

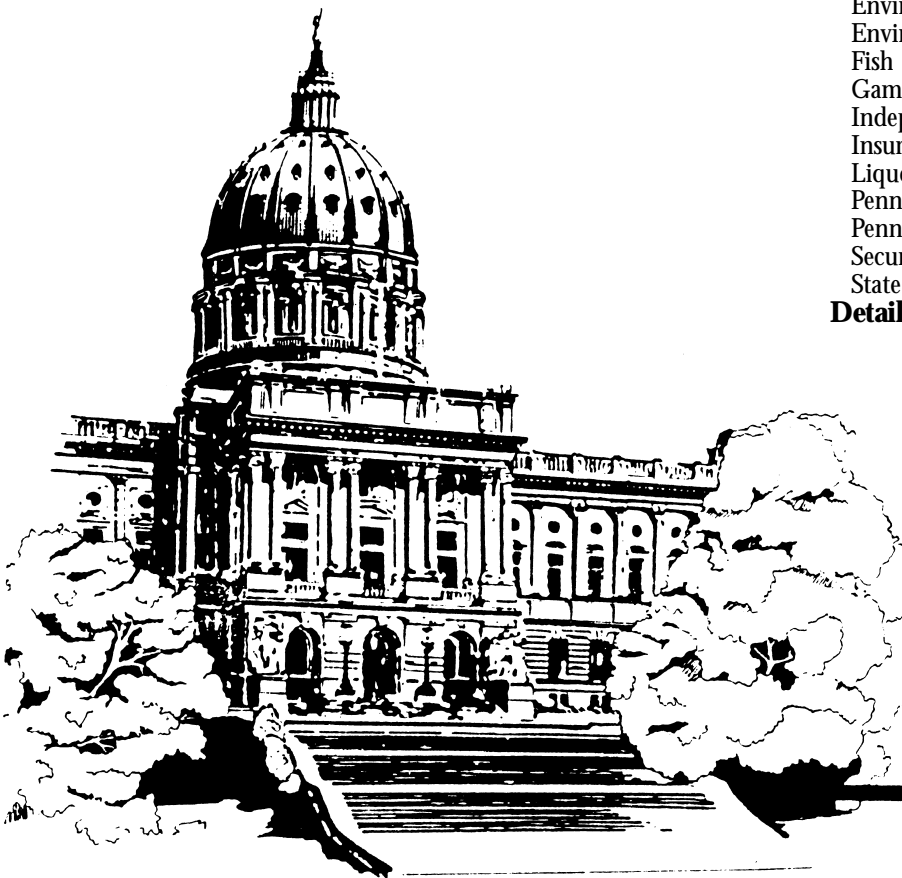
# PENNSYLVANIA BULLETIN

Volume 36  
Saturday, December 9, 2006 • Harrisburg, PA  
Number 49  
Pages 7407—7522

## Agencies in this issue

The Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Revenue  
Department of Transportation  
Environmental Hearing Board  
Environmental Quality Board  
Fish and Boat Commission  
Game Commission  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Securities Commission  
State Ethics Commission

**Detailed list of contents appears inside.**



PRINTED ON 100% RECYCLED PAPER



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

**No. 385, December 2006**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.**

Attn: *Pennsylvania Bulletin*

**800 W. Church Rd.**

**Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City)

(State)

(Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

**FRY COMMUNICATIONS**

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

(800) 334-1429 ext. 2340 (toll free, out-of-State)

(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

Copyright © 2006 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE COURTS

### APPELLATE PROCEDURE

Internal operating procedures of the Commonwealth  
Court of Pennsylvania ..... 7418

## LOCAL COURT RULES

### Cumberland County

Arbitration rules; civil 96-1335 ..... 7418

### Northampton County

Administrative order 2006-14—fee schedules, regis-  
ter of wills and orphans' court ..... 7419

## EXECUTIVE AGENCIES

### DEPARTMENT OF BANKING

#### Notices

Action on applications..... 7466  
Maximum lawful rate of interest for residential  
mortgages for the month of December 2006..... 7467

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices..... 7467  
Availability of technical guidance ..... 7503

### DEPARTMENT OF GENERAL SERVICES

#### Notices

State contracts information..... 7520

### DEPARTMENT OF HEALTH

#### Proposed Rulemaking

Home care agency/home care registry stakeholder  
meetings; draft licensure regulations available for  
review ..... 7465

#### Notices

Applications for exception:  
Altoona Hospital Surgery Center ..... 7504  
Carbon-Schuylkill Endoscopy Center ..... 7504  
Clearfield Hospital..... 7504  
Endoscopy Center of Delaware County ..... 7504  
Grand View Hospital..... 7504

### DEPARTMENT OF REVENUE

#### Notices

Pennsylvania Million Dollar Blockbuster instant  
lottery game..... 7505  
Pennsylvania \$100,000 A Year For Life instant  
lottery game..... 7509  
Rates of tax on aviation gasoline and jet fuel for  
2007; oil company franchise tax rate for 2007;  
alternative fuels tax rates for 2007..... 7511  
Realty transfer tax; revised 2005 common level  
ratio; real estate valuation factor ..... 7513

### DEPARTMENT OF TRANSPORTATION

#### Rules and Regulations

Alcohol highway safety schools and driving under  
the influence program coordinators ..... 7457

### ENVIRONMENTAL HEARING BOARD

#### Notices

National Fuel Gas Supply Corporation v. DEP; EHB  
doc. no. 2005-168-MG ..... 7513

### ENVIRONMENTAL QUALITY BOARD

#### Rules and Regulations

Pennsylvania clean vehicles program..... 7424

#### Notices

Environmental Quality Board meeting cancellation . 7514

### FISH AND BOAT COMMISSION

#### Rules and Regulations

Fishing ..... 7449  
Pennsylvania automated licensing service ..... 7445

### GAME COMMISSION

#### Rules and Regulations

Special permits; protected specimen..... 7453

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Notice of comments issued ..... 7514

### INSURANCE DEPARTMENT

#### Notices

Highmark Inc. and Highmark Blue Shield; profes-  
sional provider reimbursement increase for the  
low income fee schedule programs; rate filing..... 7516  
Liberty Mutual Fire Insurance Company; The First  
Liberty Insurance Corporation homeowners rate  
revision; rate filing ..... 7516  
Penn Treaty Network America Insurance Company;  
rate increase filing for several LTC policy forms;  
rate filing ..... 7516  
Pennsylvania Compensation Rating Bureau Work-  
ers' Compensation loss cost filing; rate filing..... 7517  
Progressive Direct Insurance Company; private pas-  
senger automobile rate and rule revisions; rate  
filing..... 7517

### LIQUOR CONTROL BOARD

#### Notices

Expiration of leases..... 7517

### PENNSYLVANIA GAMING CONTROL BOARD

#### Rules and Regulations

Preliminary provisions; hearings and appeals..... 7455

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### Notices

Natural gas service ..... 7518  
Service of notice of motor carrier applications..... 7518  
Telecommunications (2 documents)..... 7519

---

**Now Available Online at <http://www.pabulletin.com>**

---

7410

**SECURITIES COMMISSION**

**Rules and Regulations**

Rescission of forms and other technical amend-  
ments..... 7456

**STATE ETHICS COMMISSION**

**Notices**

Public meeting ..... 7519

# 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.

**SUBSCRIPTION INFORMATION: (717) 766-0211**  
**GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# List of Pa. Code Chapters Affected

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

## 4 Pa. Code (Administration)

### Adopted Rules

1	1741
6	378, 381, 1039, 4160, 4162, 4165
7	1633, 4168, 4170
51	7243
53	7243
55	7243
161	194
241	2515
243	2516
249	2517

### Proposed Rules

250	4732
-----	------

### Statements of Policy

1	4205
9	29, 397, 724, 1049, 2730, 3565, 3669, 3829, 4610, 6538, 6539, 7291
114	2017

## 7 Pa. Code (Agriculture)

### Adopted Rules

49	6285
128b	3231

### Proposed Rules

49	936
130e	288, 4505
143	5785
144	5785
145	2016, 5875
146	5875
147	5875

### Statements of Policy

130e	196
------	-----

## 10 Pa. Code (Banks and Banking)

Unclassified	4010
--------------	------

## 12 Pa. Code (Commerce, Trade and Local Government)

### Adopted Rules

141	283
143	5685
147	4002
149	3087

### Proposed Rules

143	559
145	3820

### Statements of Policy

123	6411
-----	------

## 22 Pa. Code (Education)

### Adopted Rules

4	3528
31	3650
49	3655
171	1645

## Proposed Rules

4	2981
11	2981
12	2981
36	3280
49	7141
339	560
405	3253

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

78	465
83	2636, 6096
93	1648
109	465
121	7424
126	7424
252	465
261a	705
901	2391
1021	709

### Proposed Rules

77	5608
86	4200
87	5608
88	5608
89	5608
109	7260
110	7260
121	715, 1991
123	3185
126	715
127	1991, 3275
210	5608
215	7028
221	7028
225	7028
230	7028
240	7028
245 (with correction)	1851, 2016
803	3547
804	3547
805	3547
901	4726

### Statements of Policy

16	3117
----	------

## 28 Pa. Code (Health and Safety)

### Adopted Rules

25	1218
121	xxxx
126	xxxx

### Proposed Rules

101	6403
117	6403
Unclassified	7465

## 31 Pa. Code (Insurance)

### Adopted Rules

73	3665
84a	3667

**7414**

84d ..... 7244  
 105 ..... 4180

**Proposed Rules**

73 ..... 391  
 84a ..... 392  
 118a ..... 3276

**34 Pa. Code (Labor and Industry)**

**Adopted Rules**

3 ..... 514  
 3a ..... 514

**Proposed Rules**

127 ..... 2913, 4507  
 501 ..... 3822

**Statements of Policy**

67 ..... 957  
 231 ..... 6547

**37 Pa. Code (Law)**

**Adopted Rules**

81 ..... 1495  
 203 ..... 5871

**Proposed Rules**

79 ..... 6510  
 95 ..... 3094  
 203 ..... 3828

**Statements of Policy**

200 ..... 957, 2282  
 801 ..... 5987

**49 Pa. Code (Professional and Vocational Standards)**

**Adopted Rules**

1 ..... 1496  
 7 ..... 7247  
 15 ..... 4003  
 16 ..... 7009  
 17 ..... 532  
 18 ..... 4466, 7009  
 19 (with correction) ..... 536, 714  
 21 ..... 2396, 2402, 2667, 2673  
 25 ..... 3236, 7137  
 27 ..... 2518, 3237  
 29 ..... 2675, 5607  
 31 ..... 4608  
 39 ..... 2678  
 41 ..... 2680, 3813  
 45 ..... 1648  
 47 ..... 4469, 7022  
 48 ..... 4469, 7022  
 49 ..... 4469, 7022

**Proposed Rules**

5 ..... 5979  
 7 ..... 1229, 1231  
 16 ..... 1233, 2411  
 17 ..... 1233  
 18 ..... 2411  
 31 ..... 578, 1240, 5984  
 33 ..... 6409  
 36 ..... 2530  
 40 ..... 5982  
 42 ..... 5981

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

1 ..... 2097, 2281  
 3 ..... 2097, 2281  
 5 ..... 2097, 2281, 4181  
 29 ..... 4181  
 31 ..... 4181  
 59 ..... 3092  
 62 ..... 1748

**Proposed Rules**

54 ..... 956  
 57 ..... 956, 6097  
 63 ..... 1044, 1886, 1897  
 64 ..... 1897  
 67 ..... 6303  
 71 ..... 1897  
 73 ..... 1897  
 75 (with correction) ..... 571, 942, 6289, 6409

**Statements of Policy**

69 (correction) ..... 5991, 6107

**Proposed Statements of Policy**

1 ..... 7033  
 3 ..... 7033  
 5 ..... 7033  
 69 ..... 824, 4013

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

41 ..... 7195  
 601 ..... 285  
 1187 ..... 3207  
 1189 ..... 3207

**Proposed Rules**

20 ..... 3539  
 168 ..... 3262  
 1181 ..... 3539  
 2380 ..... 3539  
 2390 ..... 3539  
 3130 ..... 3539  
 3140 ..... 3539  
 3270 ..... 2686, 3539  
 3280 ..... 2686, 3539  
 3290 ..... 2686, 3539  
 3300 ..... 2686  
 3680 ..... 3539  
 3700 ..... 3539  
 6400 ..... 3539  
 6500 ..... 3539

**Statements of Policy**

1141 ..... 5786

**58 Pa. Code (Recreation)**

**Adopted Rules**

51 ..... 7445  
 61 ..... 5872, 5976  
 63 ..... 1124, 1126, 4724, 5872  
 65 ..... 1126, 4724, 5872, 5976, 7449  
 69 ..... 5872  
 71 ..... 4724  
 73 ..... 4724  
 131 ..... 2971  
 135 ..... 7248  
 137 ..... 2972  
 139 ..... 2971, 3244  
 141 ..... 1990, 2973, 2974, 2975, 3250, 3251, 7249, 7250  
 143 ..... 2976, 3813



147 ..... 194, 2976, 2977, 2978, 2979, 3251, 7453  
 163 ..... 6095

**Proposed Rules**

51 ..... 4729  
 53 ..... 1220  
 61 ..... 1656, 2708  
 63 ..... 1220, 1655, 2708  
 65 ..... 1655, 1656, 2708, 4727  
 69 ..... 2708, 5687  
 71 ..... 1655  
 73 ..... 1655  
 77 ..... 1220  
 79 ..... 1220, 2724  
 97 ..... 6288  
 131 ..... 12, 1498, 4203  
 135 ..... 3275  
 139 ..... 12, 13  
 141 ..... 19, 20, 21, 22, 1400, 1498, 2529, 5783, 5784  
 143 ..... 23, 2727  
 147 ..... 23, 25, 26, 27, 1401  
 163 ..... 2173  
 401 ..... 5690  
 403 ..... 5690  
 405 ..... 5690  
 407 ..... 5690  
 451 ..... 5700  
 461 ..... 6517  
 463 ..... 6517  
 465 ..... 7267  
 466 ..... 7267  
 467 ..... 7267  
 471 ..... 5700  
 481 ..... 5687

**Temporary Regulations**

401 .. 679, 909, 1347, 1577, 2615, 2899, 3407, 3939, 7455  
 403 ..... 3940, 3943, 7455  
 405 ..... 2899, 3407, 3939, 3943, 3945  
 421 ..... 909, 2615, 2899, 3407, 3939, 3943, 3945  
 423 ..... 681, 1347, 3939, 3945  
 431 ..... 3948  
 435 ..... 2615, 2900, 3939, 3943  
 436 ..... 3409  
 437 ..... 909, 3411  
 438 ..... 3951  
 440 ..... 679  
 441 .. 679, 681, 909, 2899, 3407, 3413, 3939, 3945, 3952  
 443 ..... 3407  
 461 ..... 3416, 3954  
 463 ..... 1577  
 465 ..... 910, 1347, 1577, 3407, 3416, 3954  
 466 ..... 3416  
 467 ..... 3954  
 481 ..... 1347  
 491 ..... 3943  
 492 ..... 1578, 7455  
 493 ..... 1578, 3440, 3939, 3943  
 494 ..... 1578, 2899, 3407  
 499 ..... 2615, 2899  
 501 ..... 3407  
 503 ..... 2902  
 511 ..... 2905  
 513 ..... 3441

**Statements of Policy**

436a ..... 7294  
 461a ..... 3442, 3965, 4443  
 465a ..... 919, 1586  
 466a ..... 3447

**61 Pa. Code (Revenue)**

**Adopted Rules**

11 ..... 7252  
 31 ..... 2525  
 46 ..... 2525  
 60 ..... 2525  
 111 ..... 822  
 141 ..... 7253  
 142 ..... 7253  
 143 ..... 7253  
 144 ..... 7253  
 145 ..... 7253  
 146 ..... 7253  
 147 ..... 7253  
 148 ..... 7253  
 875 ..... 2406  
 901 ..... 4475

**Temporary Regulations**

1001 (with correction) ..... 3450, 3789

**Statements of Policy**

9 ..... 3673  
 60 ..... 1130  
 125 (with correction) ..... 959, 1130  
 170 ..... 1403, 3673

**64 Pa. Code (Securities Commission)**

**Proposed Rules**

203 ..... 3542, 7456  
 205 ..... 3542, 7456  
 207 ..... 3542, 7456  
 209 ..... 3542, 7456  
 210 ..... 3542, 7456  
 303 ..... 3542, 7456  
 504 ..... 3542, 7456  
 602 ..... 3542, 7456  
 603 ..... 3542, 7456  
 604 ..... 3542, 7456  
 609 ..... 3542, 7456  
 1001 ..... 3542, 7456

**67 Pa. Code (Transportation)**

**Adopted Rules**

63 ..... 2684  
 86 ..... 1128  
 94 ..... 7457  
 177 ..... 3815, 3817  
 201 ..... 537  
 203 ..... 537  
 204 ..... 537  
 211 (with correction) ..... 537, 714  
 212 ..... 537  
 217 ..... 537

**Proposed Rules**

105 ..... 12  
 443 ..... 7140  
 457 ..... 3273

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**

29 ..... 5965  
 71 ..... 1642  
 81 ..... 173, 3807

83	1490, 1642, 1745, 3646, 3807
85	929, 7233
87	929
89	2368
91	929, 1490, 7233
93	929, 1490, 2368, 7233
207	1491
211	5966
213	7234

**Proposed Rules**

81	2801
83	1363, 2801

**207 Pa. Code (Judicial Conduct)****Adopted Rules**

1	5870
3	5870
21	1213, 4597
33	2954
51	1367, 2954

**Proposed Rules**

1	4172
3	4172

**210 Pa. Code (Appellate Procedure)****Adopted Rules**

1	5966
3	6507
21	6086
25	6086
67	1745, 2171, 3646, 6086, 6632, 7418

**Proposed Rules**

1	5554
3	4457
9	5554
11	5554
13	5554
19 (with correction)	5967, 6282
21	5554
25	5554
27	5554
31	5554
33	5554

**225 Pa. Code (Rules of Evidence)****Adopted Rules**

ART. I	384
ART. IV	384, 1213

**Proposed Rules**

ART. I	3977
ART. VI	3978

**231 Pa. Code (Rules of Civil Procedure)****Adopted Rules**

15	5777
200	272, 1745, 3085, 3807
1000	1745
1300	174, 693, 2629, 3979
1350	693
1400	693
1480	693
1900	2369
1910	2629, 3979, 4709, 6632, 7110, 7113
1915	4709
1920	4709, 7113
1930	4709, 5571
3000	176, 6849

Part II	6762
---------	------

**Proposed Rules**

4	5971
200	272, 934, 3521
1000	510, 4458, 5971
1700	5971
1900	1369, 5561
1910	10, 273, 385, 1381, 3979, 7236
1915	6088, 7122
1920	273, 6849
1930	693, 7237
2250	272, 5971
3000	386, 3523, 4458
4000	4461
Part II	6760

**234 Pa. Code (Rules of Criminal Procedure)****Adopted Rules**

1	181, 694, 4172
2	3085
3	1385
4	1385, 1396
5	181, 694, 1385, 1397, 2279, 2631, 3808
6	1385
7	1396
10	1385, 2631

**Proposed Rules**

1	4597
4	2505
5	814, 4597

**237 Pa. Code (Juvenile Rules)****Adopted Rules**

1	186
3	186
6	186
8	186
11	5571
12	5571
13	5571
14	5571
15	5571
16	5571
17	5571
18	5571

**Proposed Rules**

5	6089
---	------

**246 Pa. Code (Minor Court Civil Rules)****Adopted Rules**

200	2955
300	2955
400	2955
500	2955
1000	3997
1200	3810

**Proposed Rules**

200	3981
400	3981
1000	3981

**249 Pa. Code (Philadelphia Rules)**

Unclassified	188, 512, 815, 1643, 1843, 1846, 4173, 7007
--------------	---

**252 Pa. Code (Allegheny Rules)**

Unclassified	3812, 6633
--------------	------------

**255 Pa. Code (Local Court Rules)**

Unclassified . . . . . 189, 388, 512, 935, 1043,  
1216, 1399, 1491, 1644, 1850, 1986, 2171, 2280, 2381,  
2512, 2513, 2960, 2969, 2970, 3086, 3230, 3525, 3526,  
3646, 3647, 3648, 3649, 3812, 3998, 3999, 4000, 4177,  
4178, 4179, 4462, 4463, 4464, 4465, 4601, 4602, 4603,  
4604, 4606, 4713, 4714, 4715, 4719, 4720, 4721, 4722,  
5606, 5682, 5779, 5780, 5974, 6092, 6093, 6282, 6283,  
6284, 6375, 6376, 6377, 6386, 6402, 6509, 6669, 6670,  
6850, 6851, 7007, 7008, 7125, 7127, 7128, 7129, 7134,  
7238, 7240, 7241, 7418, 7419

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 67]

#### Internal Operating Procedures of the Commonwealth Court of Pennsylvania

##### Annex A

#### TITLE 210. APPELLATE PROCEDURE

### PART II. INTERNAL OPERATING PROCEDURES

#### CHAPTER 67. COMMONWEALTH COURT

#### Subchapter A. INTERNAL OPERATING PROCEDURES OF THE COMMONWEALTH COURT

##### GENERAL PROVISIONS

#### § 67.9. Emergency Applications.

(a) An emergency application is defined as an application filed during non-business hours, including holidays and weekends. Filing of emergency applications outside of normal business hours will be allowed only when both of the following conditions are present:

(1) The application will be moot unless a ruling is obtained prior to noon of the next business day; and

(2) The application is being filed within two business days of the filing of the order sought to be reviewed.

(b) *Contents of emergency applications.* An emergency application shall include the following:

(1) An explanation of why an order of this Court is necessary, time sensitive and satisfies the threshold requirements set forth in (a)(1)—(2);

(2) An explanation of how service has been perfected upon the opposing party or, if service has not been made, a summary of the efforts to perfect service or explanation of why service is impossible or impracticable;

(3) Unless already docketed with this Court, a stamped "filed" copy of the relevant common pleas court order being appealed, as well as a copy of the notice of appeal that will be filed with this Court;

(4) Unless already docketed with this Court, a copy of the relevant petition for review, whether addressed to this Court's appellate or original jurisdiction;

(5) The appropriate filing fee or a sufficient pauper's affidavit.

(c) Each duty judge shall be available from 12:01 a.m. on the Monday commencing his or her duty week and remain available until 12:00 midnight on the Sunday concluding the duty week. The duty judge shall be available in Harrisburg Monday through Friday or shall advise the executive administrator, prothonotary or chief clerk of a telephone number at which he or she may be reached when not present in the Court's Harrisburg offices. The assigned duty judge shall make decisions in all emergency applications.

(d) The filing of an emergency application should be made by contacting this Court's prothonotary, the chief

clerk, the executive administrator or a deputy prothonotary who will accept the papers by the most expeditious means available, including fax or e-mail attachment, and assign the matter a docket number, if needed.

(1) The Court officer accepting the filing shall contact the emergency judge to make arrangements for consideration and disposition of the emergency application.

(2) If the duty week judge is not available, the emergency application shall be referred to the president judge and then to the associate judges in descending order of seniority, if the president judge is not available.

(3) The telephone number of the court officer accepting the filing of emergency applications shall be made available through the Court's after hours telephone message system (717-255-1600 or 717-649-5153).

[Pa.B. Doc. No. 06-2403. Filed for public inspection December 8, 2006, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CUMBERLAND COUNTY

#### Arbitration Rules; Civil 96-1335

##### Order of Court

*And Now*, this 28th day of November, 2006, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Cumberland County Rules of Procedure are amended as follows:

**Rule 1301-1.** All civil cases which are at issue in which the total amount in controversy is [ **Thirty Five Thousand Dollars (\$35,000)** ] **Fifty Thousand Dollars (\$50,000)** or less, exclusive of interest and costs, except those cases involving the title to real estate, shall be submitted for hearing and award to three members of the Bar [ **of Cumberland County** ] to be designated as a Board of Arbitrators.

*Note:* These rules are adopted pursuant to the authority of sec. 7361 of the Judicial Code of July 9, 1976, 42 Pa.C.S. sec. 7361. [ **(Rules 450 et seq. for requirements of admission and membership in the Bar of Cumberland County)** ].

#### [ Formerly Local Rule 401.1 ]

Adopted May 15, 1981, effective May 15, 1981; Amended December 21, 1992; effective February 1, 1993

The Court Administrator is directed to forward and file certified copies of this order in accordance with Pa.R.C.P. 239(c) and to forward a copy to the *Cumberland Law Journal*.

*By the Court*

EDGAR B. BAYLEY,  
*President Judge*

[Pa.B. Doc. No. 06-2404. Filed for public inspection December 8, 2006, 9:00 a.m.]

## NORTHAMPTON COUNTY

**Administrative Order 2006-14—Fee Schedules,  
Register of Wills and Orphans' Court****Order of Court**

*And Now*, this 14th day of November, 2006, it is hereby ordered that the current schedule of fees charged by the Register of Wills and Clerk of the Orphans' Court shall continue until December 31, 2006. Effective January 1, 2007, the attached schedule of fees for the Register of Wills and Clerk of the Orphans' Court shall take effect.

A copy of this administrative order and the schedule of fees shall be published in the *Northampton County Reporter*.

Administrative Order 1999-9 is hereby vacated effective December 31, 2006.

*By the Court*

ROBERT A. FREEDBERG,  
*President Judge*

**REGISTER OF WILLS FEE SCHEDULE****EFFECTIVE JANUARY 1, 2007****PROBATE FEES**

**NOTE: PROBATE FEES ARE BASED ON THE GROSS VALUE OF THE ESTATE, MINUS JOINTLY HELD ASSETS AND TRANSFERS. NO LETTERS WILL BE ISSUED UNTIL FEES ARE PAID IN FULL.**

**LETTERS OF ADMINISTRATION /LETTERS TESTAMENTARY**

<b>Value of Estate</b>		<b>Probate Fee</b>
Under	\$ 5,000.00	\$ 15.00
\$5,001.00	25,000.00	30.00
25,001.00	50,000.00	50.00
50,001.00	75,000.00	75.00
75,000.00	100,000.00	100.00
100,001.00	150,000.00	120.00
150,001.00	250,000.00	150.00
250,001.00	350,000.00	250.00
350,001.00	450,000.00	350.00
450,001.00	550,000.00	450.00
550,001.00	650,000.00	550.00
650,001.00	750,000.00	650.00
750,001.00	850,000.00	750.00
850,001.00	950,000.00	850.00
950,001.00	1,000,000.00	950.00
<i>Each additional \$1,000,000.00, ADD</i>		400.00

<b>MISCELLANEOUS LETTERS</b>	40.00
<b>DBNCTA, DBN, Ancillary, Pendente Lite, Durante Minoritate, Durante Absentia</b> <i>(County Fee \$38.00, Cty. Records Impro. Fee \$2.00) Plus add all applicable fees</i>	
<b>LETTERS OF ADMINISTRATION (Cause for Action Only)</b>	40.00
<i>(County Fee \$38.00, County Records Impro. Fee \$2.00) Plus add all applicable fees</i>	
<b>RENUNCIATIONS (Must be notarized)</b>	5.00

**Important Notice: AN ADDITIONAL PROBATE FEE MAY BE ASSESSED ONCE THE APPRAISEMENT IS RECEIVED FROM THE DEPARTMENT OF REVENUE. A STATEMENT WILL BE MAILED.**

**REGISTER OF WILLS FEE SCHEDULE***EFFECTIVE JANUARY 1, 2007*

<b>AFFIDAVIT OF DEATH</b>	10.00
<b>BOND</b> (Personal or Secured)	10.00
<b>CAVEATS</b>	
<b>Answer to Caveat</b>	20.00
<b>Bond for Caveat</b> (Refundable if no hearing is scheduled. An additional fee will be assessed if hearing fees exceed \$1,000.00)	1,000.00
<b>File Caveat &amp; Bond</b>	50.00
<b>Informal Caveat</b>	25.00
<b>Register of Wills Hearing</b>	100.00
<b>Reschedule Hearing</b>	50.00
<b>CERTIFIED COPIES</b>	
<b>Certified Copy of Will, First Page</b>	10.00
<b>Each Additional Page</b>	1.00
<b>Certification to Will or others papers</b> (Copies presented)	5.00
<b>CLOSING LETTER (REVENUE CERTIFICATE)</b>	10.00
<b>EXEMPLIFIED COPY OF WILL OR OTHER RECORDS</b>	25.00
Received from outside source	
<b>EXEMPLIFIED COPY OF WILL OR OTHER RECORDS</b>	40.00
Prepared by our office	
<b>FEDERAL 706</b>	10.00
<b>INHERITANCE TAX RETURN</b> (Fee added at time of probate-one original & one copy must be filed) ( <i>County Fee \$13.00, County Records Improvement Fee \$2.00</i> )	15.00
<b>INHERITANCE TAX CERTIFICATION</b> (Received from outside source)	10.00
<b>INHERITANCE TAX CERTIFICATION</b> (Prepared by our office)	20.00
<b>INVENTORY &amp; VALUATION</b> (Fee added at time of probate-one original filed)	10.00
<b>JCP FEE</b> (Judicial Computer Filing Fee) <i>Add to each 1<sup>st</sup> filings for petitions for letters</i>	10.00
<b>PHOTOCOPIES</b> (Each page)	.50
<b>If request is received by mail, add research fee</b>	5.00
<b>RETURNED CHECK FEE</b>	25.00
<b>RECORD WILL</b> (To put on file only, no probate)	40.00
<b>SHORT CERTIFICATE</b>	5.00

**ORPHANS' COURT FEE SCHEDULE****EFFECTIVE JANUARY 1, 2007****ALL FILING FEES MUST BE PAID IN FULL BEFORE CASES CAN BE PRESENTED TO COURT  
ACCOUNTS FOR AUDIT: (FORMAL ACCOUNTING)**

To determine the cost of filing a formal account, please add the account fee, the advertising fee, and the schedule of distribution fee.

**Account Fee**

The following fees are based on the gross value of the estate:

\$25,000.00 or less	\$35.00
\$25,001.00 to \$100,000.00	50.00
Over \$100,001.00	65.00
<b>Advertising the Account</b>	85.00
<b>Schedule of Distribution</b>	35.00
<b>Certification to distribution</b> (Copy presented)	5.00
<b>Certification to distribution</b> (Copy prepared by our office) First Page	10.00
Each additional page	1.00
<b>ADOPTIONS:</b>	
<b>Adoption Petition</b>	60.00
(Includes certification to New Castle for new birth certificate & one Certificate of Adoption)	
When the final decree is signed, you must have the form for the birth certificate, a check for the new birth certificate and the certificate of adoption form completed (County Fee \$50.00, JCP Fee \$10.00)	
<b>Adoption certificate</b>	5.00
<b>Foreign adoption</b>	45.00
(To record foreign adoption in PA, certified copy of birth certificate & copies of the original adoption papers with translated copies of the adoption papers must be filed along with a request for birth certificate form, a check for the new birth certificate, certificate of adoption form, and statement of citizenship and residency. <i>This fee includes one adoption certificate</i> ).	
<b>Consent for Adoption</b>	40.00
<b>AFFIDAVIT OF MINOR'S COMPROMISE</b>	20.00
<b>ANNUAL OR BI-ANNUAL REPORT</b>	20.00
<b>APPEAL TO SUPREME OR SUPERIOR COURT</b> (County Fee)	75.00
<b>CHECK PAYABLE TO SUPERIOR OR SUPREME COURT</b>	60.00
(A check payable to the Supreme or Superior Court must accompany the Appeal)	
<b>BIRTH CERTIFICATE</b> , Including Search of Record	10.00
<b>CERTIFICATION OF ANY PAPER</b> (Copy Supplied)	5.00
<b>CERTIFICATION OF ANY PAPER</b> (Copy made by our office) First Page	10.00
Each Additional Page	1.00

**(Page 1)**



**ORPHANS' COURT FEE SCHEDULE****EFFECTIVE JANUARY 1, 2007****CITATIONS:**

Cit., Pet. & Order, includes one certified copy of the citation and proof of service (County Fee \$40.00, County Records Improvement Fee \$2.00)	42.00
Each additional citation to be certified	5.00
<b>Add JCP Fee if applicable</b>	10.00
<b>CLAIM:</b> Filing & Indexing	10.00
Satisfying claim in docket	5.00
<b>COUNSELING FEE</b>	75.00
<b>DEATH CERTIFICATE</b> , Including Search of Record	10.00
<b>DISCLAIMER</b>	10.00
<b>ELECTION TO TAKE UNDER OR AGAINST WILL</b>	10.00
<b>EXEMPLIFICATION OF RECORD</b> (County \$38.00, County Improvement Fee \$2.00)	40.00
<b>EXCEPTIONS</b>	10.00
<b>FAMILY SETTLEMENTS &amp; AGREEMENTS</b> Releases or Discharges attached (County Fee \$43.00, County Rec. Improvement Fee \$2.00, OC)	45.00
<b>GUARDIAN INVENTORY</b>	10.00
<b>GUARDIAN CERTIFICATE</b>	5.00
<b>INFORMAL ACCOUNTS</b> Releases or Discharges attached (County Fee \$43.00, County Records Improvement Fee \$2.00, OC)	45.00
<b>JCP FEE</b> (Judicial Computer Filing Fee)	10.00
(Add to each petition for first filings in petitions for adoptions, minors, alleged incapacitated persons and inter vivos trust)	
<b>MARRIAGE CERTIFICATE</b> (Including search of record)	10.00
<b>MARRIAGE LICENSE</b> Includes one certified copy (County Fee \$27.00, County Rec. Improvement Fee \$2.50, State Fee \$20.50)	50.00
<b>OBJECTIONS</b>	10.00
<b>PETITIONS</b> (Whatever Nature): Order & first page of petition	32.00
Each additional page, not counting exhibits or affidavits (County Fee \$30.00, County Records Improvement Fee \$2.00)	1.00
<b>PHOTOCOPIES</b> , Each Page (If request received by mail, add research fee)	.50 5.00
<b>PLACEMENT REPORT</b> (Counseling Fee)	75.00
<b>POWER OF ATTORNEY</b>	20.00
<b>RELEASES, RECEIPTS &amp; SATISFACTION OF AWARDS</b>	15.00
<b>RETURNED CHECK FEE</b>	25.00
<b>RELINQUISHMENTS</b> (Includes one certified copy of the decree)	50.00
<b>RULE, PETITION &amp; ORDER</b> (County Fee \$35.00, Cty. Records Impr. Fee \$2.00)	37.00
<b>SUBPOENA</b>	5.00
<b>TERMINATIONS</b> (Includes one certified copy of the decree)	50.00
<b>TRUSTEE'S INVENTORY</b> (Page 2)	10.00

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

### Pennsylvania Clean Vehicles Program

The Environmental Quality Board (Board) amends Chapters 121 and 126 (relating to general provisions; and motor vehicle and fuels programs). The final-form rulemaking postpones the compliance date from model year (MY) 2006 to MY 2008 and updates definitions in § 121.1 (relating to definitions) for terms that are used in the substantive provisions in Chapter 126, Subchapter D (relating to Pennsylvania Clean Vehicles Program). The final-form rulemaking also clarifies the Pennsylvania Clean Vehicles Program (Program) in Subchapter D and specifies in that subchapter a transition mechanism for compliance with the Program.

This order was adopted by the Board at its meeting on September 19, 2006.

#### A. Effective Date

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

#### B. Contact Persons

For further information, contact Arleen Shulman, Chief, Mobile Sources Section, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3926; or Kristen M. Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Quick Access: Public Participation).

#### C. Statutory Authority

The final-form rulemaking is being made under section 5 of the Air Pollution Control Act (act) (35 P. S. § 4005), which in subsection (a)(1) grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution, in subsection (a)(7) grants the Board the authority to adopt regulations designed to reduce emissions from motor vehicles and in subsection (a)(8) grants the Board the authority to adopt regulations to implement the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7642).

#### D. Purpose and Background

The purposes of this final-form rulemaking are to postpone the compliance date from MY 2006 to MY 2008 and specify a 3-year early-credit earning period within which vehicle manufacturers must come into compliance with the nonmethane organic gases (NMOG) fleet average of the Program. Specifying an early-credit earning period is intended to provide a transition mechanism from the National Low Emission Vehicle (NLEV) program and to help ensure "identity" with the California program. The purpose of this final-form rulemaking is also to clarify the Program to reflect post-1998 amendments of

the California provisions incorporated by reference and to reflect the end of the NLEV compliance option.

By amending the regulations to reflect changes in the California requirements and by providing flexibility for the vehicle manufacturers during implementation, citizens in this Commonwealth can obtain the air quality benefits of this Program with a minimized impact. Postponement of the Program from MY 2006 to MY 2008 does not significantly affect long-term air quality and economic benefits. Cost savings for manufacturers and consumers would also be realized with the delayed compliance schedule.

The Program does not mandate the sale or use of reformulated motor fuels that comply with the specifications for reformulated motor fuels mandated by California. The courts have held that a state's failure to adopt California fuel requirements does not violate the requirement in section 177 of the CAA (42 U.S.C.A. § 7507) that state emission standards be identical to the California standards for which a waiver has been granted. *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 17 F.3d 521 (2d Cir. 1994); *American Automobile Manufacturers Association v. Greenbaum*, No. 93-10799-MA (D. Mass. Oct. 27, 1993) *aff'd.*, 31 F.3d 18 (1st Cir. 1994).

In addition, the Program does not incorporate the California zero emissions vehicle (ZEV) provisions. Section 177 of the CAA does not require adoption of all of the California standards; it only requires that if a state adopts motor vehicle standards, those standards be identical to the California standards. The United States Environmental Protection Agency (EPA) concludes that states adopting a Section 177 program need not adopt California's ZEV requirements to comply with the CAA requirements for identical standards under section 177 of the CAA. See 60 FR 4712 (January 24, 1995).

Retaining and clarifying the California low emission vehicle (LEV) program requirements in this Commonwealth are consistent with the actions of other northeastern states. Maine, Massachusetts, New York and Vermont adopted the California LEV program in the first instance, as did the Commonwealth, but they did not provide the NLEV compliance option like the Commonwealth did. Those states have revised their regulations to incorporate the California Low Emission Vehicle II (CA LEV II or California LEV II) provisions. Other northeastern states adopted the California LEV program and the NLEV compliance option in the first instance, like the Commonwealth did. Those states, namely Rhode Island, Connecticut and New Jersey, have adopted regulations to implement the CA LEV II program. Oregon and Washington have also adopted the CA LEV II program. The Commonwealth's original incorporation of the California LEV program in 1998 automatically incorporates the current California LEV program, CA LEV II, and will continue automatically to include California's future amendments and supplements to its LEV program.

When ground-level ozone is present in concentrations in excess of the Federal health-based standard, public health is adversely affected. The EPA has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly and those with respiratory problems are most at risk,

even healthy individuals may experience increased respiratory ailments and other symptoms when exposed to ambient ozone while engaged in activities that involve physical exertion. Though the symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health.

Gasoline-powered motor vehicles primarily emit three pollutants: carbon monoxide, volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>). Ozone is not directly emitted by motor vehicles, but is created as a result of the chemical reaction of NO<sub>x</sub> and VOCs, in the presence of light and heat, to form ozone in air masses traveling over long distances. The formation of ozone is greater in the summer months because of the higher temperatures. About 1/3 of this Commonwealth's ozone-forming pollution comes from motor vehicles.

In early 2007, the EPA is expected to finalize the PM<sub>2.5</sub> implementation rule, which will also identify NO<sub>x</sub> emissions as one of the precursors to the formation of PM<sub>2.5</sub>. Therefore, this final-form rulemaking should also enable the Department to make progress in attaining and maintaining the PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) in nonattainment areas, including 17 counties and 4 partial counties.

The CAA was amended in 1977 to allow States to adopt emission standards for motor vehicles. Section 177 of the CAA authorizes states to adopt and enforce new motor vehicle emission standards for any model year if the standards are identical to the California standards and the states adopt the standards at least 2 years before the beginning of the model year. California's standards must also have been granted a waiver from the CAA's prohibition against state emission standards. See section 177 of the CAA. A Federal court of appeals has ruled that states may adopt, but not enforce, California emissions standards before the EPA has acted on California's waiver request. *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 17 F.3d 521, 534 (2d Cir. 1994). If a state does not adopt California's standards, vehicle manufacturers and others are subject to the Federal emissions standards established by the EPA.

Congress amended section 177 of the CAA in 1990 to prohibit states from taking action that would have the effect of creating a motor vehicle or motor vehicle engine different from a motor vehicle or motor vehicle engine certified in California under California standards or otherwise create a "third vehicle." Shortly thereafter, many states began to consider clean vehicle or LEV programs as a control strategy to achieve and maintain the NAAQS for ozone.

Congress also recognized that ground-level ozone is a regional problem not confined to state boundaries. Section 184 of the CAA (42 U.S.C.A. § 7511c) established the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate ozone air pollution. The Commonwealth is a member of the OTC.

Shortly after establishment of the OTC, member states began negotiating with vehicle manufacturers for cleaner cars to address regional air quality needs. In 1998, the EPA adopted regulations for a voluntary alternative LEV program, called the NLEV program, reflecting these negotiations. Under this alternative LEV program, vehicle manufacturers agreed to manufacture LEVs for 49

states as an alternative to the California LEV program. The Commonwealth and 8 other northeastern states, as well as 23 vehicle manufacturers, opted into the NLEV program, effective in the OTC for MY 1999 and outside the OTC for MY 2001.

In the final-form rulemaking published at 28 Pa.B. 5873 (December 5, 1998), the Commonwealth adopted the Pennsylvania Clean Vehicles Program under section 177 of the CAA. In the same final-form rulemaking, the Commonwealth adopted the NLEV program as a compliance alternative to the Pennsylvania Clean Vehicles Program. The Pennsylvania Clean Vehicles Program incorporated by reference the LEV program of California as a "backstop" to the NLEV program in the event a vehicle manufacturer opted out of the NLEV program and at the conclusion of the NLEV program. The Pennsylvania Clean Vehicles Program incorporated by reference the California emission standards for passenger cars and light-duty trucks, except that it does not incorporate by reference the California ZEV or emissions control warranty systems statement provisions. The Pennsylvania Clean Vehicles Program did not restrict the incorporation-by-reference of the California program to the California regulations as in force on the date of adoption in 1998 of the Pennsylvania Clean Vehicles Program. Rather, the 1998 incorporation-by-reference included the California regulations with all amendments and supplements to them over time, as in force at the time of application of the Pennsylvania Clean Vehicles Program.

The Commonwealth's participation in the NLEV program extended only until MY 2006, at which time vehicle manufacturers were no longer able to use NLEV as a compliance alternative to the Program. In practical terms, the NLEV program was replaced for MY 2004 and later by the more stringent Federal Tier II vehicle emissions regulations. Vehicle manufacturers operating under the NLEV program became temporarily subject to the Tier II requirements. See 65 FR 6698 (February 10, 2000).

California adopted its original LEV regulations, known as CA LEV I, in 1991. The CA LEV I requirements were generally applicable in California in MY 1994. The EPA granted a waiver of Federal preemption for California's LEV I program at 58 FR 4166 (January 13, 1993). California adopted revised LEV regulations, known as CA LEV II, in 1996 for MYs 2004 and later. The EPA granted a waiver of Federal preemption for the CA LEV II program at 68 FR 19811 (April 22, 2003).

Since neither the Federal Tier II nor California LEV II standards had been established when the Commonwealth adopted the Program in 1998, it was uncertain which program would be more appropriate for this Commonwealth in the long run. Because of this, the Board stated an intention in the final-form rulemaking published at 28 Pa.B. 5873, 5875 to reassess the air quality needs and emission reduction potential of both programs in advance of the end of the Commonwealth's commitment to the NLEV program.

The assessment was completed prior to publication of the proposed rulemaking. It shows that this Commonwealth will experience more air pollution reduction benefits from regulating light-duty cars and trucks under the California LEV II requirements than under the Federal Tier II requirements.

With the California LEV II program, this Commonwealth will achieve additional emission reductions of about 2,850 to 6,170 tons per year of VOCs, 3,540 tons per year of NO<sub>x</sub> and 5% to 11% total reduction of six toxic

air pollutants (including benzene with 7% to 15% more benefit) by 2025, when full fleet turnover is expected.

Highway vehicles contribute significantly to the emissions that form ozone. Ground-level ozone or smog affects the health of millions of citizens in this Commonwealth, in particular children and those with existing respiratory diseases. The problem is still pervasive today despite considerable progress, because the EPA has found that the standard then in place did not adequately protect public health. More protective standards for ozone as well as for fine particulates have been promulgated.

Consequently, today about 2/3 of the citizens in this Commonwealth live in counties that do not attain the revised ozone standard. Without additional reductions in highway vehicle emissions, reductions will have to be obtained from industrial, commercial or other consumer sources; these controls may not be as cost-effective as the Program. Therefore, failure to implement the Program would increase the likelihood that this Commonwealth would not achieve and maintain the health-based 8-hour NAAQS for ground level ozone. Furthermore, if the standards are not attained and maintained in nonattainment areas, these areas would be subject to additional requirements that could affect their industrial/commercial facilities. Postponement of the Program from MY 2006 to MY 2008 does not significantly affect long-term air quality and economic benefits.

The existing Program in Chapter 126, Subchapter D applies to vehicle manufacturers, new vehicle dealers, leasing and rental agencies and other registrants. Under the Program, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new passenger car or light-duty truck (with some exceptions) in this Commonwealth that has not received certification from the California Air Resources Board (CARB) for compliance with the California LEV program that is current at the time of sale, importation, delivery, purchase, lease, rental, acquisition, receipt, titling or registration. To receive CARB certification for a vehicle make and model, a manufacturer must demonstrate to CARB that the vehicle test group associated with the specific make and model meets specified criteria pollutant standards and that the manufacturer's low emission fleet as a whole meets the NMOG fleet average standard.

In addition to requiring CARB certification, the Program requires that manufacturers demonstrate that the California NMOG fleet average standard is met based on the number of new light-duty vehicles delivered for sale in this Commonwealth.

California recently added a greenhouse gas (GHG) fleet average requirement to its LEV II program beginning with MY 2009. California's GHG program addresses emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride from LEVs offered for sale in California. California adopted a GHG fleet average on the basis that GHGs trap atmospheric heat and contribute to global warming. The GHG fleet average will have to be met in California to obtain CARB certification.

Therefore, this Commonwealth will realize the benefits of California's GHG certified vehicles through the Commonwealth's existing requirement that new vehicles have CARB certification. California estimates that the program, when fully phased-in, will provide about a 30% reduction in GHG emissions from new vehicles required to comply compared to the 2002 fleet. The Department anticipates that this Commonwealth will achieve similar

results. California is currently defending its GHG regulations against legal challenges filed by the auto industry.

A recent report by the National Academy of Sciences' National Research Council (NRC) found that California's role in setting emission standards has been scientifically valid and necessary to achieve clean air goals in parts of the country struggling to clean up the air. The report also found that the California standards have helped speed up technological air pollution control innovations. The report found that the California LEV program has been beneficial overall for air quality by improving mobile-source emissions control and confirmed that California has usually led the EPA in establishing standards for light-duty vehicles and small nonroad gasoline engines.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the final-form rulemaking on June 8, 2006. At that meeting, the AQTAC recommended that the Department present the final-form rulemaking to the Board for adoption. The Department has consulted with the Department of Transportation (DOT) during development of the final-form rulemaking in accordance with section 5(a)(7) of the act. The Department also consulted with the Citizens' Advisory Council.

This final-form rulemaking is necessary to achieve and maintain the NAAQS. The final-form rulemaking will be submitted to the EPA as a revision to the State Implementation Plan (SIP).

#### *E. Summary of Regulatory Requirements and Major Changes to the Proposed Rulemaking*

This final-form rulemaking deletes the definitions of "debit" and "ZEV—Zero-Emission Vehicle" from § 121.1 because the terms are already defined in the California regulations incorporated by reference in Chapter 126. The final-form rulemaking deletes the definitions of "NLEV" and "NLEV Program" because they are no longer relevant. The final-form rulemaking makes typographical corrections to the definitions of "fleet average" and "LDV—light-duty vehicle" and amends the definition of "offset vehicle." The definition "LDT—light-duty truck" is amended to incorporate a separate definition of "light duty truck" used in § 129.52 (relating to surface coating processes) and, for purposes of this final-form rulemaking, to be consistent with the California program. The separate definition of "light duty truck" is deleted as it is incorporated into the definition of "LDT—light-duty truck."

The final-form rulemaking amends the title of Chapter 126, Subchapter D to reflect the cessation of the NLEV program. The final-form rulemaking deletes the NLEV provisions in § 126.401(b) (relating to purpose) and rescinds § 126.402.

Throughout Chapter 126, Subchapter D, cross-references to the California regulations are updated to reflect the 1999 restructuring of California's regulations. This final-form rulemaking makes Subchapter D clearer and easier to understand. Since the 1998 adoption of the California program automatically incorporated California's regulatory restructuring, these amendments are not necessary but are made for the purposes of clarity now and in the event California restructures its regulations again. Amendments of this nature are not individually addressed in this preamble. Throughout Subchapter D, the phrase "Division 3" is added to the references to Title 13 of the California Code of Regulations (CCR) to provide a more complete citation. Division 3 refers to California's motor vehicle regulations adopted by CARB.

At the September 19, 2006, meeting, the Board approved an amendment to § 126.401 of the final-form rulemaking to add subsection (d). Subsection (d) states that the Department may not implement or enforce a vehicle emission standard that is not legally permitted to be regulated under the CAA or other applicable Federal or State law or regulation.

The amendments to § 126.411(a) (relating to general requirements) postpone the model year to which the Program will first apply from the model year beginning after December 5, 2000, to MY 2008.

Section 126.411(a) (relating to general requirements) is amended in the final-form rulemaking to include "titled." Now the Program will apply not only to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth, but also those "titled" in this Commonwealth. In this Commonwealth, refusing titling for a non-CARB certified vehicle offers the most equitable and effective way to enforce the vehicle registration requirement, since a vehicle must be titled in this Commonwealth to be registered in this Commonwealth. Prohibiting titling of vehicles not certified by CARB will protect individuals from purchasing a vehicle, whether in-State or out-of-State, that cannot be registered in this Commonwealth. Corresponding changes are made to §§ 126.412(a), 126.413(a)(11) and (b) and 126.431(a), (c) and (d) (relating to emission requirements; exemptions; and warranty and recall). These amendments to the final-form rulemaking work in tandem with the deletion of the proposed exemption from the Program in § 126.413(a)(14) for vehicles purchased out-of-State, which is described as follows.

Amendments to § 126.411(b)(1) update the cross-reference to, and retain the Commonwealth's specific exclusion of, California's ZEV program by replacing "§ 1960.1(g)(2) (footnote 9)" with "§ 1962." This is an example of the cross-reference amendments reflecting California's 1999 regulatory restructuring.

The amendments to § 126.412(a) postpone the first model year for which a person is prohibited from selling, importing, delivering, purchasing, leasing, renting, acquiring, receiving or registering a vehicle subject to the Program if the vehicle has not received CARB certification from the model year beginning after December 5, 2000, to MY 2008. "Title" is added to the list, as previously described.

The amendments to § 126.412(b) change the first model year for which compliance with the NMOG fleetwide average is required from the model year beginning after December 5, 2000, to MY 2008. Language regarding California's ZEV program is deleted from subsection (b) because CARB moved the ZEV provisions out of the cross-referenced section. As previously discussed, the final-form rulemaking retains the Commonwealth's specific exclusion of California's ZEV program in § 126.411(b)(1).

Section 126.412(d) specifies the 3-year early-credit earning period within which vehicle manufacturers must come into compliance with the NMOG fleet average. The final-form rulemaking clarifies that manufacturers may carry forward NMOG credits fully without diminution during the 3-year period (MYs 2008–2010), and the credits may be used in any or all of the 3 years without any loss of the credits.

Amendments to § 126.413(a)(2) clarify the original intent of the section, which is to allow a vehicle dealer to

transfer a non-CARB certified new vehicle as long as the vehicle will not ultimately be sold in this Commonwealth as a new vehicle.

An amendment to § 126.413(a)(6) clarifies the intent of the Commonwealth with respect to enforcement of the rules regarding daily lease and rental companies under the Program. The final-form rulemaking includes an explanation in § 126.413(a)(6) that a light-duty vehicle is deemed to be principally operated outside of this Commonwealth if it is registered outside of this Commonwealth in accordance with the rules of the International Registration Plan or a successor plan for registering vehicles internationally. Under the International Registration Plan, rental car companies cannot avoid registering a certain number of vehicles in this Commonwealth to avoid compliance with the Program.

The amendment to § 126.413(a)(11) conforms the model year registration cut-off for vehicle exemption with the MY 2008 start date of CARB certification and NMOG fleet average requirements. "Titled" is added to this paragraph, as previously described.

New § 126.413(a)(13) exempts vehicles transferred for the purpose of salvage. This paragraph is added to ensure that salvage and metal scrap operations in this Commonwealth may accept salvaged new motor vehicles that may not have CARB certification.

The final-form regulation deletes § 126.413(a)(14), which was included by the Board in the proposed rulemaking. This amendment would have exempted vehicles purchased or leased from an out-of-State dealer by a resident of this Commonwealth for the personal use of the resident and not for immediate resale. The amendment was designed to reflect the intention of the Commonwealth not to deny registration of a non-CARB certified vehicle in this situation. However, that is no longer the Commonwealth's intention. The Commonwealth will deny title and registration of non-CARB certified vehicles, regardless of whether the vehicles are purchased in-State or out-of-State, thus ensuring equitable treatment of in-State and out-of-State purchasers without the need for the proposed exemption. Additionally, the proposed exemption would have complicated enforcement and increased the possibility of reduced emissions credit. Finally, the proposed exemption was rejected by industry commentators. Hence, the final-form rulemaking deletes proposed § 126.413(a)(14).

Section 126.413(b) requires a person seeking to register an exempted vehicle to provide satisfactory evidence demonstrating that the exemption is applicable. The final-form rulemaking requires this to obtain title to an exempted vehicle for the reasons pertaining to titling previously described.

Amendments to the new motor vehicle testing provisions require vehicle manufacturers to provide CARB testing determinations and findings to the Department upon request. The final-form rulemaking requires that the Department's request be in writing. The revised sections are §§ 126.421(b), 126.422(b), 126.423(b), 126.424(b) and 126.425(b).

Section 126.431(b) requires each vehicle manufacturer to submit to the Department failure of emission-related components reports. The amendments allow a vehicle manufacturer to submit to the Department copies of the reports the manufacturer submitted to CARB for purposes of compliance with this subsection. The final-form rulemaking specifies that these reports must only be submitted when requested in writing.

The amendments to § 126.431(c) clarify that any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under the California program shall extend to all motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the recall campaign if sold, leased, offered for sale or lease or registered as a new motor vehicle in California. The purpose of § 126.431(c) is to ensure full protection to consumers in this Commonwealth. For the sake of clarity, the final-form rulemaking exempts motor vehicles from this requirement if, within 30 days of CARB's approval of the campaign, the manufacturer demonstrates in writing to the Department's satisfaction that the campaign is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth. An example of when a recall campaign would not be applicable to vehicles in this Commonwealth would be if a manufacturer demonstrated that the noncompliance was corrected for or did not occur in the first place in the vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

New § 126.431(d) provides that an order issued by CARB or enforcement action taken by CARB to correct noncompliance with any provision of Title 13 CCR, which results in the recall of any vehicle under Title 13 CCR, Chapter 2, shall be deemed to apply to all motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the order or enforcement action if sold, leased, offered for sale or lease or registered as a new motor vehicle in California. The purpose of § 126.431(d) is to ensure full protection to consumers in this Commonwealth. For the sake of clarity, the final-form rulemaking exempts motor vehicles from this requirement if, within 30 days of the CARB action, the manufacturer demonstrates in writing to the Department's satisfaction that the action is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth. An example of when a recall action would not be applicable to vehicles in this Commonwealth would be if a manufacturer demonstrated that the noncompliance was corrected for or did not occur in the first place in the vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

Section 126.432(a) (relating to reporting requirements) requires that each vehicle manufacturer submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year in this Commonwealth for purposes of determining compliance with the Program. The amendments change the first model year to which this requirement applies from the model year beginning after December 5, 2000, to MY 2008. The amendments to § 126.432 change the term "engine family" to "test group" to conform to California's change in terminology. Subsection (d) requires that compliance with the NMOG fleet average for MYs 2008–2010 be demonstrated following the completion of MY 2010.

New vehicle dealer responsibilities are clarified in the amendments to § 126.441 (relating to responsibilities of motor vehicle dealers), which reiterates the prohibition against a new vehicle dealer selling, offering for sale or lease or delivering a vehicle subject to the Program unless the vehicle has received the requisite CARB certification.

This final-form rulemaking adds § 126.451 (relating to responsibilities of the Department), which requires the

Department to monitor and advise the Board in specific ways of any proposed or final-form rulemakings under consideration by CARB that amend or modify the California LEV program. This amendment also requires the Department to submit comments to CARB on proposed or final CARB rulemakings. This amendment is designed to ensure that the Board and other residents of this Commonwealth are informed about changes that might occur in the California program and able fully to appreciate the impact of a CARB rulemaking on residents of this Commonwealth. The final-form rulemaking clarifies that the Department's responsibilities under this section apply only to the provisions of the California LEV program incorporated by reference in the Program.

At the September 19, 2006, meeting, the Board approved an amendment to § 126.451 of the final-form rulemaking to add paragraph (3). Paragraph (3) requires the Department, in conjunction with the DOT, to study and evaluate the feasibility of modifying the Pennsylvania vehicle emission inspection program (I/M program). The I/M program is different from the Program and is mandated by the CAA in 25 counties in this Commonwealth. Section 126.451(3) requires that, in performing the study and evaluation, the Department, in conjunction with the DOT, will consider the additional reductions in NO<sub>x</sub>, VOCs and other pollutants to be achieved through implementation of Title 13 CCR, Division 3, Chapter 1 and 2 requirements and to submit the findings and recommendations to the Board within 9 months of the effective date of this final-form rulemaking.

At the same meeting, the Board approved another amendment to § 126.451 which requires the Department to notify the Board as soon as possible, but no later than 6 months after the effective date of this final-form rulemaking, of the specific reductions in NO<sub>x</sub>, VOCs, carbon monoxide and other reductions approved by the EPA as a result of the incorporation of the Program in the Commonwealth's SIP. The report is to include a comparison of the incremental benefit reductions derived using EPA-approved methodology versus reductions that would have been achieved under the Tier II standards.

#### F. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board approved publication of the proposed rulemaking at its meeting on October 18, 2005. The proposed rulemaking was published at 36 Pa.B. 715 (February 11, 2006). Public hearings were held on March 14 in Pittsburgh, March 20 in Harrisburg and March 28 in Broomall (Philadelphia area). Comments were accepted from February 11, 2006, to May 8, 2006.

The Board received a record number of comments—about 4,810 letters, postcards and e-mails—from approximately 4,400 commentators. The vast majority of commentators supported the Program and the regulatory changes. Industry representatives generally opposed the Program and some of the regulatory changes. Generally supportive commentators included the Sierra Club, the American Lung Association, Citizens for Pennsylvania's Future, PennEnvironment, Group Against Smog and Pollution, the League of Conservation Voters, numerous faith-based organizations, several thousand individuals, Senators Joseph Conti, Jim Ferlo, Vincent Fumo and Constance Williams, and Representatives Michael Gerber, Babette Josephs, Charles McIlhenney, Phyllis Mundy, Scott Petri and Josh Shapiro. Commentators who generally opposed the Program or proposed rulemaking, or some aspect thereof, included the Alliance of Automobile Manufacturers (Alliance), the Pennsylvania AAA Federa-

tion, the Pennsylvania Automotive Association (an automobile dealers association), the Pennsylvania Chamber of Business and Industry, the Association of International Automobile Manufacturers, General Motors, DaimlerChrysler, Sierra Research, Inc. (Sierra Research) and Senators Mary Jo White and Roger Madigan. The Independent Regulatory Review Commission (IRRC) and the Hertz Corporation also submitted comments in regard to the proposed rulemaking.

General Motors and DaimlerChrysler supported and incorporated by reference the comments of the Alliance. DaimlerChrysler supported and incorporated by reference the comments of Sierra Research. Only the primary commentator (specifically, Alliance or Sierra Research) is identified as the commentator for comments which General Motors or DaimlerChrysler did not expressly state independently of the Alliance or Sierra Research comment.

The Department has prepared a Comment and Response document in which the Department responds to comments received during the public comment period. The Comment and Response document is available on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Quick Access: Public Participation) The Comment and Response document provides detailed responses to these comments and explains the Department's position.

The following is a discussion of the comments received during the public comment period organized according to subject matter. Comments regarding the regulatory language are addressed and a summary of comments that address the Program as a whole are also provided.

#### *Comments on the Proposed Regulatory Language in Annex A*

The Pennsylvania Automotive Association and the Alliance commented that the proposed amendment to § 126.413(a) exempting new vehicles purchased out-of-State by residents of this Commonwealth would create an uneven marketplace. They noted that while there is little or no price differential today, in the future after implementation of the GHG standards, price could become an issue. They expressed concern that permitting residents to bring noncompliant new vehicles into this Commonwealth could affect dealer sales in this Commonwealth and sales tax revenues to State and local government. They suggested that there should be the same level of emissions standards for new vehicles brought into this Commonwealth by residents as for new vehicles sold by dealers in this Commonwealth. They stated that the exemption would make it difficult to enforce the Program. These commentators said that the emissions benefit could be reduced if this exemption were adopted. The Alliance suggested that the exemption be removed and Program implementation should be consistent with the EPA's "Policy of Cross-Border Sales of California Certified Vehicles for 2004 and Later Model Years," which allows in-State and out-of-State dealers to sell a California vehicle to any customer. The Alliance also commented that the Commonwealth should establish a registration enforcement process.

The Department agrees that the proposed exemption should be deleted and is therefore deleting proposed § 126.413(a)(14). The proposed amendment, which was added to the proposed rulemaking by the Board on October 18, 2005, was offered to ensure equitable vehicle registration requirements in this Commonwealth under the assumption that this would reflect the anticipated DOT approach to registration. The Department agrees

that purchasers need to be treated similarly. Additionally, the exemption would have complicated enforcement and increased the possibility of reduced emissions credit. Using the titling process offers the most equitable and effective way to enforce the vehicle registration requirement, since a vehicle must be titled in this Commonwealth to be registered in this Commonwealth. Prohibiting titling of vehicles not certified by CARB will protect individuals from purchasing a vehicle out-of-State that cannot be registered in this Commonwealth. In addition, individuals who purchase vehicles from out-of-State dealers work with a issuing agent in this Commonwealth to title a new vehicle in this Commonwealth. To title a vehicle, the issuing agent must have access to a Manufacturer's Certificate of Origin (MCO), a document that includes a statement about the emission standards (for example, that the vehicle is certified by CARB or by the EPA, or is a 50-state vehicle that can be sold in Tier 2 or CA LEV II jurisdictions). Registration does not require access to an MCO. The Commonwealth will require issuing agents to certify that the vehicle complies based on the MCO. The Commonwealth will make a specific outreach effort to advise dealers in the contiguous states about the Pennsylvania requirements. As long as out-of-State dealers offer California LEV vehicles, residents of this Commonwealth will be able to purchase vehicles from neighboring states.

Hertz commented on existing § 126.413(a)(6), which exempts from the Program a light-duty vehicle held for daily lease or rental to the general public that is registered and principally operated outside of this Commonwealth. Hertz commented that because of the uncertainty created in determining when a vehicle is "principally operated outside the Commonwealth," meeting this requirement would impose extreme burdens on the way Hertz manages its vehicle fleet and severely restrict the vehicle choices available to the renting public. Hertz requested a clarification regarding vehicles registered outside this Commonwealth. Hertz suggested that rental vehicles engaged in interstate commerce should be deemed to be principally operated outside of this Commonwealth and thus not subject to the Program. Under the International Registration Plan formula, rental car companies register a certain minimum number of vehicles in each state based on gross revenue in the preceding year. The International Registration Plan is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of registration fees on the basis of total distance operated in all jurisdictions. Additional information about the International Registration Plan can be found at [www.irponline.org](http://www.irponline.org). The International Registration Plan is effective in the 48 contiguous states and 10 Canadian provinces.

On this issue, IRRC asked whether the Board intended to require rental car companies to ensure that any car that could possibly be used in this Commonwealth comply with CARB standards or whether rental car companies would merely be required to have all vehicles registered in this Commonwealth comply with the standards. IRRC asked that the Board clearly delineate the requirements in the final-form rulemaking.

The Department agrees with Hertz' suggested interpretation of the existing regulation. The final-form rulemaking includes an amendment to § 126.413(a)(6) to clarify the intent of the Commonwealth with respect to enforcement of the regulations regarding daily lease and rental companies under the Program. The Department does not intend to require rental car companies to ensure

that any car that could possibly be used in this Commonwealth complies with CARB standards. The Department does not intend to interfere with the normal business practices of National rental car companies. The International Registration Plan ensures that rental car companies cannot avoid registering a certain number of vehicles in this Commonwealth to avoid compliance with the Program. MY 2008 and later rental vehicles registered in this Commonwealth must be certified by CARB. The final-form rulemaking includes an explanation in § 126.413(a)(6) that a light-duty vehicle is deemed to be principally operated outside of this Commonwealth if it is registered outside of this Commonwealth in accordance with the International Registration Plan or a successor plan for apportioning vehicles registration fees internationally.

The Alliance commented that the Commonwealth should establish a registration enforcement process to get full SIP credit. The Alliance noted that a registration enforcement process based on the MCO showing that a vehicle is certified for sale to California standards has been successfully implemented in New York, Massachusetts and Vermont, but that Maine has not implemented a registration enforcement process and did not receive full SIP credit. The Department agrees. The existing regulatory language requires new subject vehicles registered in this Commonwealth to be those certified by CARB. The Commonwealth has consulted with the DOT on the registration enforcement process. The DOT has recommended adding titling to the Department regulation because to title a vehicle, the issuing agent must have access to the MCO. A vehicle must be titled in this Commonwealth to be registered in this Commonwealth.

The Alliance questioned the legality of the delegation to CARB that § 126.431(d) represents (pertaining to enforcement actions taken by CARB applying to Pennsylvania) and suggested that it unlawfully strips manufacturers of their ability in a Pennsylvania court to contest the validity at law of any CARB enforcement action as to vehicles in this Commonwealth. The Alliance suggested that one way the Department could reduce the practical concerns that the commentator suggested are associated with this issue would be to adopt language similar to Rhode Island's approach by adding the following clause to proposed § 126.431(c) and (d): "except where the manufacturer demonstrates to the Department's satisfaction that said action is not applicable to said vehicle." The Department does not agree that there is a legal issue as described by the commentator. The purpose of § 126.431(c) and (d) is to ensure full protection to consumers in this Commonwealth pertaining to recall efforts taken by CARB or initiated by manufacturers for vehicles that are sold, leased, offered for sale or lease, registered or titled in this Commonwealth. For the sake of clarity, the final-form rulemaking adds language similar to that suggested by the commentator to allow a manufacturer the opportunity to demonstrate that an order issued or enforcement action taken by CARB or a voluntary or influenced recall campaign to correct noncompliance with a provision of Title 13 CCR is not applicable to vehicles sold, leased, offered for sale or lease or registered in this Commonwealth. An example might be if a manufacturer demonstrated that the noncompliance was corrected for or did not occur in the first place in the vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

IRRC noted that the Board indicates that § 126.412(d) is intended to allow manufacturers to carry forward NMOG credits fully for a 3-year period without a loss of

those credits each year. IRRC commented, however, that this is not clearly stated in this section. IRRC suggested that this provision should be amended to clarify the Board's intentions. The Department agrees that § 126.412(d) allows manufacturers to carry forward NMOG credits fully for a 3-year period without a loss of those credits each year. The final-form rulemaking clarifies in § 126.412(d) that these credits may be carried forward without diminution during the 3-year period (MYs 2008 through 2010).

The Alliance commented that the NMOG fleet average transition mechanism in the proposed rulemaking was not adequate. The Alliance stated that other states, for example Massachusetts, Vermont and New York, included a transition mechanism that allowed credits/debits to be earned during the transition period, which is the period required for credits that were earned in California to completely expire (3 years). The Alliance recommended that if an NMOG fleet average requirement is maintained, the Commonwealth should adopt these provisions. The Department agrees that the appropriate credit-earning period is 3 years. The commentator's reference to the approach adopted by Massachusetts, Vermont and New York, however, is inapposite since those states transitioned in practical terms directly from CA LEV I to CA LEV II, without having adopted NLEV as a compliance alternative. In this Commonwealth, credits could not be fairly determined for a model year before MY 2006 because most vehicles sold in this Commonwealth would have been Tier 2 vehicles, whereas credits (and debits) are calculated by comparing the actual fleet average of CARB-certified vehicles with the required fleet average. Consequently, credits could be earned for only a small number of vehicles. The Commonwealth is adopting a mechanism that allows credits to be earned during the transition period of MYs 2008 through 2010. While California discounts these credits after the first year, the Commonwealth will allow full credit over MYs 2008 through 2010. Language clarifying this full credit has been added to the final-form rulemaking. This approach does not present identity issues.

The Alliance also commented that by adopting and attempting to enforce the California Fleet NMOG average, the Commonwealth will violate the CAA. The Alliance said that California's fleet average scheme includes the opportunity for manufacturers to earn credits in 1 year by having a lower fleet NMOG average than required and spend credits in a later year by having a fleet NMOG average higher than otherwise required. The Alliance argued that a manufacturer could have earned a substantial amount of credits in California during 2005 through 2007 and then use those credits in 2008 through 2010 to offset a higher than otherwise required fleet NMOG, but that because the Commonwealth's regulation did not take effect until 2008, the manufacturer would not have earned any credits in this Commonwealth in 2005 through 2007 and therefore accumulated significant debits in this Commonwealth in 2008 through 2010 by selling the very same mix of vehicles as it sold in California those years. The Alliance concluded that this would lead to a lack of identity in 2011 as there would be two different standards as a result of the differences in credit counting, violating section 177 of the CAA on its own and by requiring manufacturers to limit the sales of California certified vehicles or to create a third vehicle. The Department disagrees that the adoption or enforcement of the NMOG fleet average in this Commonwealth



will lead to a lack of identicality or otherwise violate the CAA. The reasons are set forth in the preceding paragraph.

General Motors and the Alliance suggested requiring only NMOG fleet average reporting, as opposed to compliance. They wrote that fleet average NMOG is determined by sales mix and that the sales mix in this Commonwealth is different than the sales mix in California because of differences in consumer demand. These commentators said that to comply with the fleet NMOG average, manufacturers may need to restrict sales of certain models in this Commonwealth that are not restricted in California and that consumers would then keep their older, higher emitting vehicles longer since they would be unable to purchase the new vehicles they wanted. The Department responds that it is unlikely that the sales mix in California differs significantly overall from the sales mix in this Commonwealth. (This is further described under Comments Regarding Economic Issues.) These commentators have provided no evidence that certain models have been restricted in other states adopting the California low emission program on any parameter of concern to purchasers. In many cases, manufacturers make both a California and a Federal version of a specific engine family. Many factors will influence purchase of new vehicles. These commentators have not presented any evidence that consumers would keep older vehicles longer based on differences due to NMOG fleet averages. Therefore, the requested change is not made in the final-form rulemaking.

General Motors also claimed that by requiring reporting, the Board could evaluate the differences between the California and Pennsylvania sales mix for each manufacturer and assess the problems that would be caused by requiring fleet NMOG compliance. If the industry-wide levels were below the fleet average standard, there would not be any need to require compliance. The Department disagrees that the existing or final amendments to the Program will present a compliance difficulty for automakers to a degree that the Department must "assess" the existing Pennsylvania-specific NMOG fleet average requirement before implementation. The Department believes, given automakers' current collective ability to comply with the NMOG fleet average in other states, that automakers collectively can meet the requirement in this Commonwealth. Furthermore, based on CARB's analysis of its GHG provisions, the Department is confident automakers will be able to comply with the Pennsylvania-specific NMOG fleet average requirement in the future. The commentator provided no specific information on why it believes it cannot comply with the NMOG fleet average in this Commonwealth. The Department adds that requiring only reporting without enforcement would likely present problems for earning emission reduction SIP credits from the EPA.

The Alliance stated that section 177 of the CAA problems (of identicality) do not arise if a state only requires manufacturers to report fleet NMOG average. For the reasons previously described, the Department disagrees that the Program or the final-form rulemaking raises identicality problems.

IRRC commented that subsection (b) in §§ 126.421—126.425 (relating to applicable new motor vehicle testing) requires a manufacturer to provide certain types of information to the Department "upon request." IRRC asked under what circumstances the Department would make the request. IRRC stated that the Board should clearly identify the type of request it will make to the

manufacturers and that the request should be in writing. The Department responds by explaining that these sections assure that documents regarding the compliance of vehicles throughout the entire production process (including documents ensuring that vehicles are manufactured to meet the applicable certification standards throughout their useful life) are available to the Commonwealth. The Department anticipates that these requests will be infrequent. They could be triggered by reports from dealers, vehicle owners or other states implementing the California program regarding specific makes or models. Some of these documents are not directly obtainable from CARB because of confidentiality agreements. The Department has the authority to enter into similar confidentiality agreements with manufacturers, if necessary, to receive reports. The requests would be to provide to the Commonwealth the specific kinds of documents already in existence relative to a specific test group in California: for example, "new vehicle certification testing determinations and findings made by CARB" under § 126.421(b). The Department added language to each of these sections stating that these requests to the manufacturer will be made in writing. The Department also added parallel "upon request" language to § 126.431(b) because of comment during the proposed rulemaking.

The Alliance commented that the Commonwealth would not find reports of failures of emission-related components required in § 126.431(b) of much value because the Department has already proposed to extend emission-related actions such as recalls applicable in California to this Commonwealth. To save resources, the Alliance suggested that these reports should be available only upon request and noted that this language has been included in other states. The Department agrees to reduce the reporting requirements by adding language that reports in the section can be made available upon a written request from the Department rather than provided routinely.

#### *General Comment Regarding Proposed Rulemaking*

IRRC commented that Senators Madigan and White submitted a letter on March 27, 2006, expressing support for Tier II as an alternative to the California program. IRRC noted that, in addition, the Senate passed SB 1025 by a vote of 27 to 20, which would revive the regulatory framework initiated in 1998 and give the automobile industry the option of complying with either the CARB regulations or Tier II. IRRC continued that commentators for the automobile industry also recommended that the Board adopt the Tier II program. IRRC said the industry commentators claim it is a comparable, or an even better, program for reducing air pollution and that the economic impacts on the automobile industry and consumers will not be as great as those imposed by CARB regulations. IRRC stated that in its response to these concerns, the Board needs to explain why and how the CARB regulations address the issues of environmental protection and cost-effectiveness, and that the Department should demonstrate how its regulation will generate greater benefits for public health and this Commonwealth's natural resources at a cost that is affordable, reasonable and competitive with alternative regulatory approaches.

The Department disagrees with the characterization that SB 1025 would have revived the regulatory framework initiated in 1998. The voluntary NLEV program was adopted as an opt-in program, that is, if a sufficient number of states and automakers opted in, compliance with that program would be in place in the Ozone Transport Region beginning in MY 1999. The NLEV

program provided a complex system of adverse consequences for failing to fulfill commitments. SB 1025, on the other hand, offers the auto industry the option of complying with California standards or the less stringent Federal Tier II standards, with no consequence to industry for choosing the less stringent standards. SB 1025 would also have abrogated the existing Program and prohibited the Board from adopting vehicle emission standards established by CARB.

The Department adds that it is important to note that this final-form rulemaking does not adopt the Program but makes changes to the already existing regulations to postpone the Program compliance date from MY 2006 to MY 2008, specify the early credit earning period for automobile manufacturers and update definitions and cross-references. In the preamble to the 1998 rulemaking that incorporated the California standards by reference, the Board stated its intention to reassess the air quality needs and emission reduction potential of both programs.

Achieving and maintaining the health-based NAAQS for ground-level ozone remain challenges for this Commonwealth, particularly in the Southeast. The EPA concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Children, the elderly and those with respiratory problems are most at risk, but healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activities that involve physical exertion.

Ozone is not directly emitted, but is created in the atmosphere as a result of the chemical reaction of  $\text{NO}_x$  and VOCs, in the presence of light and heat. The formation of ozone is greater in the summer months because of the higher temperatures. Ground-level ozone and its precursors, VOC and  $\text{NO}_x$ , adversely affect not only public health but also the environment, such as agricultural crops and forest vegetation. Passenger cars and light-duty trucks are significant sources of VOCs and  $\text{NO}_x$ . About 1/3 of this Commonwealth's ozone-forming pollution comes from motor vehicles. Further reducing ozone precursors and other air pollutants from motor vehicles will thus help protect public health and the environment.

During the development of the final-form rulemaking to revise the 1998 regulation, the Department engaged the services of a National transportation consultant, Michael Baker Corporation (Baker), to estimate the emission-reducing benefits of retaining the California standards in this Commonwealth compared to participating in the Federal Tier II program. This study ("Pennsylvania LEV II Air Quality Impacts," November 2004) showed that by 2025, when full fleet turnover is expected, the California LEV II program will provide an additional reduction of 2,850 to 6,170 tons per year of VOCs, 3,540 tons per year reduction of  $\text{NO}_x$  and 5% to 11% more reduction of six toxic air pollutants, including a 7% to 15% additional benefit for benzene, a known carcinogen, when compared to the Federal Tier II program. (A range is shown because the Commonwealth prepared analyses using assumptions from the EPA as well as assumptions from the Northeast States Coordinated Air Use Management (NESCAUM) study. The lower number uses the more conservative EPA assumptions.) The Baker analysis used Pennsylvania-specific vehicle, travel, fuel and other information.

CA LEV II and EPA's Tier II use similar approaches in regulating emissions affecting ozone and other criteria pollutants from new passenger cars and light-duty trucks,

which include vehicle-specific standards and manufacturer fleet averages. In both programs, manufacturers may choose the technologies they use to meet the vehicle-specific emission limits and may choose the mix of vehicles they offer for sale to meet the fleet averages.

A manufacturer may certify any particular type of vehicle to a category that limits emissions of a number of pollutants. For CA LEV, the major categories include LEV, Ultra Low Emission Vehicle and Super Ultra Low Emission Vehicle. For the Federal program, there are eight "bins." Bin 5 is considered equivalent to the least stringent California standard. These vehicle-specific emission limitations affect both tailpipe and evaporative emissions. Overall, the California program is more stringent. In addition, each manufacturer must meet a fleet average for emissions of nonmethane organic compounds (equivalent of VOCs) for California and a fleet average for emissions of  $\text{NO}_x$  for the Federal program. Overall, these fleet averages make the California program more stringent.

California has recently promulgated amendments to its regulations establishing its California LEV II standards in Title 13 CCR, Division 3, Chapter 1 to include GHG requirements. These GHG regulations are already incorporated by reference by the Department's regulations and are part of the Program. Under these regulations, California has added a GHG fleet average requirement to its LEV II program for vehicles offered for sale in California. This final-form rulemaking does not include a Pennsylvania GHG fleet average requirement. A vehicle offered for sale in this Commonwealth must simply be CARB-certified. For a vehicle to be CARB-certified, the vehicle manufacturer must meet California's GHG fleet average requirements based on sales of vehicles in California. The Department does not believe that it needs to establish a GHG fleet average requirement for vehicles offered for sale in this Commonwealth to realize the GHG emission reductions in this Commonwealth anticipated under the California LEV II program. Overall, the vehicle fleet mix in this Commonwealth is similar to California's, and the Commonwealth anticipates it will realize similar GHG emissions reductions in this Commonwealth because the fleet vehicle mix in this Commonwealth is similar to California's.

To assess costs and cost differentials, the Department evaluated the CARB initial and final Statements of Reasons for the adoption of CA LEV II and the GHG provisions and the costs contained in the EPA's impact analysis for promulgation of Tier II. Before adoption, CARB predicted that implementing LEV II could increase retail vehicle prices from \$68 to \$276 depending on the weight of the vehicle. Similarly, the EPA predicted that implementing Tier II could increase vehicle retail prices from \$78 to \$245 depending on the weight of the vehicle. Today, with both programs having been in place since MY 2004, there appears to be little to no difference in vehicle retail price between CARB-certified and Federal-certified vehicles.

In September 2004, CARB estimated that by MY 2016 the operational efficiency savings of vehicles meeting GHG requirements would provide vehicle owners an overall cost savings of \$3.50 to \$7 per month, assuming \$1.74 per gallon of gasoline. These savings are probably understated, since the price of gasoline is likely to remain higher than that used in CARB's analysis. CARB estimated the GHG-related initial investment costs, possibly reflected in sticker prices, would start under \$50 per vehicle for the first year of the requirement, MY 2009,

and be approximately \$350 in 2012 and \$1,000 in MY 2016. Vehicle manufacturers disagree with CARB's GHG estimate, citing initial costs of about \$3,000 per vehicle. Vehicle manufacturers also believe that the cost savings will not be as great as CARB predicts.

In summary, there is a continuing need for additional reductions in ozone precursors because of the challenge in achieving and maintaining the ground-level ozone standard; there are additional benefits to health and the environment from obtaining reductions of VOC, NO<sub>x</sub> and GHG emissions that Federal new motor vehicle programs do not provide. CARB standards cost consumers little or nothing in the short term and overall save consumers money in the long term.

#### *Summary of Comments Supporting Implementation of the Program*

Over 4,000 commentators voiced their support for the Program and for the final-form rulemaking. Their reasons were many, including health and environmental benefits, economic issues and technology advances. Some commentators urged the Department to implement the Program as quickly as possible. Other commentators saw value in the postponement of the Program. The Department appreciates the support of these commentators.

#### *Summary of Comments Opposing the Program*

Comments were received from roughly ten commentators opposing the LEV program itself, which is already adopted in the current regulations, as opposed to this final-form rulemaking, which postpones the Program compliance date from MY 2006 to MY 2008, specifies the early credit earning period for automobile manufacturers and updates definitions and cross-references. Although comments received on the LEV program are not pertinent to this final-form rulemaking, the Department nonetheless addresses them here and in more detail in the Comment and Response document.

#### *Federal Standards*

Several industry commentators and Senators Madigan and White oppose continued Pennsylvania adoption of the California standards and commented that the Department should follow the Federal standards. Some of these commentators believed the Department had already been following the Federal Tier II program. The two senators commented that they would continue to advocate for legislation which calls for a comprehensive strategy of assessing, improving and maintaining this Commonwealth's air quality in a manner compliant with the CAA. The Department responds that, although manufacturers needed to sell cars complying with Tier II rather than NLEV for MYs 2004 and 2006 due to the language adopted as a condition of participation in NLEV, the California standards are currently incorporated by reference in the Commonwealth's regulations. In a December 2, 2005, letter to Representative Richard Geist, EPA Region 3 Administrator Donald Welsh stated that it is the EPA's opinion that the CA LEV standards are "the legally effective program for Pennsylvania" and underscored that the CA LEV standards are a "federally enforceable part of the SIP." The final-form rulemaking amends the existing regulations as previously described.

Several industry commentators, the Pennsylvania AAA Federation and the two senators commented that the California LEV standards will produce no air quality benefit relative to the Tier II program. They wrote that the EPA has stated: "We estimated that LEV II will provide about 1 percent additional reduction in mobile source VOC, and about 2 percent reduction in air toxics,

over Tier II in 2020 with the program starting in the 2004 model year and lower with a later program start date." They wrote that the EPA has cautioned states against taking too much credit for the CA LEV program. The Department disagrees with the characterization of the benefits of implementing the Program. The letter from the EPA to NESCAUM regarding NESCAUM's analysis of benefits was not a statement pertaining to the benefits estimated by the Department. In fact, the EPA stated in a December 2005 response to Representative Richard Geist regarding the issue of EPA quantification of the emissions benefits from the implementation of the Program that "at present, EPA has not performed such an analysis, although PADEP has done so. Section 177 of the [Clean Air] Act does not require a state to do such analysis prior to adoption of CA LEV standards. However, such benefits would need to be quantified in order to rely on associated emission reductions in a SIP [State Implementation Plan] submitted for EPA approval." The Department will submit its analysis to the EPA as part of a revision to its SIP. With regard to the 2004 letter from the EPA to NESCAUM, the EPA also stated in the same December 2005 letter to Representative Geist, "EPA commented in a March 26, 2004 letter to NESCAUM on a White Paper NESCAUM prepared on methods quantifying differences between federal Tier II and CA LEV II standards. EPA was concerned that states use the proper methods in modeling both programs to ensure that incremental benefit from LEV II is properly quantified, although EPA also provided a typical estimate for incremental emissions benefits to be expected between the two programs. Pennsylvania should follow EPA's guidelines when calculating incremental emissions benefits available to Pennsylvania for CA LEV II versus Tier II." The Department used EPA guidelines in estimating the emissions benefits of implementing the amended Program regulations in addition to using the NESCAUM method to establish range of potential benefits. The Department intends to use the EPA methodology as part of its SIP submittal for the revised Program.

Senators Madigan and White commented that a January 31, 2006, letter from the Department dismissed as irrelevant arguments that the EPA has stated there is only a 1% to 2% emission reduction difference between Federal vehicle emission standards and the California program. The senators stated that the Department wrote that the EPA was comparing CA LEV II to the NLEV program, but that the EPA's March 26, 2004, letter stated that the comparison was to Tier II. The Department responds that the EPA's 2004 letter to NESCAUM stated that NESCAUM's estimated benefits of LEV II "are expressed in terms of relative benefit over Tier II; when characterized in terms of the absolute benefits relative to a (non-Tier II) baseline, the differences between the programs are more realistically characterized." The EPA then goes on to say that the 1% to 2% additional reduction benefit estimate is in addition to Tier II. The EPA did not show what data they used to estimate these percentage reductions but by their statement about NESCAUM's analysis and that a realistic characterization would be an absolute comparison to a non-Tier II baseline, the Department concluded the EPA made that comparison for estimating their reductions, that is, by using the NLEV program as a baseline. The Department disagrees that the NLEV program should be used as a baseline comparison for the purpose of estimating the benefits of implementing the Program. NLEV is no longer an option for automakers, as automakers were required to comply with the more stringent Tier II standards beginning with MY 2004. The Department's comparisons

were to the only legal alternative to CA LEV II standard—the Federal Tier II program.

The two senators commented that the Department stated that it has relied upon the additional benefits of adopting CA LEV II as a means of achieving attainment. They said that the Department failed to acknowledge that 31 counties are expected to come into compliance with the 8-hour standard by 2009, and that none of the remaining counties' attainment strategy calls for utilizing projected benefits from CA LEV II. The senators stated that no documents provided to the General Assembly or the public by the Department actually show where the Department calculated and anticipated benefits. They stated that, to the contrary, several documents, including the Department's August 2003 recommendations to the EPA for 8-hour ozone attainment/nonattainment areas (which makes no mention of achieving future credit under CA LEV II), reflect the Department's confidence that, realizing the benefits of cleaner cars under Tier II, the Commonwealth can meet and maintain Federal air quality standards. The Department responds that modeling prepared by the EPA for the Clean Air Interstate Rule indicated that many of the current nonattainment counties in this Commonwealth were expected to come into compliance with the 8-hour ozone standard. However, based on studies subsequent to 2003, the Department does not agree with all of the assumptions or conclusions in this modeling. The Commonwealth is, therefore, working with other states in the Northeast, Mid-Atlantic and Midwest to consider additional measures to meet the 8-hour standard. Public meetings were held in May 2006 to discuss possible measures in addition to measures like the California LEV program that have already been adopted by other states. The Department agrees that SIP revisions in nonattainment areas submitted to the EPA to date have not assumed implementation of the California program; these SIP revisions are primarily for attainment of the 1-hour ozone standard. They were prepared before the designation of areas for the 8-hour standard became final and the assessment of both benefits of and need for retaining the California program was performed. After an area originally designated as nonattainment attains the standard based on actual monitoring of air quality, the Commonwealth must demonstrate that the area will maintain the standard for at least ten years by submitting a maintenance plan as an SIP revision. Eight years after that, the Commonwealth will need to submit a second 10-year maintenance plan as an SIP revision. In addition, as comments from the American Lung Association emphasized, if the EPA revises the ozone standard again as the result of the required 5-year review of health evidence, states will be required to prepare SIPs to attain that standard. The EPA is in the process of that review at present, with some indications that a further tightening of the standard is possible.

#### *Cross-Border Purchases*

The Pennsylvania Automotive Association commented that dealers could have problems supplying specific vehicles to meet customer needs. They stated that since no dealer can keep all vehicles in stock, dealers work together to trade inventory to satisfy particular needs, even across state lines. The association expressed concern that bordering states are in different phases of dealing with the California car issue and that dealers in non-California states would carry non-California cars primarily or exclusively. The Department responds that one reason the Commonwealth proposed to postpone its enforcement of the California program until MY 2008 was to better ensure vehicle availability. The EPA's cross

border policy allows dealers in adjacent states to sell California vehicles. If there is enough demand for these interdealer trades, the postponement will give the market time to adjust to the requirement.

The Pennsylvania Automotive Association commented that few if any consumers who are not required to purchase a California vehicle will choose to pay the price premium for a vehicle that meets the California standards and that, to the extent that residents of other states near this Commonwealth are not subject to the California rule, dealers in this Commonwealth can expect to lose all or nearly all so-called "cross-border sales" once the California rule comes into effect. They stated that those out-of-State consumers who want vehicles with higher fuel economy will be able to purchase them from dealers located outside this Commonwealth who currently, and in the future, will have an ample supply of higher-mileage vehicles for sale. The Department disagrees. This final-form rulemaking does not adopt the California LEV program or require compliance with the California GHG fleet average based on sales in this Commonwealth, but makes changes to the existing regulations to postpone the Program compliance date from MY 2006 to MY 2008, specify the early credit earning period for automobile manufacturers and update definitions and cross-references. There is presently no price differential in states surrounding this Commonwealth for California and non-California vehicles. Once the GHG provisions become effective, CARB predicted that the cost differentials would start at less than \$100 in MY 2009 and rise to about \$1,000 in 2016 when the most stringent GHG limit is imposed. The Department disagrees with the implication that dealers in this Commonwealth will necessarily lose sales from residents in states that have not adopted the California regulation. The Program does not require automakers to meet the GHG fleet average based on sales in this Commonwealth. Since there is no per-vehicle GHG requirement, it is expected that any differential costs for a specific make or model will be a minor concern in the choice of noncitizens of this Commonwealth to purchase from a dealership in this Commonwealth.

#### *Vehicles Types*

Several commentators, including IRRC, expressed concern with the impact of the proposed rulemaking on vehicles that operate on different types of fuels. They stated that light-duty vehicles that operate on diesel are very popular. IRRC asked whether consumers will still be able to purchase and operate these vehicles in this Commonwealth under CARB regulations. The Department responds that diesel vehicles presently comprise a very small percentage (0.09%) of passenger and light-duty vehicles in this Commonwealth. Based on the Department's analysis, it appears that automakers have not as yet been enthusiastic about offering diesel light-duty vehicles in the United States and citizens in this Commonwealth have not been choosing to buy very many of the small number of models available. Gasoline versions of these vehicles are certified and available in California LEV states. The heavier diesel pick-up trucks such as those typically used by farmers are not regulated by the Program because of their weight—the only light-duty trucks subject to the program are those 8,500 pounds gross vehicle weight or less. In light of rapid advancement in developing exhaust clean-up technologies for diesel cars and light-duty trucks, automakers are expected to be better able to certify diesel vehicles to the CARB standard if they so desire. With the coming of ultra-low sulfur diesel (ULSD) fuel across the United States beginning in fall of 2006, the Department believes

automakers will be able to certify diesel vehicles to the CARB standard and make them available in this Commonwealth. Many large automakers have already publicly indicated they will be able to certify their light duty diesel vehicles to the California standards once ULSD is widespread. The industry has complied with CARB standards every time CARB has revised them since 1961 when California established the first auto emissions standards 2 years before the Federal government. The Department believes that the automakers will seize the opportunity to develop compliant vehicles if they are in demand by consumers in this Commonwealth and the other states implementing the LEV program. At least one automaker, DaimlerChrysler, has already announced the availability of a MY 2007 light-duty diesel vehicle capable of complying with LEV standards. (The company's January 8, 2006, press release "NAIAS 2006 Detroit: DaimlerChrysler to Feature Technology for the Cleanest Diesel in the World" is available at [www.daimlerchrysler.com](http://www.daimlerchrysler.com).)

Several industry commentators and the Pennsylvania AAA Federation called for following the Federal Tier II program because they claim it can better accommodate diesels by adding flexibility without sacrificing emissions benefits. The Department responds that CARB, the EPA and the manufacturers share similar goals—to ensure that clean light-duty diesels can be part of the vehicle mix in the United States. Postponement of the implementation of the CA LEV program in this Commonwealth from MY 2006 until MY 2008 as provided for in this final-form rulemaking provides time for manufacturers to meet the standards for vehicles anticipated to be sold in CA LEV states. The EPA's recent Tier II rule changes, published at 71 FR 16053 (March 30, 2006) direct final rule effective June 28, 2006, affect MYs 2007–2009 only. After that time, the EPA expects that manufacturers will be able to meet the "remaining narrow challenges" facing diesel technology (71 FR at 16056).

IRRC commented that industry, Federal and State leaders have recently expressed support for flexible fueled vehicles (FFV) that operate on fuels with a greater percentage of ethanol. IRRC asked what the impact of this final-form rulemaking on the use of ethanol will be. The Department responds that ethanol can either be added to gasoline in amounts up to 10%, which can be accommodated in conventional vehicles, or in a blend called E85, which is 85%—ethanol. A specially designed vehicle, known as an FFV, which can run on conventional gasoline or E85, is needed to accommodate E85 fuel. There will be no effect on the use of ethanol in conventional vehicles from the Program. For E85 and new FFVs, the postponement in compliance date in this final-form rulemaking will give the industry time to respond to market situations. The decision by two manufacturers not to certify FFVs in California for the coming model year (MY 2007) was a business decision, reportedly based on the lack of E85 refueling stations. At least one other manufacturer, General Motors, is continuing to certify FFVs in California for MY 2007. There are few E85 stations outside the Midwest. California has only one and, therefore, there is a small market. As E85 stations become more common, it is anticipated that the demand for the vehicles will increase and these manufacturers will again certify FFVs for use in CA LEV programs. Also, E85 can be used in all of the FFVs already in use in this Commonwealth. The Commonwealth has an interest in encouraging renewable fuels, such as ethanol. The first public E85 station in this Commonwealth opened in spring 2006.

### *California LEV Adoption*

Senators Madigan and White asserted that the Department adopted a more stringent (compared to Tier I) Federal option available at the time of the 1998 rulemaking, called NLEV. The Department responds that Chapter 126, Subchapter D adopted in 1998, previously titled New Motor Vehicle Emissions Control Program, contained both NLEV and Program provisions to enable the Commonwealth to participate in NLEV as well as the Program, which incorporates the California LEV program.

Senators Madigan and White and several other commentators commented that the current Department administration reversed course from its 1998 statements and now claims that the California vehicle emission standard is effective in this Commonwealth for MY 2006. They stated that if the Department's current interpretation is to be believed, then the Department has offered no reason to substantiate why it is proposing to postpone implementing the California standard when, per its own argument, the automobile industry and consumers have had advance notice of its effective date for nearly 8 years. They stated their belief that the CA LEV program was intended solely as a "backstop" to NLEV/Tier II. They cited various statements attributed to the Department to support their belief. They also stated that their belief is that the Department has failed to revisit the current regulation in a timely fashion to incorporate the Federal Tier II standards and that this rulemaking is actually a conscious decision to codify the California standard in the Commonwealth's regulations. They stated the Department intentionally omitted in a January 31, 2006, letter to the General Assembly the context of the 1998 rulemaking as well as the Department's own stated intention to revise the regulation to incorporate Tier II when it was finalized. Several industry commentators commented that the Program included adoption of the LEV standards as a temporary measure or "backstop" in case the EPA's NLEV program was not implemented or if Federal standards cleaner than NLEV were not adopted. The Department responds that the California standards were adopted in this Commonwealth to require compliance if the auto manufacturers opted not to participate in the voluntary NLEV program or after the end of the commitment to NLEV after MY 2005. This was stated clearly in the preambles to the 1998 proposed and final-form rulemakings: "This program will only be implemented if an auto manufacturer opts out of the NLEV program or *at the conclusion of the NLEV program.*" (Emphasis added.) See the final-form rulemaking at 28 Pa. B. 5873, 5874. See also the proposed rulemaking at 27 Pa. B. 6303, 6305 (November 29, 1997). The preamble specified that NLEV was only a temporary measure: "The Commonwealth's NLEV program participation ends with model year 2006." See 28 Pa. B. 5783, 5875. The 1998 regulation itself was and is clear. It expressly adopts and incorporates by reference certain provisions of the California LEV program, Title 13, CCR in § 126.411, requires CARB certification for vehicles sold, imported, delivered, purchased, leased, rented, acquired, received or registered in this Commonwealth in § 126.412(a) and requires compliance with the California NMOG fleet average in this Commonwealth in § 126.412(b). The 1998 regulation expressly adopts NLEV as only a temporary measure and a compliance alternative to the California program: § 126.402(b)) stated "The Commonwealth's participation in the NLEV program extends until model year 2006 . . ." and § 126.401(b) stated "This subchapter allows motor vehicle manufacturers to comply with the voluntary NLEV program . . . as a compliance alternative to the Pennsylva-

nia Clean Vehicles Program. . . .” Hence, the Department was clear that the California program was offered as more than just a backstop in the event a manufacturer did not comply with NLEV or the Federal standards were not finalized. The 1998 regulations provided in § 126.402 (c) that “[f]or the duration of the Commonwealth’s participation in the NLEV program, manufacturers may comply with the NLEV standards or equally stringent mandatory Federal standards in lieu of compliance with the Pennsylvania Clean Vehicles Program established in §§ 126.411—126.441. . . .” In 2004, the EPA established more stringent Federal standards called Tier II. Hence, manufacturers were required to comply with Tier II, as part of the NLEV program, for MYs 2004 and 2005. Beginning with MY 2006, when the Commonwealth’s participation in the NLEV program ended, the California program took effect. “Except as provided in subsections (a) and (c) [describing NLEV participation], the Pennsylvania Clean Vehicles Program applies to all new passenger cars, and light-duty trucks (if designed to operate on gasoline) sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth starting with the model year beginning after December 5, 2000, and each model year thereafter.” (Emphasis added.) See § 126.402(d). Hence, the current rulemaking is not an adoption or codification of the California program. The California program was adopted, or codified, in the Commonwealth in 1998. The Department proposed postponing implementation of the Program in this final-form rulemaking to minimize any potential vehicle availability issues and to put in place a specific transition mechanism for compliance.

#### *Incorporation by Reference*

The Alliance submitted several comments regarding the existing regulations’ incorporation by reference of the California program. It claimed that the Board and Department have been ambiguous about whether they believe that the CA LEV II program is already the law of the Commonwealth and that there needs to be a legal basis for a conclusion that an incorporation by reference has already occurred. The Alliance claimed it is highly unusual for the Board to claim it has the authority to adopt regulations that automatically incorporate any amendments that are made to the California program. The Department disagrees that the Board and Department have been ambiguous. The purpose of this final-form rulemaking is not to adopt CA LEV II because by virtue of the 1998 rulemaking, CA LEV II is already the legally effective program in this Commonwealth. Situations in which cross-referenced statutory or regulatory provisions are later revised or replaced are addressed in 1 Pa.C.S. Part V (relating to Statutory Construction Act of 1972). Pennsylvania courts have held that the act applies to regulations as well as to statutes. (See, for example, *Highway New, Inc. v. Pennsylvania Department of Transportation*, 789 A.2d 802, 808 (Pa. Cmwlth. 2002).) Section 1937(a) of the Statutory Construction Act of 1972 (relating to references to statutes and regulations) states that “A reference in a statute to a statute or to a regulation issued by a public body or public officer includes the statute or regulation *with all amendments and supplements thereto and any new statute or regulation substituted for such statute or regulation*, as in force at the time of application of the provision of the statute in which such reference is made, unless the specific language or the context of the reference in the provision clearly includes only the statute or regulation as in force on the effective date of the statute in which such reference is made.” (Emphasis added.) In a December 2, 2005, letter

to Representative Richard Geist, EPA Region 3 Administrator Donald Welsh stated that it is the EPA’s opinion that the CA LEV standards are “the legally effective program for Pennsylvania” and underscored that the CA LEV standards are a “federally enforceable part of the SIP.” Hence, California’s post-1998 amendments and supplements to, and any new statute and regulation substituted for, the portions of the California LEV program that were adopted in the Commonwealth’s 1998 rulemaking are automatically included in the Commonwealth’s regulations.

The Alliance commented that authority to adopt regulations that automatically incorporate amendments made to the California program delegates statutory implementation authority in section 2(a) of the Regulatory Review Act (71 P.S. § 745.2(a)) to another state’s regulatory authority in violation of Pa.Const. Art. II, § 1. The Department responds that the current regulations and the final-form rulemaking are authorized under the act. The Commonwealth, along with the other states that have adopted the California LEV program, has the same ability to comment on changes to the California program as it has in commenting on changes to the Federal new motor vehicle control program. Elected representatives are part of the rulemaking process in the Commonwealth established by the Regulatory Review Act (71 P.S. §§ 745.1—745.15). Additionally, the final-form rulemaking requires the Department to monitor and advise the Board of proposed or final CA LEV rulemaking under consideration by CARB, prepare a cost/benefit analysis to be submitted to the Board and Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees) for each proposed or final CARB rulemaking, evaluate and submit to the Board and the Chairpersons of the Committees the estimated incremental cost to manufacture vehicles that comply with the CA LEV program compared to the Federal program and submit comments on proposed or final CARB rulemakings on behalf of the residents of this Commonwealth. Section 1937(a) of the Statutory Construction Act of 1972 explicitly provides that “A reference in a statute [or regulation] to a statute or to a regulation issued by a public body or public officer includes the statute or regulation with all amendments and supplements thereto and any new statute or regulation substituted for such statute or regulation, as in force at the time of application of the provision of the statute [or regulation] in which such reference is made. . . .” Thus, the automatic inclusion in the Commonwealth’s regulations of amendments and supplements to, and of any new statute or regulation substituted for a portion of, the California program are statutorily sanctioned.

The Pennsylvania AAA Federation commented that the nature, severity and geography of California’s air pollution problem drive California’s pollution reduction strategies. The commentator stated that California regions are in “extreme” nonattainment while regions in this Commonwealth are defined as “moderate” or “marginal” and that California’s pollution reduction strategies may not be appropriate for this Commonwealth. The Department agrees that California’s ozone air pollution problem is worse than this Commonwealth’s. The nature of California’s problem has resulted in a dedication of technical resources to air quality problems unequalled in the world, including at the EPA. The Department agrees that some of California’s pollution reduction strategies may not be appropriate for this Commonwealth. However, as motor vehicles will continue to contribute a significant amount

of pollution in this Commonwealth, the Program is a cost-effective strategy to further reduce vehicle emissions.

Several commentators commented that adopting the CA LEV program ties the Commonwealth to any and all changes made to the program by CARB, on which the Commonwealth (like other states) has no representation. The Department responds that this final-form rulemaking is not an attempt to adopt the California program. That program was adopted in the 1998 rulemaking. The final-form rulemaking, like the proposed rulemaking, requires the Department to monitor and advise the Board of proposed or final LEV rulemakings under consideration by CARB, prepare a cost/benefit analysis to be submitted to the Board and Chairpersons of the Committees for each proposed or final CARB rulemaking, evaluate and submit to the Board and the Chairpersons of the Committees the estimated incremental cost to manufacture vehicles that comply with the CA LEV program compared to the Federal program and submit comments on proposed or final CARB rulemakings on behalf of the residents of this Commonwealth. The Commonwealth, along with the other states that have adopted the California LEV standards, has the same ability to comment on changes to the California program as it has in commenting on changes to the Federal new motor vehicle control program. Elected representatives are part of the rulemaking process in the Commonwealth established by the Regulatory Review Act.

The Pennsylvania AAA Federation noted that California revises its standards more frequently than the EPA. The Department agrees that California has revised its standards more often than the EPA, which has amended its light-duty vehicle standards only when explicitly directed by statute. The NRC recently found that the process by which California revises its standards is scientifically and technically valid and is a benefit to the country. Compared to the Federal government, the ability of California to respond better to changing conditions, including technological advances, was viewed by the NRC as an advantage. Most of the revisions to the California program were revisions to California's ZEV program, which is excluded from adoption in the Program.

#### *Stringency Requirement*

The Alliance commented that the proposed rulemaking failed to satisfy the "stringency" limitation in section 4.2 of the act (35 P. S. § 4004.2(b)), which requires rules to be no more stringent than those required by the CAA unless authorized or required by the act or specifically required by the CAA. Section 4.2(b) of the act goes on to list certain exceptions to this stringency limitation. The commentator asserts that none is applicable here. The Department disagrees. The existing regulation automatically incorporates the current California program, which at this time is CA LEV II, not CA LEV I. Section 4.2(b) of the act is inapposite because this final-form rulemaking is not a rulemaking that adopts the California standards, since they are already adopted. This final-form rulemaking postpones the compliance date of the Program by 2 years. In this way, the final-form rulemaking is not more stringent than the existing regulations. Furthermore, the Department disagrees with the commentator's characterization of the stringency provision of the act. Section 4.2 of the act authorizes adoption of regulations that are more stringent than Federal requirements if they are reasonably necessary to achieve or maintain the ambient air quality standards. Adoption of the California program under section 177 of the CAA was reasonably necessary to achieve and maintain the health-based 1-hour ozone ambient standard in this Commonwealth and the successor 8-hour ozone ambient standard.

#### *Stakeholder Process*

Senators Madigan and White commented that the proposed rulemaking should not proceed at this time. They stated that a stakeholder process (as included in SB 1025) should be instituted to help analyze state options for meeting air quality standards. They stated that SB 1025 also requires the Department to report back to the General Assembly by June 30, 2010. The Department does not agree. Neither a stakeholder process, nor the schedule in SB 1025, accounts for the timetables of the CAA or the Commonwealth's regulatory process. Specifically, the Department must submit SIP revisions for meeting the 8-hour ozone standard by June 2007 and for meeting the fine particulate standard by April 2008. The stakeholder processes which took place in 1996 and 1997 took more than a year; it took a minimum of 1 additional year subsequent to those groups submitting recommendations to the Department to finalize recommendations in regulation. Furthermore, this final-form rulemaking is not designed to adopt the California program, since adoption occurred in 1998; rather, this final-form rulemaking makes changes to the already existing regulations to postpone the program compliance date from MY 2006 to MY 2008, specify the early credit earning period for automobile manufacturers and update definitions and cross-references.

#### *Abrogation of Program*

Senators Madigan and White commented that an October 28, 2005, letter from the Department to members of the House of Representatives stated that passage of HB 2141, a bill to abrogate the Program, and repeal of the Clean Vehicles Program "puts us in violation of federal law." They state that subsequently, the Department changed its argument, conceding that the Commonwealth can in fact maintain the Federal Tier II standards but in the Department's view would need additional reductions from stationary sources to meet air quality standards. The Department responds that the statement that repealing the Program would violate Federal law and the statement that the Commonwealth has the option to return to the Federal new motor vehicles program are not contradictory. The Commonwealth adopted the Program in 1998 and submitted the regulation to the EPA as an SIP revision. That SIP revision was effective February 28, 2000. Approval of an SIP by the EPA makes the SIP Federally enforceable. In a December 2, 2005, letter to Representative Richard Geist, EPA Region 3 Administrator Donald Welsh stated that it is the EPA's opinion that the CA LEV standards are "the legally effective program for Pennsylvania" and underscored that the CA LEV standards are a "federally enforceable part of the SIP." This means that Federal law needs to be followed if this part of the Commonwealth's SIP is to be changed. The Commonwealth's adoption of California emission standards could not be revoked without holding public hearings on a proposed SIP revision to do so, responding to comments received and submitting the proposed SIP revision to the EPA for approval. Just as the Department had the authority in 1998 to choose to adopt the California standards, the Department has the authority to choose to participate in the Federal program, but only if these steps are followed. The Commonwealth is required by the CAA to achieve and maintain the NAAQS in all areas of this Commonwealth designated as nonattainment. The available emission reduction options are "a shrinking slate," as characterized by Mr. Welsh in the December 2005 letter. Since states do not have many

strategies regarding motor vehicles available to them, most of the strategies are indeed reductions from stationary sources.

The two senators commented that a November 1, 2005, e-mail from the Secretary of DOT to the members of the General Assembly insinuates that passage of HB 2141 would jeopardize \$1.6 billion in Federal transportation funding. The senators stated that the e-mail failed to include a detailed discussion of the implications of HB 2141, the likelihood of whether the Commonwealth in fact would lose Federal funding, or whether the Commonwealth actually relied upon the California vehicle emission standards as part of its SIP compliance strategy. The senators stated that a December 2005 letter from the EPA Region 3 Administrator stated that he believed passage of the bill would not result in application of Federal sanctions against the Commonwealth because at present, the Commonwealth's SIP does not rely upon emission reductions. The Department responds that the interpretation that revocation of the Program might trigger Federal sanctions was based upon the fact that the Program is a Federally-enforceable portion of the Commonwealth's SIP. The December letter referenced by the commentators provided a different interpretation of the application of mandatory sanctions under the CAA and also indicated that it is unlikely that the EPA would impose discretionary sanctions because the Department had not relied upon the benefits of the CA LEV program in its SIP revisions for the 1-hour ozone standard. The Department agrees that the emission reduction benefits of the California LEV program in 1-hour ozone SIPs were not relied upon in SIP submissions to date, but the Department has included the benefits in its development of SIP revisions to attain and maintain the 8-hour standard. The Commonwealth will begin submitting these SIP revisions in the fall of this year.

#### *NMOG Fleet Average*

One commentator stated that by adopting and attempting to enforce the California fleet NMOG average, the Commonwealth will violate the CAA. The commentator asserted that since it is highly unlikely that a manufacturer will sell exactly the same products in exactly the same proportions in this Commonwealth as it will in California, and consumers in this Commonwealth determine that a particular manufacturer's sales mix in Pennsylvania results in a higher fleet NMOG average, the manufacturer may be required to artificially limit sales of certain CARB-certified cars to comply with this Commonwealth's fleet average requirement. The commentator concluded that this would be an indirect limit on the sale of a motor vehicle certified to California standards and thus would violate section 177 of the CAA. The Department disagrees. This final-form rulemaking does not establish the Program or adopt the NMOG fleet average, but makes changes to the already existing regulations which already incorporate by reference the NMOG fleet average. This final-form rulemaking postpones the Program compliance date from MY 2006 to MY 2008, specifies the early credit earning period for automobile manufacturers and updates definitions and cross-references. Even if this final-form rulemaking were adopting the California NMOG fleet average, adopting the fleet average would not violate section 177 of the CAA. Section 177 of the CAA specifically authorizes states like the Commonwealth to "adopt and enforce standards relating to control of emissions from new motor vehicles or new motor vehicle engines" if the "standards are identical to the California standards for which a waiver has been granted for such model year. . . ." Courts accept Califor-

nia's NMOG fleet average as a "standard relating to control of emissions." See, for example, *Motor Vehicle Manufacturers Assoc. v. New York State Department of Environmental Conservation*, 17 F.3d 521, 537 (2d Cir. 1994) ("It would be inappropriate to view the 1990 [CAA] amendments in a manner that would effectively prohibit any state from opting into the California program since Congress so obviously planned for the several states to have that option."); *American Automobile Manufacturers Assoc. v. Cahill*, 152 F.3d 196, 200 (2d Cir. 1998) ("For example, the LEV Program is clearly a 'standard' . . ."). The EPA also accepts California's NMOG fleet average as a "standard relating to control of emissions," as the EPA has approved the SIP revisions of at least three states that have adopted it, namely Maine, Massachusetts and New York. (70 FR 21959 (April 28, 2005) (Maine); 67 FR 78179 (December 23, 2002) (Massachusetts); and 70 FR 4773 (Jan. 31, 2005) (New York).) Moreover, the Second Circuit Court of Appeals has stated that the purpose of the sales limitation prohibition in section 177 of the CAA is to prohibit section 177 of the CAA opt-in states from attempting to regulate against the sale of a particular type, not number, of California-certified cars. *Motor Vehicle Manufacturers Assoc.*, supra, 17 F.3d at 536. The CAA does not require automakers to "sell exactly the same products in exactly the same proportions" in a state that adopts or implements a program requiring CARB standards. As sales hinge on marketing factors, the ultimate decision on what type of vehicle to introduce for sale in an implementing state to meet the fleet average is a marketing decision. The Commonwealth's final-form rulemaking does not limit any type of highway vehicle from being introduced for sale in this Commonwealth. The Program only requires that any vehicle such as this have CARB certification and that in the aggregate the automaker's mix of vehicles introduced for sale in this Commonwealth complies with the NMOG fleet average specified by CARB.

#### *GHG Provision of California's Program*

Numerous comments from industry commentators and the two senators addressed California's GHG provisions.

Several of these commentators asserted that the smog-producing pollutants would be increased because of the GHG regulations, since people would retain older vehicles with higher emissions as the result of asserted increased price of new vehicles and people would drive more miles if fuel efficiency were increased. To the contrary, the Department agrees with CARB that the GHG provisions will provide an additional net decrease of the emissions of NO<sub>x</sub> and reactive organic gases (an analog to VOC). The Department's analysis did not account for these additional benefits as neither the Commonwealth's existing regulations nor the final-form rulemaking requires the California GHG fleet average requirement to be met based on sales in this Commonwealth. One commentator, Sierra Research, whose analysis of the Program is relied upon by several others, focused its analysis almost entirely on the GHG provisions and on the incorrect assumption that the Commonwealth is proposing adoption of a GHG fleet average requirement based on sales in this Commonwealth, resulting in erroneous conclusions that are not relevant. In addition, the analysis provided no relevant information, analysis or data to specifically refute the Department's analysis of the emissions impact of postponing the compliance date of the Commonwealth's existing Program. The Department's analysis is based on current EPA guidance.

Furthermore, emission reductions that are to be achieved in California, this Commonwealth or elsewhere



from CARB's GHG provisions are dependent upon the EPA granting a waiver of preemption to CARB for the GHG emission standards. Under section 209(b) of the CAA (42 U.S.C.A. § 7543(b)), California must first find that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. California has already made this determination. The EPA will then review California's "protectiveness" finding and must deny a waiver if it determines that California's finding was arbitrary and capricious, among other things. The commentator will have the opportunity to present its analyses of CARB's GHG emission standards to the EPA during the EPA's waiver decision making process, which includes Federal publication of a proposed decision and a public comment period. If the EPA (the agency that promulgated the Tier II standards) grants CARB a waiver of preemption for the GHG standards, there should be no question of whether CARB's standards are as protective as Tier II.

Sierra Research and DaimlerChrysler asserted that adoption of CA LEV II with the GHG provisions in this Commonwealth will result in increased VOC, NO<sub>x</sub>, CO and PM<sub>2.5</sub> emissions relative to a baseline where the Federal Tier II emissions standards apply. The Department disagrees with the commentators' analysis of the purported emissions increase. The analysis incorrectly assumes that automakers will be required to comply with the California GHG fleet average based on vehicles introduced for sale in this Commonwealth. Because this fundamental assumption is incorrect, the commentators' analysis has little practical value with regard to this final-form rulemaking. In addition, the analysis provided little, if any, additional information, analysis or data to specifically refute the Department's analysis of the emissions impact of postponing the compliance date of the Commonwealth's existing Program. The Department's analysis is based on current EPA guidance.

The Department agrees that emissions, in general, may be influenced in part by three secondary effects of the GHG regulation described by the commentators, but the commentators' evaluation of the magnitude of these effects in this Commonwealth is flawed given the commentators' erroneous assumption regarding the GHG fleet average. In addition, the commentators' underlying assumptions with regard to the resultant impact of these effects in California were successfully refuted by CARB in its Final Statement of Reasons. The commentators provided little supporting data to allow the Department to replicate and quantitatively evaluate the commentators' claims. The Department disagrees that the relative baseline for comparison of emissions, for the purpose of the commentator's analysis to evaluate the impacts of the California GHG provisions, is the Federal Tier II program. The California standards are currently incorporated by reference in the Commonwealth's regulations. The purpose of this final-form rulemaking is to postpone the compliance date of the Program from MY 2006 to MY 2008 and specify a 3-year early-credit earning period within which vehicle manufacturers must come into compliance with the NMOG fleet average of the Program. The relative baseline, therefore, should be the CA LEV II standards and not the Federal Tier II standards. The commentator did not provide any comparison of the GHG provision impact to the existing regulations or the amendments to the Program. The Department's analysis estimates a reduction of 7.8 to 16.9 tons per day of VOCs and 9.7 tons per day of NO<sub>x</sub> in 2025 by implementing the Program as set forth in the preambles to the proposed and final-form rulemakings. The Department continues to

agree with CARB that there would be a slight decrease in NO<sub>x</sub> and VOC emissions as a result of the GHG provisions, but given that the Program does not require compliance with a GHG fleet average based on sales in this Commonwealth and that automakers will still be required to meet the NMOG fleet average based on sales in this Commonwealth (thus ensuring reductions over Tier II), these benefits would be secondary and are not included in the Department's analysis.

Three industry commentators claimed that the proposed rulemaking would have no measurable impact on the global climate or the climate of this Commonwealth and that the means for controlling GHG are being debated internationally and can only be addressed effectively on a global basis. The Department responds that the Commonwealth expects that the existing regulations will make a contribution to the reduction of GHGs, which will help mitigate global warming and its public health and environmental effects. A measurable effect on temperatures or on ozone reduction based on effects on temperatures is not the intent of this final-form rulemaking.

The Alliance commented that the California GHG regulations will not improve air quality because the regulations focus predominantly on controlling CO<sub>2</sub>, an inert gas that is not toxic to humans or animals. The commentator argues that control of GHG emissions is not a pollution issue but is an energy issue. Whether GHGs, including CO<sub>2</sub>, are a pollutant is an issue currently in litigation. On November 29, 2006, the Supreme Court of the United States heard oral argument on whether the EPA has authority under the CAA to regulate GHG emissions from automobiles. *Massachusetts v. EPA*, U.S., No. 05-1120.

Three industry commentators stated that states have no statutory authority and are expressly prohibited from passing or enforcing any statute or regulation that attempts to reduce carbon dioxide through the regulation of vehicle fuel economy. These commentators note that the National Highway Traffic Safety Administration made these statements in both its proposed and final rule for average fuel economy standards for light trucks. The Department responds that the issue of whether California's GHG regulation attempts to regulate vehicle fuel economy is currently being litigated in Federal court in California in *Central Valley Chrysler-Jeep, Inc. v. Catherine E. Witherspoon*, 1:04-cv-06663-AWI-LJO. If the California regulation is overturned in court, the Commonwealth will not realize GHG benefits from California's GHG provisions. The statements made by the National Highway Traffic Safety Administration were made in a preamble, not a regulation, and do not carry the authority of law.

Senators Madigan and White commented that the Department's preamble touts the California standard as a means of controlling carbon dioxide (GHG) emissions. They stated that the Department fails to acknowledge that reduction of CO<sub>2</sub> emissions is not a requirement of the SIP or the CAA. They said that the Department ignores a September 2003 EPA General Counsel determination that the EPA does not have the authority under Federal law to regulate motor vehicle emissions of CO<sub>2</sub> or other GHGs. The Department responds that the preamble to the proposed rulemaking stated that California recently added a GHG fleet average requirement to its LEV II program beginning with MY 2009, which will have to be met in California to obtain CARB certification. The Department is not requiring auto manufacturers to meet

a fleet average for GHGs based on sales in this Commonwealth, but, as stated in the preamble, the Department expects that the Commonwealth will realize the benefits of California's GHG certified vehicles through the Commonwealth's existing requirement that new vehicles have CARB certification. The preamble explained that California estimates that the program, when fully phased-in, will provide about a 30% reduction in GHG emissions from new vehicles required to comply compared to the 2002 fleet. The Department anticipates that this Commonwealth will achieve similar results. The Department did not state or imply that reducing CO<sub>2</sub> emissions in the Program is a requirement of the SIP or the CAA. The Department does not ignore the September 2003 EPA General Counsel opinion regarding GHGs; to the contrary, the preamble expressly acknowledged that California is currently defending its GHG regulations against legal challenges filed by the auto industry. The EPA's position on regulation of GHGs from motor vehicles is currently under review by the Supreme Court of the United States in the case of *Massachusetts v. EPA*, U.S., No. 05-1120.

The Pennsylvania AAA Federation and several industry commentators objected to the costs of complying with the California GHG requirements. CARB has estimated the additional price of the GHG provisions at over \$1,000 per vehicle while the auto industry believes the price of all new vehicles would increase about \$3,000 on average per vehicle. In MY 2009 and beyond, once the California GHG provisions take effect, the Department agrees with CARB's per vehicle cost estimate of approximately \$1,000 by 2016 and with CARB's estimate that this cost increase will be offset by savings to the consumer due to increased operational efficiency of these vehicles. While CARB predicted that by 2016 the operational efficiency of vehicles meeting GHG requirements might actually afford owners an overall cost savings of \$3.50 to \$7 per month (assuming \$1.74 per gallon of gasoline), information on initial cost (which could be related to sticker price) was also estimated. Based on separate CARB estimates for passenger cars/small trucks and large trucks/SUVs and the similar composition of the fleet in this Commonwealth, consumers could see an increase in per vehicle costs of \$21 for MY 2009, \$63 for MY 2010 and \$219 for MY 2011 to about \$1,000 in MY 2016. CARB estimates that by 2016 the operational efficiencies realized by GHG technology will result in an overall savings of \$3.50 to \$7 per month (\$42 to \$84 dollars per year) based on a MY 2016 vehicle costing an additional \$1,029 to \$1,064 per vehicle. These savings are probably understated, since the price of gasoline is likely to remain higher than that used in CARB's analysis. Several commentators pointed out that historically, cost projections made by both industry and government (EPA and California) tend to overstate actual costs.

The Alliance and the Pennsylvania AAA Federation commented that to meet what they referred to as the proposed "fuel efficiency" and emissions requirements of CA LEV II, vehicle weight and size would be reduced, which would reduce consumer utility and contribute to higher traffic fatalities. The Department responds as follows. As indicated by CARB in its Final Statement of Reasons, California law specifically prohibits CARB from using weight reduction or vehicle class elimination as a mechanism to achieve compliance with the GHG provisions of the CARB standard. The Department believes that CARB's analysis of the available technology options is sound and agrees that many of the proposed technologies are either in current production or are in late stage development by automakers. In addition, the GHG provisions

provide sufficient lead-time for automakers to cost-effectively integrate these existing technologies into production. The Department agrees with CARB's analysis of the GHG provisions that weight reduction strategies are not necessary. Weight reduction strategies that may be employed by automakers are business decisions by individual automakers and not the result of requirements of either the CA LEV II standards or the Program. The Department agrees that Federal motor vehicle safety standards will continue to apply to any vehicle introduced for sale into this Commonwealth.

#### G. Benefits, Costs and Compliance

##### Benefits

The final-form rulemaking will save manufacturers, dealers and purchasers of light-duty vehicles and trucks from incurring additional costs for CARB-certified vehicles for 2 model years. Implementation of the Program in accordance with the final-form rulemaking will contribute to the attainment and maintenance of the health-based ozone NAAQS in this Commonwealth due to emission reductions from the operation of low emission passenger cars and light-duty trucks. The Commonwealth's analyses indicate that, by implementing the California LEV II program under the final-form rulemaking, the Commonwealth will experience emission benefits when compared to the Federal program. By 2025, when full fleet turnover is expected, the California LEV II program will provide an additional reduction of 2,850 to 6,170 tons per year of VOCs, 3,540 tons per year reduction of NO<sub>x</sub> and 5% to 11% more reduction of six toxic air pollutants, including a 7% to 15% additional benefit for benzene, a known carcinogen. The Commonwealth will also realize the benefits of California's GHG certified vehicles. CARB estimates that the program, when fully phased-in, will provide about a 30% reduction in GHG emissions from new vehicles required to comply compared to the 2002 fleet.

In addition, CARB predicted that by MY 2016 the operational efficiency savings of vehicles meeting the GHG requirements, which start in MY 2009, will afford owners an overall cost savings of \$3.50 to \$7 per month, assuming a price of \$1.74 per gallon of gasoline. These savings are probably understated, since the price of gasoline is likely to remain higher than that used in CARB's analysis.

##### Compliance Costs

The final-form rulemaking will defer any costs associated with CARB-certified vehicles for 2 model years, from MY 2006 to MY 2008. In fact, as stated, cost savings will be realized. The final-form rulemaking will apply to vehicle manufacturers, new vehicle dealers, leasing and rental agencies and other registrants who sell, import, deliver, purchase, lease, rent, acquire, receive, title or register light-duty automobiles or trucks in this Commonwealth. No new costs will be incurred as a result of the final-form rulemaking compared to the costs that would be experienced without the final-form rulemaking, since the Program is already incorporated by reference in the Commonwealth's regulations.

In September 2004, CARB estimated that by MY 2016 the operational efficiency savings of vehicles meeting GHG requirements will provide vehicle owners an overall cost savings of \$3.50 to \$7 per month, assuming \$1.74 per gallon of gasoline. These savings are probably understated, since the price of gasoline is likely to remain higher than that used in CARB's analysis. CARB estimated the GHG-related initial investment costs, possibly

reflected in sticker prices, will start under \$50 per vehicle for MY 2009, be approximately \$350 in 2012 and \$1,000 per vehicle in MY 2016. Vehicle manufacturers disagree with CARB's GHG estimate, citing initial costs of as much as \$3,000 per vehicle.

The Commonwealth periodically offers rebates to consumers for the initial purchase of hybrid electric vehicles. These rebates could offset additional initial costs that might be passed on to consumers under the existing or amended Program.

*Compliance Assistance Plan*

Compliance assistance with the Program will be provided to affected parties, primarily new vehicle dealers, through appropriate State trade organizations in the distribution of information to their membership. Information concerning the Program will also be provided to consumers through the media, Department publications, the Internet and appropriate motorist and other organizations.

The Commonwealth offers rebates to consumers for the initial purchase of hybrid electric vehicles. These incentives may help vehicle manufacturers meet their obligations under the Program.

*Paperwork Requirements*

No additional paperwork requirements will be imposed by the final-form rulemaking; the Program already contains paperwork requirements. When the Program is implemented, vehicle manufacturers will be required to submit paperwork demonstrating compliance with the emission standards and other requirements of the Program. Motor vehicle dealers, leasing and rental agencies and other registrants and persons seeking title of new motor vehicles must demonstrate to the DOT's Bureau of Motor Vehicles that new vehicles subject to the Program are those certified by California.

*H. Pollution Prevention*

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials or the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking incorporated the following pollution prevention provisions and incentives.

The existing regulations and the final-form rulemaking give vehicle manufacturers the freedom to select technologies that prevent pollution. Similarly, vehicle manufacturers are given the freedom to select exhaust treatment technologies to meet the requirements. Air pollution will be reduced by requiring vehicle manufacturers to produce vehicles that lower emissions at their source.

*I. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

*J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 21, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 715, to IRRC and the Chairpersons of the House and Senate Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 1, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 2, 2006, and approved the final-form rulemaking.

*K. Findings*

The Board finds that:

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

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

(3) These regulations do not enlarge the purpose of the proposed rulemaking published at 36 Pa.B. 715.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

(5) These regulations are necessary for the Commonwealth to achieve and maintain ambient air quality standards and to satisfy related CAA requirements.

*L. Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 126, are amended by amending §§ 121.1, 126.401, 126.411—126.413, 126.421—126.425, 126.431, 126.432 and 126.441; by deleting § 126.402; and by adding § 126.451 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

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

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

KATHLEEN A. MCGINTY,  
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa. B. 7082 (November 18, 2006).)

**Fiscal Note:** Fiscal Note 7-398 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Dealer*—A person who is engaged in the sale or distribution of new motor vehicles or new motor vehicles to the ultimate purchaser as defined in section 216(4) of the Clean Air Act (42 U.S.C.A. § 7550(4)).

*De minimis emission increase*—An increase in actual or potential emissions which is below the threshold limits specified in § 127.203 (relating to facilities subject to special permit requirements).

\* \* \* \* \*

*Fleet average*—For the purposes of motor vehicles subject to Pennsylvania's Clean Vehicles Program requirements, a motor vehicle manufacturer's average vehicle emissions of all NMOG emissions from vehicles which are produced and delivered for sale in this Commonwealth in any model year.

\* \* \* \* \*

*LDT*—light-duty truck—

(i) For purposes of § 129.52 (relating to surface coating processes), a light-duty truck is a motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation or major components of the vehicle, including, but not limited to, chassis, frames, doors and engines.

(ii) For purposes of Chapter 126, Subchapter D (relating to the Pennsylvania Clean Vehicles Program), a light-duty truck is a motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

*LDV*—light-duty vehicle—A passenger car or light-duty truck.

\* \* \* \* \*

*Lease custody transfer*—The transfer of produced crude oil or condensate, after processing or treating in the

producing operations, from storage tanks or automatic transfer facilities to pipelines or other forms of transportation.

*Limited access space*—Internal surfaces or passages of an aerospace vehicle or component to which coatings cannot be applied without the aid of an airbrush or a spray gun extension for the application of coatings.

\* \* \* \* \*

*NETS-NO<sub>x</sub> Emissions Tracking System*—The computerized system used to track NO<sub>x</sub> emissions from NO<sub>x</sub> affected sources.

*NMOG*—Nonmethane organic gases.

\* \* \* \* \*

*Offset vehicle*—A light-duty vehicle which has been certified by California as set forth in Title 13 CCR, Division 3, Chapter 1.

\* \* \* \* \*

*York air basin*—The political subdivisions in York County of Manchester Township, North York Borough, Spring Garden Township, Springettsbury Township, West Manchester Township, West York Borough and City of York.

**CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS**

**Subchapter D. PENNSYLVANIA CLEAN VEHICLES PROGRAM**

**GENERAL PROVISIONS**

**§ 126.401. Purpose.**

(a) This subchapter establishes a clean vehicles program under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone and other air pollutants from new motor vehicles.

(b) The subchapter adopts and incorporates by reference certain provisions of the California Low Emission Vehicle Program.

(c) The subchapter also exempts certain new motor vehicles from the Pennsylvania Clean Vehicles Program.

(d) The Department may not implement or enforce any vehicle emission standard which is not legally permitted to be regulated under the Clean Air Act or other applicable Federal or State law or regulation.

**§ 126.402. (Reserved).**

**LOW EMISSION VEHICLES**

**§ 126.411. General requirements.**

(a) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, titled or registered in this Commonwealth starting with the 2008 model year and each model year thereafter.

(b) The provisions of the California Low Emission Vehicle Program, Title 13 CCR, Division 3, Chapters 1 and 2, are adopted and incorporated herein by reference, and apply except for the following:

(1) The zero emissions vehicle percentage requirement in Title 13 CCR, Division 3, Chapter 1, § 1962.

(2) The emissions control system warranty statement in Title 13 CCR, Division 3, Chapter 1, § 2039.

**§ 126.412. Emission requirements.**

(a) Starting with the model year 2008, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Starting with the model year 2008, compliance with the NMOG fleetwide average in Title 13 CCR, Division 3, Chapter 1, § 1961 shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth.

(c) Credits and debits for calculating the NMOG fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR, Division 3, Chapter 1.

(d) NMOG fleet average credits generated during the 2008, 2009 and 2010 model years may be applied toward any of the model years 2008 through 2010 for the purpose of demonstrating compliance with subsections (b) and (c). The credits generated during this period may be applied at full value for any of the Model Years 2008—2010.

(e) New motor vehicles subject to this subchapter must possess a valid emissions control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1.

**§ 126.413. Exemptions.**

(a) The following new motor vehicles are exempt from the Pennsylvania Clean Vehicles Program requirements of this subchapter:

- (1) Emergency vehicles.
- (2) A light-duty vehicle transferred by a dealer to another dealer for ultimate sale outside of this Commonwealth.
- (3) A light-duty vehicle transferred for use exclusively off-highway.
- (4) A light-duty vehicle transferred for registration out-of-State.
- (5) A light-duty vehicle granted a National security or testing exemption under section 203(b)(1) of the Clean Air Act (42 U.S.C.A. § 7522(b)(1)).
- (6) A light-duty vehicle held for daily lease or rental to the general public which is registered and principally operated outside of this Commonwealth. For purposes of this paragraph, a light-duty vehicle is deemed to be principally operated outside of this Commonwealth if it is registered outside of this Commonwealth in accordance with the Inter-Jurisdictional Agreement on Apportioning Vehicle Registration Fees developed under the Intermodal Surface Transportation and Efficiency Act of 1991 (Pub. L. 102-240, 105 Stat. 1914), and known as the International Registration Plan, or a successor plan for apportioning vehicle registration fees internationally.
- (7) A light-duty vehicle engaged in interstate commerce which is registered and principally operated outside of this Commonwealth.
- (8) A light-duty vehicle acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth if the replacement vehicle is

acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(9) A light-duty vehicle transferred by inheritance or court decree.

(10) A light-duty vehicle defined as a military tactical vehicle or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to application of section 216(2)).

(11) A light-duty vehicle titled or registered in this Commonwealth before December 9, 2006.

(12) A light-duty vehicle having a certificate of conformity issued under the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth and upon registration of the vehicle provides satisfactory evidence to the Department of Transportation of the previous residence and registration.

(13) A vehicle transferred for the purpose of salvage.

(b) To title or register an exempted vehicle, the person seeking title or registration shall provide satisfactory evidence, as determined by the Department of Transportation, demonstrating that the exemption is applicable.

**APPLICABLE NEW MOTOR VEHICLE TESTING**

**§ 126.421. New motor vehicle certification testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements must be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, § 1961, as determined by testing in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

**§ 126.422. New motor vehicle compliance testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter must be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, § 1961, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

**§ 126.423. Assembly line testing.**

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), inspection testing and quality audit testing determinations and findings made by CARB are applicable and

shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR, Division 3, Chapter 2. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR, Division 3, Chapter 2, of a statistically significant sample, may substitute for the 100% testing rate required in Title 13 CCR, Division 3, Chapter 2, with the written consent of the Department.

**§ 126.424. In-use motor vehicle enforcement testing.**

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR, Division 3, Chapter 1, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of compliance with subsection (a), in-use vehicle enforcement testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) The results of testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

**§ 126.425. In-use surveillance testing.**

(a) For purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB.

(b) For purposes of program planning and analysis, in-use surveillance testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) The results of in-use surveillance testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

**MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS**

**§ 126.431. Warranty and recall.**

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or lease, titled or registered in this Commonwealth, shall warrant to the owner that each vehicle must comply over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, §§ 2035—2038, 2040 and 2041.

(b) Each motor vehicle manufacturer shall, upon a written request, submit to the Department failure of emission-related components reports, as defined in Title 13 CCR, Division 3, Chapter 2, for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 CCR, Division 3,

Chapter 2. For purposes of compliance with this subsection, a manufacturer may submit copies of the reports submitted to CARB.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under Title 13 CCR, Division 3, Chapter 2, shall extend to all motor vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth that would be subject to the recall campaign if sold, leased, offered for sale or lease or registered as a new motor vehicle in California, unless within 30 days of CARB approval of the recall campaign, the manufacturer demonstrates, in writing, to the Department's satisfaction that the recall campaign is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth.

(d) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any order issued by or enforcement action taken by CARB to correct noncompliance with any provision of Title 13 CCR, which results in the recall of any vehicle pursuant to Title 13 CCR, Division 3, Chapter 2, shall be deemed to apply to all motor vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth that would be subject to the order or enforcement action if sold, leased, offered for sale or lease or registered as a new motor vehicle in California, unless within 30 days of issuance of the CARB action, the manufacturer demonstrates, in writing, to the Department's satisfaction that the action is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth.

**§ 126.432. Reporting requirements.**

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2008 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each test group over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each test group for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR, Division 3, Chapter 1.

(c) Fleet average reports must, at a minimum, identify the total number of vehicles, including offset vehicles, sold in each test group delivered for sale in this Commonwealth, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth in relation to total fleet sales.

(d) Compliance with the NMOG fleet average for the 2008, 2009 and 2010 model years must be demonstrated following the completion of the 2010 model year.

**MOTOR VEHICLE DEALER RESPONSIBILITIES**

**§ 126.441. Responsibilities of motor vehicle dealers.**

A dealer may not sell, offer for sale or lease, or deliver a new motor vehicle subject to this subchapter unless the vehicle has received the certification described in

§§ 126.421 and 126.422 (relating to new motor vehicle certification testing; and new motor vehicle compliance testing), and conforms to the following standards and requirements contained in Title 13 CCR, Division 3, Chapter 2, § 2151:

- (1) Ignition timing is set to manufacturer's specification with an allowable tolerance of  $\pm 3^\circ$ .
- (2) Idle speed is set to manufacturer's specification with an allowable tolerance of  $\pm 100$  revolutions per minute.
- (3) Required exhaust and evaporative emission controls including exhaust gas recirculation (EGR) valves, are operating properly.
- (4) Vacuum hoses and electrical wiring for emission controls are correctly routed.
- (5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

**DEPARTMENT RESPONSIBILITIES**

**§ 126.451. Responsibilities of the Department.**

The Department will do the following:

- (1) Monitor and advise the EQB of any proposed or final-form rulemakings under consideration by CARB or its successor that amend in Title 13 CCR, Division 3, Chapters 1 and 2, incorporated by reference in this subchapter.
- (2) The Department will:
  - (i) Prepare a Regulatory Analysis Form to be submitted to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for each proposed or final CARB rulemaking amending in Title 13 CCR, Division 3, Chapters 1 and 2 incorporated by reference in this subchapter. The Department will complete the relevant provisions of the Regulatory Analysis Form as practical, including a cost/benefit analysis of the proposed or final CARB rulemaking.
  - (ii) Evaluate the estimated incremental cost to manufacture vehicles that comply with the California Low Emission Vehicle Program compared to the cost to manufacture vehicles that comply with the Federal Tier II vehicle emissions regulations, or its successor, promulgated under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) to the extent data is available. This evaluation will be conducted on any proposed or final-form rulemakings under consideration by CARB or its successor amending in Title 13 CCR, Division 3, Chapters 1 and 2 incorporated by reference in this subchapter and will be distributed to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees.
  - (iii) Submit comments on proposed or final-form rulemakings amending in Title 13 CCR, Division 3, Chapters 1 and 2 incorporated by reference in this subchapter to CARB on behalf of the residents of this Commonwealth.
- (3) The Department, in conjunction with the Department of Transportation, will study and evaluate the feasibility of modifying the Pennsylvania vehicle emission inspection program. In performing the study and evaluation, the Department, in conjunction with the Department of Transportation, will consider the additional reductions in NO<sub>x</sub>, VOCs and other pollutants to be achieved through implementation of the requirements in Title 13 CCR, Division 3, Chapters 1 and 2. The Department will

submit the findings and recommendations to the EQB no later than September 10, 2007.

(4) As soon as possible, but no later June 11, 2007, the Department will notify the EQB of the specific reductions in NO<sub>x</sub>, VOCs, CO<sub>2</sub> and any other reductions approved by the EPA as a result of the incorporation of the Pennsylvania Clean Vehicles Program in the Commonwealth's SIP. The report must include a comparison of the incremental benefit reductions derived using EPA-approved methodology versus reductions which would have been achieved under the Federal Tier II vehicle emission standards.

[Pa.B. Doc. No. 06-2406. Filed for public inspection December 8, 2006, 9:00 a.m.]

**Title 58—RECREATION**

**FISH AND BOAT COMMISSION**

**[58 PA. CODE CH. 51]**

**Pennsylvania Automated Licensing Service**

The Fish and Boat Commission (Commission) amends Chapter 51 (relating to administrative provisions). 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 pertains to issuing agents providing licenses and permits through a point-of-sale system, the Pennsylvania Automated Licensing Service (PALS), that is currently under development.

*A. Effective Date*

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

*B. Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., 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](http://www.fish.state.pa.us).

*C. Statutory Authority*

The amendments to §§ 51.32 and 51.36 (relating to resident and nonresident licenses; and lost license certificates) and the addition of §§ 51.37 and 51.38 (relating to application and prerequisites for becoming an issuing agent for the Pennsylvania Automated Licensing Service (PALS); and operation of the issuing agent for the Pennsylvania Automated Licensing Service (PALS)) are published under the statutory authority of section 2711 of the code (relating to issuing agents).

*D. Purpose and Background*

The final-form rulemaking is designed to improve, clarify and update the Commission's issuing agent regulations and to accommodate the implementation of PALS. The specific purpose of the regulations and amendments is described in more detail under the summary of changes.

*E. Summary of Changes*

The Commission currently relies on approximately 1,200 issuing agents throughout this Commonwealth to sell and issue approximately 850,000 fishing licenses and 600,000 permits through a paper-based system. In the near future, the Commission will automate the distribution and sale of its licenses and permits through the use

of point-of-sale methodologies. To date, over 30 states have automated, or are in the process of automating, their licensing systems. The primary goals of automation are to make delivery of fishing license services more convenient for the license buyers and to provide improved control over the flow of revenues from the issuing agents and to facilitate more effective communications among the license buyer, issuing agent and the Commission.

Upon review of the current regulations regarding the establishment and operations of fishing license issuing agents, the Commission identified the need to make a series of changes and additions that will allow for a more effective and efficient means of establishing issuing agent policies and guidelines for the automated distribution of licenses and permits. Although the Commission will retain the current issuing agent regulations applicable to the issuance of paper licenses and permits, the Commission proposed the addition of §§ 51.37 and 51.38 to govern the issuance of licenses and permits through PALS. The Commission anticipates that paper licenses will remain available as a backup during the transition to PALS.

In addition, the Commission proposed to amend § 51.32 to allow for additional methods to prove residency when purchasing a license. The Commission also proposed to amend § 51.36 to provide a procedure for issuing lost license certificates through PALS.

On final-form rulemaking, the Commission amended § 51.32 so that a Pennsylvania resident hunting license will no longer be accepted as a means of establishing Pennsylvania residency when purchasing a resident fishing license. This change is consistent with the Game Commission's practice of not accepting a Pennsylvania resident fishing license as a means of establishing Pennsylvania residency when purchasing a resident hunting license.

The Commission, on final-form rulemaking, also added language to § 51.38 pertaining to Social Security numbers. Under 23 Pa.C.S. § 4304.1(a)(2) (relating to cooperation of government and nongovernment agencies), government agencies must require the Social Security number of an individual who has one on an application for a recreational license. Therefore, the point-of-sale system will require the collection of an individual's Social Security number at the time of license purchase. The Commission recognizes, however, that there are certain individuals, such as the Amish and non-United States citizens, who may not have one. The new language allows an applicant who claims to not have a Social Security number to complete an affidavit on the form required by the Commission certifying under penalty of law that the applicant does not have a Social Security number and the reason for not having one. If the applicant fails to provide a Social Security number or to sign an affidavit, the issuing agent will not issue the applicant a license.

The Commission added language to § 51.38 that requires issuing agents to ask applicants who indicate that they have no means of establishing that they are residents of this Commonwealth other than by signing an affidavit of Pennsylvania residency to complete the form prescribed by the Commission. If the applicant fails to establish residency by signing the affidavit or as otherwise required in the Commission's regulations, the issuing agent will not issue the applicant a resident license.

In addition, the Commission added language to § 51.38 making it clear that issuing agents may not provide a customer with more than one copy of a license certificate.

The Commission also changed the term "gift vouchers" to "vouchers." This change is needed to reflect the fact that vouchers may be sold that are not necessarily gifts.

With regard to the remainder of the proposed rulemaking, the Commission adopted the proposed amendment to § 51.36 and the proposed addition of § 51.37 to read as set forth in the proposed rulemaking.

#### F. Paperwork

The final-form rulemaking creates a new paperwork requirement in that issuing agents will be required to enter into a standard Fishing License Issuing Agent Agreement that governs the point-of-sale system and associated equipment. Current paperwork requirements pertaining to applications for new issuing agents and bonding have not changed.

The final-form rulemaking also creates a new paperwork requirement in that an applicant who claims to not have a Social Security number will be asked to complete an affidavit on the form required by the Commission certifying under penalty of law that the applicant does not have a Social Security number and the reason for not having one. In addition, the final-form rulemaking creates a new paperwork requirement in that applicants who indicate that they have no means of establishing that they are residents of this Commonwealth other than by signing an affidavit of Pennsylvania residency will be asked to complete the form prescribed by the Commission.

#### G. Fiscal Impact

The final-form rulemaking has no adverse fiscal impact on the Commonwealth or its political subdivisions. However, the Commission will incur costs associated with processing agent applications and with the standard Fishing License Issuing Agent Agreement that PALS agents will be required to sign. For new agents, these costs will be offset by the application fee.

The Commission also will incur costs associated with increased banking fees to the Commission for weekly electronic funds transfers from its issuing agents. These costs will be offset by increased interest earned due to the more timely remittance of license revenues.

Last, the Commission will incur nominal costs associated with developing and printing the affidavit of Pennsylvania residency and the affidavit pertaining to Social Security numbers.

The final-form rulemaking imposes a \$150 application fee for new issuing agents under PALS. This fee will only be assessed on new applications for issuing agents and will not be applied to issuing agents that are agents with the Commission at the time that this final-form rulemaking goes into effect. The fee represents an increase in the application fee that new issuing agents are currently charged from \$100 to \$150. The Commission increased the fee due to inflation and to accommodate the cost of additional staff review of applications for issuing agents under PALS.

#### H. Public Involvement

Notice of proposed rulemaking was published at 36 Pa.B. 4729 (August 26, 2006). The Commission did not receive any public comments regarding the proposed rulemaking.



*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 no comments were received.

(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 Chapter 51, are amended by amending § 51.36 and adding § 51.37 to read as set forth in 36 Pa.B. 4729 and amending § 51.32 and adding § 51.38 to read as set forth in Annex A.

(b) The Executive Director will submit this order, Annex A and 36 Pa.B. 4729 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, Annex A and 36 Pa.B. 4729 and deposit them with the Legislative Reference Bureau as required by law.

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

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

**Fiscal Note:** Fiscal Note 48A-186 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 51. ADMINISTRATIVE PROVISIONS**

**Subchapter D. ISSUING AGENTS**

**§ 51.32. Resident and nonresident licenses.**

(a) Only bona fide residents of this Commonwealth who establish their resident status by producing a Pennsylvania motor vehicle driver's license or other positive means of identification are entitled to one of the various forms of a resident fishing license.

(1) Other positive means of identification for establishing bona fide residence in this Commonwealth include proof of payment of Pennsylvania Personal Income Tax as a resident of this Commonwealth; proof of payment of earned income, personal income tax or per capita taxes showing residence in a Pennsylvania municipality; current Pennsylvania firearms permit; Pennsylvania voter registration card; Pennsylvania nondriver identification card; or a signed affidavit of Pennsylvania residency on the form prescribed by the Commission.

(2) For purposes of this subsection, a bona fide resident of this Commonwealth is a permanent resident who has a fixed intent to return to this Commonwealth when he leaves it and maintains a permanent place of abode here. A person may not be a bona fide resident of this

Commonwealth for this purpose while claiming residence in another state for any purpose.

(b) Military personnel who are stationed in this Commonwealth under permanent change of station orders (PCS) for a duration of 6 months or more may qualify as bona fide residents for the purpose of obtaining resident fishing licenses regardless of the fact they may maintain a legal domicile in another state as authorized by the Servicemembers Civil Relief Act (50 U.S.C.A. App. §§ 501—596). Military personnel who are domiciled in this Commonwealth but who are stationed in another state or country qualify as bona fide residents of this Commonwealth for fishing license purposes so long as they do not become domiciles of another state.

(c) A person who does not qualify as a bona fide resident of this Commonwealth under subsection (a) or (b) is considered a nonresident for purposes of obtaining a fishing license.

(d) A Senior Resident Lifetime Fishing License is valid only so long as the holder is a bona fide resident of this Commonwealth. A holder of a Senior Resident Lifetime Fishing License who establishes residence in another state and continues to fish in this Commonwealth without purchasing a Nonresident Fishing License may be charged with violating sections 923(c) and 2703 of the code (relating to additional penalty for fishing without license; and possession and display of licenses).

**§ 51.38. Operation of the issuing agent for the Pennsylvania Automated Licensing Service (PALS).**

(a) *Sale of licenses.*

(1) Issuing agents shall collect the required customer information, including Social Security numbers, at the time of purchase and ensure that the fishing license is accurate, correct and fully completed. The applicant shall verify the information provided to the issuing agent and entered into the PALS is accurate and correct and sign his own name or place his mark in the place indicated on the face of the license certificate. A license is not valid unless it is signed by the applicant. If an applicant indicates to the issuing agent that he does not have a Social Security number, the issuing agent shall ask the applicant to complete an affidavit on the form prescribed by the Commission certifying under penalty of law that the applicant does not have a Social Security number and the reason therefor. Upon completion and execution of the form by the applicant, the issuing agent may issue the license to the applicant. Issuing agents shall deny the issuance of a license to an applicant who fails to provide his Social Security number or who fails to sign an affidavit as required by this paragraph. Issuing agents shall retain the affidavits and submit them to the Commission at least once a month or in another manner prescribed by the Commission.

(2) Issuing agents shall verify the eligibility of the applicant for the class of license indicated on the license in accordance with § 51.32 (relating to resident and nonresident licenses). If an applicant for a resident license indicates that he is unable to establish that he is a resident of this Commonwealth by any of the means identified in § 51.32 other than by signing an affidavit of Pennsylvania residency, the issuing agent shall ask the applicant to complete the form prescribed by the Commission certifying under penalty of law that the applicant is a bona fide resident of this Commonwealth. Issuing agents shall deny the issuance of a resident license to an applicant who fails to establish his residency by signing

the form or as otherwise provided in § 51.32. Issuing agents shall retain the affidavits of Pennsylvania residency and submit them to the Commission at least once a month or in another manner prescribed by the Commission.

(3) Issuing agents shall transfer the information provided by the applicant to the PALS and ensure that the PALS is otherwise operational and prints the license certificate legibly. Issuing agents may not provide a customer with more than one copy of a license certificate issued under PALS.

(4) Issuing agents shall provide a *Summary of Fishing Regulations and Laws* with each license issued. Issuing agents also shall provide a copy of the summary book to any holder of a Senior Resident Lifetime Fishing License who requests one. Issuing agents are encouraged to provide a copy of the summary book, if adequate numbers are available, to other individuals who request one.

(5) Issuing agents shall make available licenses and permits for sale to the public in strict accordance with all policies, instructions, rules and regulations of the Commission.

(6) Issuing agents and their employees may not provide false or misleading information on a license. The date reported on a license sold shall be the date of the actual sale.

(7) Issuing agents shall keep customer information confidential and not use, release or permit the use of this information for any purpose not specifically authorized by the Commission or applicable law.

(8) Issuing agents shall return all original voided licenses to the Commission within 15 days of their issuance. Issuing agents shall pay the license fees for voided licenses that are not returned to the Commission within 15 days of issuance.

(9) Issuing agents shall return all documents designated by the Commission within the time frame specified by the Commission.

(10) Issuing agents shall maintain, as instructed by the Commission, displays, notices or other informational materials relating to licenses and permits provided by the Commission, distribute to customers and fishing guides other compliance or educational materials provided by the Commission and promote and market new products or privileges as required by the Commission.

(11) Issuing agents shall sell licenses and permits only at the business location specified in their application or approved by the Commission and at a place on the premises accessible to the public.

(12) Issuing agents may not offer or provide licenses or permits free of charge or for any fee not authorized by section 2715 of the code (relating to license, permit and issuing agent fees).

(13) Issuing agents shall redeem a license or permit voucher regardless of where the voucher was purchased.

(b) *PALS equipment.*

(1) Issuing agents shall ensure proper use of the PALS equipment and follow the PALS operating manual and subsequent amendments and revisions thereto.

(2) An issuing agent may not borrow, lend or otherwise transfer PALS equipment or supplies to another agent without the prior written consent of the Commission.

(3) Issuing agents shall safeguard PALS equipment and supplies from unauthorized, wasteful, inappropriate

or fraudulent use. Issuing agents shall place the equipment and supplies in a secure location. Issuing agents shall use license paper stock only for purposes of printing licenses, permits, reports and receipts. Issuing agents shall promptly notify the Commission or its designee of equipment malfunction. PALS equipment and supplies are not transferable to other locations without the prior written consent of the Commission. Issuing agents shall return the defective equipment immediately to the repair center identified by the Commission.

(4) Issuing agents shall notify the Commission by telephone within 48 hours and submit a written report within 10 days after any fire, theft or natural disaster affecting PALS equipment and supplies or records.

(5) Issuing agents shall be responsible for the PALS equipment and the supplies relating to the issuance of licenses and permits, except for events beyond their control, and they shall assume financial responsibility for any damage to the PALS equipment resulting from negligence, malicious activity, abandonment, failure to return upon request of the Commission or improper electrical service to the equipment.

(6) Issuing agents shall carry appropriate insurance covering PALS equipment and supplies in an amount determined by the Commission. Issuing agents shall provide proof of insurance coverage upon the request of the Commission.

(c) *Access and auditing.*

(1) Issuing agents, their employees and subcontractors shall allow the Commission or other authorized representatives access to periodically inspect, review or audit PALS associated records, reports, canceled checks and similar material pertaining to PALS. Issuing agents shall maintain these records for 5 years.

(2) Issuing agents shall allow the Commission access to all materials and equipment related to the PALS operations. Issuing agents shall allow access to the Commission to make inspections during reasonable business hours, with or without notice to the issuing agent, to determine whether the issuing agent is in compliance with this section.

(d) *Financial provisions.*

(1) Issuing agents shall deposit the money received from the sale of licenses and permits in a designated bank account less the amount retained as an issuing agent fee under section 2715 of the code.

(2) Issuing agents shall have sufficient funds available in the designated bank account at the time of the electronic funds transfers. Upon notification of insufficient funds for payment to the Commission, the Commission may immediately and without notice suspend an issuing agent's authority to issue licenses and permits, may assess an administrative fee in accordance with section 502 of the code (relating to collection fee for uncollectible checks) and may require the issuing agent to increase the amount of the bond or other security or to provide adequate bank account overdraft protection.

(3) Issuing agents shall provide written notification on the form prescribed by the Commission at least 15 days prior to changing banks, account numbers, ownership status, business status or other information used by the Commission or its designee for the purpose of collecting moneys owed by the issuing agent.

(e) *Suspension or recall of agency.*

(1) The Commission may suspend the issuing agency of any agent that no longer meets the Commission's criteria for acceptance for participation in PALS until the agent becomes compliant.

(2) The Commission may recall the issuing agency of any agent that violates the requirements of this section.

[Pa.B. Doc. No. 06-2407. Filed for public inspection December 8, 2006, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### [58 PA. CODE CH. 65]

#### Fishing

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to 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).

#### A. *Effective Date*

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

#### B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., 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](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

Sections 65.17 and 65.18 (relating to Catch and Release Lakes Program; and Brood Stock Lakes Program) are added under the statutory authority of section 2102 of the code (relating to rules and regulations). The amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

#### D. *Purpose and Background*

The final-form rulemaking is designed to update, modify and improve the Commission's fishing regulations. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

#### E. *Summary of Changes*

(1) *Sections 65.17 and 65.24.* Over the years, the Commission has regulated a number of ponds and lakes with no-kill regulations for all species under § 65.24. These lakes and ponds include Pine Township Park Pond, Allegheny County; Raccoon Creek State Park Upper Pond, Beaver County; Bear Gap Reservoir, McWilliams Reservoir and Klines Reservoir, Columbia and Northumberland Counties; and Lower Burrell Pond Park, Westmoreland County. In an effort to simplify and consolidate the Commission's regulations, the Commission proposed the establishment of a new special regulations program called the Catch and Release Lakes Program into which these six lakes and ponds and other impoundments may be designated. Waters in this program will be regulated as catch and release for all species on a year-round basis. On final-form rulemaking, the Commission adopted the new section to read as set forth in Annex A.

The Commission also designated the six waters previously named, as well as Owl Creek Reservoir, Schuylkill County, as waters to be regulated and managed under the new program. Therefore, the miscellaneous regulations for the six lakes in § 65.24 are longer required. On final-form rulemaking, the Commission eliminated the

miscellaneous special regulations for these six lakes as set forth in the proposed rulemaking.

(2) *Section 65.18.* Effective January 1, 2007, amendments to the Commission's regulations pertaining to muskellunge and muskellunge hybrids, northern pike and pickerel will go into effect. Among other things, the amendments provide for a year-round open season for these species on Commonwealth inland waters. Although the new year-round open season will provide additional angling opportunities, the Commission also must take into account the United States Federal Drug Administration mandated withdrawal period of 21 days that is associated with use of fish anesthetics during esocid culture operations. It is important that harvest and consumption of muskellunge and muskellunge hybrids, northern pike and pickerel in brood stock lakes are restricted during the withdrawal period. Therefore, the Commission proposed to restrict harvest of these species from April 1 through May 31 by creating a new program called the Brood Stock Lakes Program into which the brood stock lakes may be designated. On final-form rulemaking, the Commission adopted the new section to read as set forth in Annex A. The Commission also designated the following lakes into the new program: Canadota Lake, Edinboro Lake, Sugar Lake, Conneaut Lake, Union City Reservoir, Woodcock Lake, Tamarack Lake, Lake Wallenpaupack, Lower Woods Pond, Belmont Lake, Prompton Dam, Duck Harbor Pond, Miller Pond and Howard Eaton Reservoir.

As part of the proposed rulemaking, the Commission also proposed an amendment to § 65.24 making it unlawful to take, kill or possess grass carp caught from Harris Pond, Luzerne County. The Commission has not yet considered this proposed change on final-form rulemaking.

#### 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. However, the Commission will incur relatively nominal costs to print and post new signs for waters included in the Catch and Release Lakes Program and the Brood Stock Lakes Program. The final-form rulemaking will impose no new costs on the private sector or the general public.

#### H. *Public Involvement*

Notice of proposed rulemaking was published at 36 Pa.B. 4727 (August 26, 2006). The Commission did not receive public comments regarding the proposed rulemaking during the formal comment period. Prior to the official comment period, the Commission received one public comment supporting the Catch and Release Lakes Program and the Commission's designation of the seven named waters into it. A copy of the public comment was 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 comment that was received was 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 Chapter 65, are amended by adding §§ 65.17 and 65.18 to read as set forth at 36 Pa.B. 4727 (August 26, 2006); and amending § 65.24 to read as set forth in Annex A.

*(Editor's Note:* The Commission has withdrawn the proposal to amend the miscellaneous special regulation that applies to Harris Pond, Luzerne County, which was published in the proposed rulemaking at 36 Pa.B. 4727.)

(b) The Executive Director will submit this order 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 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-187 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 65. SPECIAL FISHING REGULATIONS**

**§ 65.24. Miscellaneous special regulations.**

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Beaver	Hopewell Township Park Lake	Bass—15-inch minimum size limit and a 2 bass daily creel limit. Panfish (combined species): 10 fish daily creel limit. Use of live fish for bait is prohibited.
Blair, Huntingdon, Juniata, Mifflin and Perry	Juniata River and its tributaries	Rock bass—Daily creel limit is 10; open year-round; no minimum size limit.
Chester	Elk Creek (Big Elk Creek)	The maximum size limit for alewife and blueback herring is 8 inches. It is unlawful to take, catch, kill or possess, while in the act of fishing, blueback herring or alewife 8 inches or more in length.
Clarion	Beaver Creek Ponds	Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the first Saturday after June 11 of each year. Bass—15-inch minimum size limit and a 2 bass daily creel limit for the total project area. Panfish (combined species) 10 fish daily creel limit for the total project area. Other species—inland regulations apply.
Columbia and Northumberland	South Branch of Roaring Creek from the bridge on State Route 3008 at Bear Gap upstream to the bridge on State Route 42	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
Crawford and Erie	Conneaut Creek E. Branch Conneaut Creek M. Branch Conneaut Creek W. Branch Conneaut Creek Mud Run Stone Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.

RULES AND REGULATIONS

7451

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Crawford	Crazy Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Crawford	Pymatuning Reservoir	Only carp and suckers may be taken by means of spearing or archery in compliance otherwise with § 63.8 (relating to long bow, spears and gigs). Minnow seines and dip nets are restricted to no more than 4 feet in size, and the mesh of the nets shall measure no less than 1/8 nor more than 1/2-inch on a side. Float line fishing is prohibited.
Crawford	Sugar Lake	Muskellunge—36-inch minimum size limit and a 1 muskellunge daily creel limit. Other species—inland regulations apply.
Elk	West Branch, Clarion River	The following additional restrictions apply to the “Delayed-Harvest, Fly-Fishing Only” area located on a 1/2-mile stream section from the intersection of S. R. 219 and S. R. 4003, upstream to the Texas Gulf Sulphur Property: Wading prohibited. Fishing permitted from east shore only.
Erie	E. Branch Conneaut Creek Marsh Run Temple Run Turkey Creek	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)—no closed season. Daily limit: First Saturday after April 11 until Labor Day—5 trout per day; day after Labor Day to first Saturday after April 11 of the following year—3 trout per day. Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number.

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Lackawanna	Lake Scranton	It is unlawful for a person to fish from the fishing pier designated for use by persons with disabilities unless the person is: totally blind; or so severely disabled that the person is unable to cast or retrieve a line or bait hooks or remove fish without assistance; or deprived of the use of both legs; or participating in a special fishing event for persons with disabilities under conditions approved by the owner of the lake. The person may fish with only one legal device and shall be within 10 feet of the device being used. A person authorized to fish from the fishing pier under this section may be attended by another individual who may assist the person with the disability in using the fishing device.
Luzerne	Harveys Lake	During the period from the first Saturday after April 11 through midnight March 31, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length. Fishing is prohibited from April 1 through 8 a.m. of the first Saturday after April 11. Warmwater/coolwater species, except as provided in this section-Inland regulations apply.
Mercer	Shenango River from the dam downstream to SR 3025, a distance of 1.5 miles.	Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—First Saturday after April 11 until Labor Day: 5 trout per day; day after Labor Day to midnight, March 31 of the following year—3 trout per day. Inland regulations apply to warmwater/coolwater species.
Monroe and Pike	Delaware Water Gap National Recreation Area	The use of eel chutes, eelpots and fyke nets is prohibited. The taking of the following fishbait is prohibited: crayfish or crabs, mussels, clams and the nymphs, larva and pupae of all insects spending any part of their life cycle in the water. The taking, catching, killing and possession of any species of amphibians or reptiles within the boundaries of the Delaware Water Gap National Recreation Area is prohibited.
Somerset, Fayette, Westmoreland and Allegheny	Youghiogheny River from confluence with Casselman River downstream to the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river.	Trout (all species)—no closed season. Daily limit: First Saturday after April 11 until Labor Day—5 trout per day; day after Labor Day to first Saturday after April 11 of the following year—3 trout per day. Inland regulations apply to warmwater/coolwater species.
	Youghiogheny River from Reservoir downstream to confluence with Casselman River.	Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—First Saturday after April 11 until Labor Day—5 trout per day; day after Labor day to midnight, March 31 of following year: 3 trout per day. Inland regulations apply to warmwater/coolwater species.

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Warren	Allegheny River—8.75 miles downstream from the outflow of the Allegheny Reservoir to the confluence with Conewago Creek	Trout—minimum size limit—14 inches; daily creel limit—2 trout per day (combined species) from 8 a.m. on the first Saturday after April 11 through midnight Labor Day, except during the period from the day after Labor Day to the first Saturday after April 11 of the following year, when no trout may be killed or had in possession. Other inland seasons, sizes and creel limits apply.
Washington	Little Chartiers Creek from Canonsburg Lake Dam approximately 1/2 mile downstream to mouth of Chartiers Creek	Fishing is prohibited from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.
Wayne	West Branch Delaware River	Trout: From the Pennsylvania/New York border downstream to the confluence with the East River Branch of the Delaware River: no-harvest artificial lures only season on trout from October 16 until midnight of the Friday before the first Saturday after April 11. During the no-harvest artificial lures only season: 1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. 2. The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited. 3. The daily creel limit for trout is 0.
Westmoreland	Indian Lake	The following size and creel limits apply: Bass—15 inch minimum size limit; 2 bass per day creel limit (combined species). Panfish: 10 fish per day creel limit (combined species). Other species—Inland regulations apply.
Wyoming	Lake Winola	Bass—It is unlawful to take, catch, kill or possess bass that are 12 to 18 inches in length. The daily creel limit for bass less than 12 inches in length and greater than 18 inches in length is 6, only one of which may exceed 18 inches in length. Closed to all fishing from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.

[Pa.B. Doc. No. 06-2408. Filed for public inspection December 8, 2006, 9:00 a.m.]

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

The Game Commission (Commission) published a final-form rulemaking at 36 Pa.B. 2979 (June 17, 2006) that

appears to be the Commission’s rulemaking regarding taking lawful possession of certain furbearers accidentally killed on the roadway. The language published at 36 Pa.B. 2979 happened to be the prior, proposed version of the same rulemaking. This language was not representative of the rulemaking finally adopted by the Commission at its January 24, 2006, meeting since it did not include a

number of amendments made by the Commission. In an effort to correct this inadvertent error, the Commission has resubmitted the final rulemaking materials for republication. Under these circumstances, republication in this manner, a final-omitted rulemaking, is authorized by section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL).

To effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 24, 2006, meeting, adopted amendments to § 147.142 (relating to possession of wildlife accidentally killed by a motor vehicle).

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

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

A notice of proposed rulemaking was published at 36 Pa.B. 27 (January 7, 2006).

### 1. Purpose and Authority

The skins from the various furbearers found in the wilds of this Commonwealth are a valuable Pennsylvania resource. Each year many of these furbearers are accidentally struck and killed on highways in this Commonwealth by automobiles, which typically results in the unfortunate waste of many of the skins from these animals. Former regulations prohibited anyone, including licensed furtakers, from utilizing road-killed furbearers without first purchasing them from the Commission, because these animals were not lawfully taken or harvested with a firearm or trap. Unfortunately, it is not always economical for someone to purchase a road-killed furbearer for utilization. In an effort to reduce the waste of this Commonwealth's valuable resources and provide additional opportunity to licensed furtakers, the Commission amends § 147.142 to permit persons possessing a valid furtaking license to take possession and make use of certain furbearers (excepting river otters, bobcats and fishers) accidentally killed on highways in this Commonwealth.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) states that "The ownership, jurisdiction over and control of game or wildlife is vested in the commission as an independent agency of the Commonwealth in its sovereign capacity to be controlled regulated and disposed of in accordance with this chapter." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 147.142 was adopted under this authority.

### 2. Regulatory Requirements

The final-omitted rulemaking amends § 147.142 to permit the lawful possession of certain furbearers (excepting river otters, bobcats and fishers) accidentally killed on the highway by persons possessing a valid furtaking license.

### 3. Persons Affected

Persons wishing to take possession of certain furbearers accidentally killed on the highway will be affected by the final-omitted rulemaking.

### 4. Comment and Response Summary

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

### 5. Cost and Paperwork Requirements

This final rulemaking may result in some additional costs to the Commission by creating increased demand on regional dispatcher resources relating to receiving calls from persons taking possession of furbearers accidentally killed on the highway during the closed season of that furbearer. However, to the extent there are any additional expenses, the Commission has determined they would not be substantial and would be absorbed by the current budget.

### 6. Effective Date

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

### 7. Contact Person

For further information regarding the final-omitted rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

### Findings

The Commission finds that:

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

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

### Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.142 to read as set forth in Annex A.

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

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

CARL G. ROE,  
Executive Director

**Fiscal Note:** Fiscal Note 48-243 remains valid for the final adoption of the subject regulation.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter H. PROTECTED SPECIMEN

#### § 147.142. Possession of wildlife accidentally killed by a motor vehicle.

(a) A resident of this Commonwealth may immediately take possession of a deer accidentally killed on the



highway and transport it to a place of safekeeping within this Commonwealth. The person taking possession shall contact a regional office or a local Commission officer, for a permit number within 24 hours after having taken possession of the deer. The permit number shall be considered a valid permit for the purposes of the act and this part and shall be valid for a period not to exceed 120 days from the date of issuance. The whole or any part of the deer may not be given to any person nor may any edible part be removed from the recipient's place of residence. The recipient may not sell or transfer the hide to another party except the hide may be given to the deer processor. Unused parts of the deer must be disposed of lawfully.

(b) Holders of a valid furtakers license may take possession of a furbearer, except river otters, bobcats and fishers, accidentally killed on the highway. Persons taking possession of any furbearer under this section during the closed season for taking that furbearer shall within 24 hours contact any Commission regional office to make notification of said possession.

(c) It is unlawful:

(1) To possess a deer accidentally killed on the highway for more than 24 hours without applying for a permit number.

(2) To give the whole or an edible part of a deer to a person.

(3) To fail to comply with one or more conditions of the permit.

(4) For a nonresident to possess a deer accidentally killed on the highway.

(5) To possess a furbearer accidentally killed on the highway during the closed season for more than 24 hours without notifying the Commission.

(6) To possess a river otter, bobcat or fisher accidentally killed on the highway, unless otherwise permitted by the Commission.

(d) This section is not applicable under circumstances when a person is charged with violating another statute or regulation involving deer or furbearers. This section may not be used nor will it be accepted as a defense in a legal proceeding involving these cases.

(e) This section may not be construed in any manner to limit lawful possession of furbearers under § 147.141 (relating to sale of wildlife and wildlife parts).

[Pa.B. Doc. No. 06-2409. Filed for public inspection December 8, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD**  
**[58 PA. CODE CHS. 401, 403 AND 492]**  
**Preliminary Provisions; Hearings and Appeals**

Under the Pennsylvania Gaming Control Board's (Board) Resolution Nos. 2005-3 REG and 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005 and March 16, 2006 as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) and to further the intent of Act 71. To respond to statutory changes in the act of November 1, 2006 (P. L. 1243, No. 135) (Act 135), the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and March

16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005) and 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board amends §§ 401.4 and 492.2 (relating to definitions) and adds § 403.7 (relating to licensed entity representative meetings). The amendments are effective as of November 21, 2006.

The temporary regulations of the Board in Chapters 401 and 492 are amended by amending §§ 401.4 and 492.2 and adding § 403.7 to read as set forth in Annex A.

*Order*

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

(a) The Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the November 21, 2006, public meeting. The amendments to the temporary regulations pertain to definitions and hearings and appeals.

(b) The temporary regulations of the Board, 58 Pa. Code, Chapters 401, 403 and 492, are amended by amending §§ 401.1 and 492.2 and by adding § 403.7 to read as set forth in Annex A, with ellipses referring to the existing text of the temporary regulations.

(c) The amendments are effective November 21, 2006.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-51. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 401. PRELIMINARY PROVISIONS**

**§ 401.4. Definitions.**

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

\* \* \* \* \*

*Ex parte communication—*

(i) Any off-the-record communications regarding a pending matter before the Board or which may reasonably be expected to come before the Board in a contested on-the-record proceeding.

(ii) The term does not include off-the-record communications by and between members, staff and employees of the Board, Department of Revenue, Pennsylvania State Police, Attorney General or other law enforcement official necessary for their official duties under this part.

\* \* \* \* \*

*Pending matter or contested on-the-record proceeding—*

(i) A matter including the discretionary issuance, approval, renewal, conditioning, revocation, suspension or

denial of any license or permit or any petitions or motions that would require Board consideration.

(ii) The term does not include a policy or administrative matter.

\* \* \* \* \*

*Staff*—An employee or an independent expert, including, but not limited to, attorneys, accountants, investment bankers, architects, engineers, scientific and technical consultants and licensed financial brokers retained by the Board.

\* \* \* \* \*

## CHAPTER 403. BOARD OPERATIONS AND ORGANIZATION

### § 403.7. Licensed entity representative meetings.

(a) If a Board member conducts a meeting with a licensed entity representative under section 1201.1(c)(7) of the act (relating to code of conduct), the Board member will record the following in the log:

- (1) The names of individuals with whom the Board member met.
- (2) The date and time of the meeting.
- (b) The Board member will include a memorandum of the content of the discussion in the log.
- (c) The log will be available for public inspection.

### Subpart H. PRACTICE AND PROCEDURE

## CHAPTER 492. HEARINGS AND APPEALS

### § 492.2. Definitions.

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

\* \* \* \* \*

*Documentary hearing*—A proceeding limited to a review of documentary evidence submitted by the parties, including documents, depositions, affidavits, interrogatories and transcripts.

*Exceptions*—A formal objection to a report or recommendation of a presiding officer.

\* \* \* \* \*

[Pa.B. Doc. No. 06-2410. Filed for public inspection December 8, 2006, 9:00 a.m.]

# Title 64—SECURITIES

## SECURITIES COMMISSION

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

### Rescission of Forms and Other Technical Amendments

The Securities Commission (Commission), under sections 203(d), (o) and (p), 205, 206, 301, 303, 504, 603(a) and 609 of the Pennsylvania Securities Act of 1972 (act) (70 P.S. §§ 1-203(d), (o) and (p), 1-205, 1-206, 1-301, 1-303, 1-504, 1-603(a) and 1-609) and section 4 of the Takeover Disclosure Law (70 P.S. § 74), amends the regulations concerning the subject matter of the act and the Takeover Disclosure Law.

### *Publication of Proposed Rulemaking*

Notice of proposed rulemaking was published at 36 Pa.B. 3542 (July 8, 2006).

### *Public Comments*

No public comments were received with respect to the proposed rulemaking.

### *Comments of the Independent Regulatory Review Commission*

By letter dated September 6, 2006, the Independent Regulatory Review Commission (IRRC) advised that it had no objections, comments or suggestions with respect to the proposed rulemaking.

### *Summary and Purpose of Final-Form Rulemaking*

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

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

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

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

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

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

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

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

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

The Commission amends § 602.022 (relating to denial for abandonment) by adding “investment adviser representative” to the list the Commission may order denied for abandonment.

The Commission amends § 603.011 (relating to filing requirements) by adding language to state that forms are available on the Commission’s website at [www.psc.state.pa.us](http://www.psc.state.pa.us).

The Commission rescinds § 604.013, as it was an interim guideline for the registration of associated persons.

The Commission rescinds § 604.014, as it was an interim guideline for the qualification and examination of associated persons.

The Commission rescinds § 604.015, as it was an interim guideline for the effectiveness of registration of associated persons.

The Commission amends § 604.016 (relating to guidelines for waivers of Uniform Securities Agent State Law Examination (Series 63), Uniform Investment Adviser

Law Examination (Series 65) and General Securities Representative Non-Member Examination (Series 2)—statement of policy) by changing “associated persons” to “investment adviser representatives” and updating delegated authority.

The Commission amends § 604.020 (relating to broker-dealers, investment advisers, broker-dealer agents and investment adviser representatives using the Internet for general dissemination of information on products and services—statement of policy) by changing “associated persons” to “investment adviser representatives.”

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

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

*Persons Affected by this Final-Form Rulemaking*

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

*Fiscal Impact*

The final-form rulemaking is cost neutral.

*Paperwork*

No additional paperwork will be required.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 20, 2006, the Commission submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 3542, to IRRC and the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 1, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective November 1, 2006.

*Availability in Alternative Formats*

This final-form rulemaking may be made available in alternative formats upon request. To make arrangements for alternative formats, contact Simon J. Dengel, ADA Coordinator, (717) 787-6828. TDD users should use the AT&T Relay Center (800) 854-5984.

*Contact Person*

The contact person for an explanation of the final-form rulemaking is Michael J. Byrne, Chief Counsel, Securities Commission, Eastgate Office Building, 1010 North Seventh Street, Harrisburg, PA 17102-1410, (717) 783-5130.

*Order*

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

(a) The regulations of the Commission, 64 Pa. Code Chapters 203, 205, 207, 209, 210, 303, 504, 602, 603, 604, 609 and 1001, are amended by amending §§ 203.041, 203.151, 203.161, 205.021, 207.101, 209.010, 210.010, 303.051, 504.060, 602.022, 603.011, 604.016, 604.020, 609.010 and 1001.010 and deleting §§ 604.013—604.015 to read as set forth at 36 Pa.B. 3542.

(b) The Secretary of the Commission shall submit this order and 36 Pa.B. 3542 to the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Commission shall certify this order and 36 Pa.B. 3542 and deposit them with the Legislative Reference Bureau as required by law.

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

JEANNE S. PARSONS,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7082 (November 18, 2006).)*

**Fiscal Note:** Fiscal Note 50-120 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-2411. Filed for public inspection December 8, 2006, 9:00 a.m.]

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [67 PA. CODE CH. 94]

### Alcohol Highway Safety Schools and Driving Under the Influence Program Coordinators

The Department of Transportation (Department), Bureau of Highway Safety and Traffic Engineering, under 75 Pa.C.S. §§ 1549 and 6103 (relating to establishment of schools; and promulgation of rules and regulations), adds Chapter 94 (relating to alcohol highway safety schools and driving under the influence program coordinators) to read as set forth in Annex A.

*Purpose of this Chapter*

The purpose of Chapter 94 is to implement 75 Pa.C.S. § 1549(b), which requires each county, multicounty judicial district or group of counties combined under a single driving under the influence (DUI) program to establish and maintain a course of instruction regarding the problems associated with alcohol or controlled substance use, or both, and driving.

*Purpose of this Final-Form Rulemaking*

The purpose of this final-form rulemaking is to provide rules and procedures for the establishment and ongoing operation of Alcohol Highway Safety Schools (AHSS) in each county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth. Chapter 94 establishes uniform curriculum standards for AHSS as well as rules governing the selection, training, certification and recertification of AHSS instructors. Additionally, this final-form rulemaking establishes procedures governing the appointment of DUI program coordinators for each county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth.

This final-form rulemaking has been developed with the cooperation of the Pennsylvania DUI Association. DUI program coordinators, court reporting network evaluators, AHSS instructors, adult and juvenile probation officers, single county authorities, drug and alcohol program administrators, district magistrates, common pleas court judges and police officers have aided in the development of this final-form rulemaking. The knowledge gleaned from the experiences of such a diverse group has also helped to create a standardized curriculum for the AHSS, thereby further assuring that the goals of the AHSS can better be realized with some uniformity. This final-form rulemaking also serves to codify informally adopted existing rules and procedures, which have been implemented since the beginning of the Commonwealth's Alcohol Highway Safety Countermeasure System (AHSCS) in 1978.

Each AHSS has been established to educate participants concerning the effects of alcohol or controlled substance use on an individual's ability to safely operate a motor vehicle on highways in this Commonwealth. Moreover, each AHSS endeavors to provide participants with insights into the overall effects of alcohol-related behavior, as those effects apply to the participant's home and work environment. The goal of the AHSS is to encourage positive behavioral outcomes, which will contribute to a decreased likelihood of the participants operating a motor vehicle while under the influence of alcohol or a controlled substance. This final-form rulemaking also outlines provisions for administering both oral and written notification of possible fine and imprisonment to every AHSS participant regarding the consequences of driving a motor vehicle while the operating privilege is suspended or revoked.

#### *Summary of Comments and Changes this Final-Form Rulemaking*

Public comment was received from the Erie County D.W.I Program, Inc. (Erie) with respect to three sections of the proposed rulemaking.

First, with regard to § 94.7(b) (relating to conduct of courses), Erie suggested that a provision be added requiring payment in full and providing that failure to pay the fee in full would result in the refusal to expunge the record of the DUI conviction. The Department recognizes the importance of fee collection to the continuing operation of an AHSS, but believes the suggested addition is duplicative of clear provisions already in the law. As the Erie comment noted, 75 Pa.C.S. § 3807(b)(1)(viii) (relating to accelerated rehabilitative disposition) requires the student to pay all costs and 75 Pa.C.S. § 3807(e)(1) provides that a defendant who fails to comply with any of the conditions of participation will not have his criminal record expunged.

Second, with regard to § 94.6(c) (relating to AHSS approval; revocation and refusal of approval), Erie suggested that the regulation delineate what records must be maintained and for what period of time. The final-form rulemaking has been amended to provide that attendance rolls, student test records and instructor qualification records be retained for 5 years. The commentator also recommended an inspection checklist for the conduct of Department inspections of AHSS records. The Department has determined that a checklist would be too limiting of the Department evaluation of the compliance and effectiveness of the AHSS.

Third, the Erie comment asked whether § 94.12 (relating to DUI program coordinators) represented a change in the current recertification credits under the DUI pro-

gram. The commentator noted that currently, a DUI coordinator is required to earn 18 credits to maintain certification as both a coordinator and an instructor. Section 94.12 requires that 6 of the credits required of the coordinator shall be earned by attending an annual DUI Program Coordinators' Conference designed and hosted by the Department or its designee specifically for DUI program coordinators. These 6 credits would be specifically directed to the coordinator function and therefore not related to credits required for certification as an instructor.

The Independent Regulatory Review Commission (IRRC) also submitted formal comment on the proposed rulemaking.

With regard to § 94.5 (relating to curriculum), IRRC recommended that for clarity, a cross reference to § 94.9 (relating to notification of possible fine and imprisonment), which requires that notice of 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges are suspended or revoked) be given in the first component of the AHSS, should be included among the elements of the first curriculum component in § 94.5(a)(1). The cross reference has been added. IRRC also noted that the introductory paragraphs of subsection (a)(3)—(5), regarding curriculum components 3, 4 and 5, respectively, contained language duplicative of the component elements specifically delineated thereafter. The duplicative language in the introductory paragraphs has been deleted.

With regard to § 94.6, IRRC recommended, as did the Erie comments previously discussed, that the Department more specifically delineate what records must be retained by the AHSS and for what period of time. As previously noted, the final-form rulemaking has been amended to provide that attendance rolls, student test records and instructor qualification records be retained for 5 years. The IRRC comments also recommended that the final-form rulemaking include specific references to applicable confidentiality laws or regulations. The intent of § 94.6(c) was not to delineate specific confidentiality provisions of law or regulation to which the Department would agree to be bound in the examination of AHSS and student records. Rather, the intent of § 94.6(c) is to make clear that the authority of the Department to inspect AHSS and student records would be limited by any laws rendering records or parts of records confidential. Section 94.6(c) has been amended to clarify that the Department may inspect any records of the AHSS, including student records, provided that disclosure of those records to the Department is not precluded by order of court or applicable laws, such as those providing for the confidentiality of medical information.

With regard to § 94.6(d), IRRC recommended that the final-form rulemaking specify how the Department would provide appropriate notification of the revocation or refusal to issue a letter of approval to operate an AHSS. The subsection has been amended to specify that revocation or refusal to issue approval is made by written notification to the AHSS.

The IRRC comments regarding § 94.10(c)(6) (relating to AHSS instructor qualification, selection, certification and recertification) object to the reference to "any additional reporting requirements established by the Department" and recommended that additional requirements be delineated. Section 94.10(c)(6) was intended to provide the Department with discretion to establish reporting requirements as the need may arise, but in deference to the IRRC concern, the provision had been deleted in the final-form rulemaking.

Finally, with regard to § 94.11 (relating to suspension or revocation of certification), the IRRC comments recommend that “the final form regulation should provide a time period for providing the notice of the right to an administrative hearing” upon the suspension or revocation of an AHSS instructor certification. The section has been clarified to require that the written notice of suspension or revocation itself also provide notice of the right to an administrative hearing.

#### *Statutory Authority*

This final-form rulemaking is adopted under the authority in 75 Pa.C.S. §§ 1549 and 6103.

#### *Persons and Entities Affected*

This final-form rulemaking affects persons who are convicted of violating 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) and former 75 Pa.C.S. § 3731 and required to attend an AHSS under 75 Pa.C.S. § 1548(b) (relating to requirements for driving under influence offenders). This final-form rulemaking also affects court of common pleas judges, county adult and juvenile probation officers, district attorneys, DUI program coordinators, AHSS instructors, candidates for certification as AHSS instructors and every county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth. Any other private, for-profit or non-profit business entity that is contracted by a county, multicounty judicial district or group of counties combined under a single DUI program for the purpose of operating an AHSS is also affected by this final-form rulemaking.

#### *Fiscal Impact*

This final-form rulemaking will not require the expenditure of additional funds by the Commonwealth since the AHSCS has been operational since 1978. The Federal Department of Transportation, National Highway Traffic Safety Administration administers the State and Community Highway Safety Program that is funded in accordance with 23 U.S.C.A. § 402. The purpose of these funds is to provide Federal financial assistance to state agencies and local political subdivisions' highway safety programs, which are designed to reduce incidences of driving after drinking, alcohol or controlled substance related crashes and the fatalities, injuries and property damage resulting from these crashes. These Federal funds also support Department program managers who monitor and provide technical assistance to the local AHSCS. Further, although the final-form rulemaking requires every county, multicounty judicial district or group of counties combined under a single DUI program to establish and maintain a local AHSCS, each system is designed to be self-supporting. Each AHSCS includes a DUI program coordinator and an AHSS. Every county, multicounty judicial district or group of counties combined under a single DUI program currently has an operational AHSS that is self-supporting. DUI offenders who are court ordered to attend an AHSS are responsible under 75 Pa.C.S. § 1548(e) to pay the cost of attending an AHSS. Each AHSS program's board of directors or county commissioners independently sets the fee for attending the AHSS. Fees are also approved by the president judge of the court of common pleas in the county where the AHSS is located. AHSS fees completely offset any costs incurred in the operation of a local AHSCS, thereby rendering the AHSCS self-supporting.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 17, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4705, to IRRC and the Chairpersons of the House and Senate Transportation Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on November 1, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 2, 2006, and approved the final-form rulemaking.

#### *Effective Date*

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

#### *Sunset Date*

The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). The Department will, however, continue to closely monitor these regulations for their effectiveness.

#### *Contact Person*

The contact person for this final-form rulemaking is Troy Love, Manager, Pennsylvania Alcohol Highway Safety Program, Bureau of Highway Safety and Traffic Engineering, Commonwealth Keystone Building, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, (717) 783-1902.

#### *Order*

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code, are amended by adding §§ 94.1—94.14 to read as set forth in Annex A.

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

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

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

ALLEN D. BIEHLER, P.E.,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7082 (November 18, 2006).)*

**Fiscal Note:** Fiscal Note 18-377 remains valid for the final adoption of the subject regulations.

## Annex A

## TITLE 67. TRANSPORTATION

## PART I. DEPARTMENT OF TRANSPORTATION

## Subpart A. VEHICLE CODE PROVISIONS

## ARTICLE IV. LICENSING

## CHAPTER 94. ALCOHOL HIGHWAY SAFETY SCHOOLS AND DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS

Sec.	
94.1.	Purpose.
94.2.	Definitions.
94.3.	General requirements and objectives.
94.4.	Mandatory attendance.
94.5.	Curriculum.
94.6.	AHSS approval; revocation and refusal of approval.
94.7.	Conduct of courses.
94.8.	Student records.
94.9.	Notification of possible fine and imprisonment.
94.10.	AHSS instructor qualification, selection, certification and recertification.
94.11.	Suspension or revocation of certification.
94.12.	DUI program coordinators.
94.13.	Confidentiality.
94.14.	Cost.

**§ 94.1. Purpose.**

The purpose of this chapter is to implement 75 Pa.C.S. § 1549(b) (relating to establishment of schools), which requires every county, multicounty judicial district, or group of counties combined under a single DUI program to establish and maintain a course of instruction regarding the problems associated with alcohol or controlled substance use and driving.

**§ 94.2. Definitions.**

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

*AHSCS—Alcohol Highway Safety Countermeasure System*—A system of deterrence, prevention and intervention strategies used in combination with drug and alcohol treatment programs and legal sanctions to combat DUI.

*AHSS—Alcohol Highway Safety School*—A structured educational program with a standardized curriculum to teach DUI offenders about the problems of alcohol and drug use and driving, attendance at which is mandatory for all convicted DUI first and second offenders and for every person placed on ARD or other preliminary disposition as a result of an arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

*ARD—Accelerated Rehabilitative Disposition*—A pre-trial diversion program which offers a person arrested for DUI the opportunity to earn dismissal of the charges, provided the person agrees to certain conditions.

*Alcohol*—Ethanol or ethyl alcohol.

*CRN—Court Reporting Network*—A uniform prescreening evaluation procedure for all DUI offenders to aid and support clinical treatment recommendations offered to the judiciary, prior to sentencing.

*Controlled substance*—Any substance so defined or classified under:

(i) The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).

(ii) Section 102(6) of the Controlled Substance Act (21 U.S.C.A. § 802(6)).

(iii) 21 CFR Part 1308.11—1308.15 (relating to schedules of controlled substances).

(iv) Any revisions to subparagraph (ii) or (iii) which are published by the Department of Health as notices in the *Pennsylvania Bulletin*.

*DUI—Driving under the influence*—Driving, operating or being in actual physical control of the movement of any vehicle while under the influence of alcohol or any controlled substance to a degree which renders the person incapable of safe driving as prohibited and punishable under 75 Pa.C.S. §§ 3802, 3803 and 3804 (relating to driving under influence of alcohol or controlled substance; grading; and penalties).

*DUI program coordinator*—An individual who serves as the liaison between a county, multicounty judicial district, or group of counties combined under a single DUI program and the Department of Transportation or its designee.

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

**§ 94.3. General requirements and objectives.**

(a) *General requirements.* Each county, multicounty judicial district, or group of counties combined under a single DUI program shall establish and maintain an AHSS which provides a course of instruction regarding problems associated with the use of alcohol and controlled substances, and driving. The school program must include the following:

(1) A uniform curriculum as further prescribed by § 94.5 (relating to curriculum), which has an objective to educate students concerning the following:

(i) The relationship of the use of alcohol or controlled substances, or both, to highway safety.

(ii) The effects of the use of alcohol or controlled substances, or both, on social relationships and the family.

(iii) The effects of the use of alcohol or controlled substances, or both, on economic functioning.

(iv) The availability of alcohol and substance abuse programs and counseling.

(2) AHSS instructors who are trained, certified and recertified as prescribed in § 94.10 (relating to AHSS instructor qualification, selection, certification and recertification).

(3) A means of notifying all AHSS students, both orally and in writing, of the provisions of 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges are suspended or revoked).

(4) A DUI program coordinator as specified in § 94.12 (relating to DUI program coordinators).

(5) Classroom space that is conducive to learning, and which is of adequate size to accommodate a maximum of 50 people. The maximum number of students per class may not exceed 25. A building that houses an AHSS classroom must have all of the appropriate local certificate of occupancy permits.

(b) *Objectives.* The AHSS shall provide students with a basic knowledge and understanding of alcohol and controlled substances and their effects on metabolism and judgment, alcoholism and drug addiction, as well as highway safety, to encourage a positive change in the students' attitude concerning driving under the influence of alcohol or a controlled substance.

**§ 94.4. Mandatory attendance.**

A person convicted of a first or second offense violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), or placed on ARD or other preliminary disposition as a result of an alleged violation of 75 Pa.C.S. § 3802, shall be required to attend, pay all costs and successfully complete an approved AHSS program whether it be as a part of sentencing, as a condition of parole or probation or as a part of ARD, in accordance with 75 Pa.C.S. § 3807 (relating to accelerated rehabilitative disposition).

**§ 94.5. Curriculum.**

(a) The AHSS curriculum must consist of a minimum of 12 1/2 hours of instruction and include the following core components:

(1) *Component one.* Component one must introduce the course content, rules, regulations and requirements for successful completion. Administration of the knowledge inventory and an overview of the Commonwealth's health/legal approach to implementation of an AHSS shall be presented. The instructional objectives must include:

- (i) Providing an understanding of the purpose of the AHSS.
- (ii) Explaining the rules, regulations and expectations to the participants for successful completion of the program, as well as the consequences of failure to comply with the rules.
- (iii) Creating a classroom environment that fosters active participation and appropriate structure.
- (iv) Providing an understanding of the Pennsylvania AHSS.
- (v) Explaining the role of AHSS as a part of the AHSS.
- (vi) Examining Pennsylvania laws regarding DUI.
- (vii) Establishing the relationship between driving after drinking alcohol or using drugs, and automobile crashes.

(viii) Providing, in accordance with § 94.9 (relating to notification of possible fine and imprisonment), oral and written notice of the provisions of 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked)

(2) *Component two.* Component two must address basic drug and alcohol information. How drugs and alcohol affect the human body should be presented in an uncomplicated manner. Information about alcohol and drugs that are more frequently combined with driving shall be emphasized during this component. The instructional objectives must include:

- (i) Understanding the physiological process of drug and alcohol absorption, metabolism and elimination.
- (ii) Examination of the effects of drugs and alcohol on the central nervous system, judgment, muscular control and vision.
- (iii) Explanation of behavioral changes associated with the consumption of alcohol and various drugs.
- (iv) Description of tests for determining the presence of alcohol and drugs in the human body.

(3) *Component three.* The instructional objectives for this component must include:

- (i) Examination of how alcohol and drug use affects driving skills.

(ii) Recognition that a DUI arrest may be a warning sign of a substance abuse problem.

(iii) Understanding the characteristics of alcohol and drug abuse and addiction.

(4) *Component four.* The instructional objectives for this component must include:

- (i) Recognition of the impact of a DUI arrest on family, employment and friends.
- (ii) Understanding the disruption that alcohol and drug abuse has on one's lifestyle.

(iii) Recognition of the value of family as a support system.

(iv) Identification of local drug and alcohol counseling and treatment services.

(v) Recognition of the importance of alcohol and drug abstinence for some individuals.

(5) *Component five.* The instructional objectives for this component must include:

- (i) Identification of realistic steps to prevent a future DUI.
- (ii) Measurement of any knowledge gained or attitudinal changes among participants since the inception of the class.
- (iii) Reinforcement of the purpose, availability and locale of treatment and counseling services.
- (iv) Provision of an opportunity to evaluate the AHSS and the instructor.

**§ 94.6. AHSS approval; revocation and refusal of approval.**

(a) *General requirement.* Prior to the operation of an AHSS, the DUI program coordinator or the coordinator's designee shall apply to the Department or its designee, for a letter of approval for each AHSS in the county, multicounty judicial district, or group of counties combined under a single DUI program.

(1) An AHSS which is fully operational on December 9, 2006, shall be permitted 12 months from that date to obtain a letter of approval.

(2) An AHSS must comply with all of the requirements of this chapter to receive a letter of approval. Failure to comply will result in notification to the appropriate court officials, including the president judge and the court administrator, of the failure to comply.

(3) Application for a letter of approval shall be made using forms and procedures prescribed by the Department or its designee.

(b) *Expiration of approval.* The approval of an AHSS will expire 24 months from the date of issuance of the approval letter, unless a request to renew a letter of approval is filed by the DUI program coordinator or the coordinator's designee 6 months prior to the lapse.

(c) *Entry and inspection.* The Department or its designee, will have the right to enter upon the premises and inspect an AHSS at any time for the purpose of determining compliance with this chapter.

(1) The AHSS shall retain attendance rolls, student test records and instructor qualification records for 5 years.

(2) The Department will have access to all records of the AHSS, including other student records provided that disclosure of those records to the Department is not

precluded by order of court or applicable laws such as those providing for the confidentiality of medical information.

(d) *Revocation or refusal.* The Department or its designee may, by written notification to the AHSS, revoke or refuse to issue a letter of approval to operate an AHSS for any of the following:

(1) Failure to comply with any provision of this chapter.

(2) Failure to comply with a directive issued by the Department or its designee following an onsite inspection of an AHSS.

(3) Failure to comply with a directive issued by the Department or its designee as a condition of approval or renewal of a letter of approval.

(e) *Corrective measures.* Each county, multicounty judicial district, or group of counties combined under a single DUI program shall have 6 months to satisfy directives or conditions issued by the Department or its designee to meet approval to operate an AHSS.

(f) *No operation without approval.* An AHSS may not operate without a currently valid letter of approval from the Department, except as specified in this section or as otherwise directed, in writing, by the Department.

#### § 94.7. Conduct of courses.

(a) *Attendance.* AHSS students shall complete the AHSS classroom instruction, as described in § 94.5 (relating to curriculum).

(b) *Repeating AHSS courses.* AHSS students shall repeat the entire AHSS curriculum if they do not satisfy the requirements of subsection (a), except that, with approval of the AHSS instructor, a student may be excused for one component, but not the first component. A student excused from attendance at a component will be required to attend that component during the next available AHSS. If the student fails to attend that component at the subsequent AHSS, the student will be required to repeat the entire curriculum.

(c) *Scheduling.* Whenever possible, AHSS classes will be scheduled at times that do not conflict with the work schedules of the majority of the students, with classes scheduled for evenings and weekends, if appropriate.

(d) *Break periods.* Each component of AHSS classroom instruction will have a 15-minute break period or recess, which may not be counted toward the 12 1/2 hour requirement.

#### § 94.8. Student records.

The DUI program coordinator or the coordinator's designee shall keep a complete student record on file for every student attending an AHSS.

(1) *Content of student records.* A student record must include:

(i) A summary of fees remitted or payments made in conjunction with the AHSS.

(ii) A record of the student's attendance.

(iii) Court referral documentation or referral recommendations, or both.

(iv) Any correspondence related to the student.

(v) A copy of the 75 Pa.C.S. § 1543(b)(1) (relating to driving while operating privilege is suspended or revoked) notification that is signed and dated by the student.

(2) *Custody of AHSS student records.* The DUI program coordinator or the coordinator's designee shall maintain all AHSS student records.

#### § 94.9. Notification of possible fine and imprisonment.

AHSS instructors shall provide oral and written notice of the provisions of 75 Pa.C.S. 1543(b) (relating to driving while operating privilege is suspended or revoked) to all AHSS students during the first component of AHSS, in the following manner:

(1) Two copies of a written notice as provided in paragraph (6) shall be distributed to every student during the first component.

(2) The notice shall be read aloud by the AHSS instructor in the presence of all the AHSS students in attendance.

(3) All AHSS students shall sign and date both copies of the notice.

(4) The AHSS instructor shall collect one copy of the signed and dated notice from each AHSS student.

(5) The AHSS instructor shall file the signed and dated copy of the notice in each AHSS student's record.

(6) The written notice must state the following:

You are hereby notified that, either as a result of your conviction for DUI, or as a condition of acceptance of ARD, Section 1543(b) of the Pennsylvania Consolidated Statutes, Title 75, Vehicles (Vehicle Code) now applies to you.

Section 1543(b) provides that any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked either—

(1) as a condition of acceptance of Accelerated Rehabilitative Disposition,

(2) for a violation of Section 3802 or the former section 3731 (relating to driving under the influence of alcohol or controlled substance),

(3) because of a violation of section 1547(b)(1) (relating to suspension for refusal) or

(4) suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section 3802 or former section 3731—

shall, upon conviction, be guilty of a summary offense, and shall be sentenced to pay a fine of \$500 and be imprisoned for a period of not less than 60 days nor more than 90 days.

In addition to the penalty above, any person who drives a motor vehicle on any highway or trafficway of the Commonwealth when their operating privilege is suspended or revoked for any of the reasons noted above, AND whose blood alcohol by weight is equal to or greater than 0.02% at the time of testing OR whose blood has any amount of a Schedule I or nonprescribed Schedule II or III controlled substance or its metabolite at the time of testing—

(1) for the first conviction shall be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and be imprisoned for a period of not less than 90 days.

(2) for a second conviction shall be guilty of a misdemeanor of the third degree and shall be sen-



tenced to pay a fine of \$2,500 and be imprisoned for a period of not less than six months.

(3) for a third or subsequent conviction shall be guilty of a misdemeanor of the first degree and shall be sentenced to pay a fine of \$5,000 and be imprisoned for a period of not less than two years.

These provisions shall apply whether the person is currently serving a suspension, whether the effective date of the suspension or revocation has been deferred, or otherwise until the person has had his/her operating privilege restored. They shall also apply to a revocation under the habitual offenders provisions of section 1542 if any of the enumerated offenses was for a violation of section 3802 or former section 3731 or a substantially similar out of state offense under section 1581.

This signature verifies that I have read and understood the above and have been notified verbally of the consequences of violating Section 1543(b) of the Vehicle Code (75 Pa.C.S. § 1543(b)).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**§ 94.10. AHSS instructor qualification, selection, certification and recertification.**

(a) *Qualifications.* Candidates for AHSS instructor certification shall meet the following qualifications and requirements. The candidate shall:

- (1) Be at least 21 years of age.
- (2) Possess a bachelor's degree from an accredited college or university.
- (3) Possess a valid driver's license.
- (4) Attend and observe the teaching of a complete 12 1/2 hour AHSS course cycle by a certified AHSS instructor.
- (5) Be sponsored by the DUI program coordinator or the coordinator's designee of the county, multicounty, judicial district, or group of counties combined under a single DUI program, in which the candidate will be instructing.

(b) *Submission of the names of qualified candidates.* The sponsoring DUI program coordinator or the coordinator's designee shall submit a list of the names of qualified candidates to the Department or its designee utilizing forms and procedures prescribed by the Department or its designee.

(c) *AHSS instructor certification.* Candidates who are accepted into the AHSS instructor certification process shall complete the following requirements before certification. A candidate shall:

- (1) Participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.
- (2) Teach a full AHSS curriculum, as prescribed in § 94.5 (relating to curriculum), while under the direct supervision of the DUI program coordinator or the coordinator's designee. The DUI program coordinator or the coordinator's designee shall administer pretests and posttests to the AHSS students. The instructor candidate shall document the results of these tests by using standardized reporting forms issued by the Department or its designee.
- (3) Document compliance with the uniform AHSS curriculum by the submission of a course outline meeting the

minimum core components described in § 94.5 or on standardized forms as deemed appropriate by the Department or its designee.

(4) Send the completed standardized reporting forms to the Commonwealth's Alcohol Highway Safety Program office of the Department, or to its designee.

(5) Participate in the 1-day AHSS Performance Analysis Workshop when all candidates shall demonstrate their knowledge of alcohol highway safety by scoring 85% or better on tests developed by the Department or its designee.

(d) *DUI program coordinator verification.* The sponsoring DUI program coordinator or the coordinator's designee shall verify the AHSS instructor candidate's satisfactory completion of all requirements on reporting forms issued by the Department or its designee prior to the candidate's participation in the 1-day AHSS Performance Analysis Workshop.

(e) *Recertification.*

(1) AHSS instructors shall be recertified every 2 years, in accordance with the following:

(i) Prior to recertification, every AHSS instructor shall have completed 12 credit hours of instruction at Department-approved workshops during the previous 24 months.

(ii) During the second 12 months of an instructor's existing certification period, the DUI program coordinator or the coordinator's designee shall observe the instructor teach one complete 12 1/2 hour AHSS course cycle.

(iii) The DUI program coordinator or the coordinator's designee shall verify that the instructor is adhering to the uniform AHSS curriculum, as prescribed by § 94.5.

(iv) The AHSS instructor shall administer an approved pretest and posttest to the AHSS class during the class cycle which is being observed by the DUI program coordinator or the coordinator's designee. The results of both tests must be submitted to the DUI program coordinator or the coordinator's designee.

(v) The DUI program coordinator or the coordinator's designee shall submit to the Department or its designee, on standardized reporting forms issued by the Department or its designee, verification of the instructor's satisfaction of, or the failure to satisfy, all of the requirements for recertification, together with a recommendation to grant or deny recertification of the AHSS instructor.

(2) The Department or its designee may waive, substitute or give credit toward any of the requirements for AHSS instructor recertification as specified in this section by offering suitable preannounced programs and workshops for AHSS instructors who qualify for recertification.

**§ 94.11. Suspension or revocation of certification.**

The Department may, upon good cause shown, suspend or revoke the certification of an AHSS instructor and restrict or prohibit an instructor from participating in a DUI program. The written notice of suspension or revocation will include notice and an opportunity for administrative hearing under Chapter 491 (relating to administrative practice and procedure). This provision does not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from also taking appropriate action in response to claim of instructor disqualification or misconduct.

**§ 94.12. DUI program coordinators.**

(a) *Requirement.* Each county, multicounty judicial district or group of counties combined under a single DUI program shall designate a person to function as a DUI program coordinator.

(b) *Appointment.* Designation of a DUI program coordinator shall be made by the president judge of the county or multicounty judicial district, or by a consensus of the president judges within a single DUI program area.

(c) *Qualifications.* DUI program coordinators shall either possess a bachelor's degree with a major in business administration, business management, chemical addictions, criminal justice, public administration, psychology, social sciences, social work, sociology, education, or a closely related field, or be able to demonstrate at least 2 years of related management or administrative experience, or be able to demonstrate a suitable combination of education and relevant experience to the Department or its designee.

(d) *Responsibility for administration of AHSS.* The DUI program coordinator shall be responsible for administration of the AHSS, including the following:

(1) The DUI program coordinator shall serve as a liaison between the AHSS and the Department, its designee, or both, for the purposes of planning, implementing and monitoring all DUI related activities which are occurring within the coordinator's county, multicounty judicial district, or group of counties combined under a single DUI program which are related to the operation of an AHSS.

(2) The DUI program coordinator shall insure that all of the DUI services which are required by 75 Pa.C.S. (relating to Vehicle Code) in conjunction with the operation of the AHSS are made available and are provided in their respective DUI program areas, and that those services are in compliance with all applicable State and local regulations.

(3) The DUI program coordinator shall recommend candidates for certification as AHSS instructors.

(4) The DUI program coordinator shall supervise AHSS instructor candidates during the certification process.

(5) The DUI program coordinator shall ensure that all AHSS instructors are currently certified and administering the AHSS curriculum in compliance with this chapter.

(6) The DUI program coordinator shall maintain documentation relating to the certification of all AHSS instructors within the coordinator's jurisdiction.

(7) The DUI program coordinator shall submit any AHSS information and data requested by the Department or its designee using forms and procedures specified by the Department.

(8) The DUI program coordinator, within 1 year of appointment to the position as described in subsection (b), shall participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.

(9) The DUI program coordinator shall earn 12 credits every 2 years through the Department's Alcohol Highway Safety Program sponsored workshops. Six of these credits shall be earned by attending an annual DUI Program Coordinators' Conference designed and hosted by the Department or its designee specifically for the DUI program coordinators. One hour of class time shall equal one credit. An all-day workshop will provide six credits and a 1/2 day workshop will provide three credits.

(e) *DUI program coordinator misconduct.* The Department may, upon good cause shown, recommend to the president judge of the court overseeing a DUI program that any DUI program coordinator should be removed, restricted, or otherwise prohibited from participating in any activity under this chapter. This provision does not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from taking appropriate action in response to claim of DUI program coordinator misconduct.

**§ 94.13. Confidentiality.**

The AHSS shall keep all student records confidential and may not disclose them to any person other than the student and the Department. This section does not apply to any notification to the sentencing court, county probation department or State Parole Board. An individual AHSS student may waive these rights by a written explicit and knowing waiver signed by the student in the presence of the DUI program coordinator or the coordinator's designee.

**§ 94.14. Cost.**

Cost of attendance at an AHSS shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the attendee. The fee charged for attendance at an AHSS shall be determined independently by each county, multicounty judicial district, or group of counties combined under a single DUI program. A Statewide listing of the fee charged for AHSS in jurisdictions throughout this Commonwealth is available from the Department upon request at no charge. Prospective students of an AHSS may verify the fee for attendance by contacting the particular school for its fee schedule.

[Pa.B. Doc. No. 06-2412. Filed for public inspection December 8, 2006, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF HEALTH

### Home Care Agency/Home Care Registry Stakeholder Meetings; Draft Licensure Regulations Available for Review

The Department of Health (Department) has prepared draft regulations for licensure of home care agencies (HCAs) and home care registries (HCRs) and will be holding stakeholder meetings to review the draft regulations. Following the stakeholder meetings, the Department will revise the draft regulations and publish the regulations as proposed for formal public comment.

Governor Rendell signed the act of July 7, 2006 (P. L. 334, No. 69) (Act 69). Act 69 amends the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b) to require licensure of HCAs and HCRs. The Department is required to publish licensure regulations before July 7, 2007. Act 69 takes effect upon publication of regulations.

HCAs and HCRs provide nonmedical services to individuals in their home or other independent living environment. Services provided include:

- Assistance with self-administered medications.
- Personal care such as assistance with personal hygiene, dressing and feeding.
- Homemaking such as assistance with household tasks, housekeeping, shopping, meal planning and preparation and transportation.
- Companionship.
- Respite care such as assistance and support provided to the family.
- Other nonmedical services.

Stakeholder meetings on the draft regulations will be held on the following dates and locations:

Tuesday, December 12, 2006  
9 a.m. to noon  
Muhlenberg Hospital Center  
Auditorium  
2545 Schoenersville Road  
Bethlehem, PA 18017

Friday, December 15, 2006  
9 a.m. to noon  
Mayview State Hospital  
Regional Conference Center  
1601 Mayview Road  
Bridgeville, PA 15017

Persons planning to attend are invited to register by accessing the Department's website at [www.dsf.health.state.pa.us/health/cwp/view.asp?A=189&Q=245787](http://www.dsf.health.state.pa.us/health/cwp/view.asp?A=189&Q=245787) or by contacting the Department at (717) 737-1379. Copies of the draft regulations are available by means of a link on the website. Additional copies of the draft regulations will be available at the meetings. Persons planning to speak at the stakeholder meeting will be asked to sign-in upon arrival and indicate their desire to speak. Persons desiring to speak will be allotted approximately 5 minutes in which to provide comments.

For additional information, including directions to the locations listed previously, or persons with a disability and desire to attend the meeting or obtain a copy of the draft regulations, or both, and require an auxiliary aid, service or other accommodation, contact Janice Staloski, Department of Health, Bureau of Community Program Licensure and Certification at (717) 783-1380 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

These meetings are subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-2413. Filed for public inspection December 8, 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 November 28, 2006.

#### BANKING INSTITUTIONS

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-21-06	Hyperion Bank Philadelphia Philadelphia County	1201 North 2nd Street Philadelphia Philadelphia County	Commenced Operations
11-22-06	Hometown Bank of Pennsylvania Bedford Bedford County	500 E. Pitt Street Bedford Bedford County	Approved

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-27-06	EHPW Acquisition Company, Harrisburg, to acquire 100% of the common stock of Vartan Financial Corporation, and thereby indirectly Vartan National Bank, Harrisburg	Harrisburg	Filed

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-20-06	Reliance Savings Bank Altoona Blair County  Purchase of assets/assumption of liabilities of two branch offices of Susquehanna Bank, Hagerstown, MD Located at:  1254 Old Route 220 North Duncansville Blair County	Altoona      3119 Pleasant Valley Boulevard Altoona Blair County	Effective

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-20-06	United Savings Bank Philadelphia Philadelphia County	35 East Baltimore Pike Media Delaware County	Opened

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-20-06	Fulton Bank Lancaster Lancaster County	<i>To:</i> 1423 South Market Street Mechanicsburg Upper Allen Township Cumberland County  <i>From:</i> 360 Cumberland Parkway Mechanicsburg Upper Allen Township Cumberland County	Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

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

VICTORIA A. REIDER,  
*Acting Secretary*

[Pa.B. Doc. No. 06-2414. Filed for public inspection December 8, 2006, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of December 2006**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of December 2006 is 7 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.84 to which was added 2.50 percentage points for a total of 7.34 that by law is rounded off to the nearest quarter at 7 1/4%.

VICTORIA A. REIDER,  
*Acting Secretary*

[Pa.B. Doc. No. 06-2415. Filed for public inspection December 8, 2006, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION****Applications, Actions and Special Notices****APPLICATIONS**

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0060496	Little Washington Wastewater Co. 762 West Lancaster Avenue Bryn Mawr, PA 19010-3489	Lackawaxen Township Pike County	Wet Weather Channel to the Delaware River	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
A0084018 (Sewage)	Fishing Creek Estates Homeowners Association c/o Custer Group of Companies 2805 Old Post Road Suite 200 Harrisburg, PA 17110	Dauphin County Middle Paxton Township	Fishing Creek 7-C	Y
PA0083879 (Industrial Waste)	WSI—Sandy Run Landfill, Inc. 995 Landfill Road Hopewell, PA 16650	Bedford County Broad Top Township	Sandy Run 11-D	Y
PA0084255 (Sewage)	Swatara Mobile Homes 2222 Grace Avenue Lebanon, PA 17046-8028	Lebanon County Swatara Township	UNT Swatara Creek 7-D	Y
PA0088102 (Sewage)	CFR Development Corporation—Graystone STP 3969 Two Spring Farm Lane Glen Rock, PA 17327	York County Codorus Township	7-H	Y
PA0084115 (Sewage)	All American Plazas, Inc. Clark's Ferry Auto/Truck Plaza P. O. Box 302 Bethel, PA 19507	Dauphin County Reed Township	Susquehanna River 6-C	Y
PA0008893 (IW)	Team Ten, LLC 1600 Pennsylvania Avenue Tyrone, PA 16686	Blair County Tyrone Borough	Bald Eagle Creek 11-A	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0044598 (Sewage)	Susquehanna Area Regional Airport Authority—Harrisburg International Airport One Terminal Drive Suite 300 Middletown, PA 17057-5048	Dauphin County Lower Swatara Township	Post Run Susquehanna River 7-D	Y
PA0008010 (Industrial Waste)	Hain Pure Protein Corporation 220 North Center Street Fredericksburg, PA 17026	Lebanon County Bethel Township	Beach Run 7-D	Y

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

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

**PA0050431**, Industrial Waste, SIC 2086, **Cott Beverages Inc.**, P. O. Box 626, Concordville, PA 19331. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge noncontact cooling water and treated process wastewater from Cott Beverages IWTP.

The receiving stream, UNT to West Branch Chester Creek, is in the State Water Plan Watershed 3G and is classified for TSF. The nearest downstream public water supply intake for Aqua PA main system is located on Chester Creek and is 7.5 miles below the point of discharge.

The proposed effluent limits for Monitoring Point MP101, before plant rerate/expansion, are based on a design flow of 24,000 gpd.

<i>Parameters</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 (mg/l)</i>
CBOD <sub>5</sub>	4.0	8.0	20	40	50
TSS	6.0	12.0	30	60	75
NH <sub>3</sub> -N (5-1 to 10-31)	0.4	0.8	2.0	4.0	5.0
(11-1 to 4-30)	1.2	2.4	6.0	12.0	15.0
Phosphorus, Total			Monitor and Report	Monitor and Report	Monitor and Report
Dissolved Oxygen pH			Minimum of 5.0 mg/l at all times within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Monitoring Point MP101, after plant rerate/expansion, are based on a design flow of 70,000 gpd.

<i>Parameters</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 (mg/l)</i>
CBOD <sub>5</sub>	12	24	20	40	50
TSS	18	36	30	60	75
NH <sub>3</sub> -N (5-1 to 10-31)	1.2	2.4	2.0	4.0	5.0
(11-1 to 4-30)	3.5	7.0	6.0	12.0	15.0
Phosphorus, Total			Monitor and Report	Monitor and Report	Monitor and Report
Dissolved Oxygen pH			Minimum of 5.0 mg/l at all times within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 001 are as follows:

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	15		30
Temperature		87° F	110° F
TDS	1,000	2,000	2,500
pH	within limits of 6.0 to 9.0 standard units at all times		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures if Create Public Nuisance.
2. Small Stream Discharge.
3. Applicable BAT/BCT.
4. BOD<sub>5</sub> Reduction of 85%.
5. No Chemical Additive.
6. Change in Ownership.
7. Proper Sludge Disposal.
8. Watershed TMDL/WLA.
9. I-Max Limitation.
10. 2/Month Sampling.
11. No More Than 2° F Change in the Temperature.

**NPDES Permit No. PA0056413**, Sewage, SIC 4952, **Lower Salford Township Authority** Mainland Sewage Treatment Plant, 57 Main Street, Mainland, PA 19451 in Lower Salford Township, **Montgomery County**, PA.

Description of Activity: Renewal of Sewage Treatment Plant's NPDES Permit to discharge effluent to Skippack Creek.

The receiving water, Skippack Creek, is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-PA is located on Perkiomen Creek and is approximately 12 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on an approved annual average flow of 0.90 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	10.0	15		20
(11-1 to 4-30)	20.0	30		40
Total Suspended Solids	20.0	30.0		40
Ammonia as N				
(5-1 to 10-31)	1.4			2.8
(11-1 to 4-30)	4.2			8.4
Phosphorus as P (Issuance through June 30, 2009)	2.0			4.0
Phosphorus as P (4-1 to 10-31) (Effec- tive July 1, 2009 through expiration)	0.32			0.64
Phosphorus as P (11-1 to 3-30) (Effec- tive July 1, 2009 through expiration)	0.64			Monitor and Report 1.28
Fecal Coliform*	200 #/100 ml			
Dissolved Oxygen	5.0 (Min.)			Monitor and Report
Lead, Total	Monitor and Report			
Copper, Total (Issuance through June 30, 2009)	Monitor and Report			
Copper, Total (July 1, 2009 through expiration)	0.012			0.018
pH (Standard Units)	6.0 (minimum)			9.0 (maximum)

\*Ultra-Violet Disinfection.

In addition to the effluent limits, the permit contains the following major special conditions:

1. Conduct in-stream monitoring for copper, lead and hardness.
2. Proper sludge disposal.

**PA0055476**, Sewage, **Chadds Ford Township Sewer Authority**, P. O. Box 181, 10 Ring Road, Chadds Ford, PA 19317. This existing facility is located in Chadds Ford Township, **Delaware County**.

Description of Proposed Activity: This application is for a renewal NPDES permit for a discharge of treated sewage from Ridings of Chadds Ford sewage treatment plant.

The receiving stream, a UNT to Harvey Run, is in the State Water Plan Watershed 3H and is classified for WWF, MF.

The proposed effluent limits for Outfall No. 001 are based on a design flow of 0.080 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	
CBOD <sub>5</sub>	6.7	10.0	10.0	15.0	20.0
Total Suspended Solids	6.7	10.0	10.0	15.0	20.0
Ammonia as N					
(5-1 to 10-30)	2.0		3.0		6.0
(11-1 to 4-30)	6.0		9.0		18.0



<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum (mg/l)</i>
Phosphorus (years 1 and 2)	Monitor and Report 1.3		Monitor and Report 2.0		4.0
(years 3—5)					1,000/100 ml
Fecal Coliform			200/100 ml		
Dissolved Oxygen			3.0 (min.)		
pH (Standard Units)			6.0 (min.)		9.0
Total Residual Chlorine			0.12		0.28
Total Nitrogen	Monitor and Report		Monitor and Report		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator.
2. Average Weekly Definition.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Small Stream Discharge.
7. Sludge Disposal Requirement.
8. Total Residual Chlorine Requirement.
9. I-max Requirements.
10. Change of Ownership.
11. Certified Operator.

**PA0244236**, Sewage, SIC 233, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Activity: Discharge of treated sewage from Gray Tract Subdivision into a UNT of Houghs Creek.

The receiving stream, UNT of Houghs Creek, is in the State Water Plan Watershed 2E and is classified for WWF. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Delaware River and is 3.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 20,000 gpd.

<i>Parameters</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 (mg/l)</i>
CBOD <sub>5</sub>			10		20
Total Suspended Solids			10		20
Ammonia as N (5-1 to 10-31)			1.5		3.0
(11-1 to 4-30)			3.0		6.0
Total Phosphorus			0.1		0.2
Total Nitrogen			10		20
Dissolved Oxygen			6.0 min.		
Fecal Coliform			50 #/100 ml		
pH			6.0 min.		9.0
Total Residual Chlorine			0.01		0.025

In addition to the effluent limits, the permit contains the following major special conditions: DRBC—special protection water requirements.

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

**Application No. PA 0259845**, Concentrated Animal Feeding Operation (CAFO), **Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325. Hillandale Gettysburg, LP has submitted an application for an Individual NPDES permit for an existing CAFO known as the Hillandale Site 1 Farm, located in Tyrone Township, **Adams County**.

The CAFO is situated near UNTs of Conewago Creek, which are classified for WWF. The CAFO is designed to maintain an animal population of approximately 3,337 animal equivalent units consisting of 1 million laying hens. Dry poultry manure is stored in a centralized manure storage building. Eggs are processed onsite, and egg washwater is stored in a storage impoundment with a capacity of approximately 650,000 gallons.

The Department of Environmental Protection's (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has

made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the 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. 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 0259853**, Concentrated Animal Feeding Operation (CAFO), **Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325. Hillandale Gettysburg, LP has submitted an application for an Individual NPDES permit for an existing CAFO known as the Hillandale Site 2 Farm, located in Tyrone Township, **Adams County**.

The CAFO is situated near UNTs of Conewago Creek, which are classified for WWF. The CAFO is designed to maintain an animal population of approximately 4,182 animal equivalent units consisting of 1 million laying hens and 595,000 pullets. Dry poultry manure is stored in a centralized manure storage building at the layer site, and within the poultry houses at the pullet sites. Eggs are processed at the layer site, and egg washwater is stored in a storage impoundment with a capacity of approximately 650,000 gallons.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

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

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

**PAS804801**, Stormwater, **The Pennsylvania State University, University Park Airport**, 2535 Fox Hollow Road, State College, PA 16803. This proposed facility is located in Benner, Patton and College Townships, **Centre County**.

Description of Proposed Activity: Small airport stormwater. SIC: Nos. 4512, 4513, 4522 and 4581.

The receiving stream, Big Hollow and UNT to Spring Creek and Buffalo Run, are in the State Water Plan Watershed Bald Eagle Creek (9C) and are classified for CWF and HQ-CWF, respectively. The nearest downstream public water supply intake for Milton is located on West Branch Susquehanna River and is approximately 110 river miles below the point of discharge.

The proposed effluent monitoring for Discharge 001-011, based on stormflow, are:

<i>Discharge Parameter</i>	<i>Average Monthly (Mg/L)</i>
CBOD <sub>5</sub>	Monitor and Report
Chemical Oxygen Demand	Monitor and Report
Oil and Grease	Monitor and Report
pH	Monitor and Report
Total Suspended Solids	Monitor and Report
Ethylene Glycol*	Monitor and Report
Propylene Glycol*	Monitor and Report
Potassium Acetate**	Monitor and Report
Iron (Total)	Monitor and Report

\*Only monitored in Outfall 001.

\*\*Only monitored in Outfall 001 and 002.

In addition to the effluent limits, the permit contains the following major special conditions. Requirements applicable to stormwater discharges.

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

**PA0217581**, Sewage, **John Niebauer**, P. O. Box 187, I-80 Exit 133, Kylertown, PA 16847. This application is for renewal of an NPDES permit to discharge treated sewage from The New Stanton Mack/Volvo Sewage Treatment Plant in South Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage swale tributary to Hunters Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County-McKeesport Municipal Authority.

*Outfall 001*: existing discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218413**, Sewage, **Economy Borough Municipal Authority**, 2860 Conway Wallrose Road, Baden, PA 15005. This application is for renewal of an NPDES permit to discharge treated sewage from Big Sewickley Creek STP in Economy Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Big Sewickley Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Nova Chemical Beaver Valley Plant.

*Outfall 001*: existing discharge, design flow of 1.25 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>				
(5-1 to 10-31)	15	23		30
(11-1 to 4-30)	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	3.5	5.3		7.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

### III. WQM Industrial Waste and Sewerage Applications Under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 6790204, Amendment 06-1**, Industrial Waste, **BAE Systems Land & Armaments, LP**, Ground Systems Division, P. O. Box 15512, York, PA 17405-1512. This proposed facility is located in West Manchester Township, **York County**.

Description of Proposed Action/Activity: Seeking approval for modifications, consisting of the following work: continued optimization of DAF operation, determination of need for carbon filtration, modifications to piping to route the pretreated industrial wastewater to the sanitary wastewater treatment facility, installation of flow metering for transfer of industrial wastewater to the sanitary wastewater treatment facility since the industrial wastewater is treated by batch. This proposed project will not modify the existing permitted design flows or loadings to the sanitary wastewater treatment facility.

**WQM Permit No. 2206406**, Sewerage, **West Hanover Township Water & Sewer Authority**, 7901 Jonestown Road, Harrisburg, PA 17112-9728. This proposed facility is located in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a Vermicomposting Facility at their sewage treatment plant.

**WQM Permit No. 6706410**, Sewerage, **Red Lion Municipal Authority**, P. O. Box 190, Red Lion, PA 17356-0190. This proposed facility is located in Red Lion Borough, **York County**.

Description of Proposed Action/Activity: Seeking approval for the relocation of the Red Lion Industrial Park sanitary sewers, 2 existing gravity lines to be combined and relocated on the site.

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

**WQM Permit No. WQG016134**, Sewerage, **John Heinlein**, 105 Coleman Drive, Beaver, PA 15009. This proposed facility is located in Independence Township, **Beaver County**.

Description of Proposed Action/Activity: Application for construction and operation of a small flow, single residence, sewage treatment plant.

**WQM Permit No. 0206202**, Industrial Waste, **Orion Power MidWest, LP**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is located in Springdale Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of FGD system.

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

**WQM Permit No. 4306404**, Sewerage, **Borough of Stoneboro**, P. O. Box 337, 59 Lake Street, Stoneboro, PA 16153. This proposed facility is located in Borough of Stoneboro, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction of pressure sewers with individual grinder pumps in four separate areas of the Borough which cannot be serviced by the existing gravity collection system.

---

#### **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**

---

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

---

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

### **PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### **SAFE DRINKING WATER**

#### **Applications Received Under the Pennsylvania Safe Drinking Water Act**

---

*Northeast Region: Water Supply Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

#### **Application No. 3506502**, Public Water Supply.

Applicant	<b>PA American Water Co.</b> Scranton City <b>Lackawanna County</b>
Responsible Official	David R. Kaufman, P. E. 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	Community Water System
Consulting Engineer	Paul J. Mourt, P. E. Hatch Mott & MacDonald 27 Bleeker Street Milburn, NJ 07041 (973) 379-3400
Application Received Date	November 3, 2006

Description of Action Application for construction of a pump station, a pressure regulating vault and 7,500 feet of transmission main.

**Application No. 4006506**, Public Water Supply.

Applicant **Hazleton City Authority**  
Black Creek Township  
**Luzerne County**

Responsible Official Randy J. Cahalan, Manager  
400 East Arthur Gardner  
Parkway  
Hazleton, PA 18201  
(570) 454-2401

Type of Facility Community Water Supply

Consulting Engineer William J. Schumacher, Jr., P. E.  
Schumacher Engineering, Inc.  
55 North Conahan Drive  
Hazleton, PA 18201  
(570) 455-9407

Application Received Date November 13, 2006

Description of Action Application for construction of a new supply well, well house and treatment building, along with replacement of existing 4-inch main with 6-inch and 8-inch ductile iron main to serve the Derringer/Fern Glen community water system.

**Application No. 4806504**, Public Water Supply.

Applicant **City of Easton**  
City of Easton  
**Northampton County**

Responsible Official David G. Hopkins  
City of Easton  
1 South 3rd Street  
Easton, PA 18042

Type of Facility PWS

Consulting Engineer James C. Elliot, P. E.  
Gannett Fleming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106

Application Received Date 11/16/2006

Description of Action The proposed project is the City of Easton's WTP Phases 2—4 Improvement Project consisting of comprehensive improvements to the WTP, a new 24 inch transmission main from the WTP to the Twin Reservoirs, and select improvements to the Valve House and the site at the Twin Reservoirs.

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

**Permit No. 3606517**, Public Water Supply.

Applicant **Pepe's Pizza**

Municipality Clay Township

County **Lancaster**

Responsible Official Paolo Quaranta, Owner  
1790 Clay Road  
Ephrata, PA 17522

Type of Facility Public Water Supply

Consulting Engineer Charles A. Kehew II, P. E.  
James R. Holley & Assoc., Inc.  
18 South George St.  
York, PA 17401

Application Received: 11/9/2006

Description of Action Installation of a nitrate treatment system using anion exchange to address elevated levels of nitrate in the source water.

**Permit No. 2106505**, Public Water Supply.

Applicant **Newville Borough Water and Sewer Authority**

Municipality West Pennsboro Township

County **Cumberland**

Responsible Official Roger Hoover, Authority  
Chairperson  
4 West Street  
Newville, PA 17241

Type of Facility Public Water Supply

Consulting Engineer Janet R. McNally, P. E.  
William F. Hill & Assoc., Inc.  
207 Baltimore St.  
Gettysburg, PA 17325

Application Received: 10/26/2006

Description of Action Permit is requesting permission to install an infiltration gallery intake on Big Spring Creek in West Pennsboro Township, Cumberland County.

**Permit No. 6706514**, Public Water Supply.

Applicant **Dillsburg Area Authority**

Municipality Carroll Township

County **York**

Responsible Official Sheldon K. Williams, General  
Manager  
P. O. Box 370  
4 Barlo Circle Suite E  
Dillsburg, PA 17019-0370

Type of Facility Public Water Supply

Consulting Engineer Thomas S. Ladue, P. E.  
Dewberry-Goodkind, Inc.  
101 Noble Boulevard  
Carlisle, PA 17013-4109

Application Received: 11/13/2006

Description of Action Construction of Well No. 7 with a wellhouse and treatment.

**Permit No. 6706515**, Public Water Supply.

Applicant **The York Water Company**

Municipality Spring Garden Township

County **York**

Responsible Official Jeffrey R. Hines, Vice President—Engineering  
130 E Market St.  
P. O. Box 15089  
York, PA 17405-7089

Type of Facility Public Water Supply

Consulting Engineer Ryan M. Ural, P. E.  
The York Water Company  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Application Received: 11/13/2006

Description of Action Installation of plate settlers and a residuals handling system at the Grantley Road facility.

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

**Permit No. 4106503—Construction** Public Water Supply.

Applicant **Hughesville Borough Water Authority**

Township or Borough Wolf Township

County **Lycoming**

Responsible Official Dale Cahn, Water System Operator  
Hughesville Borough Water Authority  
P. O. Box 185  
Hughesville, PA 17737

Type of Facility Public Water Supply—Construction

Consulting Engineer Douglas M. Smith, P. E.  
Borton-Lawson  
613 Baltimore Drive, Suite 300  
Wilkes-Barre, PA 18702

Application Received Date November 20, 2006

Description of Action Construction of a municipal drinking well (Hughesville Well 103) with treatment, disinfection, chlorine contact and transmission main to connect to the existing public water system. Changing method of chlorination at existing Wells 101 and 102 from gas to liquid and extending chlorine contact piping for Well 102 to accommodate a main extension.

#### MINOR AMENDMENT

#### Applications Received Under the Pennsylvania Safe Drinking Water Act

*Northeast Region: Water Supply Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Application No.** Minor Amendment.

Applicant **PA American Water Co.**  
Forest City Borough  
**Susquehanna County**

Responsible Official Paul A. Zielinski, Director  
Environmental Mgmt. & Compliance  
PA-AM Water Co.  
800 West Hersheypark Drive  
Hershey, PA 17033  
(717) 691-2120

Type of Facility Community Water System

Consulting Engineer Scott M. Thomas, P. E.  
PA-AM Water Co.  
(717) 691-2120

Application Received Date November 9, 2006

Description of Action Application for rehabilitation of the Forest City WTP filter, to include blasting and repainting of the interior/exterior, media replacement and minor sanitary, structural and safety modifications.

**Application No.** Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**  
Lackawaxen Township  
**Pike County**

Responsible Official R. McMullen, P. E.  
Aqua Pennsylvania, Inc.  
Palmyra Professional Center  
HCR 6, Box 6040  
Hawley, PA 18428

Type of Facility PWS

Consulting Engineer Doug Berg, P. E.  
Entech Engineering, Inc.  
P. O. Box 32  
Reading, PA 19603

Application Received Date 11/16/06

Description of Action Applicant proposes the construction of an interconnection and distribution system work to interconnect the Fawn Lake PWS system (PWS I.D. No. 2520037) to the Masthope PWS system (PWS I.D. No. 2520047).

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

**Permit No. 1106504MA**, Minor Amendment.

Applicant **Jackson Township Water Authority**  
2949 William Penn Avenue  
Johnstown, PA 15909

Township or Borough Jackson Township

Responsible Official Walter Ditchcreek, Chairperson  
Jackson Township Water Authority  
2949 William Penn Avenue  
Johnstown, PA 15909

Type of Facility Interconnection

Consulting Engineer	Gwin, Dobson & Foreman, Inc. 3121 Fairway Drive Altoona, PA 16602
Application Received Date	November 13, 2006
Description of Action	Construction of a water supply interconnection with the Ebensburg Borough Municipal Authority.

### WATER ALLOCATIONS

#### Applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**WA 01-1023, Water Allocations. Mason Dixon Country Club Inc, Adams County.** The applicant is requesting the right to withdraw an average of 300,000 gpd from Marsh Creek in Freedom Township, Adams County. Consulting Engineer: Thomas S. Ladue, Dewberry-Goodkind Inc. Application Returned: 11/3/2006.

### 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:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Sinking Springs Bulk Storage Facility**, Spring Township, **Berks County**. Earth Tech, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Reading Terminals, P. O. Box 2621, Harrisburg, PA 17105 and CRL Holdings, LP, c/o Apple Hill Business Advisors, Inc., 33 North 2nd Street, Harrisburg, PA 17101, submitted a Notice of Intent to Remediate site soils contaminated from closure of four unregulated underground storage tanks. The property is and will remain a bulk petroleum storage and distribution facility.

**350 North Duke Street/Sovereign Bank Stadium**, York City, **York County**. Spotts, Stevens and McCoy, Inc., 1047 North Park Road, P. O. Box 6307, Reading, PA 19601, on behalf of Redevelopment Authority of the County of York, 144 Roosevelt Avenue, Suite 100, York, PA 17404-3333, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by No. 2 fuel oil from two underground storage tanks. The property is part of the York Outdoor Recreation Complex. The applicant is seeking to remediate to the nonresidential Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**F. B. Leopold Co., Inc.**, Delaware Township, **Northumberland County**, ENSR Corp., 2005 Cabot Blvd., West, Suite 100, Langhorne, PA 19047 on behalf of F. B. Leopold Company, P. O. Box 128, Watsontown, PA 17777 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with VOCs, semi-VOCs and metals. The applicant proposes to remediate the site to meet the Site-Specific Standard and Statewide Health Standard. The future use of the property is for nonresidential commercial use.

**Sunoco-Montgomery**, Montgomery Borough, **Lycoming County**, Aquaterra Technologies, Inc., 122 South Church St., West Chester, PA 19382 on behalf of Sunoco, Inc. (R & M), 1109 Milton St., Syracuse, NY 13204 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with petroleum hydrocarbon constituents, including separate-phase gasoline, as well as

adsorbed and dissolved-phase compounds associated with gasoline and heating oil. The applicant proposes to remediate the site to meet the Site-Specific Standard.

**Amberleigh Development**, Benner and Spring Townships, **Centre County**, Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of Jeff Yager, GOH, 1952 Waddle Road, State College, PA 16804 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The proposed future use of the property is for a planned residential development.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act (act) and regulations adopted under the act.

## PLAN APPROVALS

---

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**35-317-005: Polarized Meat Co., Inc.** (P. O. Box 172, 107 Keystone Industrial Park, Dunmore, PA 18512) for installation of air cleaning devices to capture odors from meat cooking operations in Dunmore Borough, **Lackawanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05022B: Kutztown University of Pennsylvania** (College Hill Road, Kutztown, PA 19530) for construction of three natural gas and fuel oil fired boilers at the campus in Richmond Township, **Berks County**. The application includes the shutdown and removal of several existing natural gas and anthracite coal fired boilers. The boilers are subject to 40 CFR Part 60, Subpart Dc, Standards of Performance for New Stationary Sources.

**06-05069M: East Penn Manufacturing Co, Inc.** (P. O. Box 147, Deka Road, Lyon Station, PA 19536-0147) for modification of their lead/acid battery manufacturing plant in Richmond Township, **Berks County**. The modification includes new assembly equipment, two new fabric collectors with HEPA filters and the change in the controls on various assembly equipment. The sources are subject to 40 CFR Part 60, Subpart KK, Standards of Performance for New Stationary sources.

**67-05099A: Kinsley Manufacturing, Inc.** (1110 East Princess Street, York, PA 17403) for construction of two portable spray paint units with dry panel filters for control of particulate matter emissions at their steel fabrication shop in York City, **York County**.

---

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**23-0003I: ConocoPhillips Co.** (4101 Post Road, Trainer, PA 19061) for installation of two 349.6 mmBtu boilers at their petroleum refinery in Trainer Borough, **Delaware County**. These boilers will have the following control devices: ultra low NOx burners, flue gas circulation, selective catalyst reduction and a CO catalyst. The plan approval is for a Title V facility. The boilers will fire on Refinery Fuel Gas and/or natural gas and the boilers are subject to the following federal regulations: 40 CFR 63, Subpart DDDDD and 40 CFR 60 and Subpart Db. The installation also addresses the removal of two previous permitted boilers (Sources 032 and 033). There will be no new air contaminants emitted and due to changes in technology, the emissions of NOx, CO and VOC will be decreased for this installation. The plan approval will



include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-0261A: U.S. Tape** (2452 Quakertown Road, Pennsburg, PA) for installation of a nickel plating and printing operation in Upper Hanover Township, **Montgomery County**. This facility is a Synthetic Minor facility. This installation will result in VOC emissions increase of less than 25 tons per year. The Plan approval and operating permit will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**46-0261: U.S. Tape** (2452 Quakertown Road, Pennsburg, PA) for installation of a nickel plating and printing operation in Upper Hanover Township, **Montgomery County**. This facility is a Synthetic Minor facility. This installation will result in VOC emissions increase of less than 25 tons per year. The Plan approval and operating permit will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**15-0103B: Christiana Cabinetry** (406 Noble Road, Christiana, PA 17509) for modification to increase the allowable air emission rates to allow for future increase in production and hours of operation in **Chester County**. This facility is a Natural Minor facility. This modification will result in VOC emissions increase of less than 8.8 tons per year. The Plan approval and operating permit will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-317-031: Hershey Foods Corp.** (125 Reese Avenue, P. O. Box 805, Hershey, PA 17033) for installation of a vacuum dust collection system to remove collected sugar dust from the eight existing fabric collectors on Line 6 in the Humboldt Industrial Park in Hazle Township, **Luzerne County**. The facility is a Title-V facility. The installation of the vacuum sugar dust collection system will result in particulate emissions of less than 1 ton per year. The plan approval will include all appropriate restrictions, testing, monitoring, recordkeeping and reporting requirements designed to keep the process operating within all applicable air quality requirements.

### OPERATING PERMITS

#### Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00016: Handy and Harman Tube Co., Inc.** (701 West Township Line Road, Norristown) for renewal of the Title V Operating Permit in East Norriton, **Montgomery County**. The initial permit was issued on August 28, 2000. The facility is primarily conducting degreasing operations. As a result of potential emissions of VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed

Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

**46-00010: Montenay Montgomery, LTD** (1155 Conshohocken Road, Conshohocken, PA, 19428-1028) for permit renewal to Title V Operating Permit 46-00010 in Plymouth Township, **Montgomery County**. No changes have taken place at the facility since the previous permit was last amended on September 22, 2006, and no sources are subject to CAM at this time. The Title V permit renewal will contain monitoring, recordkeeping, reporting and work practice standards 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.*

**06-05065: Glen Gery Corp.** (423 South Pottsville Pike, Shoemakersville, PA 19555-9742) for operation of a brick manufacturing plant (Mid-Atlantic Plant) in Perry Township, **Berks County**. The facility is subject to 40 CFR 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants from Brick and Structural Clay Products. This action is a renewal of the Title V Operating Permit issued in 2002.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**V06-007: Trigen-Philadelphia Energy Corp.—Edison Station** (908 Samson Street, Philadelphia, PA 19107) for operation of a steam and electric generating facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 283 mmBtu/hr No. 6 fuel oil-fired (No. 2 fuel oil ignition) boilers, two 335 mmBtu/hr 6 fuel oil-fired (No. 2 fuel oil ignition), 4 cyclone separators, 300 KW diesel emergency generator and a cold cleaner degreasing station.

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 (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.

**V06-008: Interstate Brands Corp.** (9801 Blue Grass Road, Philadelphia, PA 19115) for operation of a bakery in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 33 mmBtu/hr boilers, two 2.8 mmBtu/hr air compressors, 17 <2 mmBtu/hr heaters, three yeast baking ovens, one nonyeast baking oven, one yeast fryer and three nonyeast fryers. The air compressors each have SNCR. The yeast-baking ovens are controlled by two catalytic oxidizers.

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 (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.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**34-03006: Tangent Rail Products, Inc.** (Route 235 South Road One, McAlisterville, PA 17049) for operation of a wood waste/sawdust-fired boiler in Fayette Township, **Juniata County**. This action is a renewal of the previous permit issued in 2002.

**38-03029: Elk Corp. of Texas** (401 Weavertown Road, Myerstown, PA 17067) for operation of an asphalt shingle manufacturing facility at their Myerstown Facility in Jackson Township, **Lebanon County**. This is a non-Title V (State-only) facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the facility's previous operating permit.

**67-05084: York Wallcoverings, Inc.** (2075 Loucks Road, York, PA 17404) for operation of a wallpaper printing facility in West Manchester Township, **York County**. This is a non-Title V (State-only) facility. The facility's VOCs shall be less than 50 tons per year. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the facility's previous operating permit.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, New Source Review Chief, (814) 332-6940.*

**25-00987: Hanes Erie, Inc.** (7601 Klier Drive South, South Fairview Business Park, Fairview, PA 16415-2449) for reissuance of a Synthetic Minor Operating Permit to operate a container coating operation in Fairview Township, **Erie County**. The facility's primary emission sources include eight Paint Spray Booth lines and miscellaneous natural gas combustion. The requirements of Plan Approval 25-987D have been incorporated into the reissued permit.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Brawn, Chief, (215) 685-9476.*

**N05-009: Amoroso's Baking Co.** (845 South 55th Street, Philadelphia, PA 19143) for operation of a wholesale bakery in the City of Philadelphia, **Philadelphia**

**County**. The facility's air emission sources include two natural gas or No. 2 oil-fired boilers each rated at 9.99 mmBtu/hr, six natural gas or No. 2 fuel oil-fired ovens each rated at or less than 3.5 mmBtu/hr that process straight-dough at a capacity of 1,350 lbs/hr, one gasoline storage tank and distribution with Stages I and II Vapor Recovery Systems, and one diesel vehicle fueling station.

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.

**N05-007: Belmont Center for Comprehensive Treatment.** (4200 Monument Avenue, Philadelphia, PA 19131) for operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 200 HP boilers, one 45 HP boiler and one emergency generator.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on 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.

**S06-006: Girard Medical Center—North Philadelphia Health Systems** (at 8th Street and Girard Avenue, Philadelphia, PA 19122) for operation of a hospital facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes two No. 2 oil firing 150 Hp boilers, seven less than or equal to 50 Hp natural gas firing boilers, two less than 40 Hp natural gas firing water heater, and three emergency generators.

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.

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

**11860701 and NPDES Permit No. PA0214981. Fuel Recovery, Inc.** (2593 Wexford-Bayne Road, Suite 100, Sewickley, PA 15143-8608). To renew the permit for the Sonman Refuse in Portage Township, **Cambria County** and related NPDES permit. No additional discharges. Application received: October 3, 2006.

**30031301 and NPDES Permit No. PA0235610. Dana Mining Company of PA, Inc.** (P. O. Box 1170, Morgantown, WV 26507). To revise the permit for the 4 West Mine in Dunkard and Perry Townships, **Greene County** to add subsidence control plan area acres to the underground mine permit. SCP Acres Proposed 1,710.0. No additional discharges. Application received: October 19, 2006.

**30841317 and NPDES Permit No. PA0213527. Consol Pennsylvania Coal Company** (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323). To revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County** to install 3 North 5 Airshaft and portal facility, and NPDES discharge Point. Surface Acres Proposed 57.9. Receiving Stream: UNT to Buffalo Creek, classified for the following use: HQ-WWF. Application received: September 15, 2006.

**56773708 and NPDES Permit No. NA. Miller Springs Remediation Management, Inc.** (2480 Fortune Drive, Suite 300, Lexington KY 40509-4168). To renew the permit for the Strayer Coal Refuse Disposal Area in Conemaugh Township, **Somerset County** for reclamation/water treatment only. No additional discharges. Application received: August 8, 2006.

**56961302 and NPDES Permit No. PA0214639. RoxCOAL, Inc.** (P. O. Box 149, Friedens, PA 15541). To renew the permit for the Miller Deep Mine in Lincoln and Jenner Townships, **Somerset County** and related NPDES permit. No additional discharges. Application received: November 1, 2006.

**30841307 and NPDES Permit No. PA0213438. Emerald Coal Resources, LP** (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370). To revise the permit for the Emerald Mine No. 1 in Whiteley Township, **Greene County** to add surface acreage to install 12 ventilation boreholes, Surface Acres Proposed 4.85. No additional discharges. Application received: August 7, 2006.

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

**GP-65050101 and NPDES Permit No. PA0250775. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). General Permit application for a portable coal crusher to a bituminous surface mine, located in Derry and Ligonier Townships, **Westmoreland County**, affecting 551.1 acres. Receiving streams: UNTs to Loyalhanna Creek and Loyalhanna Creek, classified for the following: TSF. The potable water supply intake within 10 miles downstream from the point of discharge is Latrobe Municipal Authority. General permit received: November 13, 2006.

**26060108 and NPDES Permit No. PA 0251003. David L. Patterson, Jr.** (12 Short Cut Road, Smithfield, PA 15478). Application for commencement, operation and reclamation of a bituminous surface mine, located in Nicholson Township, **Fayette County**, affecting 41 acres. Receiving streams: UNTs to Cats Run and Jacobs Creek, classified for the following use: WWF. The potable water supplies that have an intake within 10 miles downstream from the point of discharge: Masontown Water Works, Carmichaels Municipal Authority and Southwestern PA Water Authority, Crucible Plant. Application received: November 14, 2006.

**03960101 and NPDES Permit No. PA0201758. T.C. Mining, Inc.** (R.D. 2, Box 301B, Kittanning, PA 16201). Renewal application for reclamation only of an existing bituminous surface mine, located in Valley Township, **Armstrong County**, affecting 121.2 acres. Receiving streams: UNTs to South Fork, Pine Creek to South Fork of Pine Creek, classified for the following use: HQ-CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: November 16, 2006.

**03040102 and NPDES Permit No. PA0250601. Thomas J. Smith, Inc.** (2340 Smith Road, Shelocta, PA 15774). Application received for transfer of permit currently issued to State Industries, Inc., for continued operation and reclamation of a bituminous surface mining site located in Boggs Township, **Armstrong County**, affecting 87.5 acres. Receiving streams: UNTs to North Fork Pine Creek, classified for the following use: CWF.

There are no downstream potable water supply intakes within 10 miles from the point of discharge. Application received: November 1, 2006.

**65910103 and NPDES Permit No. PA0592447. Calvin W. Hepler** (R.D. 1, Box 224, Smithton, PA 15479). Renewal application for continued operation and reclamation of an existing bituminous surface mine, located in South Huntingdon Township, **Westmoreland County**, affecting 42.4 acres. Receiving streams: UNTs to Barren Run, classified for the following use: WWF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: November 17, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17060112. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine in Bell Township, **Clearfield County**, affecting 279.0 acres. Receiving streams: Lost Run; Laurel Run, classified for the following use: HQF. The first downstream potable water supply intake from the point of discharge is Punxsutawney's back-up supply is an intake on the East Branch Mahoning Creek about 5 stream miles below the application area. Application received: October 30, 2006.

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

**54930101T2 and NPDES Permit No. PA0595934. Char-Pac Coal Company** (P. O. Box 81, Minersville, PA 17954). Transfer of an existing anthracite surface mine operation and NPDES Permit for discharge of treated mine drainage from Daniel J. Joy in Branch Township, **Schuylkill County** affecting 102.8 acres, receiving stream: Schaefer Creek. Application received: November 9, 2006.

**54851317R4. Rhen Coal Company** (361 Suedberg Road, Pine Grove, PA 17963). Renewal of an existing anthracite underground mine operation in Reilly Township, **Schuylkill County** affecting 2.5 acres, receiving stream: none. Application received: November 13, 2006.

**54850101R2. Joe Kuperavage Coal Company** (916 Park Avenue, Port Carbon, PA 17965). Renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 246.0 acres, receiving stream: none. Application received: November 15, 2006.

**49861303R4. Snyder Coal Company** (66 Snyder Lane, Hegins, PA 17938). Renewal of an existing anthracite underground mine operation in Zerbe Township, **Northumberland County** affecting 2.8 acres, receiving stream: none. Application received: November 20, 2006.

**49861303T. Bear Gap Coal Company** (P. O. Box 64, Spring Glen, PA 17978). Transfer of an existing anthracite underground mine operation from Snyder Coal Company in Zerbe Township, **Northumberland County** affecting 2.8 acres, receiving stream: none. Application received: November 20, 2006.

*Noncoal Applications Received*

*Effluent Limits*

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <sup>1</sup>			
pH <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

**Permit No. 31000302 and NPDES Permit No. PA0235067, Glenn O. Hawbaker, Inc.** (711 East College Avenue, Pleasant Gap, PA 16823). Renewal of NPDES Permit, Morris Township, **Huntingdon County**. Receiving stream: Shaffers' Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: November 20, 2006.

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

**5273SM1C2. Haines & Kibblehouse, Inc.** (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474). Depth correction to an existing quarry operation in Aston Township, **Delaware County** affecting 50.02 acres, receiving stream: Chester Creek. Application received: November 15, 2006.

**52060302. ER Linde Construction Corporation** (9 Collan Park, Honesdale, PA 18431). Commencement, operation and restoration of a quarry operation in Lackawaxen Township, **Pike County** affecting 2.96 acres, receiving stream: none. Application received: November 15, 2006.

**7775SM3C and NPDES Permit No. PA0594679. Lehigh Cement Company** (537 Evansville Road, Fleetwood, PA 19522). Renewal of NPDES Permit for discharge of treated mine drainage from quarry operation in Richmond and Maxatawny Townships, **Berks County**, receiving stream: UNT to Moselem Creek, classified for the following use: CWF. Application received: November 16, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office

noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the FWPCA (33 U.S.C.A. § 1341(a)).**

## WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E64-264. Andrew and Christina Dzerovych**, 18 Heritage Court, Randolph, NJ 07869, in Paupack Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To remove the top of 4.5 feet of a boulder having approximate dimensions of 13 feet by 11 feet by 8 feet high and to remove a rock pile having dimensions of 7 feet by 5 feet by 3 feet high containing approximately 25 rocks in Lake Wallenpaupack. The project is located at 39 Ledge Drive within the Rock Ledge Development. (Hawley, PA Quadrangle N: 10.6 inches; W: 13.3 inches).

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E17-423. Clearfield County**, 203 East Market Street, Clearfield, PA 16830. Burnside Township Road No. 315 (T-315) Bridge Replacement across West Branch Susquehanna River in Burnside Township, **Clearfield County**, ACOE Baltimore District (Burnside, PA Quadrangle N: 7.9 inches; W: 3.2 inches).

To remove an existing structure and construct, operate and maintain a two-span prestressed spread box beam bridge to carry T-315 over West Branch Susquehanna

River (WWF). The two-span bridge shall be constructed with a minimum clear span of 170 feet along the roadway centerline and an underclearance of 14.1 feet. Construction of in-stream bridge appurtenances and temporary structures shall be conducted during stream low flow, and dry work conditions by dams and pumping, fluming or diverting stream flow around work areas. The bridge replacement project will permanently impact 0.05 acre of wetlands and 110 feet of stream channel that is located at the western right-of-way of SR 0219, at the intersection of T-315 and SR 0219. This permit also authorizes construction, operation, maintenance and removal of temporary cofferdams, stream diversions and roadway crossings. Temporary structures shall be constructed of clean rock, which is free of fines. Upon project completion, temporary structures shall be removed with the disturbed areas restored to original contours and elevations. The Department of Environmental Protection deems the 0.05 acre of wetland permanently impacted by the project as de minimis, and as such, the permittee shall not be required to construct replacement wetland to mitigate the permanent impact.

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

**E02-1552. Gigliotti-Sirera & Associates, LLC**, 11279 Perry Highway, Suite 509, Wexford, PA 15090. To construct a culvert in West Deer Township, **Allegheny County**, Pittsburgh ACOE District. (Curtisville, PA Quadrangle N: 0.6 inch; W: 17.0 inches and Latitude: 40° 37' 42"—Longitude: 79° 52' 21"). The applicant proposes to construct and maintain a 72 inch diameter culvert in the channel of a UNT to West Branch Deer Creek (CWF) to provide access to the proposed Oakwood Heights Plan of Lots located under Maple Court, approximately 150 feet south from the intersection of Maple Court and Dogwood Court and will impact a total of approximately 900.0 linear feet of stream channel. These impacts include the activities waived under 25 Pa. Code Chapter 105. The applicant also proposes to construct and maintain an 8 inch diameter utility line under the bed and across the channel of said stream located on Lots 230 and 231.

**E04-316. Center Township**, 224 Center Grange Road, Aliquippa, PA 15001. To construct three culverts in Center Township, **Beaver County**, Pittsburgh ACOE District. (Beaver, PA Quadrangle N: 6.5 inches; W: 2.75 inches and Latitude: 40° 39' 39"—Longitude: 80° 16' 11"). The applicant proposes to construct and maintain three 24-inch diameter culverts in the channel of Elkhorn Run (WWF) for the purpose of eliminating an existing ford crossing to provide public access. The project is located on Elkhorn Run (Vankirk Road), approximately 200 feet west

from the intersection of Elkhorn Road and Biskup Lane and will impact 39.0 linear feet of stream channel.

### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D15-408. Lincoln Avenue Detention Dam.** Downingtown Borough, 4 West Lancaster Avenue, Downingtown, PA 19335. To construct, operate, and maintain Lincoln Avenue Detention Basin across a tributary to East Branch Brandywine Creek (WWF), impacting 415 feet of stream, for the purpose of controlling downstream flooding caused by stormwater runoff from surrounding areas. (Downingtown, PA Quadrangle N: 0.95 inch; W: 8.85 inches) Downingtown Borough, **Chester County**.

**D35-016A. Eagle Lake Community Association, Inc.**, P. O. Box 305, Route 435, Gouldsboro, PA 18424. To modify, operate and maintain Eagle Lake Dam across Lake Run (CWF), for the purpose of raising the top of the dam embankment in order to provide needed spillway capacity to address the requirements of Commonwealth Regulations (Sterling, PA Quadrangle N: 6.5 inches; W: 15.1 inches) in Covington Township, **Lackawanna County**.

**D64-148. Department of Conservation and Natural Resources, Bureau of Facility Design & Construction**, P. O. Box 8451, Harrisburg, PA 17105-8451. To modify, operate and maintain Gouldsboro Lake Dam across Oakes Swamp Run (HQ-CWF), impacting 0.038 acre of Palustrine Emergent wetlands and zero feet of stream, for the purpose of rehabilitating the existing dam and increasing spillway capacity to the requirements of Commonwealth Regulations (Tobyhanna, PA Quadrangle N: 19.9 inches; W: 10.6 inches) in Lehigh Township, **Wayne County**.

**D63-133. Eighty-Four Mining Company**, 1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323. To construct, operate and maintain the Somerset Slurry Pond No. 22 Dam, located across a UNT to the Center Branch Pigeon Creek (WWF), for the purpose of continuing operations at the Mine 84 coal cleansing facility and refuse disposal area. This proposed dam is located within a previously permitted mining facility. The total environmental impacts within the mine permit area included approximately 4,500 linear feet of stream channel and 4.60 acres of palustrine emergent wetlands. The applicant has already completed 1,500 linear feet of stream mitigation and constructed approximately 5.5 acres of wetlands. This site is located (Hackett, PA Quadrangle N: 2.5 inches; W: 8.15 inches) in Somerset Township, **Washington County**.

---

## ACTIONS

---

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### **I. NPDES Renewal Permit Actions**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0029220 (Sewage)	Kettle Creek Enterprises, Inc. t/a Snydersville Diner 3209 Hamilton East Stroudsburg, PA 18360	Hamilton Township Monroe County	Kettle Creek (O1E)	Y
PA-0063347 (Minor Sewage)	Wayne Romanishan, Jr. 195 East Moorestown Road Wind Gap, PA 18091-9725	Bushkill Township Northampton County	UNT to Bushkill Creek (1F)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0082023 (Industrial Waste)	Robert Rissler Upper Leacock Township 115 Newport Road Leola, PA 17540-0325	Lancaster County Upper Leacock Township	UNT Conestoga River and Mill Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0209350 Sewerage	Delmar Township 610 N. Lawton Road Wellsboro, PA 16901	Delmar Township Tioga County	Heise Run 9A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0104558	Ebbert's Laundry 580 Mill Creek Road Utica, PA 16362	Fairfield Township Crawford County	UNT to French Creek 16-Dd	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0244171**, Industrial Waste, **Lower Merion Township**, 75 East Lancaster Avenue Ardmore, PA 19003-2376. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for a new discharge from a facility known as Glanraffan Creek Remediation Project, the discharge will be to the Glanraffan Creek in Watershed Lower Schuylkill 3F.

**NPDES Permit No. PA00244147**, Sewage, **Wrightstown Township**, 738 Penns Park Road, Wrightstown, PA 18940. This proposed facility is located in Wrightstown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge from a facility known as Hibbs Tract STP to a stormwater detention basin draining to a UNT to Neshaminy Creek in Watershed 2F.

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

**NPDES Permit No. PA0248452**, Sewage, **Paul Gettle**, 480 Cornman Road, Carlisle PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for discharge to UNT Wertz Run in Watershed 7-B.

## III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. WQG02-230627**, Sewerage, **Thornbury Township**, 6 Township Road, Cheyney, PA 19319. This proposed facility is located in Thornbury Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a low pressure individual grinder pump station to serve 39 homes.

**WQM Permit No. WQG02-230629**, Sewerage, **Newtown Township Municipal Authority**, 209 Bishop Hollow Road, Newtown Square, PA 19073. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Construction and operation of two low pressure force mains and individual grinder pump stations to serve 11 home subdivision.

**WQM Permit No. 4600419, Amendment**, Sewerage, **East Norriton-Plymouth—Whitpain Joint Sewer Authority**, 200 Ross Street, Plymouth Meeting, PA 19462. This proposed facility is located in East Norriton Township, **Montgomery County**.

Description of Action/Activity: Modifications to the existing pump station, force main and sanitary sewer.

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

**WQM Permit No. 6780405, Amendment 06-1**, Sewerage, **Delmar L. Hauck, Manchester Township Municipal Authority**, 3200 Farmtrail Road, York, PA 17406. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: This amendment approves the modification of sewerage facilities consisting of the replacement of the existing pump impellers to provide for a pump rate of 300 gpm at the Farmbrook Industrial Park Pump Station No. 4.

**WQM Permit No. 2106409**, Sewerage, **James A. Stevens, Silver Spring Township Authority**, 6415 Rear Carlisle Pike, Mechanicsburg, PA 17055. This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: This permit approves the construction/operation of sewerage facilities consisting of a 10-inch diameter sewer, duplex suction lift pump station, emergency generator, and a 6-inch diameter force main to connection with sewer at intersection of Willow Mill Park Road and Route 114, the Cumberland Chase Pump Station.

**WQM Permit No. 2106407**, Sewerage, **Paul Gettle**, 480 Cornman Road, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.



Description of Proposed Action/Activity: This permit approves the construction/operation of a small flow sewage treatment system to serve a single family residence on Lot No. 3.

**WQM Permit No. WQG02060602**, Sewerage, **Paul Herb, Oley Township Municipal Authority**, One Rose Virginia Avenue, P. O. Box 19, Oley, PA 19547-0019. This proposed facility is located in Oley Township, **Berks County**.

Description of Proposed Action/Activity: This permit approves the construction/operation of the Meadow View Farms II Pump Station.

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

**WQM Permit No. 6006401**, Sewerage, **Borough of Mifflinburg**, 333 Chestnut Street, Mifflinburg, PA 17844. This proposed facility is located in Borough of Mifflinburg, **Union County**.

Description of Proposed Action/Activity: The proposed facility upgrade consists of new screening, raw wastewater pumps, equalization tank, biological treatment, filtration, disinfection and aerobic digesters. This will increase the organic capacity but not the hydraulic treatment capacity of the facility.

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

**WQM Permit No. 368S042-A2**, Industrial Waste, **Creekside Mushrooms, LTD.**, One Moonlight Drive, Worthington, PA 16262-9730. This existing facility is located in West Franklin Township, **Armstrong County**.

Description of Proposed Action/Activity: Permit amendment issuance.

**WQM Permit No. 0406402**, Sewerage, **First Energy Nuclear Operating Company, Beaver Valley Power Station**, Route 168, P. O. Box 4, Shippingport, PA 15077. This existing facility is located in Shippingport Borough, **Beaver County**.

Description of Proposed Action/Activity: Permit re-issuance in the correct permit number.

**WQM Permit No. 1105402**, Sewerage, **Department of Conservation and Natural Resources, Bureau of State Parks, Prince Gallitzin State Park**, 966 Marina Road, Patton, PA 16668. This existing facility is located in White Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for State Park Sewage Treatment Plant rehabilitation, revision of disinfection method to ultraviolet radiation and installation of aerobic digestion facilities.

**WQM Permit No. 1171403-A3**, Sewerage, **Cambria Township Sewer Authority**, P. O. Box 247, Revloc, PA 15948. This existing facility is located in Cambria Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the replacement of the sanitary sewer collection system in the Mylo Park area.

**WQM Permit No. 6306404**, Sewerage, **Borough of California**, 225 Third Street, California, PA 15419. This proposed facility is located in California Borough, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sanitary sewer and central pump station.

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

**WQM Permit No. WQG018508**, Sewerage, **Richard L. Eppinger**, 574 Cherry Road, Chicora, PA 16025. This proposed facility is located in Fairview Township, **Butler County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 6106403**, Sewerage, **City of Oil City Sewage Authority**, 21 Seneca Street, Oil City, PA 16301. This proposed facility is located in City of Oil City, **Venango County**.

Description of Proposed Action/Activity: This project is for modifications to the wastewater treatment facility in accordance with Phase I improvements and also for the installation of a new pump station to serve 11 unsewered homes in the City.

**WQM Permit No. 2006401**, Sewerage, **Department of Conservation and Natural Resources, Bureau of State Parks (Pymatuning State Park)**, P. O. Box 8551, 400 Market Street, Harrisburg, PA 17105-8551. This proposed facility is located in West Shenango Township and South Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the construction and operation of the proposed sewage collection and conveyance system to serve the Pymatuning State Park which will discharge to the North/South Shenango Joint Municipal sewage treatment plant.

---

#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

---

#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

---

#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

---

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033606003	Silvano J. Giannini 332 Snyder Hollow Road New Providence, PA 17560	Lancaster	Providence Township	Trout Run HQ-CWF
PAI032906001	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Fulton	Brush Creek, Taylor and Wells Townships	Lick Branch of Sideling Hill Creek, UNT to Wooden Bridge Creek, Wooden Bridge Creek and Oregon Creek HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAR10F154-R	Burt Stover S & A Custom Built Homes Lexington Place 2121 Old Gatesburg Road, Suite 200 State College, PA 16803	Centre	Ferguson Township	Big Hollow Drainageway CWF

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

*Allegheny County Conservation District, Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050206001	The Buncher Company 5600 Forward Avenue P. O. Box 81930 Pittsburgh, PA 15217-0930	Allegheny	Leetsdale Borough	Little Sewickley Creek (HQ-TSF)

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 288-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056306004	William Rieger Rieger Crane Rental Facility P. O. Box 141 Houston, PA 15342	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

---

## **VII. Approvals to Use NPDES and/or Other General Permits**

---

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

---

### **List of NPDES and/or Other General Permit Types**

---

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage

PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Clearfield County Sandy Township & City of Dubois	PAG2001706014	Torrell & Bernardo Remodeling & Custom Homes 130 McCrackin Run Road Dubois, PA 15801	UNT to Sandy Lick CWF UNT to Pentz Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clearfield County Lawrence Township	PAG2001706017	Susan and Richard Williams 725 Old Town Road Clearfield, PA 16830	Moose Creek CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Union County Kelly Township	PAG2006006009	Art Keister Silvermoon Plaza Phase 2 150 Silvermoon Lake Lewisburg, PA 17837	UNT to Susquehanna River WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Union County West Buffalo Township	PAG2006006013	David Brubaker Meadow Green Townhouse Apartments, Lot 84 230 Oak View Drive Northumberland, PA 17857	UNT to Buffalo Creek	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Erie County Fairview Township	PAG2002506038	Lake Shore Club District Association 6010 Bogey Way Erie PA 16505	UNT Lake Erie CWF, MF	Erie Conservation District (814) 825-6403
Mercer County City of Sharon	PAG2004306018	City of Sharon 155 West Connelly Blvd Sharon PA 16146	Shenango River WWF	Mercer Conservation District (724) 662-2242
Mercer County City of Hermitage	PAG2004306021	Kerrwood Investment Group 2450 Shenango Valley Freeway Hermitage PA 16148	Golden Run WWF	Mercer Conservation District (724) 662-2242

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Scranton City Lackawanna County	PAR202248	Master Halco, Inc. 1000 North South Road Scranton, PA 18504	Keyser Creek Lackawanna River CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
White Deer Township Union County	PAR114816 (Stormwater)	SPX Corporation, A Delaware Corporation Thermal Product Solutions New Columbia, PA 17856	UNT to W. Branch Susquehanna River WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666

*Facility Location:  
Municipality &  
County*

Harmar Township  
Allegheny County

*Permit No.*

PAR806104

*Applicant Name &  
Address*

Ward Trucking  
Corporation  
P. O. Box 1553  
Altoona, PA 16603

*Receiving  
Water/Use*

Deer Creek

*Contact Office &  
Phone No.*

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

East Taylor  
Township  
Cambria County

PAR606176

Wm. Penn Auto, Inc.  
837 Wm. Penn Avenue  
Johnstown, PA 15906

Stoneycreek River

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

Washington  
Township  
Erie County

PAR608304

Jay's Auto Wrecking, Inc.  
11610 Hamilton Road  
Edinboro, PA 16412-1117

Open stormwater  
channels to a UNT of  
Conneauttee Creek

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
(814) 332-6942

*General Permit Type—PAG-4*

*Facility Location  
County &  
Municipality*

Westmoreland  
County  
Ligonier Township

*Permit No.*

PAG046209

*Applicant Name &  
Address*

Edward E. and Bobbi J.  
Berton  
1370 Darlington Road  
Ligonier, PA 15658

*Receiving  
Water/Use*

Fourmile Run

*Contact Office &  
Phone No.*

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

Fairview Township  
Butler County

PAG049300

Richard L. Eppinger  
574 Cherry Road  
Chicora, PA 16025

UNT to Bear Creek in  
Watershed 17-C

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA 16335-3481  
(814) 332-6942

## **PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the

Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### **SAFE DRINKING WATER**

#### **Actions taken under the Pennsylvania Safe Drinking Water Act**

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

**Permit No. 2400143**, Public Water Supply.  
 Applicant **Zack Group Inc.**  
 Black Creek Township  
**Luzerne County**  
 Responsible Official Thomas Sawchak  
 247 Kathleen Drive  
 Peckville, PA 18452  
 Type of Facility Community Water System  
 Permit Issuance Date November 13, 2006  
 Description of Action PWS operation permit for the  
 community water system serving  
 Zack's Rock Glen Manor issued  
 to the new permittee, Zack  
 Group, Inc.

**Permit No. 2450085**, Public Water Supply.  
 Applicant **PA-AM Water Co.**  
 Coolbaugh Township  
**Monroe County**  
 Responsible Official Paul A. Zielinski, Director  
 Environment Mgmt. & Comp.  
 PA AM Water Co.  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 (717) 533-5000  
 Type of Facility Community Water System  
 Permit Issuance Date October 30, 2006  
 Description of Action PWS operation permit for  
 Lexington Woods development  
 transferred from Lexington  
 Woods Corp. to PA-AM Water Co.

**Permit No. 3480028**, Public Water Supply.  
 Applicant **Lehigh County Authority**  
 Moore Township  
**Northampton County**  
 Responsible Official Aurel M. Arndt, General  
 Manager  
 Lehigh County Authority  
 P. O. Box 3348  
 1053 Spruce Street  
 Allentown, PA 18106-0348  
 (610) 398-2503  
 Type of Facility Community Water System  
 Permit Issuance Date November 13, 2006  
 Description of Action PWS permit for Clearview Farm  
 Estates transferred from  
 Clearview Farm Estates Water  
 Co. to Lehigh County Authority.

**Permit Minor Amendment**, Public Water Supply.  
 Applicant **Municipal Authority of the  
 Borough of Minersville**  
 Cass Township  
**Schuylkill County**  
 Responsible Official James Cleary, Manager  
 Mun. Auth. of the Borough of  
 Minersville  
 2 East Sunbury Street  
 Minersville, PA 17954  
 (570) 544-2149

Type of Facility Community Water System  
 Action Date October 23, 2006  
 Description of Action Minor permit application for  
 change of pH adjustment  
 chemical at the Minersville WTP  
 returned.

*Southcentral Region: Water Supply Management Pro-  
 gram Manager, 909 Elmerton Avenue, Harrisburg, PA  
 17110.*

**Permit No. 0606514 MA, Minor Amendment**, Public  
 Water Supply.

Applicant **Pennsylvania American  
 Water Company**  
 Municipality Exeter Township  
 County **Berks**  
 Type of Facility Repainting of the Neversink  
 Tank No. 1 Finished Water  
 Storage Tank  
 Consulting Engineer Scott M. Thomas, P. E.  
 Pennsylvania American Water  
 Company  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 Permit to Construct 11/20/2006  
 Issued:

**Operations Permit** issued to **Bedford Township  
 Municipal Authority**, 4050037, Bedford Township,  
**Bedford County** on 11/17/2006 for the operation of  
 facilities approved under Construction Permit No.  
 0504502.

**Operations Permit** issued to **Bedford Township  
 Municipal Authority**, 4050037, Bedford Township,  
**Bedford County** on 11/20/2006 for the operation of  
 facilities approved under Construction Permit No.  
 0504505 MA.

**Operations Permit** issued to **Bedford Township  
 Municipal Authority**, 4050037, Bedford Township,  
**Bedford County** on 11/20/2006 for the operation of  
 facilities approved under Construction Permit No.  
 0505504 MA.

**Operations Permit** issued to **North Middleton Au-  
 thority**, 7210049, North Middleton Township, **Cumber-  
 land County** on 11/8/2006 for the operation of facilities  
 approved under Construction Permit No. 2106501 MA.

**Wellhead Protection Program Approval** issued to  
**Dillsburg Area Authority**, P. O. Box 370, 498 West  
 Church Street, Dillsburg, PA 17019, PWSID 7670071,  
 Dillsburg Borough, **York County** on November 13, 2006.

**Wellhead Protection Program Approval** issued to  
**Franklintown Borough Municipal Authority**, P. O.  
 Box 75, Franklintown, PA 17323, PWSID 7670113,  
 Franklintown Borough, **York County** on November 13,  
 2006.

**Wellhead Protection Program Approval** issued to  
**Martinsburg Municipal Authority**, P. O. Box 307, 133  
 Allegheny Street, Martinsburg, PA, 16662, PWSID  
 4070030, Martinsburg Borough, **Blair County** on No-  
 vember 13, 2006.

**Operations Permit** issued to **PA American Water**,  
 South Hanover Township, **Dauphin County** on 11/8/2006  
 for the operation of facilities approved under Construction  
 Permit No. 3306506 MA.

**Operations Permit** issued to **Eastern Lebanon County School District**, 7380327, Jackson Township, **Lebanon County** on 11/16/2006 for the operation of facilities approved under Construction Permit No. 3804503.

**Operations Permit** issued to **The York Water Company**, 7670100, Jackson Township, **York County** on 11/16/2006 for the operation of facilities approved under Construction Permit No. 6705502 MA.

**Operations Permit** issued to **The York Water Company**, 7670100, East Manchester Township, **York County** on 11/16/2006 for the operation of facilities approved under Construction Permit No. 6705506 MA.

**Operations Permit** issued to **Elco School District**, 7380327, Jackson Township, **Lebanon County** on 11/16/2006 for the operation of facilities approved under Construction Permit No. 3806503 MA.

**Permit No. 0601511**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
Municipality Robeson Township  
County **Berks**  
Type of Facility New Well No. 2 at Aqua Pennsylvania's Geigertown water system.  
Consulting Engineer William A. LaDieu  
CET Engineering Services  
1240 North Mountain Road  
Harrisburg, PA 17112  
Permit to Construct Issued: 11/20/2006

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

**Permit No. Minor Amendment—Construction** Public Water Supply.

Applicant **Pennsylvania-American Water Company**  
Township or Borough Milton Borough  
County **Northumberland**  
Responsible Official Paul A. Zielinski  
Pennsylvania-American Water Co.  
800 West Hersheypark Drive  
Hershey, PA 17033  
Type of Facility Public Water Supply—Construction  
Consulting Engineer Scott M. Thomas, P. E.  
Pennsylvania-American Water Co.  
800 West Hersheypark Drive  
Hershey, PA 17033  
Permit Issued Date November 22, 2006  
Description of Action Approves rehabilitation of any damaged concrete, replacement of any severely rusted components and blasting and painting of the interior and exterior of the 650,000 gallon Clarifier/Flocculator No. 2 at the Milton Filter Plant.

**Permit No. Minor Amendment—Construction** Public Water Supply.

Applicant **Pennsylvania—American Water Company**  
Township or Borough Decatur Township  
County **Clearfield**  
Responsible Official Paul A. Zielinski  
Pennsylvania-American Water Co.  
800 West Hersheypark Drive  
Hershey, PA 17033  
Type of Facility Public Water Supply—Construction  
Consulting Engineer Scott M. Thomas, P. E.  
Pennsylvania-American Water Co.  
800 West Hersheypark Drive  
Hershey, PA 17033  
Permit Issued Date November 22, 2006  
Description of Action Approves rehabilitation of the 100,000 gallon Manor Hill Tank. Rehabilitation of the standpipe will include the following: paint removal; interior and exterior paint systems; concrete repair; welding, pit filling, chipping and grinding of irregular steel surfaces; addition of second shell manway; modifications to the roof manway; and slip resistance upgrade of the ladder.

**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant **City of DuBois**  
Township or Borough City of DuBois  
County **Clearfield**  
Responsible Official Herm Suplizio, Acting Manager  
City of DuBois  
16 West Scribner Avenue  
DuBois, PA 15801  
Type of Facility Public Water Supply—Operation  
Consulting Engineer Brian Sekula, P. E.  
The EADS Group, Inc  
15392 Route 322  
Clarion, PA 16214  
Permit Issued Date November 20, 2006  
Description of Action Operation of the recently constructed 240,000 gallon welded stainless steel backwash water storage tank at the DuBois Filtration Plant.

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

**Permit No. 0206509**, Public Water Supply.  
Applicant **Pittsburgh Water and Sewer Authority**  
441 Smithfield Street  
Pittsburgh, PA 15222  
Borough or Township City of Pittsburgh  
County **Allegheny**  
Type of Facility Rechlorination facilities

Permit to Construct Issued November 21, 2006  
**Permit No. 0206511**, Public Water Supply.  
 Applicant **Coraopolis Water & Sewer Authority**  
 1012 Fifth Avenue  
 Coraopolis, PA 15108  
 Borough or Township Coraopolis Borough  
 County **Allegheny**  
 Type of Facility Water storage tanks, pressure reducing stations, booster station  
 Consulting Engineer Lennon, Smith, Souleret Engineering, Inc.  
 846 Fourth Avenue  
 Coraopolis, PA 15108

Permit to Construct Issued November 22, 2006  
**Operations Permit** issued to: **Harrison Township Water Authority**, 1705 Rear Freeport Road, Natrona Heights, PA 15065, (PWS ID 5020108), Harrison Township, **Allegheny County** on November 21, 2006 for the construction/operation of facilities approved under Permit No. 0206506MA.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 8th Avenue, P. O. Box 400, PA 15010, (PWSID 5040012), Patterson Township, **Beaver County** on November 21, 2006 for the operation of facilities approved under Construction Permit No. 0406502MA.

**Permit No. 5606502MA, Minor Amendment.** Public Water Supply.

Applicant **Seven Springs Municipal Authority**  
 290 Lagoon Lane  
 Champion, PA 15622  
 Borough or Township Saltlick Township  
 County **Fayette**  
 Type of Facility Lake Tahoe water storage tank  
 Consulting Engineer Widmer Engineering Inc.  
 225 West Crawford Avenue  
 Connellsville, PA 15425

Permit to Construct Issued November 22, 2006  
*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit No. 2470501-MA5**, Public Water Supply  
 Applicant **Saint Marys Area Water Authority**  
 Township or Borough City of Saint Marys  
 County **Elk**  
 Type of Facility Public Water Supply  
 Permit to Construct Issued 11/28/2006

#### 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:

Borough or Township	Borough or Township Address	County
Hampden Township	230 South Sporting Hill Road Mechanicsburg, PA 17055	Cumberland

*Plan Description:* The approved plan (Act 537 Special Study) provides for the expansion of the Roth Lane WWTP from 3.4 to 4.82 mgd and alterations of the WWTP necessary to meet nutrient reduction requirements imposed by Pennsylvania's Chesapeake Bay Strategy. The Special Study also provides for the construction of a new outfall line that will discharge to Sears Run. Under the change in discharge point, UV disinfection will be utilized for the Roth Lane effluent. The existing Pinebrook WWTP will be abandoned. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

#### Plan Location:

Borough or Township	Borough or Township Address	County
Windsor Township	1480 Windsor Road Red Lion, PA 17356	York

*Plan Description:* The approved plan provides for the construction of a pump station, force main, and gravity interceptor to serve the Panorama Hills area of the township as defined in the plan. A portion of the force main and interceptor will be located in York Township where connection to the existing Mill Creek Interceptor will be made. The plan also contains a municipal commitment to complete a township-wide Act 537 Official Plan within 5 years. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

### Proposed Site Investigation

#### General Alloy Casting Company Site, Rochester Township, Beaver County.

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303), is proposing a site investigation at General Alloy Casting Company Site, Rochester Township, Beaver County, PA.

Under the authority of the HSCA, the Department is proposing a response action for the Site. The Site consists of industrial waste disposal areas located on the side of a steep ravine above McKinley Run in the Township of Rochester, Beaver County. The Site is adjacent to a mixed residential/industrial area. McKinley Run is a tributary to the Beaver River that flows into the Ohio River, a WWF under 25 Pa. Code Chapter 93 (relating to water quality standards). The most recent waste disposal activities are from waste generated from the operations of the General Alloy Casting Company. General Alloy Casting Company operated a bronze foundry from 1947 until 1982 located at 600 New York Avenue, Rochester, PA.

The waste is on the hillside portion of the 2.8 acre property. A building exists on the flatter portion of the property upgradient of the waste area. The following waste types and quantities were disposed of into the ravine from the operations of the General Alloy Casting Company: tool foundry grinding and cut-off dusts, bronze foundry shot blast collector dusts, electric furnace emission control dusts. In addition, waste glass was disposed of at the Site in the early 20th century from nearby glass manufacturing facilities.

Based on historical information and sampling, the Department has determined that lead, arsenic and nickel have been released from the Site. Lead, arsenic and nickel are hazardous substances as defined by the HSCA.

The current and/or potential threat from the Site to human health or welfare is the direct contact of the contamination to persons entering the area where the disposal area is located or coming into contact with surface water contaminated from seepage from the waste. The current and/or potential threats that adversely affect the environment is the possible contamination of the soil, groundwater and surface water related to the disposal area as a result of leaching of contamination from the waste.

The objectives and scope of the proposed response are to determine the extent of the disposal area and the nature of the material disposed and determine if contamination has migrated from the disposal area into the soil, groundwater, or surface water.

The following alternatives were evaluated:

*Alternative 1.* This alternative consists of taking no action to investigate the extent of contamination at the Site or determine the threats related to the release of hazardous substances from the Site.

*Alternative 2.* This alternative consists of conducting a site investigation to determine the extent of the disposal area and the nature of the materials disposed. The investigation will also determine if contamination has migrated into the soil, groundwater and/or surface water. In addition, an evaluation will be made of remediation alternatives designed to address the threats related to the Site.

#### *Proposed Response*

The proposed selected alternative is Alternative 2: to conduct a site investigation to determine the extent of the disposal area, the nature and extent of the contamination and evaluate possible remediation alternatives. Alternative 2 was chosen because it complies with the applicable, relevant, appropriate requirements and is cost effective compared to Alternative 1.

This notice is being provided under section 506(b) of the HSCA (35 P. S. § 6020.506(b)). The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at 400 Waterfront Drive, Pittsburgh, PA 15222 and is available for review Monday through Friday from 8 to 4.

The administrative record will be open for comment from December 9, 2006, until March 9, 2007. Persons may submit written comments into the record during this time only by sending them to Terry Goodwald in the Southwest Regional Office at 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them to the Southwest Regional Office in person.

In addition, persons may present oral comments for inclusion in the administrative record at a public hearing. The Department has scheduled the hearing on Thursday, January 11, 2007, at 6 p.m. at the Rochester Township Municipal Building, 1013 Elm Street. Persons wishing to present comments are asked to register with Helen Humphreys, Department of Environmental Protection Community Relations Coordinator, by noon on January 10, 2007, by telephone at (412) 442 4183 or in writing at 400 Waterfront Drive, Pittsburgh, PA 15222.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings should call Helen Humphreys at (412) 442-4183 or through the Pennsylvania AT & T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

### **Proposed Consent Order and Agreement**

#### **FR&S No. 3 Industrial Waste Site, Exeter Township, Berks County**

The Department of Environmental Protection (Department), under the authority of sections 5, 316, 401, 402, 610 and 611 of The Clean Streams Law (35 P. S. §§ 691.5, 691.316, 691.401, 691.402, 691.610 and 691.611), sections 104 and 602 of the Solid Waste Management Act (35 P. S. §§ 6018.104 and 6018.602), section 1102 of the Hazardous Sites Cleanup Act (35 P. S. § 1102) and section 1917-A of The Administrative Code of 1929, (71 P. S. § 510-17), has entered into a Agreement (Agreement) with Wood Nursery Corporation, Exeter Associates, Inc., and Buddies Nursery, Inc. (collectively "Property Owners"). The site is located in Exeter Township, Berks County.

The respective Property Owners are the owners of the following parcels of property located in Exeter Township, Berks County: Buddies Nursery, Inc., Nos. 43-5335-20-82-6420 and 43-5335-20-92-3272; Exeter Associates, Incorporated, Nos. 43-5335-20-82-7097 and 43-5335-20-72-8038; Wood Nursery Corp., No. 43-5335-20-80-5789. These parcels shall be collectively referred to as the "Site." The term "Site" shall also include areas as included in the definition of that term in section 103 of Act 2 (35 P. S. § 6026.103). The Site was used for the disposal of solid waste. Site characterization has confirmed or revealed buried solid waste, including 55 gallon drums and levels of hazardous substances and contaminants, including aromatic hydrocarbons, solvents, metals and semi-VOCs, in the soil and groundwater at the Site at levels above applicable standards.

The Property Owners shall submit a Notice of Intent to Remediate the Site, consistent with Act 2 requirements. The Property Owners shall submit to the Department for review and approval a Remedial Investigation (RI) Report, which compiles and summarizes information from previous reports submitted to the Department and a Cleanup Plan for the Site. The RI and Cleanup Plan shall comply with the requirements of 25 Pa. Code Chapter 250 (relating to administration of land recycling program), the most current version of the Land Recycling Program's *Technical Guidance Manual* and, as applicable, and the most current version of the Department's *Groundwater Monitoring Guidance Manual*. Upon the Department's approval of the Cleanup Plan, the Property Owners shall perform the activities described therein and submit a



Final Report for the Department's review and approval. The Property Owners shall provide the Department and its representatives or agents access to the Property for the purpose of site characterization, remediation, monitoring the remediation progress and postremediation monitoring.

Property Owners are persons that have resolved their liability to the Department for the Site and are eligible for protection from claims for contribution regarding matters addressed in this settlement, as provided by section 705(c)(2) of the HSCA (35 P. S. § 6020.705(c)(2)). This contribution protection is intended to be as broad as permissible under the HSCA, and the "matters addressed" in this settlement encompass all of the response actions and response costs at the Site. Under section 1113 of the HSCA (35 P. S. § 6020.1113), the Department is publishing notice of this Agreement and will provide a 60-day period for public comment on the Agreement commencing with the date of this publication.

For a period of 60 days beginning with the December 9, 2006, publication date of this Notice, the public is invited to review the Agreement, Monday through Friday, from 8 a.m. to 4 p.m., at the Department's Southcentral Region Office located at 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Kathleen Horvath at (717) 705-4866.

After review, the public may submit written comments on the Agreement before February 9, 2006, by mailing them to Kathleen Horvath at the Department's Harrisburg Office at the address noted previously. A person adversely affected by the settlement may also file an appeal from the Agreement to the Environmental Hearing Board. Any questions concerning this notice should be directed to Kathleen Horvath at the telephone number and address noted previously.

The Department has reserved the right to withdraw its consent to the Agreement if comments submitted during the public comment period disclose facts or considerations which indicate, in the Department's discretion, that the Agreement is inappropriate or not in the public interest.

## 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.*

**Dyno Noble Inc.—Suscon Site**, Pittston Township, Luzerne County. Glenn Randall, Project Manager, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 has submitted a Final Report (on behalf of his client Dyno Noble, Inc., 2650 Decker Lake Blvd., Suite 300, Salt Lake City, UT 84119) concerning the remediation of soils and groundwater found or suspected to have been impacted by lead, heavy metals, ethylene glycol dinitrate and sulfates. The report was submitted to document attainment of the Statewide Health Standard and the Site-Specific Standard, using pathway of elimination.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Sewage Pump Station 1 (PS-1)**, Mount Joy Borough, Lancaster County. AR. R.O Consulting, Inc., 270 Granite Run Drive, Lancaster, PA 17601-6804, on behalf of Mount Joy Borough Authority, 21 East Main Street, Mount Joy, PA 17552-1415, submitted a Final Report concerning remediation of site soils contaminated with fuel oil, diesel fuel and leaded gasoline. The report is intended to document remediation of the site to the statewide health standard.

**Flextronic Enclosures Site**, Chambersburg Borough, Franklin County. Cardinal Resources, LLC, 4326 Northern Pike, Monroeville, PA 15642 and Shield Environmental Associates, Inc., 948 Floyd Drive, Lexington, KY 40505, on behalf of Castle Farms LLC, 6 Riverside Industrial Park, Rome, GA 30161, submitted a combined Remedial Investigation and Final Report concerning remediation of site groundwater contaminated with TCE. The report is intended to document remediation of the site to the Site-Specific Standard. Soils obtained a non-residential Statewide Health release of liability in November 2003.

## 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:

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Palmer Station**, Farmington Township, **Tioga County**. PPL Gas Utilities Corporation, 2 N. 9th St. GENTW17, Allentown, PA 18101 has submitted a Final

Report concerning remediation of site soil contaminated with arsenic and methylene chloride. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 20, 2006.

**Mavis Humphrey Residence**, Windham Township, **Bradford County**. Teeter Environmental Services, Inc., R. R. 1, Box 124B, Sayre, PA 18840 on behalf of Mavis Humphrey, R. R. 2, Box 310, Rome, PA 18837 has submitted within 90 days of release a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 20, 2006.

### RESIDUAL WASTE GENERAL PERMITS

**Permit Renewed 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.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**General Permit No. WMGR038SE006**. Carbon Services of Philadelphia, Inc., 52 Fairview Dr., Lehighton PA 18235. Waste tire processing and beneficial use operation located in the City of Philadelphia. The permit was renewed by the Southeast Regional Office on November 22, 2006.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permit Modification Deemed Complete under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 101649. Phoenix Resources, Inc.**, 782 Antrim Rd., Wellsboro, PA 16901, located in Duncan Township, **Tioga County**. The major permit modification for the Groundwater Abatement Plan of the Construction/Demolition waste landfill was deemed complete by the Williamsport Regional Office on November 7, 2006.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, 800-654-5984.

**Permit terminated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 301246. Innovative Supply, Inc.**, 4417 Route 30, Latrobe, PA 15650. Operation of a residual waste processing facility in Unity Township, **Westmoreland County**. Permit terminated in the Regional Office on November 22, 2006.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-301-124GP: Orchard Hill Memorial Park, Inc.** (187 Route 94, Lafayette, NJ 07848) on November 27, 2006, to operate an animal crematory in Richland Township, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**64-310-020: Haines and Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on November 22, 2006, to construct and operate a Pegson portable stone crushing plant and associated air cleaning device at the Bedrock Quarry, in Damascus Township, **Wayne County**.

**64-310-020: Haines and Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on November 22, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at Hazleton Materials in Foster Township, **Luzerne County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.*

**GP-37-011: Dairy Farmers of America, Inc.** (State Routes 18 and 208, New Wilmington, PA 16142) for a natural gas fired boiler in Wilmington Township, **Lawrence County**.

**GP-43-295: Dairy Farmers of America, Inc.** (82 North Street, West Middlesex, PA 16159) for a natural gas fired boiler in West Middlesex, **Mercer 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.*

**09-0189: Eureka Stone Quarry-Warrington** (Route 611, Warrington, PA 18914) on November 27, 2006, to operate a dust suppression system in Warrington Township, **Bucks County**.

**09-0142A: ML 35, LLC** (35 Runway Road, Levittown, PA 19057) on November 27, 2006, to operate an (2 MW) emergency generator in Bristol Township, **Bucks County**.

**09-0032: Eureka Stone Quarry, Inc.** (P. O. Box 249, Chalfont, PA 18914) on November 27, 2006, to operate a dust suppression system in Warrington Township, **Bucks County**.

**15-0124: MacKissic, Inc.** (1189 Old Schuylkill Road, P. O. Box 0111, Parker Ford, PA 19457) on November 27, 2006, to operate a paint spray booth in East Coventry Township, **Chester County**.

*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, Inc.** (5160 Main Street, Whitehall, PA 18052) on November 15, 2006, to install nine air cleaning devices to collect particulate emissions from the reclaim belt conveyor system, and to construct a pebble lime silo and associated air cleaning device in Whitehall Township, **Lehigh 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.*

**23-0091A: Union Packaging, LLC** (6250 Baltimore Avenue, Yeadon, PA 19050) on November 16, 2006, to operate a flexographic printing press in Yeadon Borough, **Delaware County**.

**46-0180: Transicoil Corp.** (9 Iron Bridge Drive, Colledgeville, PA 19426) on November 27, 2006, to operate three solvert vapor degreasers in Perkiomen Township, **Montgomery County**.

**46-0180A: Transicoil Corp.** (9 Iron Bridge Drive, Colledgeville, PA 19426) on November 27, 2006, to operate a methanol glass cleaning operation in Perkiomen Township, **Montgomery County**.

**23-0001W: Sunoco, Inc.** (R & M) (P. O. Box 426, Marcus Hook, PA 19061-0426) on November 24, 2006, to operate a desulphurize gasoline (Tier II) in Marcus Hook Borough, **Delaware County**.

**15-0027I: Johnson Matthey, Inc.** (456 Devon Park Drive, Wayne, PA 19087) on November 28, 2006, to modify the operation of two diesel catalyts production Lines and pollution control equipment Tredyffrin Township, **Chester County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**60-399-002: Ritz-Craft Corp.** (15 Industrial Park Road, Mifflinburg, PA 17844) on November 17, 2006, to operate two mobile/modular home assembly plants and a surface coating operation on a temporary basis until March 17, 2007, in Mifflinburg Borough, **Union County**. The plan approval has been extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.*

**37-023D: Orion Power MidWest LP—New Castle Plant** (Route 168, New Castle, PA 16101) on December 31, 2006, to modify the SNCR system operation in Taylor Township, **Lawrence County**.

---

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00001: Moyer Packing Co.** (741 Souder Road, Souderton, PA 18964) on November 28, 2006, to renew their Title V Operating Permit in Franconia Township, **Montgomery County**. The initial permit was issued on August 7, 2001, and was modified on March 31, 2006. The facility is a meat-packing and rendering plant, which emits major levels of NO<sub>x</sub> and SO<sub>x</sub> from the boilers on site. No changes have taken place at this facility that were not previously permitted. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The sources at this facility are not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Thomas Huynh, Chief, (215) 685-9476.*

**V05-013: ConocoPhillips Co.—Philadelphia Terminal** (G Street and Hunting Park Avenue, Philadelphia, PA 19124) on November 22, 2006, to operate a gasoline terminal facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two petroleum products loading racks, nine petroleum products storage tanks (five with vapor pressure <11psia and three with vapor pressure ≤ 1.5 psia), and two oil-water separators. The facility's gasoline loading is controlled by a vapor recovery unit.

---

**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.*

**46-00029: Glasgow, Inc.—Spring House Asphalt Plant and Quarry** (PA Route 309 and Hartman Road, Montgomeryville, PA 18936) on November 28, 2006, to operate a non-Title V, State-only, Synthetic Minor Permit in Montgomery Township, **Montgomery County**. Glasgow, Inc. owns and operates a stationary stone crushing plant, an electric powered portable stone crushing plant, and a batch asphalt plant at this location. This permit also includes another portable stone crushing plant that operates at this facility and is shared with other asphalt plants and quarries under the control of Glasgow, Inc. This facility has the potential to emit 20.68 tons of PM per year, 24.9 tons of NO<sub>x</sub> per year, 6.8 tons of VOCs per year, 13.15 tons of SO<sub>2</sub> per year, and 59.53 tons CO per year. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**56-00204: Columbia Gas Transmission Corp.** (138 Columbia Drive, Salisbury, PA 15558) on November 20, 2006, to operate five turbines rated at 1,080 horsepower each along with an assortment of ancillary smaller natural gas-fired units in Greenville Township, **Somerset County**, PA.

---

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00027: Johnson and Johnson Pharmaceutical Research and Development, LLC— Lower Gwynedd** (Welsh and McKean Roads, Spring House, PA 19477) on November 28, 2006, for a Minor Modification to Title V Operating Permit No. TVOP-46-00027 in Lower Gwynedd Township, **Montgomery County**. The previously issued Title V Operating Permit (TVOP) has been modified for the permanent removal of the pancrease process. Minor Modification of Title V Operating Permit No. TVOP-15-00027 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

**09-00074: PCR Enterprises, Inc.** (401 Fairview Avenue, Quakertown, PA 18951) on November 28, 2006, to issue a State-only Operating Permit Minor Modification under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462 in Quakertown Borough, **Bucks County** for modification to change dust filter operating parameter. The permit will include monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

---

**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*

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

**Permit No. 56010103 and NPDES No. PA0248789. Hoffman Mining, Inc.** (P. O. Box 130, Friedens, PA 15541). Permit renewal for reclamation only of a bituminous surface auger mine in Shade Township, **Somerset County**, affecting 95.5 acres. Receiving streams: UNTs to/and Oven Run, classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: October 24, 2006. Permit issued: November 8, 2006.

**11000104 and NPDES No. PA0248851. Hoffman Mining, Inc.** (P. O. Box 130, 118 Runway Road, Friedens,

PA 15541). Revision of an existing bituminous surface and auger mine to add 17.2 acres to the permit area and to include mining on the Middle Kittanning and the Lower Kittanning seams. A road variance to allow surface mining activities within 100 feet of Township Road T-300. The road variance is along the northern side of T-300, beginning approximately 4,750 feet northeast of the intersection of T-300 and SR 2001, and then continues in a northeast direction for approximately 4,500 feet. Also, the application includes a road variance for the southern side of T-300 beginning approximately 5,050 feet northeast of the intersection of T-300 and SR 2001, and then continues in a northeast direction for approximately 600 feet. Total SMP acres goes from 133.8 to 151.0 in Adams Township, **Cambria County**. Receiving stream: Paint Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: June 19, 2006. Permit issued: November 15, 2006.

**56990105 and NPDES No. PA0235202. Marquise Mining Corporation** (3889 Menoher Boulevard, Johnstown, PA 15905). Permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Quemahoning Township, **Somerset County**, affecting 168.5 acres. Receiving streams: UNTs to the Stonycreek River and Stonycreek River classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Border Dam SWI. Application received: August 18, 2006. Permit issued: November 16, 2006.

**Permit No. 56960110 and NPDES No. PA0234281. PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541). Permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 312.2 acres. Receiving streams: UNTs to and Blue Lick Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: October 26, 2006. Permit issued: November 20, 2006.

**Permit No. 56010105 and NPDES No. PA0249068. Godin Bros, Inc.** (128 Colton Drive Stoystown, PA 15563). Permit renewal for reclamation only of a bituminous surface mine in Jenner Township, **Somerset County**, affecting 34.8 acres. Receiving streams: UNTs to and Quemahoning Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority Quemahoning. Application received: October 27, 2006. Permit issued: November 20, 2006.

**56060105 and NPDES No. PA0249971. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Commencement, operation and restoration of a bituminous surface-auger mine in Jenner Township, **Somerset County**, affecting 120.1 acres. Receiving streams: UNTs to Quemahoning Reservoir to Quemahoning Creek to the Stoney Creek River to the Conemaugh River classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. The application includes a stream encroachment to modify and maintain an existing stream crossing and conduct activities within 100 feet of the stream as necessary for the crossing of UNT No. 2 to Quemahoning Creek. Application received: April 25, 2006. Permit issued November 20, 2006.

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

**03020103 and NPDES Permit No. PA0250074. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in South Bend Township, **Armstrong County**, affecting 20.3 acres. Receiving streams: UNT "A & B" to Big Run; UNT to Whiskey Run; Big Run; Whiskey Run. Application received: September 8, 2006. Renewal issued: November 13, 2006.

**26040105 and NPDES Permit No. PA0250635. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687-1301). Permit issued for commencement, operation and reclamation of a bituminous surface mining site/preparation and processing facility located in Dunbar Township, **Fayette County**, affecting 364.6 acres. Receiving streams: UNTs to Laurel Run and Ferguson Run. Application received: December 14, 2004. Permit issued: November 14, 2006.

**6050101 and NPDES Permit No. PA0250775. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687-1301). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site/coal preparation and processing facility located in Derry and Ligonier Townships, **Westmoreland County**, affecting 450.36 acres. Receiving streams: UNTs to Loyalhanna Creek and Loyalhanna Creek. Application received: July 29, 2005. Permit issued: November 16, 2006.

**02783003 and NPDES Permit No. PA0126681. Bologna Mining Company** (P. O. Box 271, Burgettstown, PA 15021). Renewal issued for continued reclamation only (treatment of discharges) at an existing bituminous surface mining site located in North Fayette Township, **Allegheny County**, affecting 6.9 acres. Receiving streams: UNT to the North Branch of Robinson Run. Application received: April 25, 2006. Renewal issued: November 20, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17050107 and NPDES No. PA0256269. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Commencement, operation and restoration of a bituminous surface-auger mine in Girard Township, **Clearfield County**, affecting 209.6 acres. Receiving streams: UNTs to Little Surveyor Run; UNT to Surveyor Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: August 15, 2005. Permit issued: November 6, 2006.

**17990102 and NPDES No. PA0238236. River Hill Coal Co., Inc.** (P. O. Box 141, Kylertown, PA 16847). Permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Decatur Township, **Clearfield County**, affecting 344.2 acres. Receiving stream: Laurel Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: September 14, 2006. Permit issued: September 13, 2006.

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

**54960101R2. Mountaintop Coal Mining, Inc.** (P. O. Box 183, Elysburg, PA 17824). Renewal of an existing anthracite surface mine operation in Barry and Foster Townships, **Schuylkill County** affecting 246.4 acres; receiving stream: Hans Yost Creek. Application received: July 10, 2006. Renewal issued: November 17, 2006.

**54840202T. Blaschak Coal Corp.** (P. O. Box 12, Mahanoy City, PA 17948). Transfer of an existing anthracite coal refuse reprocessing operation in Branch Township, **Schuylkill County** affecting 50.0 acres; receiving stream: none. Application received July 13, 2006. Transfer issued: November 17, 2006.

**54773005R4. Reading Anthracite Company** (P. O. Box 1200, Pottsville, PA 17901). Renewal of an existing anthracite surface mine operation in St. Clair Borough, East Norwegian and Blythe Townships, **Schuylkill County** affecting 2,108.0 acres; receiving stream: none. Application received: January 3, 2006. Renewal issued: November 22, 2006.

**49871603R3. D. Dale Lenig** (R. R. 1 Box 292, Shamokin, PA 17872). Renewal of an existing anthracite coal preparation plan operation in Little Mahanoy Township, **Northumberland County** affecting 2.1 acres; receiving stream: none. Application received: July 17, 2006. Renewal issued: November 27, 2006.

*Noncoal Permits Actions*

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

**Permit No. 6476SM12 and NPDES Permit No. PA0612464. N. L. Minich & Sons, Inc.** (730 North College Street, Carlisle, PA 17013-1800). Renewal of NPDES Permit, North Middleton Township, **Cumberland County**. Receiving streams: Meetinghouse Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: September 28, 2006. Permit issued: November 21, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10010306 and NPDES Permit No. PA0241903. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel operation from G. L. McKnight, Inc. in Worth Township, **Butler County** affecting 122.0 acres. Receiving streams: UNT to Slippery Rock Creek. Application received: April 26, 2006. Permit Issued: November 15, 2006.

**37860306 and NPDES Permit No. PA0212032. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel operation from G. L. McKnight, Inc. in Plain Grove Township, Lawrence County affecting 103.0 acres. Receiving streams: Taylor Run. Application received: April 26, 2006. Permit Issued: November 15, 2006.

**10000305 and NPDES Permit No. PA0241792. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel operation from G. L. McKnight, Inc. in Worth Township, **Butler County** affecting 111.0 acres. Receiving streams: UNT to Black Run and Black Run. Application received: April 26, 2006. Permit Issued: November 15, 2006.

**37940302 and NPDES Permit No. PA0212041. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel operation from G. L. McKnight in Scott and Plain Grove Townships, **Lawrence County** affecting 134.0 acres. Receiving streams: UNT to Slippery Rock Creek and UNT to Taylor Run. Application received: April 26, 2006. Permit issued: November 15, 2006.

**37990301 and NPDES Permit No. PA0241474. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel

operation from G. L. McKnight in Plain Grove Township, **Lawrence County** affecting 31.0 acres. Receiving streams: UNTs to Taylor Run and Taylor Run. Application received: April 26 2006. Permit Issued: November 15, 2006.

**37910305 and NPDES Permit No. PA0208485. Three Rivers Aggregates** (P. O. Box 6090, Falmouth, VA 22403). Transfer of an existing sand and gravel operation from G. L. McKnight in Plain Grove Township, **Lawrence County** affecting 51.0 acres. Receiving streams: Taylor Run and UNT to Taylor Run. Application received: April 26, 2006. Permit Issued: November 15, 2006.

**20060804. Patrick W. Burgess** (22995 Olsen Road, Union City, PA 16438). Commencement, operation and restoration of a small noncoal sand and gravel operation in Bloomfield Township, **Crawford County** affecting 7.5 acres. Receiving streams: Oil Creek. Application received: July 24, 2006. Permit Issued: November 15, 2006.

**33060801. Gary Lindemuth** (1116 Sterrett Road, Reynoldsville, PA 15851). Commencement, operation and restoration of a small noncoal sandstone operation in Washington Township, **Jefferson County** affecting 5.0 acres. Receiving streams: Horm Run. Application received: June 14, 2006. Permit Issued: November 15, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08060813. D. Terry and Tracy Keeney** (P. O. Box 85, Wyalusing, PA 18853). Commencement, operation and restoration of a quarry operation (flagstone) in Wilmot Township, **Bradford County**, affecting 3 acres. Receiving stream: Sugar Run Creek; tributary to Susquehanna. Application received: July 10, 2006. Permit issued: November 3, 2006.

**18060801. Benson W. Probst** (668 German Road, Lock Haven, PA 17745). Commencement, operation and restoration of a quarry operation (topsoil) in Wayne Township, **Clinton County**, affecting 5 acres. Receiving streams: McElhattan Run; Susquehanna River; Tributary to Chesapeake Bay. Application received: May 9, 2006. Permit issued: November 9, 2006.

**08062805. Bronson Construction Company, Inc.** (R. R. 3, Box 229, Troy, PA 16947). Commencement, operation and restoration of a quarry operation (sand and gravel) in N. Towanda Township, **Bradford County**, affecting 5 acres. Receiving stream: Sugar Creek, tributary to Susquehanna River. Application received: July 19, 2006. Permit issued: November 6, 2006.

**14062801. A & A Construction Company, Inc.** (1262 Ridge Road, Clarence, PA 16829). Commencement, operation and restoration of a quarry operation (topsoil, gravel, shale and sandrock), with upgrade from 2,000 tons to 10,000 tons, in Burnside and Snow Shoe Townships, **Centre County**, affecting 2 acres. Receiving streams: UNT to North Fork Beech Creek; tributary to North Fork and Beech Creek. Application received: October 27, 2006. Permit issued: November 6, 2006.

**4976SM6. Martin Construction** (Ronald Weed, 19 E. Wellsboro Street, Mansfield, PA 16933). Noncoal mining operation in Richmond Township, **Tioga County**. Restoration of 5.0 acres completed. Receiving stream: Lambs Creek Tributary to Tioga River. Application received: November 29, 1976. Final bond release: November 20, 2006.

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

**58060842. David J. Dudock** (P. O. Box 82, Meshoppen, PA 18630). Commencement, operation and restoration of a quarry operation in Auburn Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: May 26, 2006. Permit issued: November 16, 2006.

**58060855. John Kamarauskas** (R. R. 4, Box 119, Montrose, PA 18801). Commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 1 acre, receiving stream: none. Application received: July 17, 2006. Permit issued: November 22, 2006.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P. S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**28064177. David H. Martin Excavating, Inc.** (4601 Cumberland Highway, Chambersburg, PA 17201-9655). Blasting activity permit issued for residential development in Greene Township, **Franklin County**. Blasting activity permit end date is June 6, 2008. Permit issued: November 8, 2006.

**21064190. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013-1925). Blasting activity permit issued for residential development in Silver Spring Township, **Cumberland County**. Blasting activity permit end date is August 15, 2007. Permit issued: November 8, 2006.

**21064189. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013-1925). Blasting activity permit issued for residential development in Silver Spring Township, **Cumberland County**. Blasting activity permit end date is August 15, 2007. Permit issued: November 8, 2006.

**32064005. Appalachian Geophysical Services, LLC** (P. O. Box 426, Killbuck, OH 44637). Blasting activity permit issued for seismic exploration project in Center Township, **Indiana County**. Blasting activity permit end date is December 30, 2006. Permit issued: November 15, 2006.

**32064004. Appalachian Geophysical Services, LLC** (P. O. Box 426, Killbuck, OH 44637). Blasting activity permit issued for seismic exploration project in East Mahoning Township, **Indiana County**. Blasting activity permit end date is December 30, 2006. Permit issued: November 15, 2006.

**28064178. Geological Tech, Inc.** (P. O. Box 70, Falling Waters, WV 25419-0070). Blasting activity permit issued for commercial development in Washington Township, **Franklin County**. Blasting activity permit end date is November 14, 2007. Permit issued: November 15, 2006.

**21064191. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013-0608). Blasting activity permit issued for residential development in South Middleton Township, **Cumberland County**. Blasting activity permit end date is November 30, 2007. Permit issued: November 15, 2006.

**01064122. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241-9424). Blasting

activity permit issued for commercial development in Straban Township, **Adams County**. Blasting activity permit end date is November 14, 2007. Permit issued: November 15, 2006.

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

**02064010. Wampum Hardware Co.** (636 Paden Road, New Galilee, PA 16141). Blasting activity permit at the Kelly Run Landfill, located in Forward Township, **Allegheny County**, with an expected duration of 1 year. Permit issued: November 21, 2006.

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

**46064129. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122). Construction blasting for North View Estates in Palmer Township, **Northampton County** with an expiration date of November 9, 2007. Permit issued: November 13, 2006.

**64064118. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431). Construction blasting for Kernwood Development in Oregon Township, **Wayne County** with an expiration date of November 10, 2007. Permit issued: November 13, 2006.

**67064141. Fitz & Smith, Inc.** (P. O. Box 178, Dallastown, PA 17313). Construction blasting for Ashcombe Farms Subdivision in Dover Township, **York County** with an expiration date of November 9, 2007. Permit issued: November 13, 2006.

**67064142. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241). Construction blasting for Eastern York High School in Lower Windsor Township, **York County** with an expiration date of November 1, 2007. Permit issued: November 13, 2006.

**06064141. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241). Construction blasting for The Reserves at Bally Heights in Washington Township, **Berks County** with an expiration date of November 1, 2007. Permit issued: November 14, 2006.

**06064142. Dyno Nobel, Inc.** (1320 Galiffa Drive, Donora, PA 15033). Construction blasting for Norfolk Southern Titus railroad widening in Lower Alsace Township, **Berks County** with an expiration date of May 30, 2007. Permit issued: November 14, 2006.

**06065143. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510). Construction blasting for The Shoppes at Wyomissing in Wyomissing Borough, **Berks County** with an expiration date of December 1, 2007. Permit issued: November 14, 2006.

**39064122. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510). Construction blasting for Parkland Hollow in North Whitehall Township, **Lehigh County** with an expiration date of November 14, 2007. Permit issued: November 14, 2006.

**46064137. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241). Construction blasting for Peco Utilities in Montgomery Township, **Montgomery County** with an expiration date of November 1, 2007. Permit issued: November 14, 2006.

**360641113. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for Harvest Meadows in East Lampeter Township, **Lancaster County** with an expiration date of December 30, 2007. Permit issued: November 15, 2006.

**36064114. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241). Construction blasting for Millwood Substation in Pequea Township, **Lancaster County** with an expiration date of November 14, 2007. Permit issued: November 15, 2006.

**38064132. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for Lebanon Valley Brethern Home in North Londonderry Township, **Lebanon County** with an expiration date of December 30, 2007. Permit issued: November 15, 2006.

**38064133. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for Iron Valley Development in Cornwall Borough, **Lebanon County** with an expiration date of December 30, 2007. Permit issued: November 15, 2006.

**45064170. Geological Technologies, Inc.** (P. O. Box 70, Falling Waters, WV 25419). Construction blasting for Pipeline at East Stroudsburg in Smithfield Township, **Monroe County** with an expiration date of November 14, 2007. Permit issued: November 20, 2006.

**46064138. Allan A. Myers, Inc. d/b/a Independence Construction Materials** (P. O. Box 98, Worcester, PA 19490). Construction blasting for Conshohocken Rail Extension in Plymouth Township, **Montgomery County** with an expiration date of November 15, 2007. Permit issued: November 20, 2006.

**38064134. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for Fairview School in South Lebanon Township, **Lebanon County** with an expiration date of December 30, 2006. Permit issued: November 21, 2006.

**48064130. DC Guelich Explosives, Inc.** (R. R. 3 Box 125A, Clearfield, PA 16830). Construction blasting for LESI PA Bethlehem Landfill in Lower Saucon Township, **Northampton County** with an expiration date of November 20, 2007. Permit issued: November 27, 2006.

#### ABANDONED MINE RECLAMATION

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232, No. (814) 797-2706.*

Bond Forfeiture	PBF 33990907.1
Contract Awarded	
Location	Washington Township Jefferson County
Description	Act 181 Bond Forfeiture Reclamation Dale Hollobaugh Permit No. 33990907
Contractor	Fairview Coal Company Ridgway, PA 15853
Amount	\$99,900
Date of Award	November 20, 2006

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232, (814) 797-2706.*

Bond Forfeiture	PBF 43820102.1
Contract Awarded	
Location	Liberty and Mercer Townships Mercer and Butler Counties
Description	Act 181 Bond Forfeiture Reclamation C & K Coal Company Permit No. 43820102

Contractor	Quality Aggregates, Inc. Neville Island, PA 15225
Amount	\$94,770.06
Date of Award	November 20, 2006

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E64-260. Frank Muggeo and Michael Muggeo**, 73 Buckingham Drive, Beacon Falls, CT 06403. Lake Township, **Wayne County**, Army Corps of Engineers Philadelphia District.



To construct and maintain a 150-foot long driveway crossing through a de minimis area of wetlands equal to 0.05 acre for the purpose of providing access to a single family residence (Lake Ariel, PA Quadrangle N: 18.1 inches; W: 1.0 inches). (Subbasin: 01B)

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

**E21-391: Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050-3097 in Hampden Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 10-foot wide single span bike trail bridge of 50 feet with an underclearance of 5 feet across Sears Run (WWF) to improve the biking trail located 1800 feet from its confluence with Conodoguinet Creek (Harrisburg West, PA Quadrangle N: 1.9 inches; W: 13.3 inches; Latitude: 40° 15' 38"; Longitude: 76° 58' 13") in Hampden Township, Cumberland County.

**E36-806: Manheim Township**, 1840 Municipal Drive, Lancaster, PA 17601 in Manheim Township, **Lancaster County**, ACOE Baltimore District.

To relocate a 130-foot section of Bachman Run (WWF) upstream of Buckwalter Road for the purpose of widening the roadway, and replace an existing 23-foot long 29" by 42" corrugated metal pipe culvert under Buckwalter Road with a 51-foot long 29" by 45" reinforced concrete pipe culvert (Manheim, PA Quadrangle N: 0.2 inch; W: 9.6 inches; Latitude: 40° 07' 34", Longitude: 76° 19' 07"). This permit authorizes maintenance of the new culvert. Total permanent stream impacts are 181 LF. The relocated channel will have a new alignment north of the roadway, and have a low flow channel with 3:1 sloped benches. The banks will be lined with erosion control matting.

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

**E03-441. Department of Transportation, Engineering District 10-0**, P. O. Box 429, 2550 Oakland Avenue, Indiana, PA 15701. To replace and relocate a section of RCP in 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"). 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 (WWF) with a drainage area of 1.5 square miles located at the northern edge of the Village of Templeton; and construct and maintain various 18" to 24" diameter stormwater outfalls with drainage areas less than 100 acres discharging to the Allegheny River. 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.

[Pa.B. Doc. No. 06-2416. Filed for public inspection December 8, 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](http://www.depweb.state.pa.us) (DEP Keywords: "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: 254-2000-715. Title: Use of Waste from Land Clearing, Grubbing and Excavation (LCGE) and the Use of Concrete or Other Clean Fill Materials Containing Protruding Rebar or Other Metal as Clean Fill. Description: This policy provides guidance for the use of waste from land clearing, grubbing and excavation (LCGE) as clean fill, including provisions for the use of concrete containing protruding rebar as clean fill. Substantive changes were proposed to the guidance, which was initially issued on March 20, 1990, under the title of "Definition of Clean Fill." The substantive changes, emanating from new regulations concerning the use of waste from land clearing, grubbing and excavation as clean fill and policy modifications concerning the safe management of protruding rebar from concrete, were advertised for public comment at 36 Pa.B. 1294 (March 18, 2006). Comments were received which have been addressed by the Department in a separate Comment and Response document that is available on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Technical Guidance). Upon finalization of the substantive revisions to the policy, the Department incorporated modified provisions concerning the management of uncontaminated concrete containing protruding rebar, including measures that are recommended to prevent or minimize safety hazards. The guidance is issued under the authority of the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003). Contact: Habib Sharifihosseini, Department of Environmental Protection, Bureau of Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Rachel Carson State Office Building, 14th Floor, Harrisburg, PA 17105-8472, (717) 783-7500, [hsharifiho@state.pa.us](mailto:hsharifiho@state.pa.us) Effective Date: December 9, 2006.

KATHLEEN A. MCGINTY,

*Secretary*

[Pa.B. Doc. No. 06-2417. Filed for public inspection December 8, 2006, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Altoona Hospital Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Altoona Hospital Surgery Center has requested an exception to the requirements of 28 Pa. Code § 553.31 (relating to administrative responsibilities).

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. 06-2418. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Application of Carbon-Schuylkill Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carbon-Schuylkill Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31 (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. 06-2419. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Application of Clearfield Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Clearfield Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26(b)(2) (relating to additional committees).

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. 06-2420. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Application of Endoscopy Center of Delaware County for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Endoscopy Center of Delaware County has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

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. 06-2421. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Application of Grand View Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Grand View Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-2422. Filed for public inspection December 8, 2006, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Million Dollar Blockbuster 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 Million Dollar Blockbuster.

2. *Price:* The price of a Pennsylvania Million Dollar Blockbuster instant lottery game ticket is \$20.

3. *Play Symbols:* Each Pennsylvania Million Dollar Blockbuster instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING 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 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). 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 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Star symbol (STAR), Gold Bar symbol (GLDBAR) and a 5X symbol (5TIMES).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$30\$ (THIRTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$250 (TWOHNFTY), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO), \$10,000 (TEN THO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are: \$10, \$20, \$25, \$30, \$40, \$50, \$100, \$200, \$250, \$400, \$500, \$1,000, \$5,000, \$10,000 and \$1,000,000. The \$1,000,000 top prize is a lump sum cash payment. A player can win up to 20 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Million Dollar Blockbuster 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 "WINNING NUMBERS" play symbols and a prize symbol of \$1MILL (ONE MIL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$10,000 (TEN THO) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$1,000 (ONE THO) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$5,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$1,000 (ONE THO) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$500 (FIV HUN) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$200 (TWO HUN) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$1,000.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$500 (FIV HUN) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$100 (ONE HUN) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$500.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$400 (FOR HUN) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$400.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$200 (TWO HUN) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$400.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$250 (TWOHNFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$250 (TWOHNFTY) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$250.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$50\$ (FIFTY) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$250.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$200 (TWO HUN) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$200.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$100 (ONE HUN) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$200.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$40\$ (FORTY) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$200.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$100 (ONE HUN) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$100.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$50\$ (FIFTY) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$100.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$20\$ (TWENTY) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$100.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$50\$ (FIFTY) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$50.

(cc) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$25\$ (TWY FIV) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$50.

(dd) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the 5X symbol (5TIMES) on a single ticket, shall be entitled to a prize of \$50.

(ee) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(ff) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$40\$ (FORTY) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$40.

(gg) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$20\$ (TWENTY) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$40.

(hh) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30\$ (THIRTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$30.

(ii) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol

(STAR), and a prize symbol of \$30\$ (THIRTY) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$30.

(jj) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(kk) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$25\$ (TWY FIV) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$25.

(ll) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(mm) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$20\$ (TWENTY) appears under the Star symbol (STAR) on a single ticket, shall be entitled to a prize of \$20.

(nn) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Gold Bar symbol (GLDBAR) on a single ticket, shall be entitled to a prize of \$20.

(oo) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

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 The Winning Numbers, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets:</i>
\$10 × 2	\$20	75	72,000
\$10 w/Gold Bar	\$20	25	216,000
\$20 w/Star	\$20	75	72,000
\$20	\$20	30	180,000
\$25 w/Star	\$25	25	216,000
\$25	\$25	37.50	144,000
\$10 × 3	\$30	75	72,000
\$30 w/Star	\$30	150	36,000
\$30	\$30	75	72,000
\$10 × 4	\$40	150	36,000
\$20 × 2	\$40	150	36,000
\$20 w/Gold Bar	\$40	150	36,000
\$40 w/Star	\$40	150	36,000
\$40	\$40	150	36,000
\$10 × 5	\$50	150	36,000
\$25 × 2	\$50	300	18,000
\$25 w/Gold Bar	\$50	150	36,000
\$10 w/5X	\$50	150	36,000
\$50 w/Star	\$50	300	18,000
\$50	\$50	150	36,000
\$10 × 10	\$100	150	36,000
\$20 × 5	\$100	150	36,000

<i>When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets:</i>
\$20 w/5X	\$100	150	36,000
\$50 w/Gold Bar	\$100	300	18,000
\$100 w/Star	\$100	300	18,000
\$100	\$100	150	36,000
\$10 × 20	\$200	1,714	3,150
\$20 × 10	\$200	1,714	3,150
\$25 × 8	\$200	1,714	3,150
\$40 w/5X	\$200	1,714	3,150
\$100 w/Gold Bar	\$200	1,714	3,150
\$100 × 2	\$200	1,714	3,150
\$200 w/Star	\$200	1,714	3,150
\$200	\$200	1,500	3,600
\$25 × 10	\$250	12,000	450
\$50 × 5	\$250	12,000	450
\$50 w/5X	\$250	12,000	450
\$250 w/Star	\$250	12,000	450
\$250	\$250	12,000	450
\$20 × 20	\$400	3,000	1,800
\$25 × 16	\$400	3,000	1,800
\$100 × 4	\$400	3,000	1,800
\$200 × 2	\$400	3,000	1,800
\$200 w/Gold Bar	\$400	3,000	1,800
\$400 w/Star	\$400	3,000	1,800
\$400	\$400	3,000	1,800
\$25 × 20	\$500	12,000	450
\$50 × 10	\$500	12,000	450
\$100 × 5	\$500	12,000	450
\$200 w/Gold Bar + \$100	\$500	12,000	450
\$100 w/5X	\$500	12,000	450
\$500 w/Star	\$500	12,000	450
\$500	\$500	12,000	450
\$50 × 20	\$1,000	40,000	135
\$100 × 10	\$1,000	40,000	135
\$200 × 5	\$1,000	40,000	135
\$200 w/5X	\$1,000	40,000	135
\$500 × 2	\$1,000	40,000	135
\$500 w/Gold Bar	\$1,000	40,000	135
\$1,000 w/Star	\$1,000	40,000	135
\$1,000	\$1,000	40,000	135
\$500 × 10	\$5,000	120,000	45
\$1,000 × 5	\$5,000	120,000	45
\$1,000 w/5X	\$5,000	120,000	45
\$5,000	\$5,000	120,000	45
\$500 × 20	\$10,000	1,080,000	5
\$10,000 w/Star	\$10,000	1,080,000	5
\$10,000	\$10,000	1,080,000	5
\$1,000,000	\$1,000,000	1,080,000	5

STAR (STAR) = Win prize shown under it automatically.

GOLD BAR (GLDBAR) = Win double the prize shown under it.

5X (5TIMES) = Win 5 times the prize shown under it.

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 Million Dollar Blockbuster 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 Million Dollar Blockbuster, prize money from winning Pennsylvania Million Dollar Blockbuster 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 Million Dollar Blockbuster instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Million Dollar Blockbuster or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-2423. Filed for public inspection December 8, 2006, 9:00 a.m.]

## Pennsylvania \$100,000 A Year For Life 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 \$100,000 A Year For Life.

2. *Price:* The price of a Pennsylvania \$100,000 A Year For Life instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania \$100,000 A Year For Life instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING 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 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY). 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 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), Cash symbol (CASH), \$100 Burst symbol (BURST) and a Star symbol (STAR).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5<sup>.00</sup> (FIV DOL), \$10<sup>.00</sup> (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO), \$10,000 (TEN THO), \$100,000 (ONEHUNTHO) and \$100K/YR/LF (\$100K/YR/LF).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$500, \$1,000, \$5,000, \$10,000, \$100,000 and \$100,000 a year for life (\$2 million lifetime minimum). A player can win up to 15 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania \$100,000 A Year For Life 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 "WINNING NUMBERS" play symbols and a prize symbol of \$100K/YR/LF (\$100K/YR/LF) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000 a year for life (\$2 million lifetime minimum) which will be paid by an initial cash payment of \$100,000 plus equal annual payments of \$100,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$2 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania \$100,000 A Year For Life prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Cash symbol (CASH), and a prize symbol of \$10,000 (TEN THO) appears under the Cash symbol (CASH) on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$50\$ (FIFTY) appears in ten of the "prize" areas, and a prize symbol of \$100 (ONE HUN) appears in five of the "prize" areas on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Cash symbol (CASH), and a prize symbol of \$500 (FIV HUN) appears under the Cash symbol (CASH) on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), 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.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING

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.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a \$100 Burst symbol (BURST), shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Star symbol (STAR), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in ten of the "prize" areas, and a prize symbol of \$10<sup>00</sup> (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 upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Cash symbol (CASH), and a prize symbol of \$50\$ (FIFTY) appears under the Cash symbol (CASH) on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Cash symbol (CASH), and a prize symbol of \$20\$ (TWENTY) appears under the Cash symbol (CASH) on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING 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.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Cash symbol (CASH), and a prize symbol of \$15\$ (FIFTN) appears under the Cash symbol (CASH) on a single ticket, shall be entitled to a prize of \$15.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" 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:

*When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:*

\$5 × 2
\$10
\$5 × 3
\$10 + \$5
\$15 w/CASH
\$5 × 4
\$5 × 2 + \$10
\$15 + \$5
\$10 × 2
\$20 w/CASH
\$5 × 5
\$5 × 3 + \$10
\$10 × 2 + \$5
\$15 + \$10
\$25
\$5 × 10
\$10 × 5
\$10 × 3 + \$20
\$20 × 2 + \$10
\$50 w/CASH
\$5 × 10 + \$10 × 5 w/STAR
\$10 × 10
\$20 × 5
\$50 × 2
\$100 w/\$100 BURST
\$100
\$25 × 10 + \$50 × 5 w/STAR

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 10,800,000 Tickets:</i>
\$10	20	540,000
\$10	30	360,000
\$15	60	180,000
\$15	60	180,000
\$15	60	180,000
\$20	60	180,000
\$20	60	180,000
\$20	60	180,000
\$20	60	180,000
\$25	300	36,000
\$25	300	36,000
\$25	300	36,000
\$25	300	36,000
\$25	300	36,000
\$50	300	36,000
\$50	300	36,000
\$50	300	36,000
\$50	300	36,000
\$100	600	18,000
\$100	600	18,000
\$100	600	18,000
\$100	600	18,000
\$100	120	90,000
\$100	600	18,000
\$500	10,000	1,080



When Any Of Your Numbers  
Match Any Of The Winning Numbers,  
Win With Prize(s) Of:

\$25 × 10 + \$50 × 5  
\$50 × 10  
\$100 × 5  
\$500 w/CASH  
\$50 × 10 + \$100 × 5 w/STAR  
\$50 × 10 + \$100 × 5  
\$100 × 10  
\$500 × 2  
\$1,000  
\$5,000  
\$10,000 w/CASH  
\$100,000  
\$100K/YR/LIFE

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,800,000 Tickets:
\$500	10,000	1,080
\$500	10,000	1,080
\$500	10,000	1,080
\$500	10,000	1,080
\$1,000	15,000	720
\$1,000	15,000	720
\$1,000	15,000	720
\$1,000	15,000	720
\$1,000	15,000	720
\$5,000	120,000	90
\$10,000	120,000	90
\$100,000	1,200,000	9
\$100,000/YR/LIFE	3,600,000	3

CASH (CASH) = Win prize shown under it automatically.

\$100 BURST (BURST) = Win \$100 automatically.

STAR (STAR) = 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 \$100,000 A Year For Life 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 \$100,000 A Year For Life, prize money from winning Pennsylvania \$100,000 A Year For Life 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 \$100,000 A Year For Life instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$100,000 A Year For Life or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-2424. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Rates of Tax on Aviation Gasoline and Jet Fuel for 2007; Oil Company Franchise Tax Rate for 2007; Alternative Fuels Tax Rates for 2007

#### Aviation Gasoline and Jet Fuels

Under 74 Pa.C.S. § 6121(b) (relating to tax on aviation fuels), the Secretary of Revenue (Secretary) announces

that for calendar year 2007 the rate of tax on aviation gasoline and all other liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines remains at the current rate of 5.3¢<sup>1</sup> per gallon or fractional part thereof.

Under 74 Pa.C.S. § 6131(b) (relating to tax on jet fuels), the Secretary announces that for calendar year 2007 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines remains at the current rate of 2.0¢ per gallon or fractional part thereof.

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985 and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986 and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b) the rate of each tax increases or decreases 0.1¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the U. S. Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1, subject to a maximum rate of 6.0¢ per gallon for aviation gasoline and 2.0¢ per gallon for jet fuels.

On November 1, 2006, the most recently available 12-month period was September 2005 to September 2006, as reported in Bureau of Labor Statistics, U. S. Department of Labor, Producer Price Indexes, September 2006, USDL 06-1812, released October 17, 2006, for which the percentage change was minus (-)1.2%. Accordingly, the aviation gasoline tax rate remains unchanged from the 2006 rate of 5.3¢ per gallon; similarly, the jet fuel tax rate remains unchanged from the 2006 rate of 2.0¢ per gallon.

#### Oil Company Franchise Tax

The Secretary announces that for the calendar year 2007 the rate of the oil company franchise tax remains at the current rate of 19.2¢ per gallon on all liquid fuels and 26.1¢ per gallon on all fuels used or sold and delivered by

<sup>1</sup>The rate of 5.3¢ per gallon consists of the 1.5¢ per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(1), and the 3.8¢ per gallon additional tax imposed by 74 Pa.C.S. § 6121(a). As limited by 74 Pa.C.S. § 6121(b), the combined rate of these two component taxes may never exceed 6¢ per gallon or be less than 3¢ per gallon.

distributors within this Commonwealth under 75 Pa.C.S. § 9004(b) (relating to imposition of tax, exemptions, and deductions).

The rate of the oil company franchise tax imposed under 75 Pa.C.S. Chapter 95 (relating to taxes for highway maintenance and construction), 75 Pa.C.S. § 9502 (relating to imposition of tax), and collected under 75 Pa.C.S. Chapter 90 (relating to liquid fuels and fuels tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a "cents per gallon equivalent basis," which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the Pennsylvania Bulletin no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Average wholesale price" as used above is defined as:

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 2006 the Department has determined that the average wholesale price of liquid fuels and fuels was \$1.99 per gallon, which exceeds the statutory maximum of \$1.25; therefore, an average wholesale price of \$1.25 is used to compute the tax rate for 2007.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon

is:

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5
75 Pa.C.S. § 9502(a)(4)	<u>00.0</u>	<u>55.0</u>
Total Mills per Gallon:	153.5	208.5
Decimal Equivalent:	.1535	.2085
Multiply by Average Wholesale Price:	× \$1.25	× \$1.25
Product:	19.188¢	26.063¢
Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth):	19.2¢	26.1¢

The act of April 17, 1997 (P. L. 6, No. 3) provides that the oil company franchise tax as computed above is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2007, the combined rate of tax for liquid fuels (primarily gasoline) is 31.2¢ per gallon and for fuels (primarily undyed diesel fuel) is 38.1¢ per gallon.

**Alternative Fuels Tax Rates for 2007**

Under 75 Pa.C.S. § 9004(d) the Secretary is required to compute the rate of tax applicable to each alternative fuel on a gallon-equivalent-basis. Under 75 Pa.C.S. § 9002 "gallon-equivalent-basis" is defined as the "amount of any alternative fuel as determined by the Department to contain 114,500 BTUs." The amount determined on a "gallon-equivalent-basis" for each alternative fuel is subject to the liquid fuels and oil company franchise taxes currently imposed on one gallon of gasoline. The rate of tax on one gallon of gasoline during the period of this notice is 12.0¢ for the liquid fuels tax and 19.2¢ for the oil company franchise tax for a total tax of 31.2¢ per gallon of gasoline.

The Secretary announces that the 2007 tax rates for alternative fuels are as follows:

<i>Alternative Fuel</i>	<i>Rate of Conversation (Btu/gal of alternative fuel)</i>	<i>Amount Equivalent to One Gallon of Gasoline @ 114,500 Btu per gallon</i>	<i>Tax Rate per Gallon of Alternative Fuel</i>
Ethanol	76,400	1.499	\$.208
Methanol	56,560	2.024	\$.154
Propane/LPG	83,500	1.371	\$.228
E-85	80,460	1.423	\$.219
M-85	65,350	1.752	\$.178
Compressed Natural Gas (CNG)	29,000 @ 3,000 PSI	3.948	\$.079
Liquefied Natural Gas (LNG)	66,640	1.718	\$.182

<i>Alternative Fuel</i>	<i>Rate of Conversation (Btu/gal of alternative fuel)</i>	<i>Amount Equivalent to One Gallon of Gasoline @ 114,500 Btu per gallon</i>	<i>Tax Rate per Gallon of Alternative Fuel</i>
Electricity	3,412 Btu/KWH	33.558 KWH	\$.0093/KWH

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 06-2425. Filed for public inspection December 8, 2006, 9:00 a.m.]

### **Realty Transfer Tax; Revised 2005 Common Level Ratio; Real Estate Valuation Factor**

The following real estate valuation factor is based on sales data compiled by the State Tax Equalization Board in 2005. This factor is the mathematical reciprocal of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, this factor is applicable for documents accepted from January 1, 2007, to June 30, 2007. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument. See 61 Pa. Code § 91.102 (relating to acceptance of documents).

<i>County</i>	<i>Revised Common Level Ratio Factor</i>
* Snyder	4.94

\* Adjusted by the Department of Revenue to reflect assessment ratio change effective January 1, 2007.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 06-2426. Filed for public inspection December 8, 2006, 9:00 a.m.]

## **ENVIRONMENTAL HEARING BOARD**

### **National Fuel Gas Supply Corporation v. DEP; EHB Doc. No. 2005-168-MG**

The Department of Environmental Protection (Department) and National Fuel Gas Supply Corporation (NFG) have submitted a Consent Adjudication for approval by the Environmental Hearing Board (Board) in this matter. NFG maintains a compressor station at Ellisburg in Allegany Township, Potter County (Ellisburg Compressor Station). At the Ellisburg Compressor Station, NFG operates commercial class reciprocating internal combustion engines that drive natural gas compressors, among other things. On August 16, 1999, the Department issued a plan approval for the modification of Engine 1A at the Ellisburg Compressor Station. Appropriate testing methods were discussed between the parties and the Department ultimately approved NFG's formaldehyde testing on Engine 1A on October 20, 2003. On May 27, 2004, NFG submitted a plan approval application to change the permitted formaldehyde emission limit on Engine 1A. The 2004 application was denied and NFG appealed the

denial of that application. The appeal was docketed with the Board at EHB Docket No. 2005-168-MG. On June 20, 2006, NFG submitted another plan approval application to request a change in the permitted formaldehyde emissions rate for Engine 1A.

The Department and NFG have agreed to a settlement in the form of a Consent Adjudication, the major provisions of which include:

1. The Department will issue Plan Approval No. 53-00003C as Appendix A to the Consent Adjudication that will establish formaldehyde emissions rates for Engine 1A of 0.17 g/BHP, 1.67 lb/hr and 7.31 tons/year at 4,445 BHP.
2. NFG waives its rights to challenge Plan Approval No. 53-00003C if issued as described in the Appendix A to the Consent Adjudication.
3. The Department accepts the June 3, 2003 emissions test conducted by NFG as demonstrating compliance with the 1.67 lb/hr and 7.31 tons/year formaldehyde emissions limitations from Engine 1A for purposes of Plan Approval No. 53-00003C.

Copies of the full Consent Adjudication are in the hands of: Dawn M. Herb, Assistant Counsel, Department of Environmental Protection, Northcentral Region Office of Chief Counsel, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 321-6568; David G. Mandelbaum, Esquire and Marc E. Davies, Esquire, Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, PA 19103-7599, (215) 864-8102 or (215) 864-8248; and at the office of the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8457, (717) 787-3483 and may be reviewed by any interested party on request during normal business hours. Public comments will be received for 30 days from the date of this notice. A copy of any comments should be sent to each of the parties at the previously noted addresses. This notice is being provided under 25 Pa. Code §§ 1021.38 and 1021.141 (relating to publication of notice; and termination of proceedings). The Consent Adjudication is subject to final approval by the Board. The Board may schedule a hearing prior to taking action on the Consent Adjudication. For any aggrieved person not a party to the action, an appeal of the Consent Adjudication must be filed with Commonwealth Court within 30 days of the date of the Board's action.

MICHAEL L. KRANCER,  
*Chairperson*

[Pa.B. Doc. No. 06-2427. Filed for public inspection December 8, 2006, 9:00 a.m.]

# ENVIRONMENTAL QUALITY BOARD

## Environmental Quality Board Meeting Cancellation

The December 19, 2006, Environmental Quality Board (Board) meeting has been cancelled. The next meeting of the Board is scheduled for Wednesday, January 17, 2007, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. An agenda

and meeting materials for the meeting will be available on the Department of Environmental Protection's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "EQB").

Questions concerning the Board's next scheduled meeting may be directed to Natasha Harley at (717) 783-8727 or [nharley@state.pa.us](mailto:nharley@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-2428. Filed for public inspection December 8, 2006, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
47-12	Milk Marketing Board Refrigeration Equipment; Records and Reports 36 Pa.B. 5875 (September 23, 2006)	10/23/06	11/22/06
16A-5719	State Board of Veterinary Medicine Recordkeeping 36 Pa.B. 5984 (September 30, 2006)	10/30/06	11/29/06
16A-4313	State Board of Chiropractic Patient Records 36 Pa.B. 5979 (September 30, 2006)	10/30/06	11/29/06

### Milk Marketing Board Regulation #47-12 (IRRC #2564)

#### Refrigeration Equipment; Records and Reports November 22, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the September 23, 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 Milk Marketing Board (Board) to respond to all comments received from us or any other source.

#### Section 146.4. Sale of equipment.—Clarity.

We have two concerns with this section.

First, Subsection (a)(2) contains the phrase "or value of the equipment to the dealer at the time it was placed at the customer's location . . ." Is this phrase referring to the value equated using the depreciation formula in Subsection (c)? If so, a cross-reference should be added. If not, then the method of how the value under Subsection (a)(2) is determined should be set forth or cross-referenced in the final-form regulation.

Second, under Subsection (d), the dealer or subdealer should maintain certain items "for review by the Board." Board staff indicated that these items must be maintained by the dealer for two years, based on Section 701(b) of the Milk Marketing Law (31 P. S. § 700j-701(b)). This subsection should be amended in the final-form regulation to clarify how long records must be maintained by inserting a cross-reference to the appropriate section of the Milk Marketing Law.

### State Board of Veterinary Medicine Regulation #16A-5719 (IRRC #2565)

#### Recordkeeping

November 29, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the September 30, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Veterinary Medicine (Board) to respond to all comments received from us or any other source.

**Section 31.22. Recordkeeping.—Clarity.**

We have three concerns with this section.

First, we agree with the House Professional Licensure Committee (HPLC) that the terms “animal” and “patient” are used interchangeably throughout the regulation, and recommend that one term be used consistently.

Second, the Board should clearly indicate which recordkeeping methods would meet the required standards. This section contains the phrase “problem-oriented or similar format.” The preamble states that a “problem oriented medical record” (POMR) is a “recognized standard form of all medical recordkeeping.” Board staff indicated that POMR is a general recordkeeping method and there are several more specific methods that fall under it. Which of these methods are acceptable to the Board?

Finally, Paragraph (4) requires the veterinary record of an animal, “except a production animal,” to include documentation of communication with a client. The Board excluded production animals because existing Federal regulations address communication between veterinarians and owners of production animals. The HPLC questioned whether a citation to the Federal regulations should be included in this regulation. We agree and recommend that the final-form regulation include a cross-reference to the appropriate Federal regulations.

---

**State Board of Chiropractic Regulation**

**#16A-4313  
(IRRC #2568)**

**Patient Records****November 29, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the September 30, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

**1. Need, Reasonableness and Economic impact of the regulation.***Standards for medical records*

In response to question #16 of the Regulatory Analysis Form, the Board states the following:

On December 6, 2001, the Board received a petition under 1 Pa. Code § 35.18 to promulgate a regulation that would establish medical necessity definitional parameters in order to assist licensees to discharge their regulatory documentation obligation and establish guidelines for peer review and utilization review concerning chiropractic care. The Board held a work session on March 7, 2002. After extensive discussion at public meetings over the ensuing months, the Board concluded that its rulemaking should be directed toward setting forth standards for medical records, not attempting to define what is medically necessary.

The House Professional Licensure Committee (House Committee) asked the Board to further explain the rationale for this regulation. We agree that the Board has

not explained the basis for its apparent disagreement with portions of the December 6, 2001 petition. The Board also needs to explain its conclusion that the rulemaking should only be directed toward standards for medical records rather than attempt to define what is medically necessary. It is not clear how this conclusion is consistent with this rulemaking that requires documentation of “diagnosis and clinical necessity,” defines separate levels of care and specifies how that care must be documented. The Board should respond to these concerns, provide support for the need for this rulemaking and explain its objectives.

*Purposes of patient records*

The House Committee also questioned whether the Board is taking a unique approach regarding the content of patient records. In its extensive comments on this regulation, Practice Masters, Incorporated (PM) believes its suggestions will make the regulation consistent with documentation standards in the industry.

The Board should explain what factors it considered in developing this regulation. Specifically, the Board should explain how the regulation is consistent with documentation standards of other health care licensing boards and how it supports processes such as peer review, documentation for compensation and utilization review.

**2. Section 5.1. Definitions—Clarity.***Distinction between levels of care*

While the regulation defines four levels of care (elective, maintenance, palliative and supportive) along with preventive service, the distinction between them is not sufficiently clear. The House Committee expressed concern with the lack of distinction between maintenance care and palliative care and asked for examples of each type of care. The House Committee asks the Board to carefully review the comments submitted by PM regarding the definitions. We agree. The Board should review all of the definitions and provide a clear delineation between all of the levels of care and service specified in the regulation.

*Clarity affected by use of the negative*

Several definitions include a description of what the term does not mean, rather than what the term does mean. This affects the clarity of the definitions. The Board should consider revising the following definitions for clarity: elective care, maintenance care, palliative care and preventive service.

**3. Section 5.51. Patient records.—Clarity.***Human performance and sense of well-being*

Subparagraph (c)(4)(i) requires the patient record to demonstrate “how human performance and the sense of well-being was enhanced.” These requirements are vague. What criteria must the licensee use in the documentation of these findings?

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-2429. Filed for public inspection December 8, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Highmark Inc. and Highmark Blue Shield; Professional Provider Reimbursement Increase for the Low Income Fee Schedule Programs; Rate Filing

On November 14, 2006, the Insurance Department (Department) received from Highmark Blue Cross Blue Shield and Highmark Blue Shield filing number 3-Pricing (Provider Reimbursement)-06-HI requesting to adjust the low income fee schedule program allowances. The following increases are proposed:

- \* 4.16% for Plan C Medical/Surgical
- \* 5.80% for 1800S Medical/Surgical
- \* 2.17% for 5000S Medical/Surgical
- \* 13.94% for Special Care Medical/Surgical—Entry Tier
- \* 0.00% for Special Care Medical/Surgical—Tier Two

Highmark requests the approval without an immediate adjustment in rates for these programs.

The filing will impact select evaluation and management allowances under the Plan C, 1800S and 5000S Fixed Fee Schedules.

Unless formal administrative action is taken prior to February 14, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-2430. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Liberty Mutual Fire Insurance Company; The First Liberty Insurance Corporation Homeowners Rate Revision; Rate Filing

On November 8, 2006, the Insurance Department (Department) received from Liberty Mutual Fire Insurance Company and The First Liberty Insurance Corporation a filing for a rate level revision for homeowners insurance.

The companies request an overall 5.98% increase amounting to \$5.993 million annually, to be effective February 19, 2007, for new business and April 5, 2007, for renewal business.

Unless formal administrative action is taken prior to January 8, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-2431. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Penn Treaty Network America Insurance Company; Rate Increase Filing for Several LTC Policy Forms; Rate Filing

Penn Treaty is requesting approval to increase the premium on several long-term care policy forms. The company is requesting an aggregate increase of 50% on 6,930 policyholders in this Commonwealth of forms LTC93C(PA)-N, LTC93C(PA)-P, LTC93CR(PA)-N, LTC93CR(PA)-P, N2400(PA), NF2400(PA), P2400(PA), PF2400(PA), PF2600(PA)-P, PF2600(PA)-N, FPF2600(PA)-P, FPF2600(PA)-N and LTCP-6700(PA)-N. The company is requesting an aggregate increase of 69% on 83 policyholders in this Commonwealth of forms LTC94(PA)-P, LTC94R(PA)-P and LTC94(PA)-N. The company is requesting an aggregate increase of 71% on 815 policyholders in this Commonwealth of forms LTCTP-6000(PA)-N, LTCTP-6000(PA)-P, FLTCTP-6000(PA)-N and FLTCTP-6000(PA)-P. Finally, the company is requesting an aggregate increase of 47% on 662 policyholders in this Commonwealth of forms LTCTP-6500(PA)-N and FLTCTP-6500(PA)-N.

Note that the rate increases listed previously are averages. The actual rate increase an individual will receive will vary by his underwriting class, inflation option and maximum benefit period.

Unless formal administrative action is taken prior to February 14, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-2432. Filed for public inspection December 8, 2006, 9:00 a.m.]

### **Pennsylvania Compensation Rating Bureau Workers' Compensation Loss Cost Filing; Rate Filing**

On November 28, 2006, the Insurance Department (Department) received from the Pennsylvania Compensation Rating Bureau (PCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of the act of July 2, 1993 (P. L. 190, No. 44). The PCRB requests an overall 2.95% increase in collectible loss costs, effective April 1, 2007, on a new and renewal basis. Also, the PCRB has calculated the Employer Assessment Factor effective April 1, 2007, to be 1.92%, as compared to the currently approved provision of 1.98%. Updates to a variety of other rating values to reflect the most recent available experience are also being submitted for approval. Finally, the filing includes proposed additions and/or changes to other manual rules consistent with intended practice regarding workers' compensation insurance options, classification procedures and related matters.

The entire April 1, 2007, loss cost filing is available for review on the PCRB's website at [www.pcrb.com](http://www.pcrb.com) in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-2433. Filed for public inspection December 8, 2006, 9:00 a.m.]

### **Progressive Direct Insurance Company; Private Passenger Automobile Rate and Rule Revisions; Rate Filing**

On November 14, 2006, the Insurance Department (Department) received from Progressive Direct Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 6.0% decrease amounting to -\$4.699 million annually, to be effective April 9, 2007, for new business and May 19, 2007, for renewal business.

Unless formal administrative action is taken prior to January 13, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-2434. Filed for public inspection December 8, 2006, 9:00 a.m.]

## **LIQUOR CONTROL BOARD**

### **Expiration of Leases**

The following Liquor Control Board leases will expire:

Dauphin County, Wine & Spirits Shoppe #2214, 4404 Oakhurst Blvd., Harrisburg, PA 17110.

*Lease Expiration Date:* December 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 10,000 net useable square feet of new or existing retail commercial space. The location must be along SR 39 (Linglestown Road) bordered by Crooked Hill Road to the west and Colonial Road to the east.

*Proposals due:* December 29, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Charles D. Mooney, (717) 657-4228

Lancaster County, Wine & Spirits Shoppe #3610, 2350 N. Reading Rd., Denver, PA 17517.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,600 to 5,000 net useable square feet of new or existing retail commercial space. The location must be in East Cocalico Township on SR 272 and 1/4 mile south of its intersection with Church Street to its intersection with N. Muddy Creek Rd.

*Proposals due:* December 29, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Matthew L. Sweeney, (717) 657-4228

Monroe County, Wine & Spirits Shoppe #4505, Weir Lake Road, Brodheadsville, PA 18322.

*Lease Expiration Date:* July 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 8,000 net useable square feet of new or existing retail commercial space. The location must be within the proximity of the intersection of Route 209 and Weir Lake Road, Brodheadsville, Chestnut Hill Township.

*Proposals due:* December 29, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Charles D. Mooney, (717) 657-4228  
 JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 06-2435. Filed for public inspection December 8, 2006, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Natural Gas Service

**A-123100F0035. UGI Utilities, Inc.** Amended application of UGI Utilities, Inc., for approval to render natural gas distribution service to the public in portions of North Coventry and East Coventry Townships, Chester County, PA.

**A-122300F0009. Peco Energy Company.** Application of Peco Energy Company for approval of the acquisition by purchase from UGI Utilities, Inc., of certain gas distribution facilities located in North Coventry Township, Chester County, PA.

These applications will be consolidated at **A-123100F0035**.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicants, on or before January 12, 2007. The documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicants' business address.

*Applicants:* UGI Utilities, Inc. and Peco Energy Company.

*Through and By Counsel:* Kevin J. McKeon, Esquire, Hawke, McKeon, Sniscak & Kennard, LLP, 100 North Tenth Street, Harrisburg, PA 17101 and Shari C. Gribbin, Esquire, 2301 Market Street, S23-1, P. O. Box 8699, Philadelphia, PA 19101-8699.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-2436. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 2, 2007. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-00123308. Keystone Paratransit, Inc.** (6214 Lindbergh Boulevard, Philadelphia, PA 19142), a corporation of the Commonwealth of Pennsylvania, common carrier—persons in paratransit service, in the City and County of Philadelphia and the Counties of Bucks, Chester, Delaware and Montgomery.

**A-00123309. West Philadelphia Community Mental Health Consortium, Inc., t/d/b/a The Consortium** (3801 Market Street, Suite 201, Philadelphia, PA 19104)—contract carrier—persons in paratransit service, for Logisticare Solutions, LLC in the City and County of Philadelphia.

**Application of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-00108867, F.1, Am-A and Am-B. Personal Touch Limousine, Inc., t/d/b/a V.I.P. Limousine Service,** (345 Rouse Road, Coraopolis, Allegheny County, PA 15108)—discontinuance of service—persons, in limousine service, between points in Pennsylvania.

**A-001044444. Carl J. Wasserlein** (1883 East Main Street, East Earl, Lancaster County, PA 17519)—certificate of public convenience to abandon/discontinue the rights to transport, as a common carrier by motor vehicle, persons whose personal convictions prevent them from owning or operating motor vehicles, in paratransit service, from points in the Counties of Berks, Chester and Lancaster, to points in Pennsylvania, and return.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-2437. Filed for public inspection December 8, 2006, 9:00 a.m.]



### Telecommunications

**A-311302F7001. Verizon North, Inc. and Greater Communications Telephone Company, Inc.** Joint petition of Verizon North, Inc. and Greater Communications Telephone Company, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Greater Communications Telephone Company, Inc., by its counsel, filed on November 22, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and Greater Communications Telephone Company, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-2438. Filed for public inspection December 8, 2006, 9:00 a.m.]

### Telecommunications

**A-311302F7000. Verizon Pennsylvania, Inc. and Greater Communications Telephone Company, Inc.** Joint petition of Verizon Pennsylvania, Inc. and Greater Communications Telephone Company, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Greater Communications Telephone Company, Inc., by its counsel, filed on November 28, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania

Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Greater Communications Telephone Company, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-2439. Filed for public inspection December 8, 2006, 9:00 a.m.]

## STATE ETHICS COMMISSION

### Public Meeting

Under 65 Pa.C.S. §§ 1101—1113 (relating to the Public Official and Employee Ethics Act) (act), the State Ethics Commission (Commission) is required to hold at least two public hearings each year to seek input from persons and organizations who represent any individual subject to the provisions of the act and from other interested parties.

The Commission will conduct a public meeting in Room 307, Finance Building, Harrisburg, PA on January 9, 2007, beginning at 9 a.m. for purposes of receiving input and for the conduct of other agency business. Public officials, public employees, organizations and members of the general public may attend.

Persons seeking to testify or present a statement, information or other comments in relation to the act, the regulations of the Commission or agency operations should contact Claire J. Hershberger at (717) 783-1610 or (800) 932-0936. Written copies of any statement should be provided at the time of the meeting.

JOHN J. CONTINO,  
*Executive Director*

[Pa.B. Doc. No. 06-2440. Filed for public inspection December 8, 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

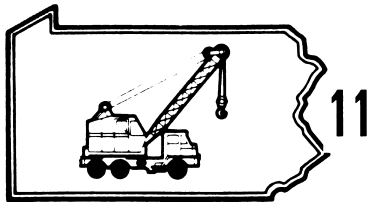
## DO BUSINESS WITH STATE AGENCIES

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.patreaury.org](http://www.patreaury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

## SERVICES



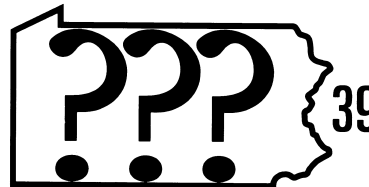
### Demolition—Structural Only

**ROW1121061.** Public Notice Advertisement for Demolition and Removal Project Notice is hereby given that the Department of Transportation is seeking bids for the demolition and removal of 3 mobile homes, in conjunction with the construction of SR 209-007 and SR 402-001 in Smithfield and Middle Township, Monroe County. Contains asbestos, all contractors must be prequalified for this service. For bid forms date of inspection, specifications and further information please contact Bruce Kern, District Property Manager, Pennsylvania Department of Transportation, 1713 Lehigh Street, Allentown, PA 18103 610-798-4271

**Department:** Transportation  
**Location:** Approximately 1 mile south of Marshalls Creek Village Center on SR 209.  
**Duration:** 10 days  
**Contact:** Bruce Kern, 610-798-4271

**ROW112106.** Public Notice Advertisement for Demolition and Removal Project Notice is hereby given that the Department of Transportation is seeking bids for the demolition and removal of two story residence, detached two car garage, pool house, above ground pool, shed, small trailer, wood pile, small dump, fuel oil tank, four car garage and office, in conjunction with the construction of SR 209-007 and SR 402-001 in Smithfield and Middle Township, Monroe County. Contains asbestos, all contractors must be prequalified for this service. For bid forms, date of inspection, specifications and further information please contact Bruce Kern, District Property Manager, Pennsylvania Department of Transportation, 1713 Lehigh Street, Allentown, PA 18103, 610-798-4271.

**Department:** Transportation  
**Location:** Approximately 1 mile south of Marshalls Creek Village Center on SR 209.  
**Duration:** 28 days.  
**Contact:** Bruce Kern, 610-798-4271



### Miscellaneous

**CN00023940.** Approximately 25,742 lbs. of Epoxy Coated Rebar for Channel Beams on SR 4011.

**Department:** Transportation  
**Location:** Delivered to: Crawford County Maintenance District 1-1, 18492 Smock Hwy. Meadville, PA 16335  
**Duration:** Per project requirement of epoxy coated rebar  
**Contact:** Deborah Armel, 814-322-6880

**RFP BUCBA/SWIF-2006-1.** PROPOSALS DUE: JANUARY 25, 2007 BY 1:30 P.M. The PA Department of Labor & Industry is seeking offers to implement an electronic payment solution at no cost to L&I for the disbursement of Unemployment Compensation benefit payments and State Workers' Insurance Fund indemnity payments using Electronic Payment Card Services.

**Department:** Labor and Industry  
**Location:** Bureau of Unemployment Compensation Benefits & Allowances Seventh & Forster Streets Harrisburg, PA 17121  
**Duration:** 3 Years with 2 Optional One-year Renewals  
**Contact:** LIPProcurement@state.pa.us

**ADV-30.** Indiana University of Pennsylvania (IUP), a member of the PA State System of Higher Education, will be seeking bids on an as needed basis for copy paper to replenish stock in our Central Stores Warehouse throughout the period December 2006 thru December 31, 2007. Requests for copies of bid packages should be made in writing referencing Advertisement #ADV-302 and directed to Mrs. Roxie M. Johnson, Purchasing Agent, IUP Purchasing Services, Robertshaw Building, 650 South 13th Street, Indiana, PA 15705-1087; Fax: 724-357-2670; Email: [Roxie.Johnson@iup.edu](mailto:Roxie.Johnson@iup.edu). The University encourages responses from small and disadvantaged, minority, and women-owned firms.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Indiana, PA 15705  
**Contact:** Mrs. Roxie M. Johnson, 724-357-3077

[Pa.B. Doc. No. 06-2441. Filed for public inspection December 8, 2006, 9:00 a.m.]

---

## DESCRIPTION OF LEGEND

---

- |  |   |
|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

JAMES P. CREEDON,  
*Secretary*