,6-Trichloroguaiacol	XXX	<0.0025	XXX
4,5,6-Trichloroguaiacol	XXX	<0.0025	XXX
Tetrachloroguaiacol	XXX	<0.005	XXX
2,4,5-Trichlorophenol	XXX	<0.0025	XXX
2,4,6-Trichlorophenol	XXX	<0.0025	XXX
2,3,4,6-Tetrachlorophenol	XXX	<0.0025	XXX
Pentachlorophenol	XXX	<0.005	XXX

* The proposed Kappa Number limitations for MP-101 and MP-102 are 20 and 13, respectively, as annual averages.

The draft permit also contains the following special conditions:

- Monitoring requirements for stormwater outfalls.
- Continuous instream monitoring for color and temperature.
- Biological monitoring studies.
- Instream monitoring program for parameters other than color and temperature.
- Sediment monitoring upstream and downstream of Outfall 001.
- Best management practices required by Federal regulations and others for groundwater monitoring, closure planning for former waste impoundments and pump station, collection system and ash storage area maintenance.

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA0028982, CAFO (SIC 0259), **James Kurtz**, 1070 Grande Valley Road, Mifflinburg, PA 17844. This existing facility is located in West Buffalo Township, **Union County**.

Description of Proposed Activity: Applicant operates existing duck farm, where ducks reside for 6 to 7 weeks. Manure is removed by a scraping system and stored in a new, certified HDPE lined manure storage structure. 106.8 animal equivalent units are onsite (annualized). Onsite animals include 50 replacement heifers and approximately 18,800 ducks.

The receiving stream, UNT to Buffalo Creek, is in the State Water Plan Watershed 10C and is 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 individual permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0000370, Industrial Waste, SIC, 4941, **Latrobe Municipal Authority**, P. O. Box 88, Latrobe, PA 15650. This application is for renewal of an NPDES permit to discharge treated process water from the Kingston Filtration Plant in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Loyalhanna Creek, 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 Saltsburg Municipal Water Works, located at Saltsburg, PA, over 29 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.382 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Suspended Solids			30		60
Iron (Total)			2.0		4.0
Aluminum			0.5		1.0
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

Other Conditions: Residual waste, no floating solids, chemical additives, submission of data, sampling requirement for basin drainage.

The EPA waiver is in effect.

PA0215856, Industrial Waste, SIC, 4941, **Blairsville Municipal Authority**, 203 East Market Street, Blairsville, PA 15717. This application is for renewal of an NPDES permit to discharge untreated groundwater from Well No. 2, T-889 in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Trout Run, classified as an exceptional value fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Blairsville Reservoir, located at Derry Township, 0.14 mile below the discharge point.

Outfall 001: existing discharge, design flow of 0.121 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				
Iron	Monitor and Report				
Manganese	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0047228, Sewage, **Borough of Pennsbury Village**, 1043 Pennsbury Boulevard, Pittsburgh, PA 15205. This application is for renewal of an NPDES permit to discharge treated sewage from Pennsbury Village STP in Pennsbury Village Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Campbells 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 West View Municipal Authority.

Outfall 001: existing discharge, design flow of 0.17 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 ₅	25	37.5		50
Suspended Solids	30	45		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	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0096334, Sewage, **Clelian Heights School for Exceptional Children**, 135 Clelian Heights Lane, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Clelian Heights School STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Beaver Run, which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is Westmoreland Municipal Authority.

Outfall 001: existing discharge, design flow of 0.009 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	4.2			8.4
(11-1 to 4-30)	10.0			20.0
Phosphorus	2			4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 7.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0221961, Sewage. **Timberlee Valley Sanitary Company, Inc., Timberlee Farms STP**, 120 Brennan Lane, Evans City, PA 16033. This proposed facility is located in Connoquenessing Township, **Crawford County**.

Description of Proposed Activity: New/Expansion of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Harmony Borough Water Authority is located on the Little Connoquenessing Creek and is approximately 6 miles below point of discharge.

The receiving stream Crab Run, is Watershed 20-C and classified for CWF, aquatic life, water supply and recreation.

Interim Limits

The proposed effluent limits for Outfall 001 are based on a design flow of 0.03 mgd.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD ₅			25		50
Total Suspended Solids			30		60
NH ₃ -N					
(5-1 to 10/31)			13		26
Fecal Coliform *					
(5-1 to 9-30)			200/100ml as a geometric average		
(10-1 to 4-30)			2,000/100ml as a geometric average		
Phosphorus as "P"			2		4
pH			6.0 to 9.0 standard units at all times		

Final Limits

The proposed effluent limits for Outfall 001 are based on a design flow of 0.121 mgd.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD ₅	25.2		25		50
Total Suspended Solids	30.3		30		60
NH ₃ -N					
(5-1 to 10-31)	5		5		10
(11-1 to 4-30)	15.1		15		30
Fecal Coliform *					
(5-1 to 9-30)			200/100ml as a geometric average		
(10-1 to 4-30)			2,000/100ml as a geometric average		
Phosphorus as "P"	2		2		4
UV Light Intensity			XX		
pH			6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

*—Average monthly limits expressed as a geometric mean.

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)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1506416, Sewerage, **Pennsylvania American Water**, 800 Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in South Coatesville Borough, **Chester County**.

Description of Action/Activity: Construction of interceptor to replace an existing interceptor that is currently undersized.

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

WQM Permit No. WQ02010602, Sewerage, **Lake Meade Municipal Authority**, 59 Curtis Drive, East Berlin, PA 17316. This proposed facility is located in Reading Township, **Adams County**.

Description of Proposed Action/Activity: Application for construction/operation of the Lake Meade Pumping Station.

WQM Permit No. WQG02280603, Sewerage, **Antrim Township Municipal Authority**, 10655 Antrim Church Road, P. O. Box 130, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Application for construction/operation of the Rochester Place Lift Station.

WQM Permit No. 0706403, Sewerage, **Department of Conservation and Natural Resources, Canoe Creek State Park**, R. R. 2, Box 560, Hollidaysburg, PA 16648-9752. This proposed facility is located in Frankstown Township, **Blair County**.

Description of Proposed Action/Activity: Application for construction/operation of additional sand filters.

WQM Permit No. WQG02060602, Sewerage, **Oley Township Municipal Authority**, 1 Rose Virginia Avenue, Oley, PA 19547-0019. This proposed facility is located in Oley Township, **Berks County**.

Description of Proposed Action/Activity: Application for the construction/operation of the Meadow View Farms II Pump Station.

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

WQM Permit No. 4395409, Sewerage, Amendment No. 2, **Department of Corrections**, P. O. Box 598, Camp Hill, PA 17001-0598. This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: This project is to install an Auger Monster style rotating screw and screen system at the headworks of the sewage treatment plant at the Mercer County State Correction Facility.

WQM Permit No. 1006406, Sewerage, **Breakneck Creek Regional Authority**, P. O. Box 1180, Mars, PA 16046-1180. This proposed facility is located in Adams Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the Callery Road Sewer Line Extension.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506069	Boxwood Five Partners, LP 418 Boxwood Road Rosemont, PA 19010-1222	Chester	East Pikeland Township	Pickering Creek HQ-TSF
PAI011506070	Karl C. and Crepta R. Snyder 821 Mount Pleasant Road Pottstown, PA 19465	Chester	Warwick Township	French Creek EV
PAI011506071	Emerson D. and Dennis Bealer 1220 East Cedarville Road Pottstown, PA 19465	Chester	East Coventry Township	Pigeon Creek HQ-TSF

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S084R(1)	Wisteria Commons Sr. Housing, LP by Monarch at Wisteria, LLC 720 Limekiln Road New Cumberland, PA 17070 and Oaks Sr. Community, LP/Shepherds in Monroe County, Inc. P. O. Box 302 Cresco, PA 18326	Monroe	Barrett Township	Craberry Creek HQ-CWF

Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906026	HomePro Enterprises, Inc. 112 Elm Road Allentown, PA 18104	Lehigh	Upper Macungie Township	Little Cedar Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033806001	Jackson Township Authority 60 North Ramona Drive Myerstown, PA 17067	Lebanon	Jackson Township	UNT to Tulpehocken Creek TSF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041406004	Dominion Transmission, Inc. Paul Ruppert 445 West Main Street Clarksburg, WV 26301	Centre	Boggs, Curtin, Harris, Potter, Spring and Snow Shoe Townships	Various EV/CWF/HQ

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041806005	Pilot Corporation 5508 Lonas Road P. O. Box 10146 Knoxville, TN 37939-0146	Clinton	Porter Township	Fishing Creek HQ

Potter County Conservation District: 107 Market Street, Coudersport, PA 16915, (814) 274-8411, Ext. 4.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045306007	Sylvan Glen, Inc. P. O. Box 61 Gaines, PA 16921	Potter County	Keating Township	Portage Branch—Sinnemehon CWF West Branch, Freman Run HQ-CWF
PAI045306008	Tennessee Gas Pipeline Company 1001 Louisiana Street, Ste-1156A Houston, TX 77002	Potter County	Hebron Township	South Branch Oswayo Creek EV

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

Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI052606005	Hidden Lakes Property Owners Association 1530 Tyrone Road Morgantown, WV 26508	Fayette	Wharton Township	Deadmans Run HQ-CWF

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301 (724) 228-6774.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI056306003	Hawthorne Partners, Inc. 102 West Pike Street Suite 200 Houston, PA 15342	Washington	South Strabane Township	Little Chartiers Creek HQ-WWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

CAFO Notices of Intent Received

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PAG124819, CAFO (SIC 0212 and 0213), **Willard Hackman**, 1035 Deans Hill Road, Wellsboro, PA 16901. This existing facility is located in Delmar Township, **Tioga County**.

Description of Size and Scope of Proposed Operation/Activity: The applicant proposes the issuance of a CAFO General Permit for his beef and swine farm, a newly regulated facility according to the revised CAFO regulations. The facility is comprised of finishing barns with no external manure storage. Total underbarn manure storage is 1,650,173 gallons. Animals onsite include 4,400 finishing hogs and 30 cow calf pairs, for a total of 595 animal equivalent units.

The receiving stream, Wilson Creek is in Watershed 9A (Pine Creek) and is 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.

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 4606507, Public Water Supply

Applicant	Aqua Pennsylvania, Inc.
Township	Lower Merion
County	Montgomery
Responsible Official	Joseph A. Ritter
Type of Facility	PWS

Consulting Engineer N/A
 Application Received Date September 8, 2006
 Description of Action Installation of a Solar Bee mixing system and related control equipment for applying disinfection in an existing storage tank.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3606509, Public Water Supply.

Applicant **Bailey Family Partnership**
 Municipality Mount Joy Borough
 County **Lancaster**
 Responsible Official Charles G. Bailey Jr.
 Owner Operator
 1501 Mill Road
 Elizabethtown, PA 17022

Type of Facility Public Water Supply
 Consulting Engineer Eugene R. Oldham, P. E.
 DC Gohn Associates, Inc.
 32 Mount Joy Street
 Mount Joy, PA 17552

Application Received: 6/20/2006
 Description of Action Installation of a chlorination system at Well No. 6 to serve a section of the existing Lake View MHP.

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

Application No. 2006501, Public Water Supply

Applicant **Hydetown Court Mobile Home Park**
 Township or Borough Hydetown Borough
Crawford County
 Responsible Official Thomas E. Kalkhof, President
 Housing & Investment
 Properties, Inc.
 Consulting Engineer Donald P. Trant, P. E.
 Trant Corporation
 11279 Perry Hwy.
 Suite 110
 Wexford PA 15090
 Application Received Date 09/12/2006
 Description of Action Permitting of previously unpermitted water system with service to the Hydetown Court Mobile Home Park.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Application No. Minor Amendment, Public Water Supply.

Applicant **Mountain Lake Water Co., LLC**
 Palmyra Township
Pike County
 Responsible Official Bonnie Cabel-Rotella
 Mountain Lake Water Co., LLC
 P. O. Box 551
 Tafton, PA 18464
 Type of Facility PWS
 Consulting Engineer N/A
 Application Received Date August 24, 2006
 Description of Action Transfer of PWS Permit 5294501 issued October 14, 1997 from Blue Horseshoe Investment Co., Inc. to Mountain Lake Water Co., LLC

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 5606502MA, Minor Amendment.

Applicant **Seven Springs Municipal Authority**
 290 Lagoon Lane
 Champion, PA 15622
 Township or Borough Saltlick Township
 Responsible Official Sarah Eutsey, Manager
 Seven Springs Municipal Authority
 290 Lagoon Lane
 Champion, PA 15622
 Type of Facility Water storage tank
 Consulting Engineer Widmer Engineering
 225 West Crawford Avenue
 Connellsville, PA 15425
 Application Received Date June 1, 2006
 Description of Action Replacement of the existing 300,000 gallon Lake Tahoe water storage tank with new post tensioned 500,000 gallon water storage tank.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth

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

WA 10-1006A, Water Allocation. **Municipal Authority of Adams Township**, 690 Valencia Road, P. O. Box 807, Mars, PA 16046, Adams Township, **Butler County**. Modification to existing Water Allocation Permit extending the service area to include Callery Borough and portions of Forward Township. As proposed, the modification will not increase the allocation amount as authorized under a valid agreement with the Borough of West View.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Northeast Regional Field Office: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Victoria Square V, Palmer Township, **Northampton County**. Tony Dellaria, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Notice of Intent to Remediate (on behalf of his client, Nicholas Pugliese, Victoria Place, Inc., 1072 Grand Street, Phillipsburg, NJ 08865) concerning disposal of material contaminated with inorganics and benzo(a)pyrene on the referenced property. The applicant proposes to remediate the site to meet the Site-Specific Soil Standard by limited source removal and pathway elimination. Future use of the property will be residential. A summary of the Notice of Intent to Remediate was published in the *Pocono Record* on August 5, 2006.

Former Techneglas Facility, Jenkins Township, **Luzerne County**. Mike Antonetti, P. G., Malcolm Pirnie Inc., 1603 Carmody Court, Suite 403, Sewickley, PA 15143 has submitted a Notice of Intent to Remediate (on behalf of his client, Marvin Katz, TGPIT, Inc., 4300 Walnut St., Westerville, OH 43081) concerning residual concentrations of inorganics in soils used in former site operations and petroleum hydrocarbons as the result of historic releases. The applicant proposes to remediate the site to meet the Site-Specific Soil and Groundwater Standard. Future use of the property will be industrial and/or for warehousing purposes. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the local area sometime in the near future.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Rite Aid Store 3608, Harrisburg City, **Dauphin County**. BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by petroleum compounds leaked during removal of USTs. The property was formerly two gas stations and is currently occupied by a Rite Aid Pharmacy and will remain the same in the future. The applicant seeks to remediate to both the Statewide Health and Site-Specific Standards.

Lydia Fisher Property, Earl Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Lydia Fisher, 3007 Newport Road, Ronks, PA 17572-9725, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by gasoline leaked during removal of a UST. The property was a former garage that has been demolished and the future use of the property is residential. The applicant seeks to remediate to the Site-Specific Standard.

GF Capital—901 North 7th Street, Harrisburg City, **Dauphin County**. RT Environmental Services, Inc., Pureland Complex, Suite 306, 510 Heron Drive, Bridgeport, NJ 08014, on behalf of GF Capital Real Estate Fund, LP, 375 Park Avenue, 17th Floor, New York, NY 10152-1799, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by kerosene leaked during removal of an AST. The property is commercial and will remain commercial in the future. The applicant seeks to remediate to the Residential Statewide Health Standard.

Shultz Enterprises Property Lot 3 (former), Hanover Borough, **York County**. Taylor GeoServices, Inc.,

938 Lincoln Avenue, Suite 203, Springfield, PA 19064, on behalf of Walt Green LLC, 4440 Hay Drive, Manchester, MD 21102-1148, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by petroleum hydrocarbons associated with gasoline, waste oil and hydraulic oil. The property was a former car dealership and is currently a commercial car wash and will remain a car wash in the future. The applicant seeks to remediate to the Statewide Health Standard.

Estate of Arthur F. Walters, Russ's Auto Repair Shop, Manheim Township, Lancaster County. ARM Group, Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033-0797, on behalf of Chester and Miller, LLP Legal Council, 150 North Queen Street, Suite 600, Lancaster, PA 17603-1805, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by gasoline constituents that were released from two USTs removed in 1999. The property was used for commercial activities and the future use is for commercial activities. The applicant seeks to remediate to the Statewide Health Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Ave Maria—St. Marys, Benzinger Township, Elk County. KLH Engineers Inc., 5173 Campbells Run Road, Pittsburgh, PA 15205, on behalf of the City of St. Marys, 808 South Michael Road, Saint Marys, PA 15857 has submitted a Notice of Intent to Remediate. The proposed remediation of soil is to remove cadmium and reach levels that comply with the Site-Specific Standards. The current use of the property is residential and will continue to be used as residential.

North Michael Street—St. Marys, St. Marys, Elk County, KLH Engineers Inc., 5173 Campbells Run Road, Pittsburgh, PA 15205, on behalf of the City of St. Marys, 808 South Michael Road, St. Marys, PA 15857 has submitted a Notice of Intent to Remediate. The proposed remediation of soil is to remove cadmium and reach levels that comply with the Site-Specific Standards. The current use of the property is residential and will continue to be used as residential.

Windfall Road—St. Marys, Benzinger Township, Elk County, KLH Engineers Inc., 5173 Campbells Run Road, Pittsburgh, PA 15205, on behalf of the City of St. Marys, 808 South Michael Road, St. Marys, PA 15857 has submitted a Notice of Intent to Remediate. The proposed remediation of soil is to remove cadmium and reach levels that comply with the Site-Specific Standards. The current use of the property is residential and will continue to be used as residential.

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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-053B: Urick Foundry Co. (1501 Cherry Street, Erie, PA 16502) for replacement of the existing cupola and control devices with the installation of two new coreless electric induction furnaces and baghouse system in City of Erie, **Erie County**. This is a State-only facility.

33-160B: Reynoldsville Casket Co., Inc. (P. O. Box 68 560 Myrtle Street Reynoldsville, PA 15851-0068) for modification to plan approval PA 33-0160A to change the primer booth from water based solvent to a volatile based primer with the emissions from process being controlled by the existing thermal oxidizer by at the casket manufacturing and finishing operation in Reynoldsville, **Jefferson County**. The facility currently has a State-only Operating Permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

26-00562A: Coastal Lumber Company (3302 Lobban Place, Charlottesville, VA 22903) to construct a 14.4

million Btu heat input per hour wood fueled boiler at the Hopwood Sawmill in South Union Township, **Fayette County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 05044: Mutual Pharmaceutical Co., Inc. (1100 Orthodox Street, Philadelphia, PA 19124) for installation of four dust collectors, two tray drying ovens and four natural gas boilers and water heaters under 10 million Btu/hr. There will be a potential emission increase of 2.02 tons for NO_x and 0.04 ton for PM for the facility. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

15-0104C: Tasty Baking Oxford, Inc. (700 Lincoln Street, Oxford, PA 19363) for the proposed addition of two baking ovens and production lines to an existing facility and the proposed conversion of production line No. 4 to only nonyeast leavening products. The emission limit for the production lines of 48.8 tons of VOCs per 12-month rolling sum remains the same through this action, but the application of the limit only includes Production Line No. 1, Production Line No. 3 and the two proposed baking ovens. The facility is in Oxford Borough, **Chester County**.

46-0241A: Gibraltar Rock, Inc. (355 Newbold Road, Fairless Hills, PA 19030-4314) for issuance of a Plan Approval to construct a nonmetallic mineral processing plant and install two wet suppression systems. The rock crushing plant will be located off Route 73 (Big Road) between Route 663 and Church Road, New Hanover Township, **Montgomery County**. The crushing plant will consist of the following air contamination sources: primary crushing system, secondary crushing system, tertiary crushing system, paved and unpaved roads, and stockpiles. The rock crushing plant shall be limited to processing a maximum of 500,000 tons of rocks per year (on a 12-month rolling sum basis). The facility is a minor source for PM, PM₁₀ and PM_{2.5}. The crushers, screens and conveyors are subject to 40 CFR Part 60 Subpart OOO of the Standards of Performance for New Stationary Sources.

The permittee will incorporate the following control measures and work practice standards as BAT:

- (a) Secondary and tertiary crushers shall be enclosed on all four sides.
- (b) All screens shall be enclosed on all sides.
- (c) The primary crusher shall be enclosed on three sides.
- (d) All conveyors shall be fully covered (with access doors for maintenance).
- (e) All paved roads shall be vac swept (vacuumed and swept to remove silt from the surface of the road) and wetted on daily basis when the plant is operating.

(f) Unpaved roads shall be limited to the quarry area and the overburden transport roads.

(g) Unpaved roads shall be wetted on daily basis when the plant is operating.

(h) A wheel washing station shall be installed at the transition point from the unpaved area to the paved road. All wheels of vehicles entering the paved roads from an unpaved area shall be washed irrespective of weather condition.

(i) Both sides of the paved roads shall have vegetative cover to reduce wind erosion of soil cover and to minimize silt loading of the roads. The Department of Environmental Protection may request additional vegetative cover if silt re-entrainment is determined to cause fugitive emissions. Vegetative cover shall be provided/planted before the crushing plant starts operation irrespective of weather condition.

(j) All loaded trucks leaving the facility shall be tarped.

(k) Nozzles of the wet suppression systems shall be located at all fugitive emission points (crushers and belt conveyor transfer points).

(l) All fugitive emissions from the belt conveyor transfer points shall be limited to 10% opacity and all fugitive emissions from the crushers without a capture system shall be limited to 15% opacity.

The permittee will comply with the monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

15-0124: MacKissic, Inc. (P. O. Box 111, Parker Ford, PA 19457), for installation of the paint surface coating spray booth (spray booth) with dry particulate filtering system and the infrared drying oven (oven) at the MacKissic lawn and garden equipment manufacturing new facility at 1189 Old Schuylkill Road, East Coventry Township, **Chester County**. The installation of the spray booth and oven may result in the emissions of: 5.89 tons per year of VOCs; 2.36 tons per year of HAPs; and 0.6 ton per year of PM. 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

39-309-066: Lafarge North America (5160 Main Street, Whitehall, PA 18052) for replacement/installation of nine air cleaning devices (fabric collectors) for the existing clinker reclaim belt conveyor system and for construction of a pebble lime silo and associated air cleaning device (fabric collector). The particulate emissions from each fabric collector will not exceed the Best Available Technology standard of 0.015 grain/dscf. The installation of all ten fabric collectors will result in a total maximum particulate emission rate of 10.4 tons per year. The Plan Approval and Operating Permit will contain emission restrictions, work practice standards and monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 39-00011. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

22-05034F: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17104-3331 for construction of a second mill at the pulverized mineral processing operation, Hummelstown Quarry, in South Hanover Township, **Dauphin County**. This plan approval will include appropriate restrictions and requirements designed to keep the source operating within all applicable air quality requirements. Estimated atmospheric emissions for the project for PM10, SOx, CO, NOx, VOCs, HAPs and metal/metal compounds are projected to be 20.4, 1.20, 52.00, 10.40, 12.80, 0.08 and 0.01 tpy, respectively. The project is subject to 40 CFR Part 60—Standards of Performance for New Stationary Sources.

36-05115A: MGS, Inc. (178 Muddy Creek Church Road, Denver, PA 17517) for construction of a new in-line surface coating and curing system in East Cocalico Township, **Lancaster County**. The new surface coating operations will increase the facility's annual emissions of VOCs by about 4.1 tpy. The plan approval and State-only operating permit will include emission restrictions, monitoring, recordkeeping, reporting and work practice requirements designed to keep the source operating within all applicable air quality requirements.

67-05004M: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) for production of new products on the facility's paper machines in Spring Grove Borough, **York County**. The Plan Approval will limit the increase of VOC to 25 tons. The Plan Approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-00003: CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848) for modification of boiler No. 3 and associated dry fuel handling equipment at their Towanda plant in Wysox Township, **Bradford County**.

Under 25 Pa. Code § 127.44, the Department of Environmental Protection (Department) provides notice that CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848) has submitted to the Department a plan approval application for the following modifications of boiler no. 3 and associated dry fuel handling equipment at the Towanda plant located in Wysox Township, Bradford County: increase the annual average steam rate from 125,000 lbs/hr to 150,000 lbs/hr with a corresponding increase in the annual average heat input from 190.4 mmBtu/hr to 233.4 mmBtu/hr, increase the 24-hour average heat input rate from 242.4 mmBtu/hr to 273.2 mmBtu/hr, and increase the throughput to dry fuel handling equipment from 136,700 dry tons per year to 201,702 dry tons per year. The respective facility is a major facility for which a Title V operating permit (08-00003) has been issued. The Department intends to issue a plan approval to authorize the applicant to perform the modifications.

The proposed modifications have the potential to emit the following type and amount of air contaminants: CO—344.7 tons in any 12-consecutive month period, VOC—35.3 tons in any 12-consecutive month period, NO—201.7 tons in any 12-consecutive month period, PM—44 tons in any 12-consecutive month period, PM10—24.5 tons in any 12-consecutive month period, SOx—56.9 tons in any 12-consecutive month period, hydrogen chloride—35.8 tons in any 12-consecutive month period, mercury—6.8 lbs in any 12-consecutive month period and

approximately 9.6 tons per year of ammonia. In addition, the proposed throughput increase to dry fuel handling equipment would result in a PM emission increase of 2.7 tons per year and 2.5 tons per year of PM10.

The Department's review of the information contained in the application indicates that the proposed boiler modifications will comply with all applicable requirements pertaining to air contamination sources and the emission of air contaminants including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the requirements of 40 CFR Part 60, Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units and 25 Pa. Code §§ 123.11, 123.13 and 123.41. Based on this finding, the Department intends to issue a plan approval for the proposed modifications. Additionally, if the Department determines that the sources and the air cleaning devices are operating in compliance with the plan approval conditions, the conditions established in the plan approval will be incorporated into the operating permit by means of an administrative amendment under 25 Pa. Code § 127.450.

The Department proposes to place in the plan approval the following conditions to ensure compliance with all applicable regulatory requirements:

1. The conditions contained in Title V operating permit 08-00003 remain in effect unless superseded or amended by conditions contained herein. If there is a conflict between a condition or requirement contained in this plan approval and a condition or requirement contained in Title V operating permit 08-00003, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Title V Operating Permit 08-00003.

2. This condition supersedes condition no. 010 of Source ID 033 of Title V operating permit 08-00003 under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the boiler shall be controlled by the following:

(a) Four circular type Babcock and Wilcox Co. low NOx suspension wood dust/natural gas burners.

(b) A Research Cottrell (under license from Fuel Tech NV) selective noncatalytic reduction (SNCR) NOxOUT control system containing four nozzles by Fuel Tech NV in "zone 3" at the orientations specified in the application materials (except as authorized in this plan approval).

(c) a Zurn Air Systems Division model no. MTSA-96-11.5CYT-XD-N/R-TA multiclone. The multiclone shall handle no more than 153,600 acfm of exhaust.

(d) A SES/Walther model no. 1P2CH1C11D3F/12*31.5*31.5(3@10.5) dry single stage electrostatic precipitator (ESP) following the multiclone. The ESP shall handle no more than 160,400 acfm of exhaust (combined exhaust from boiler Nos. 2 and 3).

3. This condition supersedes condition No. 001 of Source ID 033 of Title V operating permit 08-00003. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the following air contaminant emissions from boiler No. 3 shall not exceed the following:

a. NOx—133 ppmdv at 7% oxygen (30-day rolling average).

b. SO₂—0.0557 lb/mmBtu.

c. CO—430 ppmdv at 7% oxygen (30-day rolling average).

d. VOCs—0.0345 lb/mmBtu.

- e. PM—0.043 lb/mmBtu.
 - f. PM—0.024 lbs/mmBtu.
 - g. Opacity equal to or greater than 15% for a period or periods aggregating more than 3 minutes in any 1 hour or equal to or greater than 50% at any time.
 - h. Ammonia (NH₃)—15.2 ppmdv
 - i. Hydrogen chloride—0.035 lb/mmBtu (based on fuel analysis) and 35.8 tons in any 12-consecutive month period.
 - j. Mercury—3.34e-06 lbs/mmBtu (based on fuel analysis) and 6.8 lbs in any 12-consecutive month period.
- Boiler No. 3 need not comply with the PM and opacity emission limitations listed previously during any occasion when boiler Nos. 2 or 3 and the associated electrostatic precipitator are being purged. However, during those times the PM and opacity limitations of 25 Pa. Code §§ 123.11 and 123.41 must be met.
- 4. Under 40 CFR 60.43b(f), the opacity of the boiler No. 3 exhaust shall not be greater than 20% (6-minute average), except for one 6-minute period per hour of not more than 27%.
 - 5. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the PM concentration of the exhaust of the dry wood silo baghouse (Control Device ID N62 of Source ID 155P of Title V operating permit 08-00003) associated with the dry wood silo (Source ID 155P of Title V operating permit 08-00003) shall not exceed 0.010 grain per dry standard cubic foot.
 - 6. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the PM concentration of the exhausts of the coated fuel silo fabric collector (Control Device ID BVB01 of Source ID 194P of Title V operating permit 08-00003) and the dry fuel metering bin fabric collector (Control Device ID BVB02 of Source ID 195P of Title V operating permit 08-00003) associated with the coated fuel silo (Source ID 194P of Title V operating permit 08-00003) and the dry fuel metering bin (Source ID 195P of Title V operating permit 08-00003) shall not exceed 0.020 grain per dry standard cubic foot.
 - 7. This condition supersedes condition No. 006 of Section C of Title V operating permit 08-00003. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the combined total emissions from boiler Nos. 1—3, the line I first stage dryers (combustion only) and the line I second stage dryers (combustion only) shall not exceed the following emission rates:
 - a. CO—344.7 tons in any 12-consecutive month period.
 - b. VOCs—35.3 tons in any 12-consecutive month period.
 - c. NO_x—201.7 tons in any 12-consecutive month period or 172 tons in any 12-consecutive month period based on the results of the NO_x set point plan referenced in this plan approval; the final limit will be incorporated into the operating permit.
 - d. PM—44 tons in any 12-consecutive month period.
 - e. PM₁₀—24.5 tons in any 12-consecutive month period.
 - f. SO_x—56.9 tons in any 12-consecutive month period.
 - 8. Under 25 Pa. Code Chapter 145, Subchapter A, the heat input from natural gas and propane shall not exceed 50% of the annual heat input to boiler No. 3.

9. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, supplemental outside (such as, not generated onsite) wood burned in boiler no. 3 shall not contain chlorinated materials or sulfur containing materials. The burning of coated wood shall be limited to that generated by the permittee. No pressure treated wood fuel shall be burned in boiler No. 3.

10. Under the source monitoring provisions in 25 Pa. Code §§ 139.101 and 139.103, the permittee shall obtain Phase I approval (for both the 15% BAT limit and the 20% NSPS/MACT limit) from the Department's Continuous Compliance Section for the continuous emission monitoring system (CEMS) for opacity from boiler No. 3 within 180 days of issuance of this plan approval.

11. Under the source monitoring provisions in 25 Pa. Code §§ 139.101 and 139.103, the required relative accuracy testing shall be completed on the opacity CEMS and the opacity CEMS shall be fully certified in accordance with the Department's "Continuous Source Monitoring Manual" within 270 days of Phase I approval.

12. The permittee shall install and maintain instrumentation to continuously and accurately measure the pressure drop across each of the three fabric collectors of the dry fuel handling equipment (dry wood silo baghouse, coated fuel silo fabric collector and the dry fuel metering bin fabric collector) to assure proper operation of each fabric collector and to determine the need for filter replacement. The pressure drops shall be recorded at least once each week along with any corrective actions taken if any pressure drop is outside the fabric collector's design pressure drop range. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

13. The permittee shall manage and monitor the secondary voltages and rapping frequencies of the ESP (SES/Walther model no. 1P2CH1C11D3F/12*31.5*31.5 (3@10.5)) with the Eurocard Management System by Forry, Inc. The ESP shall be operated in "Best Opacity Control" mode as specified by Forry, Inc. in the application materials submitted to the Department. The permittee shall keep accurate records of the rapping frequencies and the secondary voltages of each T-R set to assure that the ESP is operated and maintained in accordance with good air pollution control practices. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

14. The permittee shall install and maintain instrumentation to continuously and accurately measure the pressure drop across the boiler No. 3 multiclone (Zurn Air Systems Division model no. M TSA-96-11.5CYT-XD-N/R-TA) to assure that the multiclone is operated and maintained in accordance with good air pollution control practices. The pressure drop shall be recorded at least once each day along with any corrective actions taken if the pressure drop is outside the multiclone's design pressure drop range. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

15. The permittee shall replace two existing thermocouples (TE-067 and TE-068) in boiler No. 3 with two new type S thermocouples (National Basic Sensor model no. UV-S-I-86-8-43"-M-F-Z-NST). The two thermocouple readings shall be averaged-average furnace temperature (AFT). The thermocouple readings shall be continuously recorded. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request. In addition, the thermocouples shall be calibrated annually.

16. The permittee shall maintain instrumentation to continuously and accurately measure the flow rate of NO_xOUT-HP(r) reagent to boiler No. 3. The permittee shall keep records of the NO_xOUT-HP(r) injection rate (in gallons per hour) at least once every 15 minutes. The records shall be maintained for a minimum of five years and shall be made available to the Department upon request.

17. Within 180 days of issuance of this plan approval, the permittee shall perform stack testing to determine compliance with the PM emission limitation of 0.010 gr/dscf from the dry wood silo baghouse (Control Device ID N62 of Source ID 155P of Title V operating permit 08-00003) associated with the dry wood silo (Source ID 155P of Title V operating permit 08-00003) and 0.020 gr/dscf from the coated fuel silo fabric collector (Control Device ID BVB01 of Source ID 194P of Title V operating permit 08-00003) and the dry fuel metering bin fabric collector (Control Device ID BVB02 of Source ID 195P of Title V operating permit 08-00003) associated with the coated fuel silo (Source ID 194P of Title V operating permit 08-00003) and the dry fuel metering bin (Source ID 195P of Title V operating permit 08-00003). Stack testing shall be performed in accordance with the applicable provisions of 25 Pa. Code Chapter 139 (relating to sampling and testing) using test methods and procedures approved by the Department. Testing shall be performed when boiler No. 3 and the associated fuel handling sources are operating at maximum capacity (approximately 273.2 mmBtu/hr).

18. Within 180 days of issuance of this plan approval, the permittee shall perform stack testing on boiler No. 3 to determine compliance with the PM, PM₁₀, VOC and SO₂ emission limitations. Stack testing shall be performed in accordance with the applicable provisions of 25 Pa. Code Chapter 139 (relating to sampling and testing) using test methods and procedures approved by the Department. Testing shall be performed when boiler no. 3 is operating at maximum capacity (approximately 273.2 mmBtu/hr).

19. Within 9 weeks of the issuance of this plan approval, the permittee shall complete Part I of the NO_x set-point plan dated August 25, 2006. If the calculated removal efficiency between the uncontrolled NO_x concentration and a set point of 100 ppm_{dv} at 7% oxygen is less than 70%, the permittee shall complete Part II of the NO_x set-point plan within 13 weeks of completing Part I. If the target NO_x stack test at > 90% of MCR shows ammonia emissions less than or equal to 15.2 ppm_{dv}, then the set-point shall be 100 ppm_{dv} at 7% oxygen and the annual NO_x emission limit 172 tons in any 12 consecutive month period. If the results show that it would take greater than 70% NO_x removal to achieve a NO_x set point of 100 ppm_{dv} at 7% oxygen, the permittee may request, in writing, that the NO_x set-point remain at 115 ppm_{dv} at 7% oxygen with a corresponding annual NO_x limit of 201.7 tons in any 12 consecutive month period. However, the permittee shall still perform ammonia stack testing within 180 days of the issuance of this plan approval to determine compliance with the 15.2-ppm_{dv} ammonia limit at maximum boiler capacity (approximately 273.2 mmBtu/hr). The permittee shall report the results of Part I to the Department within 10 days of completion. The Department will respond in writing to a request that the NO_x set-point remain at 115 ppm_{dv} if valid test results show that it would require a removal efficiency greater than 70% to achieve the lower set-point.

During uncontrolled NO_x testing, fuel shall not be used that contains higher nitrogen containing compound con-

tent than what is normally burned. Records shall be kept that verify the consistency of the nitrogen containing compound content of the fuels burned before and during testing along with a signed statement by the responsible official that the fuels burned during testing did not contain higher than typical nitrogen containing compounds.

During ammonia stack testing, normal urea flow rates shall be injected based on the steam flow and NO_x set-point control logic documentation submitted for this plan approval. Records shall be kept showing the urea flow rates and verifying that the rates are typical.

The permittee shall make whatever urea injection nozzle changes (replacement or relocation) needed to meet the NO_x set point and the ammonia limit, and upon completion of nozzle changes shall document such changes to the Department along with any changes in urea usage rates. If it is necessary for urea flow rates to increase beyond that injected during the required testing, the permittee shall propose a timeline for additional ammonia stack testing. In addition, the existing approved NO_x CEMS shall continue to operate and accurately measure and record NO_x emissions, except for the 3-hour uncontrolled NO_x testing period if the uncontrolled NO_x concentration is beyond the existing CEMS capability.

20. At least 60 days prior to all stack testing required in this plan approval (except uncontrolled NO_x testing), the permittee shall submit two copies of a test protocol to the Department's Northcentral Region for review and approval. This protocol shall describe the test methods and procedures to be used in the performance of testing, and shall include dimensioned sketches of the exhaust systems showing the locations of all proposed sampling ports. The protocol shall also identify all process parameters, which will be monitored and recorded during testing to verify the throughput rate (for wood fuel handling equipment) and boiler heat input and steam flow during testing, and to verify that all associated air cleaning devices are operating normally during testing.

At least 14 days prior to stack testing, the permittee shall notify the Department (Northcentral Regional Office and Central Office, Source Testing Section) of the actual dates and times that testing will occur so that Department personnel can arrange to be present during testing. The Department is under no obligation to accept the results of the testing without having been given proper notification.

Within 60 days following the completion of the stack testing, the permittee shall submit two copies of a test report to the Department's Northcentral Region for review and approval. The test report shall contain the results of the testing, a description of the test methods and procedures actually used, copies of all raw test data with sample calculations and copies of all process data recorded during testing and operating load calculations (material throughput and boiler heat input and steam flow). Since the testing is required for the purpose of demonstrating compliance with emission limitations identified in this plan approval, the results of the testing shall be expressed in units identical to the units of the limitations identified in this plan approval.

21. The permittee shall keep records of the amount of CO, NO_x, SO₂, VOCs, PM and PM₁₀ emitted each month from boiler Nos. 1-3, the line I first stage dryers (combustion only) and the line I second stage dryers (combustion only) and the amount of HCl and mercury emitted each month (based on fuel analysis) from boiler

No. 3 and shall verify compliance with the annual emission limitations required in this plan approval. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

22. The permittee shall keep records of the type and amount (including heat input) of wood fuel burned in boiler No. 3 each month and shall accurately demonstrate, by monthly sampling and analysis, that all wood fuel types and mixtures of wood fuels burned would result in less than 0.035 lb/mmBtu of HCl emissions and less than 3.34e-06 lbs/mmBtu of mercury emissions. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

23. Under 40 CFR 52.21(r)(6)(iii) and (v), the permittee shall keep records of the annual emissions, in tons per year on a calendar year basis, of PM and PM10 from the dry wood silo, the coated fuel silo, the dry fuel metering bin, the coated fuel silo emergency discharge and the dry wood silo emergency discharge. The records of PM and PM10 emissions shall be kept for 10 years. The permittee shall submit a report to the Department if the emissions, in tons per year, from the above sources cause the boiler modification project to exceed the baseline actual emissions (as documented in the application materials) by a significant amount for the regulated NSR pollutants (PM and/or PM10), and if such emissions differ from the pre-modification projection as documented in the application materials. The report shall be submitted to the Department within 60 days after the end of such year. In addition, all records kept shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

24. The permittee shall submit quarterly reports of the monthly amount of CO, NO_x, SO₂, VOCs, PM and PM10 emitted from boiler Nos. 1—3, the line I first stage dryers (combustion only) and the line I second stage dryers (combustion only) and the monthly amount of HCl and mercury emitted (based on fuel analysis) from boiler No. 3 along with the supporting calculations. The quarterly reports shall verify compliance with the annual emission limitations required in this plan approval. The quarterly reports shall be submitted to the Department within 30 days of the end of each calendar quarter.

25. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the SNCR reagent injected into the boiler shall be NO_xOUT-HP®.

26. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the SNCR system shall be interlocked with the AFT such that NO_xOUT-HP® is not injected if the AFT is less than 1,175° F.

27. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the NO_xOUT-HP® injection rate shall be controlled based on boiler steam load and a NO_x emission set-point of 115 ppm_{dv} at 7% oxygen or 100 ppm_{dv} at 7% oxygen (based on the results of the NO_x set point plan referenced in this plan approval; the final limit will be incorporated into the operating permit) as specified in the application materials submitted to the Department. The injection rate of NO_xOUT-HP® shall not exceed 30 gallons per hour, except as needed during Part II of the NO_x set-point plan to achieve a NO_x set-point of 100 ppm_{dv} at 7% oxygen. If the stack test results show ammonia slip less than 15.2 ppm_{dv}, at a urea injection rate greater than 30 gallons per hour, the permittee may inject at the higher urea rate (the higher injection rate will be incorporated into the operating permit).

28. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the coated fuel silo emergency discharge shall

be equipped with a blanking plate that prevents any discharge of dry fiber from the silo during normal operation. In addition, the fiber in the silo shall be wetted down prior to activating the emergency discharge.

29. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the dry wood silo emergency discharge (Source ID 155P of Title V operating permit 08-00003) shall be equipped with a flexible discharge to direct wood fiber to the ground.

Copies of the application and the Department's review of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693.

Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

41-327-003A: PMF Industries, Inc. (2601 Reach Road, Williamsport, PA 17701) for the modification of a batch vapor degreaser in the City of Williamsport, **Lycoming County**.

The batch vapor degreaser uses trichloroethylene, which has been designated as both a VOC and a HAP by the United States Environmental Protection Agency, to clean metal parts. It is equipped with a refrigerated freeboard chiller to help reduce trichloroethylene emissions. The proposed modification is an increase in the allowable trichloroethylene emissions from the batch vapor degreaser from the current limit of 9.99 tons per year to 13.0 tons per year.

The facility in which the batch vapor degreaser is located is not currently a major (Title V) facility for any air contaminant but will become one for hazardous air pollutants after the proposed modification has occurred. The Department of Environmental Protection (Department) review of the information provided by PMF Industries, Inc. indicates that the modified batch vapor degreaser should comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart T of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.460—63.470 (Halogenated Solvent Cleaning). Based on this finding, the Department of Environmental Protection proposes to issue plan approval for the proposed modification.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Conditions contained in Operating Permit 41-327-003 remain in effect unless superseded or amended by a condition contained herein.

2. The amount of trichloroethylene used in the batch vapor degreaser shall not exceed 13.0 tons in any 12-consecutive month period. In determining compliance with this limit, any trichloroethylene shipped off-site in liquid form need not be counted as usage provided it is 100% trichloroethylene. Mixtures of trichloroethylene, sludge, and the like, may not be excluded or subtracted

unless the trichloroethylene content for each drum or other container of the mixture has been determined through appropriate analysis and then only the trichloroethylene portion may be excluded.

3. The permittee shall maintain accurate and comprehensive records of the amount of trichloroethylene added to the batch vapor degreaser each month as well as the amount of 100% trichloroethylene shipped offsite each month. If the permittee excludes or subtracts from the monthly trichloroethylene usage total, any trichloroethylene that is contained in a mixture of trichloroethylene and sludge or trichloroethylene and any other material which is shipped offsite, records must also be maintained of the amount of trichloroethylene in each such shipment, the date of shipment, the trichloroethylene content of each drum or container shipped and a description of the analytical method used to determine the trichloroethylene content. Records maintained under this condition shall be retained onsite for at least 5 years and shall be made available to the Department upon request.

4. Within 120 days of being notified by the Department to submit a Title V operating permit application for the facility in which the batch vapor degreaser is located, the permittee shall submit a complete and comprehensive application to the Department.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

24-123E: Onyx Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846) for installation of an additional enclosed ground flare (6,000 cfm) similar in design to the existing flares in Fox Township, **Elk County**. This installation will not result in NSR or PSD applicability. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The source shall comply with 25 Pa. Code §§ 123.1, 123.21, 123.31, and 123.41 for fugitive matter, sulfur compound, odor and visible emissions.

- The flare shall be designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2-consecutive hours and the emissions during these periods shall not exceed 10% opacity. The opacity of the emissions shall not be equal to or greater than 60% at any time.

- The flare shall be designed and operated to either reduce nonmethane organic compounds (NMOC) by 98 weight percent or reduce the outlet NMOC concentration to less than 20 ppmv, dry basis as hexane @3% oxygen. This minimum DRE and outlet concentration is also required by 40 CFR 60.752(b)(2)(iii)(B) of the Federal New Source Performance Standards.

- PM emissions from the flare shall not exceed 0.02 grain/dscf.

- The flare shall be stack tested for NO_x, CO and NMOC.

- The flare shall maintain a minimum operating temperature of 1,500° F for at least 0.3 second. The minimum operating temperature of the flare shall be 1,500° F or the operating temperature maintained during the performance test in which compliance with the 98% destruction efficiency or 20 ppmv requirement was demonstrated. The operating temperature of the flare shall be continuously measured and recorded.

- The flare shall be designed and operated in accordance with 40 CFR 60.18.

- The flare must be an enclosed ground type, which is shrouded with no visible flame shooting from the flare.

- The flare shall be equipped with a continuous pilot ignition source using an auxiliary fuel.

- The flare shall be operated with a flame present at all times. The flare shall be equipped with an automatic shut-off mechanism designed to immediately stop the flow of gases when a flameout occurs. During restart or start-up, there shall be sufficient flow of auxiliary fuel to the burners so that unburnt landfill gases are not emitted to the atmosphere. The owner or operator shall keep on file records of all periods of operation in which the flame or flare pilot flame is absent. The records shall be made readily available upon Department request.

- The permittee shall perform quarterly monitoring to determine there are no landfill gas leaks which result in concentrations of 500 ppmv or more measured as propane (or 1,375 ppmv or more measure as methane) at a distance of 0.5 inch from any exposed equipment. The landfill equipment subject to this requirement shall include the exposed portions of the gas wells, piping or any other connections or fittings along the landfill gas transfer paths of a landfill gas collection and disposal system. A log shall be kept at the facility indicating any leak that exceeds the above concentration and the corrective action taken for a period of 5 years and made readily available to Department personnel upon request.

- A detailed record describing the time, location, type and amount of roadway surface treatment shall be maintained at the landfill site for at least 5 years.

- Petroleum contaminated soils may be used as daily landfill cover provided the VOC emissions from the contaminated soils does not exceed 2.7 tpy based on a consecutive 12-month period. The facility shall keep records of the petroleum-contaminated soil received at the landfill.

- The collection system shall be designed to minimize offsite migration of the subsurface gas. The gas collection system shall be designed: 1) to collect gas from the maximum possible area of the landfill; and 2) to accommodate the maximum gas generation rate for the landfill. Should the landfill gas flow rate from the disposal area exceed the maximum design capacity of the control devices, the company shall submit a plan approval application for the installation of an additional control device deemed acceptable by the Department.

- The landfill gas shall be controlled and monitored in accordance with 25 Pa. Code § 273.292.

- 25 Pa. Code § 273.217 requires landfill operators to implement fugitive air contaminant control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4014), 25 Pa. Code Part I, Subpart C, Article III (relating to air resources) and 25 Pa. Code § 273.218 (relating to nuisance minimization and control).

- **Fugitive Emission Control Criteria:** This criterion specifies the reasonable actions that are necessary for the prevention of fugitive dust emissions from the operation of landfills in accordance with these requirements.

- The facility shall comply with New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart WWW and shall comply with all applicable requirements of this subpart. This includes, but is not limited to, the following:

- In accordance with 40 CFR 60.756(b)(2), the facility shall either:

- Install, calibrate and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; or

- Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type of configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

- In accordance with 40 CFR 60.755(b), each well shall be installed no later than 60-days after the date on which the initial solid waste has been in place for a period of: 5 years or more if active; or 2 years or more if closed or at final grade.

- In accordance with 40 CFR 60.753(c) and 60.756(a), each interior wellhead in the collection system shall be operated with a landfill gas temperature less than 55° C and with either a nitrogen level less than 20% or an oxygen level less than 5%. The above parameters shall be monitored monthly and records shall be kept on file for a period of 5 years and made readily available to Department personnel upon request. Should the temperature or nitrogen and/or oxygen level be exceeded during the monitoring of these wellheads, the permittee shall take the necessary steps, in accordance with 40 CFR 60.755(a)(5), to bring the affected wellheads into compliance. The monitoring procedures shall comply with the provisions of 40 CFR 60.756(a).

- In accordance with 40 CFR 60.753(d), 60.755(c) and 60.756(f), the collection system shall be operated so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. The owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a serpentine pattern spaced 30 meters apart (or a site-specific established spacing) for each collection area on a quarterly basis. Methane concentration shall be less than 500 parts per million above background at the surface of the landfill using an organic vapor analyzer, flame ionization detector or other portable monitor meeting Section 3, 40 CFR Part 60, Appendix A, Method 21. Records shall be kept on file for a period of five years and made readily available to Department personnel upon request.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

37-00023: Orion Power Midwest, LP (2189 Route 168 South, West Pittsburg, PA 16160) for re-issuance of the Title V Operating Permit for their facility in Taylor Township, **Lawrence County**. The facility generates and

distributes electricity. The facility's major emission sources include Babcock & Wilcox boilers (3), electromotive diesel engines A & B, fly ash disposal, plant roadways and fly ash storage silos. The facility is a major facility due to its potential to emit of PM10, NOx, SOx and CO. Therefore, the facility is subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is also subject to the Compliance Assurance Monitoring Rule (CAM) found in 40 CFR Part 64. Appropriate permit conditions to address the applicable CAM requirements have been included in the permit.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 400—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.

46-00220: Micro-Coax, Inc. (206 Jones Boulevard, Pottstown, PA 19464) for operation of coaxial cable and electrometallurgical equipment at their manufacturing facility in Limerick Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural 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.

06-05088: EJB Paving and Materials Co. (1119 Snyder Road, West Lawn, PA 19609) for operation of a bituminous asphalt concrete plant in Ontelaunee Township, **Berks County**. The facility is subject to 40 CFR Part 60, Subpart I, Standard of Performance for New Stationary Sources. This action is a renewal of the State-only Operating Permit issued in 2001 and amended in 2003.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00434: Laurel Sand and Stone, Inc. (P. O. Box 556, 210 East Main Street, Ligonier, PA 15658) for operation of a sandstone crushing and screening plant at their Chickaree facility in Jefferson Township, **Cambria County**. This is a State-only Operating Permit.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104 Contact: Edward Brawn, Chief, (215) 685-9476.

S04-018: National Publishing Co. (11311 Roosevelt Blvd, Philadelphia, PA 19154) for operation of a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include includes 14 0.5 mmBtu/hr natural gas fired space heaters, 3 lithographic presses and less 8 mmBtu/hr natural gas fired dryers, and a 1.75 mmBtu/hr natural gas fired thermal oxidizer.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department

at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0;	less than 9.0
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

32010106 and NPDES No. PA0248983. Walter L. Houser Coal Company, Inc. (13448 SR 422, Suite 1, Kittanning, PA 16201). Permit renewal for reclamation only of a bituminous surface-auger mine in Washington

Township, **Indiana County**, affecting 63.2 acres. Receiving streams: UNTs of South Branch Plum Creek and South Branch Plum Creek to Plum Creek to Crooked Creek to the Allegheny River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 11, 2006.

11850103 and NPDES No. PA0597112. L & J Energy Company, Inc. (P. O. Box J, Grampian, PA 16838). Permit renewal for reclamation only of a bituminous surface-auger mine in Susquehanna Township, **Cambria County**, affecting 98.0 acres. Receiving stream: West Branch of Susquehanna classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 8, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10060105 and NPDES Permit No. PA0258202. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Commencement, operation and restoration of a bituminous surface strip operation in Washington Township, **Butler County** affecting 173.8 acres. Receiving streams: UNT 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 includes a land use change from noncommercial forestland to unmanaged natural habitat. Application received: August 29, 2006.

1249-10060105-E-1. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Stream encroachment to encroach within the 100 foot barrier to UNT 1. The variance is also requested for the stream reconstruction, stream crossing and support activities in Washington Township, **Butler County**. Receiving streams: UNT 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: August 29, 2006.

33910107 and NPDES Permit No. PA0208469. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip and auger operation in Beaver Township, **Jefferson County** affecting 91.5 acres. Receiving streams: UNT of Red Run to Red Run; UNT to Tarkiln Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is

Hawthorn Municipal Authority. Application for reclamation only. Application received: September 8, 2006.

10920112 and NPDES Permit No. PA0211401. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Renewal of an existing bituminous surface strip, auger and coal ash placement operation in Concord Township, **Butler County** affecting 230.1 acres. Receiving streams: four UNTs of Bear Creek and Bear Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: September 8, 2006.

Coal Applications Returned

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

32040201 and NPDES Permit No. PA0249645. Robindale Energy Services, Inc. (224 Grange Hollow Road, P. O. Box 228, Armagh, PA 15920). Commencement, operation and restoration of a bituminous surface mine in Center and Blacklick Townships, **Indiana County**, affecting 79.1 acres. Receiving streams: UNT to Two Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 30, 2004. Permit withdrawn: September 12, 2006.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹			
pH ¹		<i>greater than 6.0; less than 9.0</i>	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10060306 and NPDES Permit No. PA0258211. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Commencement, operation, and restoration of a limestone operation in Marion Township, **Butler County** affecting 54.5 acres. Receiving streams: five UNTs to Black's Creek and Black's Creek, one UNT to North Branch Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: September 8, 2006

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

15060301 and NPDES Permit No. PA0224561. Limestone Properties, LLC (1020 Broad Run Road, Landenberg, PA 19350). Commencement, operation and

restoration of a quarry operation in Avondale Borough, **Chester County** affecting 26.56 acres, receiving stream: East Branch White Clay Creek, classified for the following use: CWF. Application received: September 5, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to

which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E15-758. Users Inc., 250 Drummers Lane, Valley Forge, PA 19482, Tredyffrin Township, **Chester County**, ACOE Philadelphia District.

To remove an existing foot bridge and to construct and maintain a twin 12-foot by 8-foot reinforced concrete box culvert in and along a tributary to Trout Creek (WWF, MF), to facilitate the construction of an access road from Drummers Lane to a parking lot and office building area. This site is located at a point approximately 2,800 feet upstream of the Turnpike (Valley Forge, PA Quadrangle N: 15.3 Inches, West: 5.4 inches).

E15-759. Jeffrey Berlin, 318 Mulberry Street, Kennett Square, PA 19348, Kennett Township, **Chester County**, ACOE Philadelphia District.

To perform the following activities across the unnamed tributary to Red Clay Creek (CWF) associated with the proposed driveway access:

1. To construct and maintain a 20-foot concrete box culvert with associate riprap and utilities impacting 0.041 acre of wetlands. The proposed culvert will have a clear span of 11.0 feet and an underclearance of 3.0 feet.
2. To place and maintain a temporary sand bag cofferdam.

The site is located approximately 800 feet southeast of the intersection of Greenwood Road and Banewood

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

E07-405: Altoona Blair County Development Corporation, Devorris Center, 39900 Industrial Park, Altoona, PA 16602

To fill in a 0.655 acre of a wetland to construct the proposed Walter Business Park and related improvements located in Sproul Village about 1800 feet southwest of the US 220 and T-312 intersection (Roaring Spring, PA

Quadrangle N: 5.42 inches; W: 12.2 inches; Latitude: 40° 16' 47"; Longitude: 78° 27' 45") in Greenfield Township, **Blair County**. The applicant will provide 1.31 acres of replacement wetland located 4,000 feet northeast of site.

E05-342: Woodbury Township, 4100 Woodbury Pike, Woodbury, PA 16695 in Woodbury Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain additional two units of 7-foot diameter by 100-foot long pipe culvert in Hickory Bottom Creek on Smith Road (T-678) to improve the discharge capacity located at a point 1.4 miles south of Woodbury Borough (Hopewell, PA Quadrangle N: 14.18 inches; W: 15.95 inches; Latitude: 40° 12' 11"; Longitude: 78° 21' 51") in Woodbury Township, Bedford County.

E44-130: John J. Peachey, 209 Sawmill Road, Reedsville, PA 17084 in Armagh Township, **Mifflin County**, ACOE Baltimore District.

To construct and maintain a 13.3-foot wide single span bridge having a normal span of 50.0-feet, an underclearance of 4.8-feet, and a hydraulic opening of 234-square feet across Laurel Creek (HQ-CWF); and to install and maintain 175-feet of 6-foot high rock gabion baskets along the bank of Laurel Creek (HQ-CWF). The project is located off of Old 322 West towards Mt. Pleasant, on Little Valley Road at the end of the roadway (Burnham, PA Quadrangle N: 18.88 inches; W: 16.19 inches; Latitude: 40° 43' 40"; Longitude: 77° 36' 42") in Armagh Township, Mifflin County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E12-162. Daniel R. Brehm, 518 Meadow Road, Emporium, PA 15834. Brehm dwelling addition in Portage Branch-Sinnemahoning Creek floodway, in Shippen Township, **Cameron County**, Baltimore ACOE District, (Emporium, PA Quadrangle N: 3.3 inches; W: 12.25 inches).

To modify and maintain an existing single-family dwelling and lot in the 100-year floodway of Portage Branch-Sinnemahoning Creek. The single-family dwelling shall be modified by constructing two 12-foot by 39-foot attached porches, a 12-foot by 15-foot attached carport, and the placement of an unattached 12-foot by 30-foot prefabricated outbuilding, all in the 100-year floodway. The Brehm project is located at the western right-of-way of SR 0155, approximately 3,660 feet north of SR 0120 and SR 0155 intersection.

E41-569. James and Michelle Buehler, 20 Boston Cove Road, P. O. Box 359, Picture Rocks, PA 17762. Pond construction in Picture Rocks Borough, **Lycoming County**, Baltimore USACE District (Picture Rocks, PA Quadrangle N: 6.25 inches, W: 10.0 inches).

The applicant proposes to construct and maintain a private 0.15-acre farm pond for recreational and fire protection purposes. The proposed activity will permanently impact 0.05 acre of mixed Palustrine Emergent (PEM) and Palustrine Scrub-shrub (PSS) wetlands. The impact does not exceed the Department of Environmental Protection's de minimis wetland impact threshold, and therefore no wetland replacement will be required.

The project site is located in the Muncy Creek watershed, State Water Plan Subbasin 10 D, approximately 0.9 mile ENE of the SR 220 and SR 864 intersection in Picture Rocks.

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

E02-1539. Allegheny County Airport Authority, P. O. Box 12370, Pittsburgh, PA 15231. To place fill in wetlands and three stream channels in Findlay Township, **Allegheny County**, Pittsburgh ACOE District. (Clinton, PA Quadrangle N: 16.4 inches; W: 0.9 inches and Latitude: 40° 27' 52"—Longitude: 80° 15' 20").

The applicant proposes to place and maintain fill in 7 wetlands for a total wetland impact of 0.3 acre, to place and maintain fill in 6 open bodies of water for a total impact of 0.28 acre and to place and maintain fill in three stream channels: 112 feet in a UNT to North Fork Montour Run (WWF), 160 feet in a UNT to West Fork Enlow Run (WWF) and 2,024 feet to another UNT to the North Fork Montour Run (WWF) for a total stream impact of 2,296 feet. The impacts are for a proposed Flex Warehouse Facility (site number 10.8/10.14) to be located on the northeast side of Route 30 approximately 1 mile northwest of its intersection with SR 3070. To compensate for the wetland impacts the applicant proposed to construct 1.81 replacement wetlands.

E02-1541. The Borough of Etna, 437 Butler Street, Pittsburgh, PA 15223. To place stream bank stabilization in Etna Borough, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 21.5 inches; W: 9.35 inches and Latitude: 40° 39' 37"—Longitude: 79° 56' 32"). The applicant proposes to place and maintain approximately 180 feet of stream bank stabilization, including approximately 77 feet of sheet piling, 154 feet of rock lining and a 29 foot by 20 foot grout stabilized rock buttress. The project is located north of Poplar Street near its intersection with Hofner Street in Etna Borough. The project impacts approximately 180' of stream channel.

E02-1545. South Fayette Conservation Group, 515 Millers Run Road, Morgan, PA 15064. To restore Fishing Run in South Fayette Township, **Allegheny County**, Pittsburgh ACOE District. (Canonsburg, PA Quadrangle N: 19.5"; W: 8.7" and Latitude: 40° 21' 27" Longitude: 80° 11' 15"). The applicant proposes to restore 1,315.0 linear feet of Fishing Run (WWF) consisting of regrading the area to approximate original contours, reconstruction of approximately 1,000 linear feet of stream channel and removal of abandoned structures for the purpose of restoring the Chartiers Creek watershed. The project located approximately 6,000.0 feet upstream from the confluence of Fishing Run and Millers Run.

E02-1547. Department of Transportation, 45 Thoms Run Road, Bridgeville, PA 15071. To construct a bridge in North Fayette Township, **Allegheny County**, Pittsburgh ACOE District. (Oakdale, PA Quadrangle N: 7.9 inches; W: 10.7 inches and Latitude: 40° 25' 07"—Longitude: 80° 12' 04"). The applicant proposes to construct and maintain a 48 foot wide, 66 foot long single span bridge with an underclearance of 6.67 feet to replace the existing SR 978, 25 foot wide, 45 foot long, single span bridge with an underclearance of 6.12 feet over the North Branch Robinson Run (WWF) with a drainage area of 10.7 square miles; construct and maintain associated rip rap scour protection; and to construct and maintain an adjoining stormwater outfall. The replacement bridge will be constructed upstream and adjacent to the existing bridge. The project is located approximately 3 miles northwest of the center of the Borough of Oakdale.

E03-441. Department of Transportation, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. To construct a replacement pipe in South Pine Township, **Armstrong County**, Pittsburgh ACOE District. (Templeton, PA Quadrangle N: 9.5 inches; W: 12.0 inches

and Latitude: 40° 55' 18"—Longitude: 79° 27' 40"). The applicant proposes to construct and maintain a 250 LF replacement and relocation of the lower section of an existing 580 LF, 72 inch diameter RCP on Whiskey Run (CWF) with a drainage area of 1.5 square miles located at the northern edge of the Village of Templeton. In addition, three 18" to 24" diameter stormwater outfalls with drainage areas less than 100 acres discharging to the Allegheny River will be constructed and maintained. This project is associated with the three quarter mile long realignment and improvement project of SR 1003 between the confluence of the Allegheny River and Mahoning Creek to the north, and the confluence of the Allegheny River and Whiskey Run to the south.

E26-339. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To construct Section 51G of the Mon Fayette Expressway in Luzerne Township, **Fayette County**, Pittsburgh ACOE District. The applicant proposes to construct Section 51G, a 2 mile long section of the Monfayette Expressway, SR 43, located south of Brownsville and between Dunlap Creek to the east and the Monongahela River to the west. The applicant proposes to construct and maintain the following:

1. A 9-span bridge on SR 0043 across Rush Run and having spans 260 feet, 260 feet, 273 feet, 441.5 feet, 518 feet, 423 feet, 260 feet, 317.5 feet, and 260 feet SR 0043, Station 784+00 (Latitude: 40° 0' 6.07"; Longitude: 79° 55' 47.09"; and Carmichaels, PA Quadrangle N: 0.30 inch; W: 7.65 inches). This structure includes a temporary stream relocation and temporary stream crossing of said stream. This stream includes 578 feet of permanent stream relocation of said stream. This same structure spans the Monongahela River (permitted in Section 51H).

2. A 300-foot long, 30-inch RC pipe stream enclosure in UNT to Rush Run (WWF) located at SR 0043 Station 784+00, (Latitude: 40° 0' 3.18"; Longitude: 79° 55' 44.13"; and California, PA Quadrangle N: 0.40 inch; W: 7.55 inches). This structure includes a temporary stream crossing and relocation of 50 feet of the stream.

3. A 150-foot long, 30-inch RC pipe stream enclosure in UNT to Rush Run (WWF) located at SR 0043 Station 783+00, (Latitude: 40° 0' 6.98"; Longitude: 79° 55' 43.1"; and California, PA Quadrangle N: 0.35 inch; W: 7.50 inches). This structure includes a temporary stream crossing.

4. A 850-foot long placement of fill in a UNT to Rush Run (WWF) located at SR 0043, Station 777+00, (Latitude: 40° 0' 6.98"; Longitude: 79° 55' 37.22"; and California, PA Quadrangle N: 0.15 inch; W: 7.30 inches).

5. A 144-foot long placement of fill in a UNT to Rush Run (WWF) located at SR 0043, Station 777+00, (Latitude: 40° 0' 3.28"; Longitude: 79° 55' 37.39"; and California, PA Quadrangle N: 0.15 inch; W: 7.25 inches).

6. A 143-foot long placement of fill in a UNT to Cox Run (WWF) located at SR 0043, Station 756+00, (Latitude: 39° 59' 51.36"; Longitude: 79° 55' 15.54"; and Carmichaels, PA Quadrangle N: 22.30 inches; W: 6.45 inches).

7. A 175-foot long, 84-inch RC pipe stream enclosure in UNT to Cox Run (WWF) located at Telegraph Road North Station 130+00, (Latitude: 39° 59' 52.00"; Longitude: 79° 54' 55.38"; and Carmichaels, PA Quadrangle N: 22.25 inches; W: 5.65 inches). This structure includes a 37-foot long stream channel relocation of the stream.

8. A 612-foot long, 42-inch RC pipe stream enclosure in a UNT to Cox Run (WWF) located at SR 0043, Station

725+00, (Latitude: 39° 59' 35.28"; Longitude: 79° 54' 41.55"; and Carmichaels, PA Quadrangle N: 21.40 inches; W: 5.10 inches). This structure includes a temporary stream crossing of the stream.

9. A 4-span bridge on SR 0043 Northbound across Cox Run and having spans of 145 feet, 185 feet, 185 feet, and 145 feet SR 0043, Station 716+50 (Latitude: 39° 59' 33.02"; Longitude: 79° 54' 31.72"; and Carmichaels, PA Quadrangle N: 21.25 inches; W: 4.70 inches). This structure includes a temporary stream crossing of the stream.

10. A 4-span bridge on SR 0043 Southbound across Cox Run and having spans of 140 feet, 180 feet, 180 feet and 140 feet SR 0043, Station 716+50 (Latitude: 39° 59' 33.02"; Longitude: 79° 54' 31.72"; and Carmichaels, PA Quadrangle N: 21.25 inches; W: 4.70 inches). This structure includes a temporary stream crossing of the stream.

11. A 720-foot long, 36-inch RC stream enclosure in a UNT to Cox Run (WWF) located at Bull Run Road, Station 135+00, (Latitude: 39° 59' 32.65"; Longitude: 79° 54' 29.19"; and Carmichaels, PA Quadrangle N: 21.20 inches; W: 4.60 inches).

12. A 2-span bridge on Bull Run Road Connector across Cox Run and having spans of 130 feet and 130 feet Bull Run Road Connector, Station 83+00 (Latitude: 39° 59' 24.59"; Longitude: 79° 54' 32.93"; and Carmichaels, PA Quadrangle N: 20.85 inches; W: 4.80 inches). This structure includes a temporary stream crossing of said stream.

13. The project will impact 1.422 acres of wetlands. The drainage areas for items 2, 3, 8 and 11 are less than 100 acres.

E65-902. Municipal Sanitary Authority New Kensington, 120 Logans Ferry Road, New Kensington, PA 15068. To construct and maintain additions to the

wastewater treatment plant in City of New Kensington, **Westmoreland County**, Pittsburgh ACOE District. (New Kensington West, PA Quadrangle N: 9.53"; W: 1.39" and Latitude: 40° 33' 09"; Longitude: 70° 45' 36"). The applicant proposes to construct and maintain additions and modifications to the Headworks and Blower Building Project at the Wastewater Treatment Plant in the 100-year floodplain of Little Pucketa and Pucketa Creeks (TSF).

E65-903. Robert and Justine Houck, 486 Thatcher Road, New Florence, PA 15944. To construct a bridge in Fairfield Township, **Westmoreland County**, Pittsburgh ACOE District. (Wilpen, PA Quadrangle N: 14.3 inches; W: 1.2 inches and Latitude: 40° 19' 43"—Longitude: 79° 08' 01"). The applicant proposes to construct and maintain a single span steel and wood bridge having a span of 48 feet and a minimum underclearance of 6 feet across Hendricks creek (TSF) to access the property located approximately 2,000 feet downstream of SR 711.

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

E43-338. City of Sharon, 155 West Connelly Blvd., Sharon, PA 16146. Wastewater Treatment Plant Improvements in the City of Sharon, **Mercer County**, ACOE Pittsburgh District. (Sharon West, PA Quadrangle N: 41° 13' 29"; W: 80° 30' 45").

To: 1) install and maintain a 175-foot long, 18-inch siphon barrel that will cross under the Shenango River (WWF); and 2) install and maintain a new 6-foot wide rectangular channel for the new wastewater outfall, with riprap outlet to the Shenango River. These activities are part of the improvements to the City of Sharon's Wastewater Treatment Plant.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0082945 (Sewage)	Timothy Beard Hamilton Township 272 Mummert's Church Road Abbottstown, PA 17301	Adams County Hamilton Township	Conewago Creek 7F	Y
PA0086894 (Sewage)	Raymond L. Hoffman 842 Dicks Dam Road New Oxford, PA 17358	York County Washington Township	UNT Red Run 7F	Y
PA0038733 (Sewage)	Joseph Payne East Providence Township Municipal Authority P. O. Box 83 Breezewood, PA 15533	Bedford County East Providence Township	UNT Tub Mill Run 11-D	Y
PA0027596 (Industrial Waste)	New Enterprise Stone & Lime Company, Inc. (Roaring Spring Quarry) P. O. Box 77 New Enterprise, PA 16664-0077	Blair County Taylor Township	Halter Creek 11-A	Y
PA0083747 (Sewage)	Weaver, Inc. 1231 Mount Wilson Road Lebanon, PA 17042-4785	Lebanon County South Annville Township	Gingrich Run 7-D	Y
PAR105140R	Barry Deaven PCEDC 25 West Main St. New Bloomfield, PA 17068	Penn Township Perry County	CWF—Little Juniata Creek to WWF—Shermans Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0001996 Industrial Waste	Lehigh Specialty Melting, Inc. 107 Gertrude Street Latrobe, PA 15650	Westmoreland County Latrobe Borough	Loyalhanna Creek	N
PA0027464 Sewage	Pleasant Hills Authority 410 East Brucecon Road Pittsburgh, PA 15236	Allegheny County South Park Township	Lick Run	N
PA0095401 Sewage	Saint Victor's Roman Catholic Church Box 149 Bairford, PA 15006	Allegheny County West Deer Township	UNT of Dawson Run	Y
PA0218928 Sewage	Cadogan Township Sewage Treatment Plant 260 Spruce Avenue Cadogan, PA 16212-0309	Armstrong County Cadogan Township	Glade Run	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0080055, Sewage, **Conewago Industrial Park Sewer and Water Company**, P. O. Box 332, Lemoyne, PA 17043-0332. This proposed facility is located in West Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to the Conewago Creek in Watershed 7-G.

NPDES Permit No. PA0020893, Amendment No. 1, Sewage, **Manheim Borough Authority**, 15 East High Street, Manheim, PA 17545. This proposed facility is located in Manheim Borough, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Chickies Creek in Watershed 7-G.

NPDES Permit No. PA0087009, Industrial Waste, **Hanover Cold Storage, Inc.**, 1301 Carlisle Street, P. O. Box 152, Hanover, PA 17331. This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of South Branch Conewago Creek in Watershed 7-F.

NPDES Permit No. PA0007765, Industrial Waste, **Harley-Davidson Motor Company**, 1425 Eden Road, York, PA 17402. This proposed facility is located in Springettsbury Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to UNTs of Codorus Creek and Mill Creek in Watershed 7-H.

NPDES Permit No. PA0110744, Industrial Waste, **Evitts Creek Water Company**, 1032 Lake Gordon Road, Bedford, PA 15522. This proposed facility is located in Cumberland Valley Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT to Evitts Creek in Watershed 13-A.

NPDES Permit No. PA0080764, Industrial Waste, **Red Lion Municipal Authority**, P. O. Box 190, Red Lion, PA 17356-0190. This proposed facility is located in Windsor Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to Cabin Creek in Watershed 7-I.

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

NPDES Permit No. PA0027367, Sewage, **Greenville Sanitary Authority**, 125 Main Street, P. O. Box 604, Greenville, PA 16125. This proposed facility is located in Greenville Borough, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Shenango River in Watershed 20-A.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1503202, Amendment, Industrial, **Glenville Farms**, 2391 Glenville Road, Cochranville, PA 19330. This proposed facility is located in West Fallowfield Township, **Chester County**.

Description of Action/Activity: Modifications to construction and operation of manure treatment and storage facilities at the Glenville Farms.

WQM Permit No. 1504201, Sewerage, **Rick's Mushroom Service**, P. O. Box 797, Avondale, PA 19311. This proposed facility is located in New Garden Township, **Chester County**.

Description of Action/Activity: Construction and operation of a Spent Mushroom Service transfer station equipped with a leachate treatment, storage and disposal system, disposal fields of 567,778 gal/acre or 2,044,000 gal/site/year.

WQM Permit No. 1506412, Sewerage, **East Coventry Township**, 855 Ellis Woods Road, Pottstown, PA 19465. This proposed facility is located in East Coventry Township, **Chester County**.

Description of Action/activity: Construction and operation of a sanitary sewer system.

WQM Permit No. WQG010012, Sewerage, **Timothy D. and Deborah Connor**, 22 Wayland Road, Berwyn, PA 19312. This proposed facility is located in Easttown Township, **Chester County**.

Description of Action/Activity: Construction and operation of a small flow treatment facility.

WQM Permit No. 1506405, Sewerage, **Caln Township**, 253 Municipal Drive, Thorndale, PA 19372-0149. This proposed facility is located in Caln Township, **Chester County**.

Description of Action/Activity: Construction and operation of 8-inch PVC sewer main.

WQM Permit No. 1505419, Sewerage, **Pocopson Township**, P. O. Box 1, Pocopson, PA 19366. This proposed facility is located in Pocopson Township, **Chester County**.

Description of Action/Activity: Construction and operation of a 45,100 gpd treatment lagoon with a storage lagoon and 9.55 acres sprayfield.

WQM Permit No. 1506414, Sewerage, **Pennsylvania American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is located in Coatesville City, **Chester County**.

Description of Action/Activity: Replacement of sewer main and manholes with 8-inch PVC sewer main Harmony St. and upsizing to a 15-inch PVC main 1st Ave.

WQM Permit No. 1506406, Sewerage, **Downingtown Area Regional Authority**, 6 West Lancaster Avenue, Downingtown, PA 19335. This proposed facility is located in East Caln Township, **Chester County**.

Description of Action/Activity : Construction and operation of a gravity thickener and sludge holding tank.

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

WQM Permit No. WQG02280605, Sewerage, **Antrim Township Municipal Authority**, 10655 Antrim Church Road, P. O. Box 130, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to construct/operate Lift Station No. 27 to serve 167 new single family dwellings located on the south side of the intersection of Williamsport Pike and Coseytown Road.

WQM Permit No. WQG02280604, Sewerage, **Antrim Township Municipal Authority**, 10655 Antrim Church Road, P. O. Box 130, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to construct/operate Lift Station No. 25 for the Melrose Meadows.

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

WQM Permit No. 3274405-A2, Sewerage, **Clymer Borough Municipal Authority**, 470 Adams Street, Clymer, PA 15278-1156. This proposed facility is located in Clymer Borough, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance for the addition of two sludge drying beds to two existing beds to reduce the frequency and costs of sludge hauling at permittee's STP.

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

WQM Permit No. WGQ018492, Sewerage, **Brian and Susan Welch**, 1296 Indian Creek Road, Eldred, PA 16731. This proposed facility is located in Eldred Township, **McKean County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 2506408 Sewerage, **Pleasant Ridge Manor—West**, 8300 West Ridge Road, Girard, PA 16417. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the installation of dechlorination process to an already existing wastewater treatment facility.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906003	Bensalem Redevelopment, LP 2310 Terwood Drive Huntingdon Valley, PA 19006	Bucks	Bensalem Township	Delaware River (WWF-MF)
PAI011506048	Virginia F. Betz 18 Normandy Circle Glenmoore, PA 19343	Chester	East Nantmeal Township	UNT Black Horse Creek (HQ-TSF)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026404007(1)	Honesdale Borough 958 Main St. Honesdale, PA 18431	Wayne	Honesdale Borough	Lackawaxen River HQ-TSF, MF
PAI024505019	Alfred Natale 19 Whispering Hills Ct. Effort, PA 18330	Monroe	Tunkhannock Township	Tunkhannock Creek HQ-CWF
PAI023906002	Kraft Foods Global, Inc. 7352 Industrial Blvd. Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI030606005	East Penn Manufacturing Company Deka Road Lyon Station, PA 19536	Berks	Maxatawny and Richmond Townships	Moselem Creek/Maiden Creek (HQ-CWF)

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823 (814) 355-6817.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAR10F139-R	S & A Custom Built Homes Foxpointe, Phase VIII Keith Sunderman 2121 Old Gatesburg Road Suite 200 State College, PA 16801	Centre	Ferguson Township	UNT to Big Hollow HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

Facility Location & Municipality	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Phone No.
Milford Township Bucks County	PAG2000906116	PJM Interconnection, LLC 955 Jefferson Avenue Valley Forge Corporate Center Norrstown, PA 19401	UNT Macoby Creek (TSF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG2001506016	Toll Brothers, Inc. 250 Gibraltar Road Horsham, PA 19044	UNT Valley Creek (CWF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
West Whiteland Township East Caln Township Chester County	PAG2001506038	Whitford Country Club 600 Whitford Hills Road Exton, PA 19341	Colebrook Run (CWF, MF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Chadds Ford Township Delaware County	PAG2002306035	Henderson Chadds Ford Assoc. 112 Chesley Drive Suite 200 Media, PA 19063	Harvey Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Ridley Township Delaware County	PAG2002305044	Chick-Fil-A 5200 Buffington Avenue Atlanta, GA 30349	Darby/Crum Creeks (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Conshohocken Borough Montgomery County	PAG2004606130	Quaker Homes, Inc. 2001 Swinging Bridge Road Green Lane, PA 18054	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106044	Temple University 3525 Germantown Avenue Philadelphia, PA 19140	Delaware River (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hazle Township Luzerne County	PAG2024004001	Eagle Rock Resort, Co. (Phase5—The Woodlands) 1031 Valley of Lakes Hazleton, PA 18201	Black Creek CWF	Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Wright Township Luzerne County	PAG2004005013(1)	Mericle 15 Elmwood, LLC Robert Mericle 100 Baltimore Drive Wilkes-Barre, PA 18702	Wapwallopen Creek Watershed CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Bethlehem Township Northampton County	PAG2004806021	Bethlehem Township 4225 Easton Ave. Bethlehem, PA 18020	Nancy Run (Source to SR 3007 Bridge) CWF, MF	Northampton Co. Cons. Dist. (610) 746-1971
Stroudsburg Borough Monroe County	PAG2004506003	McDonalds Corp. 3025 Chemical Rd. Suite 100 Plymouth Meeting, PA 19462	Brodhead Creek TSF	Monroe Co. Cons. Dist. (570) 629-3060
Caernarvon Township Berks County	PAG2000606071	William Cummings Titanium Metals Corporation (TIMET) 900 Hemlock Road Morgantown, PA 19543	UNT to Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Colebrookdale Township Berks County	PAG2000606072	Frank Benedict Grace Independent Baptist Church 1204 Montgomery Avenue New Berlinville, PA 19545	Swamp Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Amity Township Berks County	PAG2006050301	Bryan Hunsberger Telvil Corporation 528 Main Street Harleysville, PA 19438	UNT to Schuylkill WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Penn Township Perry County	PAR-105140R	Barry Deaven PCEDC 25 West Main St. New Bloomfield, PA 17068	CWF-Little Juniata Creek to WWF-Shermans Creek	Evan Ticehurst Perry County Conservation District 31 West Main Street P. O. Box 36 New Bloomfield, PA, 17068 (717) 582-5119
Lower Paxton Township Dauphin County	PAG2002206028	Commerce Investors GP 681 Knight Road Harrisburg, PA 17111	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Swatara Township Dauphin County	PAR10I276R	Old Reliance Partnership 627 S 26th St. Harrisburg, PA 17111	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Paxton Township Dauphin County	PAG2002206040	Paul Navarro 1840 O'Hara Lane Middletown, PA 17057	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Susquehanna Township Dauphin County	PAG2002206014	Leonard Sempeir AAA of Central PA 2301 Paxton Church Road Harrisburg, PA 17103	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Derry Township Dauphin County	PAG2002206045	Legacy Landing P. O. Box 314 Hershey, PA 17033	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Susquehanna Township Dauphin County	PAG2002206026	Joel McNaughton The McNaughton Co. 4400 Deer Path Road Harrisburg, PA 17110	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Swatara Township Dauphin County	PAG2002206023	InnKeepers USA, LP 340 Royal Poinciana Place, Suite 306 Palm Beach, FL 33480	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Paxton Township Dauphin County	PAG2002206041	Real Estate Investors 100 Highland Ave. Suite 306 Lititz, PA 17543	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Lower Swatara Township Dauphin County	PAG2002206043	Platinum Plus Partners, III P. O. Box 634 Harrisburg, PA 17108	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Monroe Township Cumberland County Carroll Township York County	PAG2002106019	Department of Transportation SR 2011 Section 005, Bridge Replacement 2140 Herr Street Harrisburg, PA 17103-1699	Yellow Breeches Creek CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Allen Township Cumberland County	PAG2002106026	Lower Allen Township Lower Allen Township Emergency and Municipal Services Complex 1993 Hummel Avenue Camp Hill, PA 17011-5983	UNT Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle PA 17013 (717) 240-7812
Bradford County Asylum Township	PAG2000806006	Brian D. Crocket KCJ Properties, Inc. R. R. 1, Box 22 Wyalusing, PA 18853	Susquehanna River WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5, Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Clearfield County City of DuBois	PAG20017050071	Stoltz Realty Partnership 86 Beaver Drive DuBois, PA 15801	Sandy Lick Creek CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Columbia County Berwick Borough	PAG2001906011	Berwick Public Library Richard Miller 205 Chestnut Street Berwick, PA 18603	Susquehanna River WWF	Columbia County Conservation District 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Lycoming County Muncy Creek Township	PAG2004105018	Long Ridge Realty Service Todd Arthur 25 North Main Street Muncy, PA 17756	Muncy Creek TSF Little Muncy Creek CWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Muncy Creek Township	PAG2004106012	Department of Transportation Engineering Dist. 3-0 P. O. Box 218 Montoursville, PA 17754	Muncy Creek TSF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Indiana County White Township	PAG2003206007	Rod Grettler Grettler Properties P. O. Box 1022 Indiana, PA 15701	UNT to Ramsey Run (CWF)	Indiana County CD (724) 463-8547
Washington County Robinson Township	PAG2006306021	Champion Processing, Inc. P. O. Box 127 Burgettstown, PA 15021	Little Raccoon Creek (WWF)	Washington County CD (724) 228-6774
Westmoreland County City of New Kensington	PAG2006506029	S & A Homes 2121 Old Gatesburg Road State College, PA 16803	Allegheny River (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Scottsdale Borough	PAG2006506033	Southmoreland School District 609 Parker Avenue Scottsdale, PA 15683	Jacobs Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Unity Township	PAG2006506040	Donald Tarosky Colony of Unity, LP 8954 Hill Drive North Huntingdon, PA 15642	Tributary to Nine Mile Run (WWF)	Westmoreland County CD (724) 837-5271

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Butler County Allegheny Township	PAG2091006009	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	North Branch Bear Creek CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Emporium Borough Cameron County	PAR114804	GE Transportation Systems 55 Pine Street Emporium, PA 15834	Driftwood Branch Sinnemahoning Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
City of Beaver Falls Beaver County	PAR216175	McDaniel Advanced Ceramic, LLC 510 Ninth Avenue Beaver Falls, PA 15010	Walnut Bottom Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Beaver Falls Beaver County	PAR216152	Vesuvius USA Corporation 726 6th Street Beaver Falls, PA 15010-4724	Walnut Bottom Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Summit Township Butler County	PAR158303	Hunter's Truck Sales & Service, Inc. 101 East Main Street Eau Claire, PA 16030	Connoquenessing Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Huntingdon County Shirley Township	PAG043537	Department of Conservation and Natural Resources Forestry Andrew Glodek R. R. 1, Box 486 Blain, PA 17066	Juniata River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Hellam Township	PAG043570	John Stailey Susquehanna Resources P. O. Box 3711 York, PA 17402	Susquehanna River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
West Mead Township, Crawford County	PAG048410	Tricha A. Gregor 14140 Dickson Road Meadville, PA 16335-8062	UNT to Woodcock Creek 16A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Beaver Township, Crawford County	PAG048737	Denise L. Seman 21255 Maples Road Conneautville, PA 16406	Paden Creek, 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Township, McKean County	PAG049284	Brian and Susan Welch 4 Justamere Lane Poughkeepsie, NY 12601-5211	Indian Creek, 16-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-9

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Otter Creek Township, Mercer County	PAG098308	Scott Peterman 26 Everbreeze Drive Hadley, PA 16130	Peterman Farm—Free West Field	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection (Department) 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. 0906506 , Public Water Supply.	
Applicant	Bucks County Water and Sewer Authority 1275 Almshouse Road Warrington, PA 18976
Township	Solebury
County	Bucks
Type of Facility	PWS
Consulting Engineer	Carroll Engineering Corporation 949 Easton Road Warrington, PA 18976
Permit to Construct Issued	September 18, 2006

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Operations Permit issued to **United Water Pennsylvania**, 7220015, Hummelstown Borough, **Dauphin County** on 9/15/2006 for the operation of facilities approved under Construction Permit No. 2205504.

Operations Permit issued to **United Water Pennsylvania**, 7220015, Hummelstown Borough, **Dauphin County** on 9/15/2006 for the operation of facilities approved under Construction Permit No. 2206502.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1406502-IT—Construction Public Water Supply.

Applicant **Miles Township Municipal Authority East**

Township or Borough Miles Township

County **Centre**

Responsible Official Philip Meyer, Chairperson
Miles Township Municipal Authority East
P. O. Box 157
Rebersburg, PA 16872

Type of Facility Public Water Supply—Construction

Consulting Engineer Jason Wert, P. E.
Herbert, Rowland & Grubic, Inc.
474 Windmere Drive
State College, PA 16801

Permit Issued Date September 15, 2006

Description of Action Construction of a US Filter/Memcor, Model 6M10C, continuous microfiltration plant, an OXI-5X mixed-oxidant generation system and a 200,000 gallon finished water storage tank.

Permit No. 4104501—Operation Public Water Supply.

Applicant **Williamsport Municipal Water Authority**

Township or Borough City of Williamsport

County **Lycoming**

Responsible Official Uwe E. Weindel
Executive Director
Williamsport Municipal Water Authority
253 West Fourth Street
Williamsport, PA 17701

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date September 18, 2006

Description of Action Operation of the Lycoming well field and Third Street pump station.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0206505MA, Public Water Supply.

Applicant **Municipal Authority of the Borough of Oakmont**
P. O. Box 73
721 Allegheny Avenue
Oakmont, PA 15139

Borough or Township City of Penn Hills and West Deer Township

County **Allegheny**

Type of Facility Water storage tanks

Consulting Engineer NIRA Consulting Engineers Inc.
950 Fifth Avenue
Coraopolis PA 15108

Permit to Construct September 18, 2006
Issued

Operations Permit issued to **Center Township Water Authority**, 224 Center Grange Road, Aliquippa, PA 15001, (PWS ID 5040007) Center Township, **Beaver County** on September 18, 2006 for the operation of facilities approved under Construction Permit No. 0406503MA.

Operations Permit issued to **Torrance State Hospital**, P. O. Box 111, Torrance, PA 15779, (PWS ID 5650036) Derry Township, **Westmoreland County** on September 18, 2006 for the operation of facilities approved under Construction Permit No. 6503501.

Operations Permit issued to **Torrance State Hospital**, P. O. Box 111, Torrance, PA 15779, (PWS ID 5650036) Derry Township, **Westmoreland County** on September 18, 2006 for the operation of facilities approved under Construction Permit No. 6505501.

SEWAGE FACILITIES ACT PLAN APPROVAL**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Allegheny Township	3131 Old 6th Avenue N Duncansville, PA 16635	Blair

Plan Description: The approved plan provides for the construction of a 470,600 square foot commercial warehouse/distribution center as an expansion of the current Warnaco distribution facility located east and adjacent to the site. Wastewater generated from this facility will be conveyed to existing sanitary sewer mains owned by the Duncansville Borough Municipal Authority and ultimately treated at the Duncansville Borough Municipal Authority sewage treatment plant. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bonneauville Borough	46 East Hanover Street Gettysburg, PA 17325	Adams

Plan Description: The approved plan provides for an upgrade and expansion of the existing 0.331 mgd wastewater treatment plant to 0.55 mgd and modifications to the WWTP under the Chesapeake Bay Point Source Nutrient reduction Strategy. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bloomfield Township	422 Twin Ridge Road New Enterprise, PA 16064	Bedford

Plan Description: The approved plan provides for the construction of a community onlot sewage disposal system to serve the village of Bakers Summit, the implementation of an onlot sewage disposal system (OLDS) management program in the remainder of the township, and the scheduled repair of confirmed and suspected malfunctions identified in the Plan. The Plan also requires the completion of a preliminary hydrogeologic study for subdivision and new land development plans proposing OLDS. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Saxton Borough	707 Ninth Street Saxton, PA 16678	Bedford

Plan Description: The approved plan provides for the upgrade and expansion of the Saxton Borough Municipal Authority's wastewater treatment facility (WWTF) to a capacity of 0.6 mgd. The Plan also provides for the addition of new conveyance lines to the WWTF, deletion of the Shoup Street Pump Station and construction of a new main pump station that will convey all flow to the WWTF. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Waterford Borough	South Park Row Waterford, PA 16441	Erie

Plan Description: The approved plan provides for the construction of a new Final Clarifier at the Municipal Authority WWTP.

Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location: 218 Mill Street, Fawn Grove Borough, York County

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Fawn Grove Borough	Fawn Grove Borough Council c/o Monica L. Reinsfelder P. O. Box 131 Fawn Grove, PA 17321	York

Plan Description: The development proposed a two lot single-family residential subdivision using onlot sewage disposal and private wells. The project name is Edward W. Absher and its code number is A3-67920-012-2. The plan was disapproved because it failed to adequately mitigate contamination from the proposed onlot systems to the groundwater.

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:

Northeast Regional Field Office, Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Brookshire Development, Upper Milford and Hereford Townships, **Lehigh and Berks County**. Ed Prout, American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 submitted a Final Report (on behalf of his client, Michael Weaver, Judd Builders and Developers, 1750 Walton Road, Blue Bell, PA 19422-0465) concerning the remediation of soils found to have elevated arsenic concentrations as the result of pesticide application to former orchards. The report was submitted to document attainment of a combined residential Statewide Health Soil Standard and Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at

the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Regional Field Office, Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Hosko Residence, Price Township, **Monroe County**. Keith Lupfer, P. G., Project Manager, ARM Group, Inc. 1129 W. Governor Road, P. O. Box 797, Hershey, PA 17033 submitted a Final Report (on behalf of his client, Robert Hosko, 711 Flagler Street, Stroudsburg, PA 18360) concerning the remediation of soils impacted by a home heating oil release. The Final Report was submitted within 90 days of the release and demonstrated attainment of a residential Statewide Health Standard and was approved on September 8, 2006. Future use of the property will remain as residential.

Former Penn Fuel Gas Manufactured Gas Plant—Ashland Site, Ashland Borough, **Schuylkill County**. John Mahfood, Corporate Environmental Solutions, 260 Millers Run Road, Bridgeville, PA 15017 submitted a Final Report (on behalf of his client, PPL Gas Utilities, Inc, Two North Ninth St., Allentown, PA 18101) concerning the remediation of soils and groundwater found or suspected to have been contaminated with inorganics, polycyclic aromatic hydrocarbons and other organic compounds related to historic manufactured gas plant operations. The report demonstrated attainment of both the Statewide Health and the Site-Specific Standards, and was approved on August 3, 2006.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Atlantic Star Trucking Fuel Spill, Wysox Township, **Bradford County**. Teeter Environmental Services Inc., R. R. 1, Box 124B, Sayre, PA 18840 on behalf of Atlantic Star Trucking, 436 Doremus Ave., Newark, NJ 07105 has submitted a Final Report within 90 days of the release concerning the remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 13, 2006.

Oaks Club Facility (Former), Loyalsock Township, **Lycoming County**. Converse Consultants, 2738 West College Ave., State College, PA 16801 on behalf of Roger D. Jarrett, 5680 State Route 405, Muncy, PA 17756 has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX. The Final Report demonstrated attainment of the Background Standard and was approved by the Department of Environmental Protection on September 12, 2006.

Tim Gundlach Property, Franklin Township, **Columbia County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Tim Gundlach, 107 Orchard Road, Catawissa, PA 17820 has submitted a Final Report concerning remediation of site soil contaminated with benzene and naphthalene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 12, 2006.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit Approved Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a General Permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR094D001. Keystone Cement Company, Route 329, P. O. Box A, Bath PA, 18014. For the beneficial use of cement kiln dust as a subgrade stabilizer in road construction, and use as a fill material for road and embankment construction. The Department of Environmental Protection (Department) approved the determination of applicability on August 21, 2006.

Persons interested in reviewing the general permit may contact the General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17101-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Closure Plan approved and a Consent Order and Agreement executed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. PAD059087072. MAX Environmental Technologies, 200 Max Drive, Bulger, PA 15019. Reclosure of residual waste Impoundments 1 and 1A by using residual waste as construction fill and capping these impoundments at MAX's facility in Smith Township, **Washington County**. Closure plan approved and Consent Order and Agreement executed by the Regional Office on September 11, 2006.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP3-67-03137: County Line Quarry, Inc. (P. O. Box 99, Wrightsville, PA 17368) on September 13, 2006, for Portable Nonmetallic Mineral Processing Plants under GP3 in Wrightsville Borough, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-30-00163A: CNX Gas Co. LLC (4000 Brownsville Road, South Park, PA 15129) on September 13, 2006, to install and operate a T & D Dehydrator, model TEG250 (.25 mmBtu/hr) and an Amine Plant boiler (8.25 mmBtu/hr) at their Green Hill Processing Plant at Center Township, **Greene County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

GP-42-202: Belden and Blake—BWA Station (1950 Washington Street, State Route 394, Bradford, PA 16701) on September 30, 2006, for a natural gas fired compressor engine in Foster Township, **McKean 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.

09-0019B: Miller and Son Paving, Inc. (887 Mill Creek Rd., Rushland, PA 18956) on September 14, 2006, to operate a replacement baghouse in Wrightstown Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

28-05020C: T. B. Woods, Inc. (440 North 5th Avenue, Chambersburg, PA 17201-1778) on September 15, 2006, to construct a shake-out system and a no-bake sand reclamation system to be controlled by dedicated existing fabric collectors at their iron foundry in Chambersburg Borough, **Franklin County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

14-303-008: EBY Paving and Construction, Inc. (1001 East College Avenue, Bellefonte, PA 16823) on August 18, 2006, to construct and operate an oil-fired rotary drum mixer burner at their facility in Spring Township, **Centre County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

04-00725A: Pennsylvania Biodiesel, Inc. (759 Northgate Circle, New Castle, PA 16105) on September 13, 2006, to install and operate a bio-diesel production facility in Potter Township, **Beaver County**. The facility will consist of loading and unloading stations for truck, rail and eventually barge; various storage tanks; a process building with reactors, centrifuges, and process tanks; a boiler house with No. 2 oil-fired boilers; a cooling tower; and a truck scale.

30-00099F: Allegheny Energy Supply Co., LLC (800 Cabin Hill Drive, Greensburg, PA 15601) on September 14, 2006, to install a flue gas desulfurization on each of the three existing 5,766 mmBtu/hr Babcock and Wilcox boilers exhausting through three separate flues within a single stack at the Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

37-325A: Allegheny Mineral Corp.—Rose Point Plant (Mt. Hope Furnace Road, Porterville, PA 16051) on September 12, 2006, to construct a new Limestone processing facility (1,000,000 tons per year) in conjunction with three proposed new limestone mining operations in Slippery Rock Township, **Lawrence County**. The facility will crush, screen, wash and stockpile and ship limestone. The facility will be subject to 40 CFR 60 Subpart OOO for Nonmetallic Mineral Processing Plants. This is a State-only V facility.

24-016D: Keystone Powdered Metal Co. (251 State Street, Saint Marys, PA 15857) on September 13, 2006, for a plan approval to modify the solvent metal cleaning operation by changing from the use of Trichlorethylene to n-Propyl Bromide in the City of Saint Marys, **Elk County**.

43-270A: CCL Container (One Llodio Drive, Hermitage, PA 16148-9015) on September 15, 2006, for minor modification of plan approval 43-270A in Hermitage City, **Mercer County**. This is a Title V facility.

25-069L: Engelhard Corp. (1729 East Avenue, Erie PA 16503) on September 14, 2006, to install a Nickel Plating process at their Erie facility in the City of Erie, **Erie County**.

43-344A: Hillcrest Memorial Park (230 East State Street, Sharon, PA 16148) on September 14, 2006, to construct an animal crematory in the City of Hermitage, **Mercer 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.

23-0056: Honeywell International, Inc. (6100 Philadelphia Pike, Claymont, DE 19703-2716) on September 14, 2006, to operate a fluosulfonic acid manufacturing in Marcus Hook Borough, **Delaware County**.

09-0122: Arkema Inc. (2000 Market Street, Philadelphia, PA 19103) on September 18, 2006, to operate a thermal oxidizer in Bristol Township, **Bucks County**.

46-0054A: Abington Memorial Hospital (1200 Old York Road, Abington, PA 19001) on August 23, 2006, to operate two emergency generators in Abington Township, **Montgomery County**.

46-0243: Upper Montgomery Joint Authority (P. O. Box 6, Pennsburg, PA 18073) on September 18, 2006, to operate a thermal fluid dryer in Upper Hanover Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

21-05042B: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17104-3331) on September 14, 2006, to modify an existing hot mix asphalt plant at Silver Spring Quarry in Silver Spring Township, **Cumberland County**. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

12-399-013A: GKN Sinter Metals, Inc. (P. O. Box 493, Emporium PA 15834) on September 1, 2006, to authorize the use of a different quench solution in the induction hardener and the use of two 0.15 mmBtu/hr natural gas burners in the draw furnace, and to extend the authorization to operate the induction hardener and draw furnace and air cleaning device (two-stage electrostatic precipitator) identified in the respective plan approval on a temporary basis until January 8, 2007, at the Barton Street Plant in Emporium Borough, **Cameron County**.

18-0009C: Clinton County Solid Waste Authority (P. O. Box 209, McElhattan, PA 17748) on September 8, 2006, to install a new landfill gas flare at a municipal waste landfill, and to operate the respective municipal waste landfill, which has been modified, on a temporary basis, until January 6, 2007, in Wayne Township, **Clinton County**. The plan approval has been extended.

19-320-005A: Press Enterprise, Inc. (3185 Lackawanna Avenue, Bloomsburg, PA 17815) on September 8, 2006, for the performance of VOC stack testing on a heatset web offset printing press and associated air cleaning device (a regenerative thermal oxidizer) in Scott Township, **Columbia County**. The deadline has been extended.

41-00005C: Lycoming Engines (652 Oliver Street, Williamsport PA 17701) on August 28, 2006, to construct and operate a perchloroethylene degreaser until December 31, 2006 in Williamsport, **Lycoming County**. The plan approval has been extended.

59-304-008G: ACP Manufacturing Co., LLC (P. O. Box 68, Blossburg, PA 16912) on September 14, 2006, to allow the use of biocides in a metal parts surface coating dip tank in Lawrence Township, **Tioga County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

30-00148A: Dana Mining Co. of PA, Inc. (P. O. Box 1170, Morgantown, WV 26507) on 13 September 2006, to complete construction of their coal screening plant in Dunkard Township, **Greene County**. This plan approval was extended.

04-00724A: Duke Energy Field Services, LP (370 17th Street, Suite 2500, Denver, CO 80202) on 13 September 2006, to complete installation of a propane storage and delivery terminal at their Midland Plant in Industry Borough, **Beaver County**. This plan approval was extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

61-185C: Heath Oil Co. (State Route 8, Barkeyville, PA 16038) on July 31, 2006, for the post construction approval of the bulk storage terminal, tank wagon loading rack, and vapor balancing and burn off system in Barkeyville Borough, **Venango County**. This is a State-only facility.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-05044: Department of Public Welfare—Wernersville State Hospital (P. O. Box 300,

Wernersville, PA 19565-0300) on September 13, 2006, to operate a hospital in South Heidelberg Township, **Berks County**. This operating permit was administratively amended to incorporate General Permit GP1-06-05044.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00101: Esschem, Inc. Div. Justi Group, Inc. (4000 Columbia Avenue, P. O. Box 1139, Linwood, PA 19061) on September 14, 2006, to operate the facility acrylic polymers and monomers for medical devices and the cosmetic industry of a State-only Operating Permit in Lower Chichester Township, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05067: County of Berks (P. O. Box 520, Leesport, PA 19533-0520) on September 14, 2006, to operate five boilers at the county complex in Bern Township, **Berks County**. This is a renewal of State-only operating permit.

36-03050: Dorma Door Controls, Inc. (Dorma Drive, Reamstown, PA 17567) on September 12, 2006, to operate their door controls operation at their site in East Cocalico Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00264: Svonavec, Inc. (150 West Union Street, Suite 201, Somerset, PA, 15501) on August 24, 2006, to operate a sandstone processing plant including three crushers, two screens, numerous conveyors, transfer points and storage piles and two diesel generator engines at their plant in Milford Township, **Somerset County**.

65-00661: Derry Construction Co., Inc. (527 Route 217, Latrobe, PA, 15650) on September 7, 2006, to operate a batch process hot mix asphalt concrete plant at the Salem Delmont Plant in Salem Township, **Westmoreland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

25-00088: Industrial Papers, Inc. (140 East 16th Street, Box 6307, Erie, PA 16512) on September 15, 2006, to operate an industrial paper plant in Erie, **Erie County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.

S06-004: Jeanes Hospital (7600 Central Avenue, Philadelphia, PA 19111) on September 13, 2006, to operate a hospital facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes three 304 HP boilers and six emergency generators (one) 750 kW generators, one 400 kW generator, four generators less than 130 kW).

S06-006: Philadelphia Tramrail Co. (2207 East Ontario Street, Philadelphia, PA 19134) on September 13, 2006, to manufacture overhead cranes and hydraulic balers and compactors in the City of Philadelphia, **Phila-**

delphia County. The facility's air emission sources include includes three 1.75 mmBtu/hr No. 2 oil-fired space heaters and three painting stations with filters.

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.

03871303 and NPDES Permit No. PA0213667. TJS Mining, Inc. (2340 Smith Road, Shelocta, PA 15774). To revise the permit for the Darmac No. 2 Deep Mine in Armstrong Township, **Indiana County** and Washington Township, **Armstrong County** to add underground and subsidence control plan permit acres for room and pillar mining. Underground Acres Proposed 69.2, SCP Acres Proposed 69.2. No additional discharges. Application received: April 6, 2006. Permit issued: September 11, 2006.

30831303 and NPDES Permit No. PA0013511. Cumberland Coal Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370). To revise the permit for the Cumberland Mine in Whiteley Township, **Greene County** to change the postmining land use to recreation and unmanaged natural habitat. Surface Acres Proposed 4.0. No additional discharges. Application received: September 15, 2004. Permit issued: September 11, 2006.

30841316 and NPDES Permit No. PA 0213535. 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** to change 122.48 underground permit acres from development mining to longwall mining and perform stream remediation activity to South Fork of Dunkard Fork that may be impacted by the longwall mining activity. No additional discharges. Application received: December 22, 2005. Permit issued: September 14, 2006.

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

11960106 and NPDES No. PA0234176. M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717-7960). Permit renewal for reclamation only of a bituminous surface mine in Jackson Township, **Cambria County**, affecting 311.0 acres. Receiving streams: UNTs to Laurel Run, Laurel Run classified for the following use: CWF. There are no potable water supply intakes within 10

miles downstream. Application received: August 15, 2006. Permit issued: September 12, 2006.

56950111 and NPDES No. PA0213225. Sherpa Mining Contractors, Inc. (337 Benny Road, Hooversville, PA 15936). Revision of an existing bituminous surface and auger mine to add 108.5 acres to the permit area. Total SMP acres goes to 458.4. Also, to change the postmining land use from woodland to wildlife habitat in Shade Township, **Somerset County**. Receiving streams: UNTs to Shade Creek and Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWI. Application received: June 13, 2006. Permit issued: September 13, 2006.

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

03050102 and NPDES Permit No. PA0250732. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Rayburn Township, **Armstrong County**, affecting 84.0 acres. Receiving streams: UNTs to Cowanshannock Creek to Allegheny River. Application received: June 3, 2005. Permit issued: September 12, 2006

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14940101 and NPDES No. PA0219932. Junior Coal Contracting, Inc. (2330 Six Mile Road, Philipsburg, PA 16866). Permit renewal for the continued operation and restoration of a bituminous surface mine in Rush Township, **Centre County**, affecting 522.0 acres. Receiving streams: UNT to Moshannon Creek to the West Branch of the Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received: June 16, 2006. Permit issued: August 22, 2006.

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

40663029T & R4. Northampton Fuel Supply Co., Inc. (1 Horwith Drive, Northampton, PA 18067). Transfer and renewal of an existing anthracite surface mine and coal refuse reprocessing operation in Foster Township and Jeddo Borough, **Luzerne County** affecting 521.0 acres. Receiving stream: none. Applications received: January 26, 2006. Transfer and Renewal issued: September 8, 2006.

Noncoal Permits Actions

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

Permit No. 3369BSM32 and NPDES Permit No. PA0605824. General Refractories Company (225 City Avenue, Suite 14, Bala Cynwyd, PA 19004). Renewal of NPDES Permit, Addison Township, **Somerset County**. Receiving stream: UNT to Casselman River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 19, 2006. Permit issued: September 13, 2006.

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

66040801. Kevin Spencer (R. R. 2, Box 2370, Nicholson, PA 18446). Commencement, operation and restoration of a quarry operation in Nicholson Township,

Wyoming County affecting 5.0 acres; receiving stream: none. Application received: January 13, 2004. Permit issued: September 11, 2006.

64052803. Kevin Schrader (P. O. Box 262, Lake Como, PA 18437). Commencement, operation and restoration of a quarry operation in Preston Township, **Wayne County** affecting 5.0 acres; receiving stream: none. Application received: April 6, 2005. Permit issued: September 11, 2006.

58060824. Victor V. Caines (P. O. Box 244, Meshoppen, PA 18630). Commencement, operation and restoration of a quarry operation in Auburn Township, **Susquehanna County** affecting 3.0 acres; receiving stream: none. Application received: April 4, 2006. Permit issued: September 11, 2006.

8275SM3C5 and NPDES Permit No. PA0117986. Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Caernarvon and East Earl Townships, **Lancaster County**; receiving stream: UNT of Conestoga River. Application received: June 28, 2006. Renewal issued: September 13, 2006.

4873SM10A2C8 and NPDES Permit No. PA0595284. Codorus Stone & Supply Co., Inc. (135 Mundis Race Road, York, PA 17402). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Manchester Township, **York County**; receiving stream: UNT to Codorus Creek. Application received: July 17, 2006. Renewal issued: September 13, 2006.

21900301C3 and NPDES Permit No. PA0595055. EE Kough Sons (P. O. Box 134, Newville, PA 17241). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in North Newton Township, **Cumberland County**; receiving stream: UNT to Conodroguinet Creek. Application received: July 18, 2006. Renewal issued: September 13, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

59064001. Geophysical Applications (113 East Chemung Place, Elmira, NY 14904). Blasting for Texas Creek Seismic Survey located in Tioga, **Bradford and Lycoming Counties**. Permit issued: September 7, 2006. Permit expires: November 7, 2006.

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

15064003. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380). Construction blasting at the Crane Site For Blasting Rock From Foundation Area in East Nantmeal Township, **Chester County** with an expiration date of December 30, 2006. Permit issued September 11, 2006.

36064011. ABEL Construction Co., Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting at Crossgates VII Development in Manor Township,

Lancaster County with an expiration date of August 31, 2007. Permit issued: September 11, 2006.

21064176. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201). Construction blasting for North Middle Spring Estates March 6, 2008. Permit issued: September 11, 2006.

28064167. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201). Construction blasting for Greene Valley Estates in Greene Township, **Franklin County** with an expiration date of March 6, 2008. Permit issued: September 11, 2006.

28064168. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201). Construction blasting for Rhine Manor in Greene Township, **Franklin County** with an expiration date of March 8, 2008. Permit issued: September 11, 2006.

36064189. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603). Construction blasting for Brownstone Commons in West Earl Township, **Lancaster County** with an expiration date of September 15, 2007. Permit issued: September 11, 2006.

36064190. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603). Construction blasting for Lausch Lane II in Manheim Township, **Lancaster County** with an expiration date of September 15, 2007. Permit issued: September 11, 2006.

13064103. DC Guelich Explosives, Inc. (R. R. 3 Box 125A, Clearfield, PA 16830). Construction blasting for Split Rock Development in Kidder Township, **Carbon County** with an expiration date of September 6, 2007. Permit issued: September 13, 2006.

21064177. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for McCoy Interstate Park West in Dickinson and South Middleton Townships, **Berks County** with an expiration date of September 5, 2007. Permit issued: September 13, 2006.

22064126. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013). Construction blasting for Brookview Development in West Hanover Township, **Dauphin County** with an expiration date of December 15, 2006. Permit issued: September 13, 2006.

28064169. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201). Construction blasting for Highlands of Greene Village West in Greene Township, **Franklin County** with an expiration date March 6, 2008. Permit issued: September 13, 2006.

36064191. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in Elizabeth Township, **Lancaster County** with an expiration date of November 30, 2006. Permit issued: September 13, 2006.

46064131. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938). Construction blasting for Humboldt North in Hazle Township, **Luzerne County** with an expiration date of September 7, 2007. Permit issued: September 13, 2006.

40064132. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938). Construction blasting for Humboldt North road work in Hazle Township, **Luzerne County** with an expiration date of September 7, 2007. Permit issued: September 13, 2006.

52064131. Hayduk Enterprises, Inc. (257 Riverside Drive, Factoryville, PA 18419). Construction blasting for Pocono Mountain Lake Forest in Delaware Township,

Pike County with an expiration date of September 30, 2007. Permit issued: September 13, 2006.

21064178. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241). Construction blasting for a single dwelling in West Pennsboro Township, **Cumberland County** with an expiration date of December 31, 2006. Permit issued: September 14, 2006.

39064111. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033). Construction blasting for Weber & Dale Tract Subdivision in Upper Saucon Township, **Lehigh County** with an expiration date of September 30, 2007. Permit issued: September 14, 2006.

46064132. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092). Construction blasting for Westport Farms in Hatfield Township, **Montgomery County** with an expiration date of December 29, 2007. Permit issued: September 14, 2006.

21064179. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241). Construction blasting for a home in West Pennsboro Township, **Cumberland County** with an expiration date of December 31, 2006. Permit issued: September 15, 2006.

21064180. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241). Construction blasting for utilities on Meadowbrook Road in North Middleton Township, **Cumberland County** with an expiration date of December 31, 2006. Permit issued: September 15, 2006.

28064170. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013). Construction blasting for Kingswood Development in Guilford Township, **Franklin County** with an expiration date of September 30, 2007. Permit issued: September 15, 2006.

39064112. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033). Construction blasting for Park Ridge in South Whitehall Township, **Lehigh County** with an expiration date of September 30, 2007. Permit issued: September 15, 2006.

39064113. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092). Construction blasting for Beck Warehouse in Hanover Township, **Lehigh County** with an expiration date of December 29, 2006. Permit issued: September 15, 2006.

39064114. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033). Construction blasting for Lehigh Industrial Park in Hanover Township, **Lehigh County** with an expiration date of September 30, 2007. Permit issued: September 15, 2006.

39064115. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419). Construction blasting for Whispering Farms Subdivision in Upper Macungie Township, **Lehigh County** with an expiration date of September 12, 2007. Permit issued: September 15, 2006.

48064124. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122). Construction blasting for Quarry Hill Estates in Northampton Borough and Allen Township, **Northampton County** with an expiration date of September 8, 2007. Permit issued: September 15, 2006.

48064125. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033). Construction blasting for Bethlehem Crossing III in Bethlehem and Lower Nazareth Townships, **Northampton County** with an expiration date of September 30, 2007. Permit issued: September 15, 2006.

64064113. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431). Construction blasting for a storage building in Clinton Township, **Wayne County** with an expiration dated of September 10, 2006. Permit issued: September 15, 2006.

64064114. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431). Construction blasting for Kernwood Development in Oregon Township, **Wayne County** with an expiration date of September 14, 2006. Permit issued: September 15, 2006.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E15-727. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Wallace Township, Chester County, ACOE Philadelphia District.

To remove the existing timber beam bridge and to construct and maintain, in its place, a reinforced concrete box culvert across the North Branch of Indian Run (HQ-CWF). The proposed culvert will have a clear span of 18.0 feet and a minimum underclearance of approximately 4.0 feet. The proposed culvert will be depressed an additional 1 foot below the streambed to provide for fish passage. This work also includes placement and maintenance of associated riprap protection at the existing outfall pipe, and temporary sand bag cofferdam. The site is located just southwest of the intersection of Springton Road (SR 4021) and Indiantown Road (SR 4023) (Wagontown, PA, USGS Quadrangle N: 14.0 inches; W: 4.4 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)).

Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.

E39-458. SK Development Company, Inc., 3312 Seventh Street, Whitehall, PA 18052. North Whitehall Township, Lehigh County, Army Corps of Engineers Philadelphia District.

To construct and maintain the following water obstructions and encroachments associated with the Spring Knoll Residential Subdivision: 1) a channel change consisting of rerouting a tributary of Fells Creek (CWF) having a drainage area of approximately 50 acres around an existing pond and the relocation consists of 75 feet of open channel and 490 feet of 30-inch diameter RCP stream enclosure; 2) a road crossing consisting of a 99-foot long, 42-inch diameter RCP with riprap apron, across a tributary to Fells Creek having a drainage area of approximately 34 acres; 3) an 8-inch diameter DIP waterline crossing of a tributary to Fells Creek; 4) a 15-inch diameter RCP stormwater crossing of a tributary to Fells Creek; and 5) an 18-inch diameter RCP outfall structure with a riprap apron in the floodway of a tributary to Fells Creek. The project is located on the northwest side of Oakland Road approximately 0.25 mile north of its intersection with Clearview Road (Cementon, PA Quadrangle N: 13.4 inches; W: 8.1 inches). (Subbasin: 2C)

E40-656. Thomas A. and Phyllis K. Regula, R. D. 1, Box 449, 508 Clinton Street, Dalton, PA 18414-0449. Harveys Lake Borough, Luzerne County, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a dock/boathouse, having an areal coverage of approximately 2,888 square feet, in Harveys Lake (HQ-CWF). The structure will extend approximately 50 feet from the shoreline, and will have an overall width of approximately 64 feet. The permittee is required to provide mitigation by creating aquatic beds in the available area around the structure. The project is located at Pole No. 255 along SR 0415 (Lakeside Drive) (Harveys Lake, PA Quadrangle N: 19.6 inches; W: 5.4 inches). (Subbasin: 5B)

E48-361. Nic Zawarski and Sons Developers, Inc., 1441 Linden Street, Bethlehem, PA 18018. Forks Township, Northampton County, Army Corps of Engineers Philadelphia District.

To construct and maintain a road crossing consisting of twin 8-foot by 8-foot reinforced concrete box culverts having a 6-inch culvert depression in a tributary to Bushkill Creek (HQ-CWF) for the purpose of providing access to a new section of Knollwood Estates planned residential development. The project is located on the north side of Zucksville Road, approximately 1,500 feet east of Bushkill Drive (Easton, PA-NJ Quadrangle N: 17.0 inches; W: 16.1 inches). (Subbasin: 1F)

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

E28-333: Borough of Chambersburg, 100 South Second Street, Chambersburg, PA 17201 in Chambersburg Borough, **Franklin County**, ACOE Baltimore District

To construct and maintain a 8.0-foot wide, 100-foot span pedestrian bridge with an underclearance of 18-feet across Conococheague Creek (WWF); relocate and maintain a 10.0-foot wide 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.

E21-386: Richard Evans, 93 Millers Gap Road, Enola, PA 17025 in Silver Spring Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 8.0-foot wide, 100-foot span pedestrian bridge with an underclearance of 18-feet across Conococheague Creek (WWF); relocate and maintain a 10.0-foot wide 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.

E22-506: Gaeton S. Mulea, 452 West Main Street, Elizabethville, PA 17023 in Elizabethville Borough, **Dauphin County**, ACOE Baltimore District.

To install and maintain a 100-foot long by 1.5-foot high segmented block retaining wall and place approximately 630 cubic yards of fill material along an unnamed tributary 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. This is an after-the-fact permit, as the wall is already installed and permission was given to bring in the remaining fill material and to landscape over the affected area.

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 twin concrete pipe culvert, then to construct and maintain: 1) a 305-foot by 54-inch reinforced concrete pipe enclosure with a type EW-1 endwall energy dissipator and riprap rock apron; 2) two 15-inch reinforced concrete stormwater outfall pipes

through the type EW-1 endwall; 3) an extension of two 18-inch reinforced concrete outfall pipes near South Hess Street; and 4) a type D-W headwall on the existing 48-inch corrugated metal pipe culvert under 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° 09' 33") in Quarryville Borough, Lancaster County. The applicant agrees to establish and maintain a 30-foot wide riparian buffer zone on approximately 520 linear feet of the South Fork of Big Beaver Creek (TSF) between Park Avenue and Second Street.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E14-487. Robert McGrail-Peasley, 2045 Runville Road, Bellefonte, PA 16823. McGrail-Peasley Property, in Boggs Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 21.07 inches; W: 13.35 inches).

To construct and maintain: 1) 340-foot long by 2-foot wide by 2-foot high earthen berm on the top of the right bank of an UNT to Wild Cat Run for the purpose of protecting an earthen road from flood waters; 2) a wooden pedestrian bridge with a 19-foot clear span and 4-foot underclearance across Wild Cat Run located behind Robert McGrail-Peasley's home; and 3) a 20-foot long by 10-foot wide I-beam and wood plank decked bridge with a 7-foot clear span and a 3.5-foot underclearance to make a new road crossing near the upstream limit of the earthen berm, located 3,100 feet upstream of the intersection of Gum Stump Road and Runville Road (SR 144). This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E19-253. Angela K. Weatherill, 13 Evans Lane, Orangeville, PA 17859, 13 Creekside Castle, in Orange Township, **Columbia County**, ACOE Baltimore District (Bloomsburg, PA Quadrangle N: 16.15 inches; W: 4.41 inches).

To: 1) jack an existing 28-foot long by 25-foot wide wooden one-story home 8 feet above the natural ground, and to construct, operate and maintain; 2) fifteen 16-inch by 16-inch concrete block core-filled columns to elevate the house with the two porches 8 feet above the ground and a set of wooden steps from each porch to the ground; 3) a 40-foot long by 3-foot 4-inch metal I-beam and wood deck catwalk extending from the porch by the driveway to the paved bridge ramp; 4) an at-grade 55-foot long by 25-foot wide concrete pad between the 15 piers and an at-grade 5-foot wide by 114-foot sidewalk-like scour protection along the land side of the 2-foot high existing flood wall that runs along the top of the right stream bank border of the property; 5) back-fill the eroded gullies in the yard with the material excavated from the pier foundation holes and the concrete slab areas; and 6) place 50 cubic yards of clean topsoil as needed in the yard to promote grass growth or gravel in the driveway after the flood washed away much of the yard and driveway surfaces, all of which is in the right 100-year floodway of Fishing Creek located 20 feet downstream of the abandoned right bridge approach that is located immediately below the new SR 487 bridge by the Creekside Restaurant.

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

E63-585. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To stabilize Mingo Creek in Carroll and Union Townships, **Washington County**, Pittsburgh ACOE District. (Monongahela, PA Quadrangle N: 14.9 inches; W: 15.5 inches and Latitude: 40° 12' 29"—Longitude: 79° 59' 05"). To construct and maintain 400 LF of stream stabilization and restoration in Mingo Creek (HQ-TSF). This project protects a bank supporting the Mon-Fayette Expressway from threatened erosion and starts 40 ft. downstream of SR 1087 (Ginger Hill Road).

ENVIRONMENTAL ASSESSMENTS

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

EA05-007: Broad Top Township, 187 Municipal Road, Defiance, PA 16633 in Broad Top Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain a passive AMD treatment system consisting of two limestone settling ponds and one conventional settling pond with associated conveyances on approximately 0.86 acre of the right floodway and floodplain of Sixmile Run (WWF), and to construct and maintain a 10.0-foot wide single span temporary bridge having a normal span of 34.0 feet and an underclearance of approximately 2.5 feet across Sixmile Run (WWF). The project will impact 212 linear feet of an unnamed tributary to Sixmile Run (WWF) at a site approximately 625 west of the intersection of SR 1023 and SR 1036 (Saxton, PA Quadrangle N: 7.4 inches, W: 9.9 inches; Latitude: 40° 09' 57", Longitude: 78° 11' 41") in Broad Top Township, Bedford County

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

EA51-022CO. Fairmont Park Commission, City of Philadelphia, 4231 North Concourse Drive, Memorial Hall West Park, Philadelphia, PA 19131-3719. City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To breach and remove the Rhawn Street Dam across Pennypack Creek (TSF, MF) for the purpose of restoring

the stream to a free flowing condition. The activity will improve migratory fish habitat by removing an impediment to upstream and downstream migratory routes. The dam is located approximately 500 feet south (500 feet upstream) of the Rhawn Street Bridge across Pennypack Creek in the City of Philadelphia, Philadelphia County. (Frankford, PA Quadrangle N: 40.5; W: -75.03.

SPECIAL NOTICES

Planning Grant Awards Under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grants

Region	County	Applicant	Project Description	Grant Award
Northwest	Crawford	Crawford County	Recycling Study	\$34,620
Southcentral	Berks	Berks County	Plan Revision	\$100,000
Southwest	Allegheny	Allegheny County	Plan Revision	\$44,400

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Watershed of Glades Creek in Somerset County.

Southwest Regional Office, Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the watershed of Glades Creek in Somerset County. The TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. Pennsylvania's 1996 303(d) list indicates which stream segments in the watershed are impaired. The listings of these segments were due to impairments caused by sedimentation.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore,

the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the watershed of Glades Creek. Sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing this TMDL were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). To request a copy of this TMDL, contact, Joe Boylan at 400 Waterfront Drive; Pittsburgh, PA 15222, joboylan@state.pa.us.

The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval. Written comments will be accepted at the previously noted address and must be received by November 13, 2006. A public meeting to discuss the technical merits of the TMDL will be held on October 26, 2006, at 6:30 p.m. at the Somerset REC Building, 223 Industrial Park Road, Somerset, PA 15501.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Foundry Run Watershed in Jefferson County

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the Foundry Run Watershed in Jefferson County. The meeting will be held on October 4, 2006, at 3 p.m. at the Jefferson County Conservation District Office in Brookville, PA. The proposed TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Foundry Run Watershed has been identified as impaired on the 1996, 1999, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
47438	Foundry Run	1.2

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0–9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. The effects of this are still present. All of the allocations made in the TMDL are load allocations, which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 3 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814)

797-1191, eheferle@state.pa.us. Directions to the Jefferson County Conservation District Office can also be obtained by contacting this address.

The proposed TMDL for the Foundry Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previously noted address and must be postmarked by November 29, 2006. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. Monday, October 2, 2006. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Pine Run Watershed in Jefferson and Armstrong Counties

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the Pine Run Watershed in Jefferson and Armstrong Counties. The meeting will be held on October 4, 2006, at 3 p.m. at the Jefferson County Conservation District Office in Brookville, PA. The proposed TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. Five stream segments in the Pine Run Watershed have been identified as impaired on the 1996, 1998, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
47327	Pine Run	5.5
47327	Pine Run	2.4
47327	Pine Run	1.7
47352	Nye Branch	3.8
47438	Caylor Run	0.9

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese, and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0–9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations, which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 3 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191 ehferlestate.pa.us. Directions to the Jefferson County Conservation District meeting place can also be obtained by contacting this address.

The proposed TMDL for the Pine Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previously noted address and must be postmarked by November 29, 2006. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. Monday, October 2, 2006. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the North Branch Bear Creek Watershed in Butler County

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the North Branch Bear Creek Watershed in Butler County. The meeting will be held on October 11, 2006, beginning at 2 p.m. at the USDA Service Center building in Butler, PA. The proposed TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. Thirteen stream segments in the North Branch Bear Creek Watershed have been identified as impaired on the 1996, 1998, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
49118	North Branch Bear Creek	8.0
49124	North Branch Bear Creek, UNT	2.6
49125	North Branch Bear Creek, UNT	2.4
49127	North Branch Bear Creek, UNT	1.0
49128	North Branch Bear Creek, UNT	0.7
49129	North Branch Bear Creek, UNT	0.5
49130	North Branch Bear Creek, UNT	0.4
49132	North Branch Bear Creek, UNT	1.8
49133	North Branch Bear Creek, UNT	1.1
49134	North Branch Bear Creek, UNT	0.5
49135	North Branch Bear Creek, UNT	0.5
49136	North Branch Bear Creek, UNT	0.4
64604	North Branch Bear Creek, UNT	0.7

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations, which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 5 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191, ehferlestate.pa.us. Directions to the USDA Service Center meeting place can also be obtained by contacting this address.

The proposed TMDL for the North Branch Bear Creek Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previously noted address and must be postmarked by November 29, 2006. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. Tuesday, October 10, 2006. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Little Scrubgrass Creek Watershed in Butler and Venango Counties

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the Little Scrubgrass Creek Watershed in Butler and Venango Counties. The meeting will be held on October 11, 2006, beginning at 2 p.m. at the USDA Service Center building in Butler, PA. The proposed TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. Seven stream segments in the Little Scrubgrass Creek Watershed have been identified as impaired on the 1996, 1998, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
51196	Little Scrubgrass Creek	7.9
51217	Little Scrubgrass Creek, UNT	2.23
51218	Little Scrubgrass Creek, UNT	0.84
51219	Little Scrubgrass Creek, UNT	1.98
51220	Little Scrubgrass Creek, UNT	0.65
51221	Little Scrubgrass Creek, UNT	0.14
51222	Little Scrubgrass Creek, UNT	0.96

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese, and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations, which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 20 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191, eheferle@state.pa.us. Directions to the USDA Service Center meeting place can also be obtained by contacting this address.

The proposed TMDL for the Little Scrubgrass Creek Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previously noted address and must be postmarked by November 29, 2006. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. Tuesday, October 10, 2006. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 06-1912. Filed for public inspection September 29, 2006, 9:00 a.m.]

Air Quality Technical Advisory Committee Ad-Hoc Subcommittee on Monitoring Technical Workgroup Meeting

The Air Quality Technical Advisory Committee Ad-Hoc Subcommittee on Monitoring Technical Workgroup will hold a meeting from 9:30 a.m. to 2 p.m. on October 3, 2006, in the 12th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

There will be an introduction and review of the implementation plan for Revision 8 of the Continuous Source Monitoring Manual (manual) along with the training and outreach, which will be necessary for both the manual and CEM Data Processing System (CEMDPS). CIBER Incorporated will be discussing current progress regarding the new CEMDPS with the Monitoring Technical Workgroup.

Questions concerning this meeting should be directed to Charles J. Zadakis at (717) 772-3944 or czadakis@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.dep.state.pa.us.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-7816 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1913. Filed for public inspection September 29, 2006, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keyword: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2006.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 392-2130-014. Title: Guidelines for Identification of Critical Water Planning Areas. Description: The Water Resources Planning Act (Act 220 of 2002), 27 Pa.C.S. Chapter 31, requires that the State Water Plan be updated and, as part of the update, identify areas in this Commonwealth where there is not enough water under either current or future conditions. These areas, where demands exceed the safe yield of available water resources, are called Critical Water Planning Areas (CWPAs). Act 220 of 2002 directs the Department to develop guidance for identifying these areas. This guidance document was written to assist the Department, the committees established under the act and the public by outlining the criteria and process to be used for the identification of CWPAs. The Department and the committees spent approximately 1 year developing this policy and addressing public comments in the fall of 2005. The policy provides criteria and a process for identifying CWPAs that will help the decision making process on CWPAs and their ultimate inclusion into the State Water Plan. Specifically, Chapter 1 of the guidance contains the statutory authority; Chapter 2 outlines the criteria to be used; and Chapter 3 presents the process that will be followed to identify CWPAs. The criteria are solely for planning purposes and are not intended to reflect existing or future regulatory requirements. A notice requesting public comment on the draft version of this document was published at 35 Pa.B. 4791 (August 20, 2005). A 30-day public comment period was provided that concluded on September 19, 2005. Comments were received on the draft guidance, which are addressed in a Comment and Response document that is available on the Department's website at www.depweb.state.pa.us (DEP Keyword: Technical Guidance). Contact: Susan Weaver, Department of Environmental Protection, Bureau of Watershed Management, Division of Water Use Planning, 400 Market Street, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 783-8055; suweaver@state.pa.us. Effective Date: September 30, 2006.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1914. Filed for public inspection September 29, 2006, 9:00 a.m.]

Sewage Advisory Committee Meeting Cancellation

The Sewage Advisory Committee meeting scheduled for October 11, 2006, has been cancelled. The next meeting is scheduled to occur on March 21, 2007, at 10:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the cancellation of the October 11, 2006, meeting or the March 21, 2007, meeting should be directed to Jay Africa, Bureau of Water Standards and Facilities Regulation, (717) 787-8184, jafrika@state.pa.us. The agenda and meeting materials for the March 21,

2007, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keywords: Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5668 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1915. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale Adams County

The Department of General Services (Department) will accept bids for the purchase of 24.00 acres +/- of improved land located in Cumberland Township, Adams County. Bids are due November 17, 2006. Interested parties wishing to receive a copy of Solicitation No. 94012 should view the Department's website at ww-dgs.state.pa.us or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 06-1916. Filed for public inspection September 29, 2006, 9:00 a.m.]

Real Estate for Sale Allegheny County

The Department of General Services (Department) will accept bids for the purchase of 0.16 acre of land and residence located at 3561 Shadeland Avenue, City of Pittsburgh, 27th Ward, Allegheny County. Bids are due October 6, 2006. Interested parties wishing to receive a copy of Solicitation No. 94017 should view the Department's website at www.dgs.state.pa.us or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 06-1917. Filed for public inspection September 29, 2006, 9:00 a.m.]

Real Estate for Sale Lancaster County

The Department of General Services (Department) will accept bids for the purchase of 0.3 acre of land and building formerly known as the Columbia National Guard Motor Vehicle Building located at 439 Manor Street, Borough of Columbia, Lancaster County. Bids are due November 20, 2006. Interested parties wishing to receive a

copy of Solicitation No. 93985 should view the Department's website at www.dgs.state.pa.us or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 06-1918. Filed for public inspection September 29, 2006, 9:00 a.m.]

Real Estate for Sale Montgomery County

The Department of General Services, through its broker, will accept separate bids for the purchase of each of the following three properties: 0.249 acre +/- of land and residence located at 1724 Sterigere Street, Norristown, Montgomery County, Solicitation No. 94022; 0.507 acre +/- of land and residence located at 1750 Sterigere Street, Norristown, Montgomery County, Solicitation No. 94023; and 0.507 acre +/- of land and residence located at 1758 Sterigere Street, Norristown, Montgomery County, Solicitation No. 94024. Bids are due by 12 p.m. on October 19, 2006. Interested parties wishing to receive a copy of Solicitation No. 94022, 94023 or 94024 should call Coldwell Banker Welker Real Estate at (215) 235-7800.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 06-1919. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of AFP Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that AFP Surgery Center has requested an exception to the requirements of 28 Pa. Code §§ 551.3, 553.31(a) and 555.31(a) (relating to definitions; administrative responsibilities; and principle).

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. 06-1920. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of The Children's Hospital of Philadelphia, Ambulatory Surgical Facilities in Exton and Chalfont for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Children's Hospital of Philadelphia, Ambulatory Surgical Facilities in Exton and Chalfont has requested an exception to the requirements of 28 Pa. Code §§ 553.31(a) and 559.2 (relating to administrative responsibilities; and director of nursing).

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. 06-1921. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Delaware Valley Laser Surgery Institute for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Delaware Valley Laser Surgery Institute has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

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.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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. 06-1922. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Geisinger Medical Center— Woodbine for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Geisinger Medical Center—Woodbine has requested an exception to the requirements of 28 Pa. Code § 127.31(b) (relating to policies and procedures).

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. 06-1923. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of the Hospital of the University of Pennsylvania—Reproductive Surgical Facility for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the Hospital of the University of Pennsylvania—Reproductive Surgical Facility has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

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.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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. 06-1924. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Jersey Shore Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Jersey Shore Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.B3, 7.2.B9, 7.2.B10, 7.2.B11, 7.2.B17, 7.3.A15g, 7.3.A16b, 7.3.A16f, 7.7.C14, 7.9.D16a, 7.9.D23, 7.10.G18 and 7.10.G19.

This 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, ra-paexcept@state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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. 06-1925. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Lancaster Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lancaster Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.6 (relating to identification of personnel).

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. 06-1926. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Nason Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Nason Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.4.A6 (relating to airborne infection isolation room).

This 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, 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 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. 06-1927. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Pennsylvania Eye Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Pennsylvania Eye Surgery Center has requested an exception to the requirements of 28 Pa. Code § 569.2 (relating to fire safety standards).

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. 06-1928. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Reading Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Reading Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (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. 06-1929. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Select Specialty Hospital—Danville for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital—Danville has requested an exception to the requirements of 28 Pa. Code § 107.62 (relating to oral orders).

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. 06-1930. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Select Specialty Hospital—Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital—Pittsburgh has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.B10 (relating to examination/treatment rooms).

This 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, 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 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. 06-1931. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of UPMC Passavant/UPMC Passavant Cranberry for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Passavant/UPMC Passavant Cranberry has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

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. 06-1932. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of UPMC St. Margaret Harmar Outpatient Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC St. Margaret Harmar Outpatient Center has requested an exception to the requirements of 28 Pa. Code § 553.31(a) and Chapter 557 (relating to administrative responsibilities; and quality assurance and improvement).

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. 06-1933. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Western Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Western Pennsylvania Hospital has requested an exception to the requirements of 28 Pa. Code § 107.64 (relating to administration of drugs).

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. 06-1934. Filed for public inspection September 29, 2006, 9:00 a.m.]

Application of Wyomissing Hills Podiatric Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Wyomissing Hills Podiatric Surgical Center has requested an exception to the requirements of 28 Pa. Code § 555.32(b) (relating to administration of anesthesia).

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. 06-1935. Filed for public inspection September 29, 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 § 205.9(a) (relating to corridors).

Garden Spot Village
433 S. Kinzer Avenue
New Holland, PA 17557-9360
FAC ID 14350200

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(j) and (k) (relating to electric requirements for existing and new construction).

The Health Center at the Hill at Whitemarsh
6660 Thomas Road
Lafayette Hill, PA 19444
FAC ID 17900201

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons 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. 06-1936. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Pennsylvania Conservation Corps Grants for Projects

Grants for projects related to conservation, recreation, historical preservation, graffiti removal and the repair of institutional vandalism will be available under the Pennsylvania Conservation Corps (PCC) program.

Agencies eligible to apply for PCC projects are:

- The Departments of Labor and Industry, Conservation and Natural Resources, Public Welfare, Corrections, Military and Veterans Affairs, Aging, Education and Community and Economic Development.
- The Pennsylvania Game, Fish and Boat and Historical and Museum Commissions.
- The Pennsylvania Emergency Management Agency.
- Political subdivisions.
- Nonprofit agencies in cities of the first class (for projects involving the removal of graffiti and the repair of institutional vandalism only).

The PCC program is designed to provide work experience and educational opportunities to unemployed young adults as they undertake needed projects on this Commonwealth's public lands. Funds available through the PCC program may be used to purchase approved construction materials and contracted services (political subdivisions must provide a 25% cash match). The wages of corpsmembers and crewleaders are paid directly by the Department of Labor and Industry.

Applications for PCC projects will be accepted from political subdivisions and eligible non-profits through Friday, January 5, 2007. State agency applications will be accepted through Monday, February 5, 2007.

For more information or to obtain a grant application packet, contact the Pennsylvania Conservation Corps, 1304 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17121, (717) 783-6385. E-mail inquiries should be directed to pcc@state.pa.us. Grant application materials are also available for download from the PA PowerPort: www.state.pa.us (PA Keyword "PCC").

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-1937. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$500,000 Wish List 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 \$500,000 Wish List.

2. *Price:* The price of a Pennsylvania \$500,000 Wish List instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania \$500,000 Wish List instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: Stocking symbol (STKNG), Snowman symbol (SNMAN), Mitten symbol (MITTEN), Wreath symbol (WREATH), Ear Muff symbol (EARMF), Hat symbol (HAT), Tree symbol (TREE), Drum symbol (DRUM), Candle symbol (CANDLE), Ornament symbol (ORMNT), Horn symbol (HORN), Gingerbread Man symbol (GBMAN), Candy Cane symbol (CANE), Holly symbol (HOLLY), Bell symbol (BELL), Reindeer symbol (RNDEER), Cash symbol (CASH), Toysack symbol (TOYS), 5X symbol (5TIMES) and a Sleigh symbol (SLEIGH).

4. *Prize Symbols:* The prize symbols and their captions, located in the 15 "prize" areas are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$1,000 (ONE THO), \$2,500 (TWYFIVHUN) and \$500,000 (FIVHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$250, \$500, \$1,000, \$2,500 and \$500,000. The player can win up to 15 times on the ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania \$500,000 Wish List instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$500,000 (FIVHUNTHO) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$500,000.

(b) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$2,500 (TWYFIVHUN) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets with a 5X (5TIMES) play symbol, and a prize symbol of \$500 (FIV HUN) appearing in the "prize" area to the right of that 5X (5TIMES) play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(d) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$1,000 (ONE THO) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$500 (FIV HUN) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets with a Sleigh (SLEIGH) play symbol, and a prize symbol of \$25\$ (TWY FIV) appears in ten of the "prize" areas, and a prize symbol of \$50\$ (FIFTY) appears in five of the "prize" areas on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets with a 5X (5TIMES) play symbol, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 5X (5TIMES) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$250 (TWOHUNFTY) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$250.

(i) Holders of tickets with a Sleigh (SLEIGH) play symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in five of the "prize" areas, and a prize symbol of \$20\$ (TWENTY) appears in ten of the "prize" areas on a single ticket, shall be entitled to a prize of \$250.

(j) Holders of tickets with a 5X (5TIMES) play symbol, and a prize symbol of \$50\$ (FIFTY) appearing in the "prize" area to the right of that 5X (5TIMES) play symbol, on a single ticket, shall be entitled to a prize of \$250.

(k) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$100 (ONE HUN) appear-

ing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets with a Sleigh (SLEIGH) play symbol, and a prize symbol of \$5⁰⁰ (FIV DOL) appears in ten of the "prize" areas, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in five of the "prize" areas on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets with a 5X (5TIMES) play symbol, and a prize symbol of \$15\$ (FIFTN) appearing in the "prize" area to the right of that 5X (5TIMES) play symbol, on a single ticket, shall be entitled to a prize of \$75.

(n) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$50\$ (FIFTY) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets with a 5X (5TIMES) play symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 5X (5TIMES) play symbol, on a single ticket, shall be entitled to a prize of \$50.

(p) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$25\$ (TWY FIV) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$25.

(q) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$15\$ (FIFTN) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$15.

(r) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets with a Toysack (TOYS) play symbol, and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "prize" area to the right of that Toysack (TOYS) play symbol, on a single ticket, shall be entitled to a prize of \$5.

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>Find A Toysack (TOYS) Symbol, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
\$5 × 2	\$10	20	270,000
\$10	\$10	20	270,000
\$5 × 3	\$15	30	180,000
\$15	\$15	30	180,000
\$5 × 5	\$25	150	36,000
\$5 × 3 + \$10	\$25	150	36,000
\$15 + \$10	\$25	150	36,000
\$25	\$25	75	72,000
\$5 × 10	\$50	300	18,000
\$10 × 5	\$50	600	9,000
\$25 × 2	\$50	600	9,000
\$10 w/5X	\$50	200	27,000
\$50	\$50	200	27,000
\$10 × 10	\$100	600	9,000
\$50 × 2	\$100	600	9,000
\$15 w/5X + \$25	\$100	600	9,000

*Find A Toysack (TOYS) Symbol,
Win With Prize(s) Of:*

	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
SLEIGH w/\$5 × 10 + \$10 × 5	\$100	171.43	31,500
\$100	\$100	600	9,000
\$25 × 10	\$250	1,200	4,500
\$50 w/5X	\$250	1,200	4,500
SLEIGH w/\$10 × 5 + \$20 × 10	\$250	1,200	4,500
\$250	\$250	1,200	4,500
\$50 × 10	\$500	8,000	675
\$100 × 5	\$500	8,000	675
\$100 w/5X	\$500	8,000	675
\$500	\$500	8,000	675
SLEIGH w/\$25 × 10 + \$50 × 5	\$500	6,000	900
\$100 × 10	\$1,000	60,000	90
\$100 w/5X + \$500	\$1,000	60,000	90
\$500 × 2	\$1,000	60,000	90
\$1,000	\$1,000	60,000	90
\$250 × 10	\$2,500	120,000	45
\$500 × 5	\$2,500	120,000	45
\$500 w/5X	\$2,500	120,000	45
\$2,500	\$2,500	120,000	45
\$500,000	\$500,000	540,000	10

5X (5TIMES) = Win 5 times the prize shown to the right.
SLEIGH (SLEIGH) = Win all 15 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 \$500,000 Wish List 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 \$500,000 Wish List, prize money from winning Pennsylvania \$500,000 Wish List 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 \$500,000 Wish List 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 (72 P. S. §§ 3761-101—3761-314), the regulations contained in 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 \$500,000 Wish List or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1938. Filed for public inspection September 29, 2006, 9:00 a.m.]

Pennsylvania Frosty's Fortune 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 Frosty's Fortune.

2. *Price:* The price of a Pennsylvania Frosty's Fortune instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Frosty's Fortune instant lottery game ticket will contain one play area featuring a "FROSTY'S NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "FROSTY'S NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), Snowman symbol (SNMAN) and a Mitten symbol (MITTEN).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2.⁰⁰ (TWO DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$10, \$15, \$20, \$50, \$100, \$500, \$1,000, \$5,000 and \$100,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Frosty's Fortune instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$500 (FIV HUN) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$100 (ONE HUN) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Mitten symbol (MITTEN), and a prize symbol of \$50 (FIFTY) appears under the Mitten symbol (MITTEN) on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$50 (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$50 (FIFTY) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the

"FROSTY'S NUMBERS" play symbols and a prize symbol of \$20 (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$20 (TWENTY) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$20.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Mitten symbol (MITTEN), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the Mitten symbol (MITTEN) on a single ticket, shall be entitled to a prize of \$20.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$15 (FIFTN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$15 (FIFTN) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$15.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$10.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Mitten symbol (MITTEN), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the Mitten symbol (MITTEN) on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the Snowman symbol (SNMAN) on a single ticket, shall be entitled to a prize of \$5.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "FROSTY'S NUMBERS" play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Of Frosty's Numbers, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets</i>
\$5	\$5	19.35	496,000
\$5 w/SNOWMAN	\$5	19.35	496,000
\$2 × 5	\$10	120	80,000
\$5 × 2	\$10	120	80,000
\$10	\$10	60	160,000
\$10 w/SNOWMAN	\$10	120	80,000
\$5 w/MITTEN	\$10	60	160,000
\$5 × 3	\$15	150	64,000
\$10 + \$5	\$15	150	64,000
\$15	\$15	150	64,000
\$15 w/SNOWMAN	\$15	150	64,000
\$5 × 4	\$20	300	32,000
\$10 × 2	\$20	300	32,000
\$20	\$20	300	32,000
\$20 w/SNOWMAN	\$20	300	32,000
\$10 w/MITTEN	\$20	300	32,000
\$5 × 10	\$50	200	48,000
\$10 × 5	\$50	300	32,000
\$50	\$50	300	32,000
\$50 w/SNOWMAN	\$50	200	48,000
\$10 × 10	\$100	1,200	8,000
\$20 × 5	\$100	1,200	8,000
\$100	\$100	1,200	8,000
\$100 w/SNOWMAN	\$100	1,200	8,000
\$50 w/MITTEN	\$100	1,200	8,000
\$50 × 10	\$500	8,000	1,200
\$100 × 5	\$500	8,000	1,200
\$500	\$500	8,000	1,200
\$500 w/SNOWMAN	\$500	8,000	1,200
\$100 × 10	\$1,000	120,000	80
\$1,000	\$1,000	120,000	80
\$5,000	\$5,000	120,000	80
\$100,000	\$100,000	960,000	10

SNOWMAN (SNMAN)= Win prize shown under it automatically.
MITTEN (MITTEN) = Win double the prize under it automatically.

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 Frosty's Fortune 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 Frosty's Fortune, prize money from winning Pennsylvania Frosty's Fortune 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 Frosty's Fortune 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 (72 P. S. §§ 3761-101—3761-314), the regulations contained in 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 Frosty's Fortune or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1939. Filed for public inspection September 29, 2006, 9:00 a.m.]

Pennsylvania Millionaire Raffle III Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 874.4 (relating to notice of raffle lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following raffle lottery game:

1. *Name:* The name of the raffle game is Pennsylvania Millionaire Raffle III.

2. *Price:* The price of a Pennsylvania Millionaire Raffle III lottery game ticket is \$20.

3. *Ticket Sales And Drawing Date:* Pennsylvania Millionaire Raffle III lottery game tickets sales will commence on or after November 21, 2006, and will continue until all 625,000 tickets have been sold, or 5 p.m. on December 30, 2006, whichever occurs earlier.

4. *Ticket Characteristics:* Each Pennsylvania Millionaire Raffle III lottery game ticket will contain one unique eight-digit number between 00000001 and 00625000, for a total of 625,000 tickets.

5. *Prizes:* The prizes that can be won in this game are \$1,000, \$100,000 and \$1,000,000. A player may only win one time on each ticket or chance.

6. *Maximum Number of Tickets Printed and Sold for the Game:* There will be no more than 625,000 tickets printed and sold for the Pennsylvania Millionaire Raffle III lottery game. The chances will be sequentially issued on a Statewide basis from the range of individual unique numbers representing the chances available for the game.

7. *Conduct of Drawing:* The results of the Pennsylvania Millionaire Raffle III will be televised on December 30, 2006, at or about 7 p.m. The drawing will be conducted with the aid of an electronic device. Seven-hundred sixty

(760) unique eight-digit numbers will be drawn, between 00000001 and 00625000. The first five unique eight-digit numbers drawn will be the first-prize-tier winning numbers. The sixth through tenth unique eight-digit numbers drawn will be the second-prize-tier winning numbers. The eleventh through 760th unique eight-digit numbers drawn will be the third-prize-tier winning numbers.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which the unique eight-digit number matches exactly one of the first-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which the unique eight-digit number matches exactly one of the second-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which the unique eight-digit number matches exactly one of the third-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000.

9. *Number and Description of Prizes and Approximate Odds:* The Pennsylvania Millionaire Raffle III prizes and determination winners are as follows:

Ticket Matching Exactly the Unique Eight-digit Number Drawn In:

First-Prize-Tier
Second-Prize-Tier
Third-Prize-Tier

<i>Win Prize Of:</i>	<i>Maximum Odds Of Winning 1 in</i>	<i>Number Of Winners</i>
\$1,000,000	125,000	5
\$100,000	125,000	5
\$1,000	833	750

All Pennsylvania Millionaire Raffle III lottery game prize payments, including first-prize-tier prizes, will be made as one-time lump-sum cash payments.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Millionaire Raffle III lottery game tickets. The conduct of the Program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Millionaire Raffle III, prize money from winning Pennsylvania Millionaire Raffle III 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 anniversary date of the raffle drawing in which the ticket or chance was entered, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1940. Filed for public inspection September 29, 2006, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

SR 4034-A51G, Parcel No. 14, Tax IDs 15-020-038.0-200.00 and 15-020-038.0-201.00, Erie County. This parcel contains approximately 46,872 s.f. or 1.0760 acres of land situated at 859 East Eighth Street, Erie PA 16503. The property will be sold in "as is condition." The estimated fair market value of the parcel is \$50,000. It has been determined that the land is no longer needed for present or future transportation purposes.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to William G. Petit, District Engineer, Department of Transportation, Engineering District 1-0, 255 Elm Street, P. O. Box 398, Oil City, PA 16301.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 06-1941. Filed for public inspection September 29, 2006, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On September 19, 2006, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa.Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition submitted by the Ken Sink Chapter of Trout Unlimited, requests the Board redesignate Bear Run in Banks Township, Indiana County, from Cold Water Fishes to High-Quality—Cold Water Fishes.

Under 25 Pa. Code § 93.4d(a) (relating to processing petitions, evaluations and assessments to change a designated use), the Department is required to publish a notice

of intent to assess candidate waters before performing survey work. The Department's assessment notice for Bear Run will appear in a future issue of the *Pennsylvania Bulletin*.

The petition submitted by the Ken Sink Chapter of Trout Unlimited is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 and is also accessible on the Department of Environmental Protection's website at www.depweb.state.pa.us (DEP Keywords: EQB (2006 Meeting Agendas/Handouts/Minutes; September 19, 2006, meeting)).

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 06-1942. Filed for public inspection September 29, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
12-71	Department of Labor and Industry Registration of Sign Language Interpreters and Transliterators 36 Pa.B. 3822 (July 2, 2006)	8/21/06	9/20/06

**Department of Labor and Industry
Regulation #12-71
(IRRC #2556)**

**Registration of Sign Language Interpreters and
Transliterators
September 20, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the July 22, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Labor and Industry (Department) to respond to all comments received from us or any other source.

1. Section 501.1. Definitions.—Clarity.

NAD

Commentators have noted that the address listed for the National Association of the Deaf (NAD) in this definition is incorrect. There is no need to include specific addresses in the definition of NAD and also RID (Registry of Interpreters of the Deaf). An alternative is for the Department to distribute this information upon request or to include current links on its website. If an address is retained, the Department should ensure that the correct address is included in the final-form regulation.

*NAD National Interpreter Certification Test and RID
Generalist examination*

The Department has indicated that the NAD and RID formed the National Counsel of Interpreters to develop one testing instrument to replace the other tests under both the NAD and RID. This testing instrument is the NAD-RID NIC. We recommend that the Department amend the definitions of "NAD National Interpreter Certification Test" and "RID Generalist examination" to reflect the fact that those former examinations are no longer given, but certifications obtained from passing those examinations are still valid.

2. Section 501.3. Examination.—Clarity.

Subsection (a) lists three examinations that are approved to test knowledge and proficiency under section 5(a)(1)(iii) of the Act (63 P. S. § 1725(a)(1)(iii)). The three examinations are the NAD National Interpreter Certification, the RID Generalist Examination and the NAD-RID NIC. As discussed above, the NAD-RID NIC has replaced the other two examinations. Therefore, we recommend that the reference to the NAD National Interpreter Certification and the RID Generalist Examination be deleted. Section 501.4(a)(1) should also be amended to reflect the fact that the only examination that an applicant can take to become registered is the NAD-RID NIC. References to the two examinations that have been replaced could remain.

Subsection (b) requires an applicant to obtain applications directly from and pay the required examination fee directly to the examination provider. If one exists, the Department's website should provide a link to the examination provider's website.

3. Section 501.4. Registration.—Clarity.

Subsection (b)

This subsection states the following: "The Office will issue a paper or electronic registration to a registrant if the registrant complies with subsection (c) and meets the requirements of section 5(a) of the Act (35 P. S. § 1725.5(a))." We have four concerns. First, the correct citation is 63 P. S. § 1725.5(a). Second, once the Office for the Deaf and Hard of Hearing (Office) receives an application, how long does it have to make a decision? The final-form regulation should identify the time frame within which the Department will issue a paper or electronic registration. Third, Subsection (c) relates to reasons the Office may deny an application for registration. It does not list what an applicant must do to achieve compliance. Therefore, the reference to Subsection (c) should be deleted. Fourth, Section 5(a) of the Act contains two subsections. Subsection (a)(1) is repeated as Subsection (a)(1) of this section of the rulemaking. However, Section 5(a)(2) of the Act is not included in the regulation. The Department should delete the reference to Section 5(a) of the Act and include all provisions of that section in the regulation.

Subsection (c)

This subsection lists three reasons why the Office may deny an application for registration. One of the reasons listed under Subsection (c)(3) is if the applicant committed a violation enumerated in section 8(a) of the act (63 P. S. 1525.8(a)(8)). We have two concerns. First, the correct citation is 63 P. S. § 1725.8(a). Second, since a reference to section 8(a) of the Act is also found in § 501.8 of the regulation, we recommend listing the violations in a separate section of the final-form regulation. This would allow the regulated community to know what constitutes a violation without having to reference the Act.

4. Section 501.5. Exemptions.—Consistency with Statute; Implementation procedures; Clarity.

The Act lists eight exemptions. This rulemaking only lists five of the eight exemptions. We recommend that all eight exemptions be included in the section.

Subsection (a)

This subsection provides an exemption for individuals engaged in interpreting or transliterating services in a religious setting. Subsection (a)(2) uses phrase "religious-study purposes" instead of "educational purposes," which is found in the corresponding section of the Act. The Preamble to the final-form regulation should explain why the phrase "religious-study purposes" is used instead of "educational purposes."

Subsection (b)

Under (b)(3), how soon before an interpreting service is provided by an out-of state-resident must the Office be notified of that service? Will a form be provided by Office to allow interpreters to file for the exemption? The regulation should be amended to clarify the requirements in these areas.

Subsection (d)

This subsection provides an exemption for interpreting or transliterating services provided in "school related

activities." Act 92 of 2006 amended Section 4(b)(7) of the Act, which pertains to exemptions for "school related activities" and also deleted the definition of "EIPA." This subsection should be amended to reflect the requirements of Act 92 of 2006.

Subsection (e)

This subsection pertains to exemptions in a physician's office. Under Subsection (e)(3), how long must the physician's office keep a copy of the patient's signed statement? The final-form regulation should provide time period for how long the statement must be kept.

5. Section 501.7. Hearings/appeals.—Implementation procedures; Clarity.

Subsection (a) references sections 8 and 9 of the Act. To improve clarity, the subject matter of section 8 (registration violations) and section 9 (suspension, denial, nonrenewal or revocation of State registration) should also be referenced.

Under Subsection (e), the presiding officer is required to prepare and issue a proposed report and order. How long does the presiding officer have to issue the proposed report and order? This should be included in the final-form regulation.

Under Subsection (f)(1), a party desiring to appeal to the Secretary shall file exceptions to the proposed report and order within 20 days of service. 1 Pa. Code § 35.211 allows 30 days. This discrepancy should be corrected in the final-form regulation.

6. Section 501.8. Request for reconsideration or registration denial.—Implementation procedures; Clarity.

Under Subsections (a) and (b), the Office can deny an application for registration and an applicant can file a request for reconsideration. We have three questions. First, if the Office rejects an applicant for registration under Subsection (a), how will the applicant be notified of the denial? Second, will the notice specify why the applicant was rejected? Third, if an application for registration is denied, how long will an applicant have to file a request for reconsideration? The final-form regulation should address these areas.

Subsection (f) references sections 10 and 11 of the Act. To improve clarity, the subject matter of section 10 (appeals) and section 11 (effect of an order) should also be referenced.

7. Section 501.10. Reactivation of registration.—Clarity.

This section states that an individual may reactivate a suspended registration under section 9(c) of the Act (63 P. S. § 1725.9(c)). Section 9(c)(1) of the Act pertains to reactivation of suspended registrations. Section 9(c)(2) of the Act pertains to reactivation of revoked registrations. We have two concerns. First, the reference included in this section of the regulation should be section 9(c)(1) of the Act to reflect the fact that this section pertains to suspended registrations. Second, why are the procedures for reactivation of a revoked registration not included in the regulation? We recommend that those procedures also be included in the regulation.

8. Section 501.11. Change of address/name/information.—Consistency with Statute; Need; Clarity.

This section states the following: "A registrant shall notify the Office of any change of name, mailing address or other personal or professional information within 15 days of making the change." Section (6) of the Act

provides that the office be notified of a change in name or mailing address within ten days of the change. The Department has explained that "other personal or professional information" includes updated information included in the initial registration application and information pertaining to disciplinary or administrative action taken in other states. The details of this other information should be included in the final-form regulation.

In addition, the time frame for reporting changes should be amended to reflect the ten-day requirement of the Act.

9. Miscellaneous Clarity

Index

- The numbering for the Index is incorrect. All sections should be changed from "50" to "501."
- As currently numbered, §§ 50.3, 50.4 and 50.6 lack periods after the names of the sections.
- As currently numbered, the title of § 50.8 should be amended to add the word "denial" after the word "registration." This would make it consistent with the title as it appears in the main body of the regulation.

Section 7 of the Act

- This Section pertains to the disclosure of confidential communications by sign language interpreters. The regulation does not include a similar provision or a reference to this section of the Act. To assist members of the regulated community that may use the regulation as a sole reference for complying with the Act, we recommend that a provision on or reference to confidential communications be included in the final-form regulation.

References to the Act and Purdon's citations

- Many sections of this regulation reference both a particular section of the Act and the corresponding Purdon's citation. For example, § 501.3(a) references "section 5(a)(1)(iii) of the act (63 P.S. § 1725.5(a)(1)(iii))." Other sections of this regulation only reference a particular section of the Act. For consistency, the Department should add the appropriate Purdon's citations to the following sections of the final-form regulation:

- § 501.5(b)
- § 501.5(c)
- § 501.5(d)
- § 501.5(e)
- § 501.8(c)(3)
- § 501.8(e)

Other

- Paragraph (1) of § 501.10 states the following: "The suspension term certain has fully elapsed." The word "certain" should be deleted.

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-1943. Filed for public inspection September 29, 2006, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. Note that the time and date of the meeting is tentative and interested parties are encouraged to contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us to confirm that information. To obtain a copy of a regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

Final-Form

Reg. No.	Agency/Title	Received	Public Meeting
16A-5317	State Board of Osteopathic Medicine Respiratory Therapists	9/15/06	10/19/06
16A-4513	State Board of Cosmetology Removal of Term "Manager"	9/15/06	10/19/06
16A-4916	State Board of Medicine Physician Assistants	9/15/06	10/19/06
16A-6910	State Board of Social Workers, Marriage and Family Therapists and Profession Counselors Child Abuse Reporting Requirements	9/15/06	10/19/06

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-1944. Filed for public inspection September 29, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Redomesticate

Peninsular Life Insurance Company, a Florida stock life insurance company, has submitted a Plan of Redomestication whereby it proposes to redomesticate from the State of Florida to this Commonwealth. The filing was made under the requirements set forth under the 15 Pa.C.S. §§ 4161 and 4162 (relating to domestication; and effect of domestication) and section 357 of the Insurance Company Law of 1921 (40 P.S. § 477e). Persons wishing to comment on the redomestication are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company

Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1945. Filed for public inspection September 29, 2006, 9:00 a.m.]

Inter-County Health Plan, Inc.; Application for Approval of Revised Rates for its 65-Select (Health) Plans; Rate Filing

Inter-County Health Plan, Inc. has filed Filing No. MG Health 0906 for approval increased rates for its community-rated 65-Select program. The revised rates are to be effective on January 1, 2007, and reflect an average increase of 6.0% over the currently approved rates. The monthly premiums for subscribers enrolling at first eligibility are as follows:

	Current Rate	Proposed Rate	Adjustment Percentage
Plan A	\$70.10	\$74.15	5.8%
Plan B	\$72.95	\$77.15	5.8%
Plan C	\$81.70	\$86.70	6.1%
Plan D	\$75.75	\$80.15	5.8%
Plan E	\$72.95	\$77.15	5.8%
Plan H	\$89.55	\$94.75	5.8%

These rate adjustments will affect approximately 2,900 subscribers in this Commonwealth and will generate approximately \$180,000 in additional premium annually.

Unless formal administrative action is taken prior to December 13, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mgurgiolo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1946. Filed for public inspection September 29, 2006, 9:00 a.m.]

Inter-County Hospitalization Plan, Inc.; Application for Approval of Revised Rates for its 65-Select (Hospital) Plans; Rate Filing

Inter-County Hospitalization Plan, Inc. has filed Filing No. MG Hospital 0906 for approval increased rates for its community-rated 65-Select program. The revised rates are to be effective on January 1, 2007, and reflect an

average increase of 9.4% over the currently approved rates. The monthly premiums for subscribers enrolling at first eligibility are as follows:

	Current Rate	Proposed Rate	Adjustment Percentage
Plan A	\$51.40	\$55.30	7.6%
Plan B	\$77.75	\$84.75	9.0%
Plan C	\$87.45	\$95.80	9.5%
Plan D	\$87.80	\$96.25	9.6%
Plan E	\$92.70	\$102.80	10.9%
Plan H (with Rx)	\$179.10	\$191.55	7.0%
Plan H (w/o Rx)	\$84.75	\$94.20	11.1%

These rate adjustments will affect approximately 2,900 subscribers in this Commonwealth and will generate approximately \$305,000 in additional premium annually.

Unless formal administrative action is taken prior to December 13, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mgurgiolo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1947. Filed for public inspection September 29, 2006, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Pamphlet Laws Printing, Binding, Distribution and Storage

Sealed proposals will be received by the Legislative Reference Bureau (Bureau), 641 Main Capitol Building, Harrisburg, PA 17120-0033 until 10 a.m., Wednesday, November 8, 2006, and then publicly opened and read for a contract for printing, binding, distribution and storage of the Pamphlet Laws for the contract period beginning January 1, 2007, and ending December 31, 2008, with provision for optional renewal for one additional 2-year period.

Facilities for offset printing and pamphlet binding are required. The Pamphlet Law contract requires case binding by Smyth sewing. At the discretion of the Bureau, subcontracting by bidders will be considered.

Bids must be accompanied by a certified or bank cashier's check in the sum of \$1,000. The Bureau reserves the right to reject any or all parts of bids and to waive

technical defects in bids. Blanks and information may be obtained upon application to Marilyn Puskarich, (717) 787-6060 at the previously listed address.

ROBERT W. ZECH, Jr.,
Director

[Pa.B. Doc. No. 06-1948. Filed for public inspection September 29, 2006, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #0202, 90 Allegheny River Bldg., Verona, PA 15147.

Lease Expiration Date: August 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 to 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment in Verona serving Verona and surrounding area.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Clarion County, Wine & Spirits Shoppe #1602, 452 Broad Street, New Bethlehem, PA 16242.

Lease Expiration Date: August 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space with frontage on SR 28 in New Bethlehem. The site should have convenient customer parking and access for tractor-trailer deliveries.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Crawford County, Wine & Spirits Shoppe #2001, 900 Water Street, Meadville, PA 16335.

Lease Expiration Date: August 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 4,500 net useable square feet of new or existing retail commercial space in a shopping center environment serving downtown Meadville. The site should have free parking.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Huntingdon County, Wine & Spirits Shoppe #3102, 25 West Water Street, Mt. Union, PA 17066.

Lease Expiration Date: July 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,500 net useable square feet of new or existing retail commercial space serving Mount Union and surrounding area. The site must have free off-street customer parking and access for tractor-trailer deliveries.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Lawrence County, Wine & Spirits Shoppe #3701, 2656 Ellwood Road, New Castle, PA 16101.

Lease Expiration Date: July 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in a shopping center environment in New Castle.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Mercer County, Wine & Spirits Shoppe #4302, 837 Sharon/New Castle Rd., Farrell, PA 16121.

Lease Expiration Date: August 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in a shopping center environment in Farrell.

Proposals due: October 20, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 06-1949. Filed for public inspection September 29, 2006, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member Board of Directors on Tuesday, October 10, 2006, at 10:30 a.m. in the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B. K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 06-1950. Filed for public inspection September 29, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

Deemed Complete Date

Under 4 Pa.C.S. § 1301 (relating to authorized slot machine licenses) and 58 Pa. Code § 441.2 (relating to initial slot machine application deadlines), the Pennsylvania Gaming Control Board (Board) has the authority to set a time by which all applications are to be filed and deemed complete by the Board. The Board has adopted the following deemed complete date for all applications for permanent Category 1 licenses, Category 2 licenses and Category 3 licenses.

The deemed complete date for all applications for permanent Category 1 licenses, Category 2 licenses and Category 3 licenses shall be November 14, 2006.

THOMAS A. DECKER,
Chairperson

[Pa.B. Doc. No. 06-1951. Filed for public inspection September 29, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-052.S, Hydrographic Surveying at Various PRPA Piers until 2 p.m. on Thursday, October 19, 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 October 3, 2006. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-1952. Filed for public inspection September 29, 2006, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-132.1, Design of LMSR Berth/Pier Upgrade at Tioga Marine Terminal (TMT) until 2 p.m. on Thursday, October 26, 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 October 4, 2006. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held on October 12, 2006, at 10 a.m. at Tioga Marine Terminal (inside gate entrance), Delaware Ave. and Tioga St., Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-1953. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Patricia A. Rocco t/d/b/a Rocco's Club Hair; Doc. No. 1321-45-06

On June 16, 2006, Patricia A. Rocco t/d/b/a Rocco's Club Hair, of Hermitage, Mercer County, was suspended for violating a lawful disciplinary order of the State Board of Cosmetology (Board) by failing to pay a \$500 civil penalty that was assessed for operating a cosmetology shop without a license.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 06-1954. Filed for public inspection September 29, 2006, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
Lisa Carol Toy; Doc. No. 1327-45-06**

On August 10, 2006, Lisa Carol Toy, license no. CL016894L, of Templeton, Armstrong County, was suspended based on findings she failed to pay a \$500 civil penalty imposed by the State Board of Cosmetology (Board).

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 06-1955. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

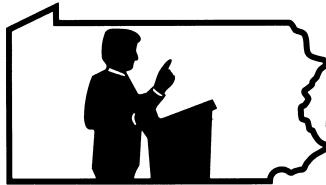
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreasury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

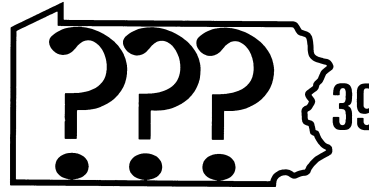
SERVICES



Janitorial Services

FM 9060 Furnish materials, equipment, and labor to perform janitorial services three 3 visits per week at the location listed below. The detailed work schedule and bid specifications must be obtained from the Facility Management Division at 717-705-5952. The last date you can request the detailed work schedule is Friday, September 25, 2006.

Department: State Police
Location: Greensburg Crime Laboratory, 99 N. Westmoreland Ave., Greensburg PA 15601
Duration: July 1, 2006 through June 30, 2007
Contact: Helen Fuhrman, 717-705-5952

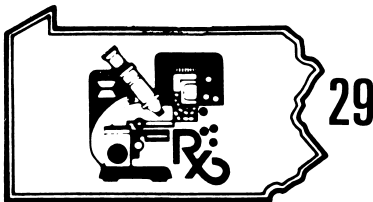


Miscellaneous

#090001 Fire Alarm Preventive Maintenance Service needed at PennDOT Engineering District 9-0 in Hollidaysburg PA. Preventive Maintenance consists of 1 yearly Full Alarm Mode Test which includes: A) First testing in silent mode all smoke alarms with aerosol smoke B) Visual Check of all strobes C) Accuracy of audio alarms D) Repair, replacement of faulty smoke/strobe/audio devices found at discretion of PennDOT Maintenance E) Enter, delete addresses of devices and reset. We are searching for technicians familiar with the following systems: Cerberus, Pyrotronic and Silent Knight.

Department: Transportation
Location: Department of Transportation, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg PA 16648
Duration: This contract will be for a minimum of one year and might possibly be a multiple-year contract with possible renewals and/or extensions.
Contact: Nannette C. McCreary, Purchasing Agent, 814-696-7269

[Pa.B. Doc. No. 06-1956. Filed for public inspection September 29, 2006, 9:00 a.m.]



Medical Services

CN00022959 Medical Laboratory Services for patients at Clarks Summit State Hospital. To request a bid package, fax your request to: 570-587-7108 on your company letterhead that includes names, address, telephone and fax numbers, Federal ID number and PA State Vendor Number. If you do not have vendor number, please call 866-775-2868 or register online at: <http://www.vendorregistration.pa.us/> Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: November 1, 2006 through October 31, 2009
Contact: Stanley Rygelski, PA, 570-587-7292

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

United States Postal Service

Statement of Ownership, Management, and Circulation

1. Publication Title Pennsylvania Bulletin		2. Publication Number 0 8 3 8 - 9 8 0 0		3. Filing Date 09/25/06
4. Issue Frequency Weekly		5. Number of Issues Published Annually 52		6. Annual Subscription Price \$82.00
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4) Legislative Reference Bureau 641 Main Capitol Building Harrisburg, PA 17120-0033				Contact Person Mary Jane Phelps Telephone 717-783-1530
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) Legislative Reference Bureau 641 Main Capitol Building Harrisburg, PA 17120-0033				
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)				
Publisher (Name and complete mailing address) Mary Jane Phelps Pennsylvania Bulletin (same as above)				
Editor (Name and complete mailing address) Barbara Furjanic Pennsylvania Bulletin (same as above)				
Managing Editor (Name and complete mailing address) None				

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
Commonwealth of Pennsylvania	Commonwealth of Pennsylvania
Legislative Reference Bureau	Legislative Reference Bureau
641 Main Capitol Building	641 Main Capitol Building
Harrisburg, PA 17120-0033	Harrisburg, PA 17120-0033

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box None

Full Name	Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:
 Has Not Changed During Preceding 12 Months
 Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

13. Publication Title Pennsylvania Bulletin		14. Issue Date for Circulation Data Below September 23, 2006	
Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		6235	6075
b. Paid and/or Requested Circulation	(1) Paid/Requested Outside-County Mail Subscriptions Stated on Form 3541. (Include advertiser's proof and exchange copies)	5953	5793
	(2) Paid In-County Subscriptions Stated on Form 3541 (Include advertiser's proof and exchange copies)	0	0
	(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution	0	0
	(4) Other Classes Mailed Through the USPS	0	0
c. Total Paid and/or Requested Circulation (Sum of 15b. (1), (2), (3), and (4))		5953	5793
d. Free Distribution by Mail (Samples, complimentary, and other free)	(1) Outside-County as Stated on Form 3541	0	0
	(2) In-County as Stated on Form 3541	0	0
	(3) Other Classes Mailed Through the USPS	0	0
e. Free Distribution Outside the Mail (Carriers or other means)		0	0
f. Total Free Distribution (Sum of 15d. and 15e.)		0	0
g. Total Distribution (Sum of 15c. and 15f.)		5953	5793
h. Copies not Distributed		282	282
i. Total (Sum of 15g. and h.)		6235	6075
j. Percent Paid and/or Requested Circulation (15c. divided by 15g. times 100)		100	100

16. Publication of Statement of Ownership September 30, 2006
 Publication required. Will be printed in the _____ issue of this publication. Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner
 Barbara Furjanic EDITOR Date 9-26-06

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).