

# PENNSYLVANIA BULLETIN

Volume 36  
Saturday, February 4, 2006 • Harrisburg, PA  
Number 5  
Pages 503—684

See Part II page 679 for the  
Pennsylvania Gaming Control  
Board's Final Temporary Regulations;  
Applications and Slot Machine  
Licenses and Temporary Regulations;  
Management Companies

## Part I

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Salespersons  
State Board of Veterinary Medicine  
State Ethics Commission  
State Real Estate Commission

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**No. 375, February 2006**

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**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.

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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.

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

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

#### Promulgation of New Rule 1012.1 Governing Motions for Admission Pro Hac Vice; Proposed Recommendation No. 211

The Civil Procedural Rules Committee proposes that the new Rule of Civil Procedure 1012.1 governing motions for admission pro hac vice be promulgated, as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than March 1, 2006 to:

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

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

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

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1000. ACTIONS

#### Subchapter A. CIVIL ACTION

#### VENUE AND PROCESS

#### Rule 1012.1. Admission Pro Hac Vice. Motion. Content.

(a) As used in this rule,

“candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission pro hac vice;

**Official Note:** Pa.B.A.R. 301 states that the attorney seeking admission pro hac vice cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate pro hac vice.

(b) The sponsor shall file a written motion for admission pro hac vice in the action for which admission is sought. The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission pro hac vice, and the number of actions in which the motion has been denied. If any motion for admission pro hac vice has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission pro hac vice is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission pro hac vice is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party who the candidate seeks to represent. Upon the motion being granted, the sponsor, shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by order of court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission pro hac vice, and

(iii) stating that all proceeds from the settlement of a cause of action in which a candidate is granted admission pro hac vice shall be distributed in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct.



**Official Note:** Settlement funds must be placed in an interest-bearing checking account as required by the Rules of Professional Conduct for the purposes of IOLTA.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

**Official Note:** Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client who the candidate proposes to represent,

(3) the client who the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission pro hac vice sua sponte or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission pro hac vice is inappropriate or inadvisable.

#### **Explanatory Comment**

The Civil Procedural Rules Committee is proposing the promulgation of new Rule 1012.1 governing admission of an attorney pro hac vice. The proposed rule achieves a uniform statewide practice, provides information and guidance to the court in the evaluation of a motion for such an admission, and imposes obligations upon both the attorney seeking admission and the attorney sponsoring the admission.

Pennsylvania Bar Admission Rule 301 authorizes a court to grant admission pro hac vice to an applicant attorney provided that there is a Pennsylvania attorney who has agreed to act as the attorney of record. Procedurally, Rule 301 requires written notice of the motion to be signed by the attorney of record, to recite all relevant facts, and to be filed with the clerk of court or magisterial district judge office in which the matter is pending. New Rule 1012.1 supplements the Bar Admission rule by requiring the motion to provide the court with certain information regarding both the applicant attorney and the attorney of record.

Subdivision (a) of Rule 1012.1 designates the applicant attorney requesting admission pro hac vice as a "candidate" and the Pennsylvania attorney of record as a "sponsor."

Subdivision (b) requires the sponsor to file the motion for admission pro hac vice in the action in which admission is sought. The motion must include verified statements from both the candidate and the sponsor.

Subdivision (c) of the proposed rule governs the requirements of the candidate's verification. One purpose of this verification is to gather relevant information regarding the candidate's disciplinary history, if any, in all jurisdictions in which he or she is licensed to practice law, as well as to determine the extent of his or her admissions pro hac vice in Pennsylvania. The proposed rule eliminates the concern that there may be attorneys who are not licensed in Pennsylvania, but routinely take on Pennsylvania cases by seeking admission pro hac vice.

A second purpose of the candidate's verification is to ensure that the court exercises the same supervision over an attorney admitted pro hac vice as over a Pennsylvania attorney. The verification must contain statements by the candidate with respect to (1) compliance with Pennsylvania law, (2) submission to the jurisdiction of Pennsylvania courts and the Pennsylvania Disciplinary Board, and (3) consent to the appointment of the sponsor as agent for service of process in actions arising out of the practice of law in the matter for which admission is sought.

Subdivision (d) of the proposed rule governs the requirements for the sponsor's verification and imposes obligations upon him or her. The Pennsylvania attorney acting as sponsor through statements in the verification assumes the obligation to evaluate the candidate for reputation and competency before agreeing to sponsor him or her, and to supervise the candidate once admitted. A court may deny the motion on the basis that the Pennsylvania attorney is acting as sponsor in too many cases to adequately supervise the candidate.

Subdivision (d)(1) also requires the sponsor to enter an appearance as the attorney of record in the action on behalf of the party whom the candidate seeks to represent and to remain the attorney of record if the motion is granted. Further, the sponsor is obligated to sign and serve, or be served with, notices and papers filed in the actions and, unless excused, to attend proceedings before the court.

Subdivision (e) provides that the court must grant the motion for admission pro hac vice unless it finds good cause for denial. The note to subdivision (e) lists eight grounds for good cause.

Subdivision (f) provides for the revocation of admission pro hac vice either sua sponte by the court or upon motion of a party.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,

*Chair*

[Pa.B. Doc. No. 06-172. Filed for public inspection February 3, 2006, 9:00 a.m.]

# Title 249—PHILADELPHIA RULES

## PHILADELPHIA COUNTY

### Amended Municipal Court Rule of Criminal Procedure 540—Bail for Traffic Court Scofflaws; General Court Regulation No. 2006-01

#### Order

*And Now*, this 19th day of January, 2006, the Board of Judges of Municipal Court having voted at the Board of Judges' meeting held on January 18, 2006 to amend Municipal Court Rule of Criminal Procedure 540, *It Is Hereby Ordered* that Municipal Court Rule of Criminal Procedure 540 is amended as follows.

This General Court Regulation is issued in accordance with Pa.R.Crim.P. 105 and, as required, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Municipal Court of Philadelphia, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Clerk of Quarter Sessions, and the Criminal Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intel-ligence*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District: <http://courts.phila.gov>.

*By the Court*

LOUIS J. PRESENZA,  
*President Judge*

#### Rule of Criminal Procedure for the Philadelphia Municipal Court

##### Rule 540 Bail for Traffic Court Scofflaws

A. Procedure When a Defendant Arrested Pursuant to Traffic Court Warrants When Traffic Court Closed.

1. The defendant shall be taken without unnecessary delay to a Philadelphia Police Offender Processing site or county prison. The defendant shall be identified, and the outstanding warrant(s) and total amount of any fine and costs owed shall be confirmed.

2. The defendant shall appear before the Bail Commissioner by means of two-way simultaneous audio-video equipment for a warrant hearing. The proceeding before the Bail Commissioner shall be as set forth below in paragraph (B).

B. Proceeding Before the Bail Commissioner. Warrant Hearing. Scheduling of Traffic Court Proceeding.

1. The Bail Commissioner shall determine whether the defendant should be released pending the next Traffic Court hearing, and if so, whether collateral must be posted by the defendant to secure defendant's release pending the next Traffic Court hearing. If the Bail Commissioner determines that collateral must be posted, the Bail Commissioner shall set collateral as provided in Pa.R.Crim.P. 1034.

2. The Bail Commissioner shall schedule a hearing before the Traffic Court using a Subpoena/Commitment form.

3. The defendant shall sign the Subpoena/Commitment form and shall be given a copy.

4. If the posting of collateral is ordered and is not posted by or on behalf of the defendant, the defendant shall be brought to the county prison and shall be brought down for the scheduled Traffic Court proceeding. Provided, however, that the defendant shall be released promptly upon the posting of the collateral set by the Bail Commissioner.

5. At the conclusion of the hearing, the Bail Commissioner shall direct that all outstanding Traffic Court warrants against the defendant be withdrawn.

**Amended by the Municipal Court Board of Judges on 18 January 2006.**

**Effective 1 March 2006.**

*Comment:* Consistent with Pa.R.Crim.P. 1034 the Bail Commissioner shall set collateral in a reasonable amount, i.e. an amount which upon consideration of the defendant's income and the defendant's expenses may be reasonably posted by the defendant. It is the intention of the court that most, if not all, defendants will be released pending the date of the summary trial or hearing. However, should Traffic Court records disclose that the defendant has a history of failure to appear for Traffic Court summary trials or hearings, especially after personal service of the notice of trial or scheduling order, the Bail Commissioner may direct that the defendant be held until the summary trial or hearing date and may be released only upon payment of the full amount of collateral or outstanding fines. Should the defendant be ordered held until the date of the summary trial or hearing, the summary trial or hearing should be scheduled as soon as practical.

[Pa.B. Doc. No. 06-173. Filed for public inspection February 3, 2006, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## BEDFORD COUNTY

### Local Rules Relating to Compulsory Arbitration; Misc. Doc. No. 60036 for 2006

#### Order of Court

And now, January 4, 2006, the Court hereby amends Rule L1302 of the Local Rules of Bedford County relating to compulsory arbitration so as to provide as follows:

The chairman of the board of arbitration shall be paid the sum of \$200.00 for a hearing lasting one-half (1/2) day. Each other member shall be paid the sum of \$150.00 for a hearing lasting one-half (1/2) day. In the event a hearing lasts a full day, the chairman shall be paid \$325.00 and each member shall be paid the sum of \$250.00. In the event the matter is settled and no hearing is held, the chairman only shall be paid the sum of \$75.00 for work performed in preparation for the hearing. Payment shall be made by the County of Bedford.

*By the Court*

DANIEL LEE HOWSARE,  
*President Judge*

[Pa.B. Doc. No. 06-174. Filed for public inspection February 3, 2006, 9:00 a.m.]

# SUPREME COURT

**Provisions for Electronic Filing of Statements of Financial Interest; No. 282 Judicial Administration; Doc. No. 1**

## **Order**

*And Now*, this 23rd day of January, 2006, pursuant to this Court's Order of March 22, 2005, No. 271 Judicial Administration Docket No. 1, provisions relating to a pilot program for the electronic filing of statements of financial interest for the Pennsylvania Unified Judicial System for the 2004 reporting year were established.

*Now, Therefore, It Is Ordered*, effective immediately, that the provisions of the aforementioned Order shall continue in effect for the 2005 reporting year and all subsequent reporting cycles, until further Order of this Court.

RALPH J. CAPPY,  
*Chief Justice*

[Pa.B. Doc. No. 06-175. Filed for public inspection February 3, 2006, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [34 PA. CODE CHS. 3 AND 3a]

#### Boiler and Unfired Pressure Vessel Regulations

The Department of Labor and Industry (Department), Bureau of Occupational and Industrial Safety, deletes Chapter 3 and adds Chapter 3a (relating to boiler and unfired pressure vessel regulations) to read as set forth in Annex A. The final-form rulemaking provides regulations for boilers and unfired pressure vessels under the Boiler and Unfired Pressure Vessel Law (act) (35 P. S. §§ 1331.1—1331.19).

In response to comments received and meetings with affected parties, some changes have been made to the proposed rulemaking that was published at 34 Pa.B. 6033 (November 6, 2004).

#### *Statutory Authority*

This final-form rulemaking is issued under the authority provided in section 14 of the act (35 P. S. § 1331.14) which provides “The department may make, alter, amend or repeal regulations for the construction, stamping, installation, maintenance, repair, inspection and operation of boilers and unfired pressure vessels used or destined for use in this Commonwealth. The regulation may be based upon generally accepted national or international engineering standards, formulas and practices . . . .”

Section 11 of the act (35 P. S. § 1331.11) also mandates that the Department conduct commission examinations, renew commissions and set fees for the issuance and renewal of commissions. The Department may also suspend or revoke a commission for due cause.

#### *Background*

Boilers and pressure vessels are operated under conditions that produce and contain pressure. These vessels can pose a serious threat to life and property because a catastrophic failure of the vessel will release energy and shrapnel similar to the explosion of a bomb. The Commonwealth enacted several laws to ensure the safe manufacturing and operation of this equipment. These laws were consolidated into a single statute by the act of May 2, 1929 (P. L. 1513, No. 451) (Act 451). In 1998, the Legislature replaced Act 451 with the act and brought the boiler and pressure vessel program up to the current National standards of safety, construction and inspection. The act’s primary improvement was ensuring that the Commonwealth’s program is consistent with Nationally and internationally accepted standards by requiring National Board of Boiler and Pressure Vessel Inspectors (National Board) registration of manufacturers’ documents, requiring Nationally accepted standards for repairs and providing for consistent application of safety inspections for boilers.

The Department published notice of proposed rulemaking at 34 Pa.B. 6033 and invited interested parties to provide written comments. The proposed rulemaking was also posted on the Department’s website at [www.dli.state.pa.us](http://www.dli.state.pa.us). The Department received public comments from one individual, William Barbato.

The Independent Regulatory Review Commission (IRRC) submitted its comments through a letter dated January 5, 2004.

Since the passage of the act, the Department has sought input and approval from the Boiler Advisory Board. The Boiler Advisory Board was created under section 2214 of The Administrative Code of 1929 (71 P. S. § 574(g)) to provide technical advice to the Industrial Board. The seven-member Board consists of representatives from insurance underwriters, insurance inspection services, boiler manufacturers, boiler and unfired pressure vessel engineers, a power generation engineer, organized labor and the Department’s boiler division. The Board has reviewed several drafts of this final-form rulemaking and provided comment and input on a number of substantive issues.

The Department also met with the Pennsylvania Restaurant Association, the Pennsylvania Food Merchants Association and Chart Industries concerning beverage dispensing systems.

#### *Purpose*

This final-form rulemaking is necessary to implement the improvements to boiler and pressure vessel programs in the act. The final-form rulemaking adopts “Nationally recognized” standards, which bring the program to the most current state-of-the-art in technology and safety. The final-form rulemaking identifies equipment in business locations that are included in the safety inspection program in section 9 of the act (35 P. S. § 1331.9). The final-form rulemaking also implements the accident reporting provisions of section 16 of the act (35 P. S. § 1331.16), provides requirements for testing and certification under section 11 of the act and provides for the revocation or suspension of commissions for due cause. The final-form rulemaking clarifies the requirements for persons performing repairs on boilers and pressure vessels.

#### *Affected Persons*

This final-form rulemaking will affect owners and users of boilers and unfired pressure vessels and commissioned boiler inspectors. This final-form rulemaking requires compliance by owners and users of boilers and unfired pressure vessels, except for boilers located on farms, apartments with four or less units and private residences. Approximately 300,000 boilers and unfired pressure vessels will be covered, most of which are currently registered with the Department. This final-form rulemaking is based on current National standards.

This final-form rulemaking also requires compliance by commissioned boiler inspectors. There are approximately 300 commissioned inspectors.

The general public will benefit from this final-form rulemaking. The general public is exposed to boilers and unfired pressure vessels on a daily basis. This final-form rulemaking will provide greater safety for the general public. Boiler operators, owners and users of boilers and unfired pressure vessels will also benefit from the final-form rulemaking by having a safe environment in which to work and uniform standards to follow.

#### *Fiscal Impact*

The Commonwealth will incur ongoing costs related to the administration and enforcement of this final-form rulemaking. The costs will be similar to the current costs

incurred by the boiler and unfired pressure vessel registration and inspection program. The current program costs are \$2,241,888. There will be no additional costs due to this final-form rulemaking.

#### *Response to Comments*

The following responses address the common areas of concern found in the comments received from Mr. Barbato and IRRC.

Both commentators suggested that the definition of "ASME Code" should be corrected to fully reference ASME Code. Mr. Barbato further commented that definition should include the American Society of Mechanical Engineers' (ASME) published cases and code interpretations. The Department agrees in part with these suggestions. The Department redrafted the definition and it now references "The Boiler and Pressure Vessel Code." However the Department does not wish to include the published cases and code interpretations.

ASME Code cases are fact specific. ASME Code cases are valid for 3 years, giving the requestor the opportunity to have the item included in the next revision of the triennial ASME Code. The Department has a mechanism to address boiler issues involving code cases and interpretations. The Industrial Board, through its appointed Boiler Advisory Board, will hear variance requests based on ASME Code cases and interpretations. The Industrial Board now determines whether variances should be granted based on these code cases and interpretations. See section 2214(d) and (h) of The Administrative Code of 1929. Also, since these code cases and interpretation do not always become part of the next ASME Code provision, it is the Department's position that it would be unwise to automatically adopt them as Pennsylvania standards.

Since the proposed rulemaking was published in November 2004, ASME has published the 2004 edition of the ASME Code. The Department revised this final-form rulemaking to adopt the 2004 edition of the ASME Code. The Department also updated the definitions of "ANSI/NB23," "ASME B 31.1" and "NFPA 85" to reference the 2004 editions, the latest published editions.

Both commentators stated that the definition of "process boiler" in the regulation differed from the definition in the act. The Department changed the definition to mirror the definition in the act.

Mr. Barbato commented that the reference to hot water storage vessels in § 3a.3(a)(2) (relating to scope) was unnecessary since hot water storage vessels are a subset of unfired pressure vessels. The Department agrees that hot water storage vessels are unfired pressure vessels. This language was added for clarity and to insure that persons owning or operating these vessels understood that the act and the Department's regulations applied to hot water storage vessels.

Both commentators made drafting suggestions for § 3a.3. The Department concurs with the suggestions and has made the following changes. Subsection (c) was changed to add "or more" after 5 cubic feet. This change was made to more accurately reflect the technical standard. Subsection (d)(3)—(14) was renumbered due to the duplicate use of subsection (d)(3).

Mr. Barbato commented that the exclusion in § 3a.3(d) for boilers and unfired pressure vessels owned or operated by the Federal government is not broad enough. The language of this subsection is the same as section 5(1) of the act (35 P. S. § 1331.5(1)). It reflects what the act and the regulation exclude.

Both commentators indicated that "meet" in § 3a.3(11) should be replaced with "do not exceed." The Department made this change.

Mr. Barbato stated that § 3a.3(d)(12), as proposed, pertained to both hot and cold water tanks. This section does pertain to both hot and cold water tanks.

Mr. Barbato questioned why the editions of the codes adopted in § 3a.4 (relating to adoption of National standards) were not listed. The editions are specified in § 3a.1 (relating to definitions).

IRRC expressed some concern about §§ 3a.5 and 3a.6 (relating to Pennsylvania Inspector Commission and National Board Commission; and certificate of competency, commission, credential card and renewal application). Specifically, IRRC stated that the role and purpose of the Pennsylvania and National Board examinations are unclear. IRRC stated that the final-form rulemaking should contain specific references to the pertinent regulations and requirements of the National Board. IRRC also stated that the regulation should clarify that an applicant must pass both the Pennsylvania and National Board examinations.

The Department reviewed the rulemaking and agreed with IRRC. The examination, testing and commission renewal process was unclear. The Department rewrote §§ 3a.5, 3a.6 and § 3a.7 (relating to reexamination) to clarify the process.

Section 3a.5 clarifies that an individual must hold a current Pennsylvania inspector commission to inspect boilers and unfired pressure vessels in this Commonwealth. It sets out the requirements for the Pennsylvania inspector commission and references the National Board requirements in NB-263. A definition of "NB-263" was also added to § 3a.1.

Section 3a.5 also clarifies the testing requirements and the application process. This section states that the National Board application will be used as the application for a Pennsylvania inspector commission examination. The Department will also issue a Pennsylvania credential card and commission to an applicant who meets the requirements of subsection (c) and pays the required fee under § 3a.2 (relating to fees). This section clarifies that the Department will administer examinations for National Board commissions and will issue a certificate of competency to the applicant, which will enable the applicant to receive a National Board commission.

The definition of "certificate of competency" was also revised in § 3a.1 to further clarify § 3a.5. In addition, both commentators suggested that the "inspector" in the definition of "certificate of competency" be replaced with the "inspect." The Department made this change.

Section 3a.6 deals with the issuance of certificates of competency, commissions, credential cards and renewal applications. Certificates of competency, commissions and credential cards are issued to individuals who meet the requirements of this part of the regulation. Pennsylvania inspector commissions and credential cards will be renewed annually. The application for renewal must be submitted on a Department-provided renewal application form with the required fee under § 3a.2.

Section 3a.7 was amended to be consistent with redrafted §§ 3a.5 and 3a.6. An applicant may take the Pennsylvania inspector commission examination three times in a 1-year period without submitting a new application or application fee. If the applicant fails to obtain a passing grade, the applicant may take the

Pennsylvania inspector commission examination a fourth time within a 1-year period by submitting a new application and the required fee under § 3a.2. These three sections were organized in this fashion for clarity and ease of use of the final-form rulemaking.

Both commentators noted an inconsistency in § 3a.8 (relating to reciprocity). The Department rewrote this section to clarify that for the Department to grant a reciprocal inspector commission to an applicant, the applicant must hold a current National Board Commission in good standing.

The Department added language to § 3a.22 (relating to other state stamps) to clarify the process of installing a boiler or unfired pressure vessel stamped with the ASME symbol and another state stamp. The added language clarifies that an intent to install form shall be submitted in accordance with the plan approval process in § 3a.99 (relating to notice of deficiency).

Both commentators noted that the effective date of the boiler control requirement in § 3a.24 (relating to boiler controls) was not specified. The Department added language to subsection (a) stating that "installation of boiler controls after February 4, 2006, must comply with ASME CSD 1 and NFPA 85."

Mr. Barbato commented that pressure-reducing stations in § 3a.25 (relating to pressure reducing stations) are outside the scope as defined in § 3a.3. The Department disagrees. Pressure reducing stations are within the scope of the act and NB-263 which is adopted in § 3a.4(1).

IRRC commented that § 3a.26 (relating to safety devices) entitled valves and safety devices refers to § 3a.152 (relating to safety appliances). IRRC suggested that the substantive portions of § 3a.152 be moved to § 3a.26 and the appropriate references to § 3a.26 be placed in § 3a.152. The Department reorganized these two sections in accordance with IRRC's comment.

Mr. Barbato commented that § 3a.35 (relating to ladders and runways) and § 3a.99 regarding ladders and runways are outside the scope of the final-form rulemaking. The Department disagrees. Ladders and runways provide access to boiler and unfired pressure vessels for maintenance, repair, inspection and operation. Also, the National Board Inspection Code (NBIC) which is adopted by this final-form rulemaking addresses ladders and runways. These items are clearly within the scope of the final-form rulemaking.

Mr. Barbato also commented the prescriptive standard for clearance found in § 3a.36 and § 3a.161 (relating to clearances; and modular boilers) and § 3a.99 may be too restrictive for newer designs. The NBIC recommends 36-inch clearances. This final-form rulemaking only requires 30-inch clearances. These sections are less restrictive than the National standard. Again, the clearance requirements are necessary for proper inspection and maintenance of equipment.

IRRC commented that § 3a.37 (relating to special design) needed to be clarified. IRRC stated that the "may" in subsection (a) should be changed to "shall" and that the reference to submission of duplicate plans for approval was confusing. The Department changed "may" to "shall" and rewrote this section to require submission of one copy of complete specifications to the Department for approval.

IRRC commented that § 3a.81 (relating to major repairs and alterations) was confusing in that it appeared to limit alterations or repairs to manufacturers who hold

the appropriate ASME or R stamp. IRRC questioned whether the Department intended to limit repairs to only manufacturers who hold appropriate ASME stamps to repair or alter boilers. The Department does not intend to limit repairs to only manufacturers. The Department rewrote the last sentences of subsections (b) and (c) to read "A manufacturer or repair company holding an ANSI/NB 23 'R' stamp may perform alterations to other vessels."

The Department also corrected the typographical error in § 3a.81(b) and (c) by using the correct acronym ANSI/NB 23.

Both commentators questioned the insurance notification provision of proposed § 3a.93. IRRC specifically questioned the need for and the effectiveness of this section noting that the act does not contain this requirement. The Department deleted proposed § 3a.93 from the final-form rulemaking. In the final-form rulemaking, the sections following this were renumbered sequentially.

IRRC expressed three concerns about proposed § 3a.94(a) (final-form § 3a.93(a)) (relating to accident notification). First, IRRC indicated that notification is required by the owner or user. IRRC suggested that this section should fully reflect section 16 of the act by including the term "operator." Second, IRRC questioned how the Department would interpret "immediately notify" the Department of an accident. Third, IRRC indicated the Department should indicate the name or number of the form to be used to report accidents and where the form is available in the final form rulemaking. The Department rewrote the final-form rulemaking to address all of these concerns. An operator is now covered under this section. A sentence indicating that notification within 24 hours will constitute "immediate notification" was added. The accident reporting form name and availability on the Department's website were added to subsection (a).

IRRC indicated that proposed § 3a.96(a) and (b) (final-form § 3a.93(a) and (b)) (relating to removal from service) was unclear as to whether the "XX" for the condemnation of a boiler would cover or be placed above the existing stamping by the Commonwealth or the National Board. IRRC suggested that the Department clarify this stamping in the final-form rulemaking. These subsections were rewritten to state that the "XX" will cross out the existing serial number.

IRRC questioned when the Department will conduct inspections of boilers for which owners have received a notice of deficiency under proposed § 3a.100(a)(2) (final-form § 3a.99). The Department will inspect boilers to verify repairs when the boiler has been placed out of service. All other repairs will be verified in the next regular boiler inspection. The Department has added language to § 3a.99(a)(2) to clarify that the Department will inspect the boiler or unfired pressure vessel which has been placed out of service to verify the corrective action or repair. Additionally, the Department must approve the corrective action or repair before the boiler or unfired pressure vessel is returned to service.

The Department corrected the citation to the act in § 3a.99(b) from section 11(e) of the act to section 10(e) of the act (35 P. S. § 1331.10(e)). This was a typographical error made in the proposed rulemaking.

Both commentators remarked that, as written, § 3a.111 (relating to field inspections) gives the impression that all inspections will be conducted by the Department. The Department added language to clarify that these inspections must be conducted by an individual holding a

current Pennsylvania inspector commission to inspect boilers and unfired pressure vessels in this Commonwealth. The added language does not limit inspections to Department inspectors.

IRRC further noted that the notification process for internal inspections required under § 3a.111(4) and (8) should be described in the final-form rulemaking. The Department added that it will notify the boiler owner or operator verbally or in writing of the need for an internal inspection in both these subsections.

Mr. Barbato commented that § 3a.114 (relating to removal of covering for inspection) should give the inspector discretion as to whether to require the removal of a boiler cover for inspection. The section, as drafted, gives significant discretion to the inspector. It only requires removal when the inspector determines it is necessary to determine the safety of the vessel and when there are no other means to obtain the required information.

Upon final review, the Department found that § 3a.115(a)(3) (relating to hydrostatic pressure test) was incorrect. The Department initially wrote this section to control the temperature of the atmosphere. Later, it was determined that requiring the temperature of the atmosphere to be between 70° and 120° would restrict many hydrostatic pressure tests from being performed much of the year. This section was rewritten to regulate the temperature of the water used to between 70° and 120°. In the proposed rulemaking, the Department had both criteria stated. This section has been changed to only regulate the temperature of the water.

Mr. Barbato commented that the ASME references in Subchapters E, F and G (relating to boilers installed prior to July 1, 1916, and unfired pressure vessels and power boilers installed prior to September 1, 1937; low pressure heating boilers installed prior to July 1, 1916; and unfired pressure vessels installed prior to September 1, 1937) should specifically reference the edition that applies. Section 8 of the act (35 P.S. § 1331.8) addresses this issue. It requires that all repairs and alterations be made in accordance with the NBIC, ANSI-NB 23. ANSI-NB 23 is adopted in § 3a.4(1) and requires that inspection and repairs be made in accordance with either the code of construction or the current code.

IRRC commented that Subchapter H (relating to special installations) mentions numerous special installations but does not provide any specific provisions on the inspection requirement of these types of equipment. IRRC stated the inspection requirements should be included in the final-form rulemaking. The Department added specific references for inspections to all of the equipment provisions in Subchapter H as follows:

(1) Inspections of modular boilers (§ 3a.161) and portable boilers (§ 3a.162) shall be in accordance with § 3a.111(1)–(7).

(2) Inspections of fired coil water heaters and instantaneous water heaters (§ 3a.163), storage water heaters (§ 3a.164) and swimming pool heaters (§ 3a.170) shall be in accordance with § 3a.111(4).

(3) Inspections of steam/hot water coil storage water heaters (§ 3a.165), hot water/steam heat exchangers (§ 3a.167), and autoclaves and quick opening vessels (§ 3a.168) shall be in accordance with § 3a.111(8).

(4) Inspections of miniature boilers and kitchen equipment (§ 3a.166) shall be in accordance with § 3a.111(1)–(6).

(5) Inspections of fuel trains and piping systems (§ 3a.169) shall be determined by the type of boiler to which the system is attached and in accordance with § 3a.111.

(6) Inspections of locomotive boilers (§ 3a.171) shall be in accordance with § 3a.111(1) and (2).

Mr. Barbato also questioned whether the exemptions for instantaneous water heaters in § 3a.3(d) apply to the nominal volume of the pool if there are no intervening shutoff valves between the pool and the heater regarding swimming pools under § 3a.170 (relating to swimming pool heaters). The exemption does not apply. Swimming pool heaters are specifically controlled by § 3a.170.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 24, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6033, to IRRC and the Chairpersons of the Senate Labor and Industry Committee and the House Labor Relations Committee 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 October 19, 2005, 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 October 20, 2005, and approved the final-form rulemaking.

#### *Contact Person*

The contact person is Charles J. Sludden, Director of the Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor & Industry Building, 7th and Forster Streets, Harrisburg, PA 17120, csludden@state.pa.us.

#### *Findings*

The Department finds that:

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

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

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

#### *Order*

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

(a) The regulations of the Department, 34 Pa. Code Chapters 3 and 3a, are amended by deleting §§ 3.1–3.7, 3.11–3.34, 3.41–3.68, 3.71–3.76, 3.81–3.87, 3.91, 3.101, 3.111–3.116, 3.121–3.129, 3.131–3.136, 3.141–3.145, 3.151–3.156 and 3.161; and by adding §§ 3a.1–3a.9, 3a.21–3a.39, 3a.51, 3a.61, 3a.62, 3a.71, 3a.81–3a.83, 3a.91–3a.100, 3a.111–3a.117, 3a.131–3a.134, 3a.141–3a.145, 3a.151–3a.156 and 3a.161–3a.171 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 submit this order and Annex A to IRRC, the Senate Labor and Industry Committee and to the House labor Relations Committee as required by law.

(d) The Secretary of the Department 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 upon publication in the *Pennsylvania Bulletin*.

STEPHEN M. SCHMERIN,  
*Secretary*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6200 (November 5, 2005).)

**Fiscal Note:** Fiscal Note 12-58 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 34. LABOR AND INDUSTRY

#### PART I. DEPARTMENT OF LABOR AND INDUSTRY

#### CHAPTER 3. (Reserved)

§§ 3.1—3.7. (Reserved).

§§ 3.11—3.34. (Reserved).

§§ 3.41—3.68. (Reserved).

§§ 3.71—3.76. (Reserved).

§§ 3.81—3.87. (Reserved).

§ 3.91. (Reserved).

§ 3.101. (Reserved).

§§ 3.111—3.116. (Reserved).

§§ 3.121—3.129. (Reserved).

§§ 3.131—3.136. (Reserved).

§§ 3.141—3.145. (Reserved).

§§ 3.151—3.156. (Reserved).

§§ 3.161. (Reserved).

#### CHAPTER 3a. BOILER AND UNFIRED PRESSURE VESSEL REGULATIONS

##### Subchap.

- A. GENERAL PROVISIONS
- B. REQUIREMENTS FOR BOILERS AND UNFIRED PRESSURE VESSELS
- C. ADMINISTRATION
- D. INSPECTIONS
- E. BOILERS INSTALLED PRIOR TO JULY 1, 1916, AND UNFIRED PRESSURE VESSELS AND POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 1, 1937
- F. LOW PRESSURE HEATING BOILERS INSTALLED PRIOR TO JULY 1, 1916
- G. UNFIRED PRESSURE VESSELS INSTALLED PRIOR TO SEPTEMBER 1, 1937
- H. SPECIAL INSTALLATIONS

##### Subchapter A. GENERAL PROVISIONS

- |       |   |
|-------|---|
| Sec.  |   |
| 3a.1. | Definitions.  |
| 3a.2. | Fees.   |
| 3a.3. | Scope.  |
| 3a.4. | Adoption of National standards.   |
| 3a.5. | Pennsylvania Inspector Commission and National Board Commission.                |
| 3a.6. | Certificate of competency, commission, credential card and renewal application. |
| 3a.7. | Reexamination.  |
| 3a.8. | Reciprocity.  |
| 3a.9. | Suspension or revocation of Pennsylvania inspector commission.                  |

#### § 3a.1. Definitions.

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

*AGA*—American Gas Association, 400 North Capital Street, NW, Washington, D.C. 2001.

*ANSI*—American National Standards Institute, 1430 Broadway, New York, New York 10018.

*ANSI/NB23*—National Board Inspection Code, 2004 edition, issued by the National Board of Boiler and Pressure Vessel Inspectors.

*ASME*—The American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016-5990.

*ASME Code*—"The Boiler and Pressure Vessel Code," 2004 edition and its published cases and interpretations issued by ASME.

*ASME B 31.1*—"The ASME Code for Pressure Piping," 2004 edition issued by ASME.

*ASME/CSD1*—"Controls and Safety Devices for Automatically Fired Boilers," 2002 edition issued by ASME.

*Act*—The Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1—1331.19).

*Alteration*—

(i) A change in the item described on the original manufacturer's data report, which affects the pressure containing capability of the pressure retaining item.

(ii) The term also includes nonphysical changes such as an increase in maximum allowable working pressure or an increase in design temperature of a pressure-retaining item and a reduction in minimum temperature that requires additional mechanical tests.

*American Welding Society*—The American Welding Society, 550 N.W. Lejenuen Road, Miami, Florida 33126.

*Btu*—British thermal unit.

*Boiler*—

(i) A closed vessel in which water is heated, steam is generated, steam is superheated, or any combination of these actions, under pressure or vacuum, for use externally to itself, by the direct application of heat from the combustion of fuels, or from electricity.

(ii) The term includes fired vessels for heating of liquids other than water where these vessels are separate from processing systems and are complete within themselves.

*Certificate of competency*—A document issued by the Department to an individual who has passed a National Board Commission Examination conducted in this Commonwealth.

*Code of construction*—ASME Code in effect at the time the boiler or unfired pressure vessel was manufactured.

*Condemned boiler or unfired pressure vessel*—A boiler or unfired pressure vessel which was inspected and declared unsafe or disqualified for use by the Department.

*Department*—The Department of Labor and Industry of the Commonwealth.

*External inspection*—An inspection made when a boiler or an unfired pressure vessel is in operation or in condition to be operational.



*Fusion welding*—The process of welding metals in a molten, or molten and vaporous state, without the application of mechanical pressure of blows.

*Heat exchanger*—A device having a shell and head, and a method to exchange heat between steam, hot water or any other liquid. This device may be fired or unfired.

*IBC*—The “International Building Code 2003” issued by the ICC.

*ICC*—International Code Council, 5203 Leesburg Pike, suite 600, Fall Church, Virginia 22041-3401.

*IMC*—The “International Mechanical Code 2003” issued by the ICC.

*Industrial Board*—The Department’s Industrial Board established under sections 445 and 2214 of The Administrative Code of 1929 (71 P. S. §§ 155 and 574) which hears requests for variances, extensions of time and appeals of Department decisions under the act.

*Instantaneous water heater*—A vessel in which water is heated as it passes through the vessel. Water is not stored in the vessel.

*Internal inspection*—An inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are opened for inspection of the interior of the boiler or unfired pressure vessel.

*Inspector*—An inspector commissioned by the Department to field-inspect boilers or unfired pressure vessels in this Commonwealth.

*Lap seam crack*—A crack found in a lap seam, extending parallel to the longitudinal joint and located between or adjacent to rivet holes.

*Locomotive boiler*—

(i) A boiler mounted on a self-propelled track locomotive and used to furnish motivating power for travel on rails.

(ii) The term does not include locomotive cranes, tractors or other self-propelled apparatus.

*Low pressure heating boiler*—A steam boiler operated at a pressure not exceeding 15 psig or a hot water heating or hot water supply boiler operating at a pressure not exceeding 160 psig and a temperature not exceeding 250° F.

*Miniature boiler*—A boiler which is not more than 16 inches inside diameter of the shell, 5 cubic feet gross volume, excluding casing and insulation; 100 psig maximum allowable working pressure; and, 20 square feet of heating surface.

*NB-263*—“Rules for Commissioned Inspectors,” revision 13 issued by the National Board.

*NEC*—The “National Electric Code, National Fire Protection Association’s Standard 70,” 2002 edition, issued by the NFPA.

*NFPA*—The National Fire Protection Association, 1 Batterymarch Park, Quincy Massachusetts 02269.

*NFPA 85*—The “Boiler and Combustion System Hazard Code,” 2004 edition, issued by the NFPA.

*National Board*—The National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

*Nonstandard boiler*—A boiler which does not bear ASME stamping.

*Nonstandard unfired pressure vessel*—An unfired pressure vessel which does not bear ASME stamping.

*Owner or user*—A person, firm, corporation or governmental body owning or operating any boiler or unfired pressure vessel within this Commonwealth.

*Psig*—Pounds per square inch gauge.

*Psi*—Pounds per square inch.

*Pennsylvania special boiler*—A boiler which does not bear standard stamping and bears special Pennsylvania stamping and a Department-approved number.

*Pennsylvania special unfired pressure vessel*—An unfired pressure vessel which bears special Pennsylvania stamping and a Department-approved number and does not bear standard stamping.

*Portable boiler*—A boiler which is designed to be moved from location to location and used on a temporary basis.

*Power boiler*—A closed vessel in which steam or other vapor is generated at a pressure of more than 15 psig by the direct application of heat.

*Process boiler*—Any vessel in which steam is generated or superheated under pressure or for use external to itself by direct or indirect application of heat. The source of heat must be in part from a process other than the boiler itself. To be classified as a process boiler, the boiler must be directly tied to another process other than the generation of steam.

*R stamp*—A National Board designation indicating that a company is authorized to repair boilers and vessels.

*R-1 form*—National Board report of repair form.

*Reinstalled equipment*—Equipment removed from its original setting and reinstalled in the same location or a new location without change of ownership.

*Repair*—The process of restoring a boiler or unfired pressure vessel component or system to a safe and satisfactory condition.

*Secondhand boiler*—A boiler whose location and ownership have been changed after primary use.

*Secondhand unfired pressure vessel*—An unfired pressure vessel whose location and ownership have been changed after primary use.

*Secretary*—The Secretary of the Department.

*Standard boiler or unfired pressure vessel*—A boiler or an unfired pressure vessel which bears stamping in accordance with this chapter.

*Standard Qualification Procedures of the American Welding Society, D1.1*—The “Structure Welding Code, Steel 2002” issued by the American Welding Society.

*Steam coil vessel*—A vessel that stores hot water that contains an internal steam coil with controls used to heat hot water.

*Storage water heater*—A fired or an electrically heated vessel for storing or furnishing hot water supply.

*Unfired pressure vessel*—A vessel in which pressure is obtained from an external source or from an indirect application of heat.

*Unfired steam boiler*—An unfired pressure vessel which generates steam for power or heat to be used externally to itself.

*VR stamp*—A National Board designation that a company is authorized to repair and set safety relief valves.

**§ 3a.2. Fees.**

(a) The Department will charge commission, certificate of operation and inspection fees in accordance with section 613-A of The Administrative Code of 1929 (71 P. S. § 240.13A).

(b) The following fees apply to unfired pressures vessels and boilers:

- (1) Certificate of operation:
  - (i) Unfired pressure vessels ..... \$44
  - (ii) Boilers ..... \$22
- (2) Internal inspection of power boilers, high pressure, high temperature water boilers and miniature boilers:
  - (i) Boilers of 50 square feet of heating surface or less ..... \$22
  - (ii) Boilers over 50 square feet of heating surface and less than 4,000 square feet of heating surface.. \$36
  - (iii) Boilers over 4,000 square feet of heating surface or more and less than 10,000 square feet of heating surface ..... \$51
  - (iv) Boilers over 10,000 square feet of heating surface..... \$58
  - (v) Miniature boilers..... \$15
- (3) External inspection of power boilers, high pressure and high temperature water boilers:
  - (i) Boilers of 50 square feet of heating surface or less ..... \$15
  - (ii) Boilers over 50 square feet of heating surface and less than 4,000 square feet of heating surface.. \$22
- (4) Not more than \$50 plus the annual certificate fee shall be collected for any and all inspections for boilers covered under paragraphs (2) and (3) in any 1 year.
- (5) Internal or external inspection of low pressure boilers:
  - (i) Heating boilers without a manhole..... \$18
  - (ii) Heating boilers with a manhole ..... \$22
  - (iii) Hot water supply boilers ..... \$15
  - (iv) Not more than \$50 plus the annual certificate fee will be collected for inspections of any low pressure boiler in any required inspection period.
- (6) Internal or external inspection of pressure vessels:
  - (i) Each pressure vessel subject to inspection having a cross sectional area of 50 square feet or less ..... \$15
  - (ii) Each additional 100 square feet of area in excess of 50 square feet ..... \$15
  - (iii) Not more than \$75 shall be paid for each inspection on any one vessel.
  - (iv) A group of pressure vessels operating as a single machine or unit shall be considered one pressure vessel. Not more than \$75 plus the annual certificate fee will be collected for inspections of any pressure vessel in any required inspection period, except in cases where the vessel is moved.
- (7) Plan approval:

- (i) Complete mechanical room drawings-boilers and other vessels ..... \$73
- (ii) High pressure boilers..... \$29
- (iii) Low pressure boilers..... \$29
- (8) Boiler inspector commissions:
  - (i) Inspection's examination fee ..... \$44
  - (ii) Certificate of competency and commission fee..... \$22
  - (iii) New credential card fee (annual) ..... \$15
- (9) Hydrostatic test (witnessed)..... \$22
- (10) Onsite consultation fee per hour..... \$29
- (11) Inspection of repair fee ..... \$15
- (12) ASME and National Board "R" Stamp Shop survey fees:
  - (i) Full day..... \$726
  - (ii) Half day..... \$363
- (13) Copy of Department's regulations ..... \$7
- (14) Acceptance of boilers and pressure vessels not originally destined for use within the Commonwealth ..... \$726
- (c) Industrial Board variance request ..... \$100

**§ 3a.3. Scope.**

(a) This chapter applies to:

- (1) The boiler and the pipe connections up to and including the stop valve or valves nearest the boiler as required by the ASME Code and Power Piping, B31.1. Superheaters, reheaters, economizers and other pressure parts connected directly to the boiler without intervening valves will be considered as parts of the boiler and their construction must conform to ASME Code and Power Piping, B31.1 requirements.
- (2) Unfired pressure vessels and hot water storage vessels.
  - (b) Boilers installed before July 1, 1916, and unfired pressure vessels and power boilers installed before September 1, 1937, must comply with §§ 3a.131, 3a.141—3a.145 and 3a.151—3a.154.
  - (c) Heat exchangers must comply with § 3a.167 (relating to hot water/steam heat exchangers) when the heat exchanger operates at 16 psi or greater, and has 5 cubic feet or more of volume not allowing for channel or tube nest displacements.
- (d) This chapter does not apply to:
  - (1) Piping between the reheater connections and the turbine or other prime mover.
  - (2) Boilers and unfired pressure vessels regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2297h-13).
  - (3) Boilers and unfired pressure vessels owned or operated by the Federal Government.
  - (4) Boilers located on farms, except in sales areas which are accessible to the public.
  - (5) Boilers located in single-family dwellings and multi-unit dwellings with four or less units.
  - (6) Storage water heaters and instantaneous water heaters if all the following limitations are not exceeded:
    - (i) A heat input of 200,000 Btus /hr (58.6 kW).

- (ii) A water temperature of 210°F (99°C).
- (iii) A nominal water-containing capacity of 120 gallons (454 L).

(7) Unfired pressure vessels used for the transportation of compressed gases that are operated in compliance with specifications and regulations of the United States Department of Transportation (49 CFR Part 173 (relating to shippers general requirements for shipments and packaging)).

(8) Air tanks located on vehicles operating under other Commonwealth agency regulations or rules and used for carrying passengers or freight.

(9) Air tanks installed on the right-of-way of railroads and used directly in the operation of switches and signals and under Federal or other Commonwealth agency jurisdiction.

(10) Vessels having an internal or external operating pressure of no more than 15 psi with no limitation on size when equipped with approved safety devices.

(11) Unfired pressure vessels designed to ASME Code section VIII, Division 1 which do not exceed one of the following specifications:

- (i) 5 cubic feet (0.14m<sup>3</sup>) in volume and 250 psi (1,720 kPa) design pressure.
- (ii) 3 cubic feet (0.08m<sup>3</sup>) in volume and 350 psi (2,410 kPa) design pressure.
- (iii) 1.5 cubic feet (0.04m<sup>3</sup>) in volume and 600 psi (4,140 kPa) design pressure.

(iv) Vessels having an inside diameter, width, height or cross section diagonal not exceeding 6 inches (152 mm), with no limitation on length of vessel or pressure.

(12) Unfired pressure vessels with a nominal water-containing capacity of up to 120 gallons containing water under pressure. These vessels include unfired pressure vessels that contain air, which is trapped in the system and where the compression air serves only as a cushion.

(13) Filters and softeners with a nominal water containing capacity of 120 gallons or less and pressures not exceeding 100 psi at ambient temperature.

(14) Air conditioner heat exchangers (chillers) with a design pressure not more than 300 psi and a water temperature not more than 210° F.

(15) Coil-type hot water boilers which meet the requirements of ASME Code, Section I, paragraph, PG 2.3.

**§ 3a.4. Adoption of National standards.**

The Department adopts and incorporates by reference the following codes:

- (1) ANSI/NB23.
- (2) ASME Code.
- (3) ASME Code published cases and interpretations that have been approved by the Industrial Board.
- (4) ASME B 31.1.
- (5) ASME/CSD1.
- (6) National Electric Code, NFPA 70.
- (7) NFPA 85.

**§ 3a.5. Pennsylvania Inspector Commission and National Board Commission.**

(a) An individual shall hold a current Pennsylvania Inspector Commission to inspect boilers and unfired pressure vessels in this Commonwealth.

(b) The Department will conduct a Pennsylvania Inspector Commission examination on the act, this chapter and the ASME Codes.

(c) An applicant for a Pennsylvania Inspector Commission shall meet the following requirements:

- (1) An applicant shall hold a current National Board Commission.
- (2) An applicant shall meet the National Board requirements in NB-263.

(3) An applicant shall pass the Pennsylvania Inspector Commission examination with a grade of 70% or more.

(d) The National Board application will be used as the application for a Pennsylvania Inspector Commission examination.

(e) The Department will issue a Pennsylvania credential card and commission to an applicant who meets the requirements of subsection (c) and pays the required fee under § 3a.2 (relating to fees).

(f) The Department will administer examinations for National Board Commissions four times a year. Upon successful completion of the National Board Commission examination administered by the Department, the Department will issue a certificate of competency to the applicant which will enable the applicant to receive a National Board Commission.

**§ 3a.6. Certificate of competency, commission, credential card and renewal application.**

(a) The Department will issue a certificate of competency, credential card and commission to an applicant who passes an examination for inspector, meets the requirements of this part and pays the required fee under § 3a.2 (relating to fees).

(b) An inspector shall renew a certificate of competency and obtain a new credential card each year to continue to act as an inspector. The inspector shall complete and submit a Department-provided renewal application and pay the required fee under § 3a.2 to renew the commission.

**§ 3a.7. Reexamination.**

(a) An applicant may take the Pennsylvania Inspector Commission examination three times in a 1-year period if the applicant fails to obtain a passing grade without submitting a new application and fee.

(b) An applicant may take the Pennsylvania Inspector Commission examination a fourth time within a 1-year period if the applicant fails to obtain a passing grade by submitting a new application and the required fee under § 3a.2 (relating to fees).

**§ 3a.8. Reciprocity.**

(a) The Department may grant a reciprocal inspector commission to an applicant who meets the following requirements:

- (1) The applicant holds a current National Board Commission in good standing.
- (2) The applicant is currently employed by another state or an insurance company in good standing.
- (3) The applicant passes the Department-administered written examination under § 3a.5(b) (relating to Pennsylvania Inspector Commission and National Board Commission).

(b) An applicant for reciprocal inspector commission shall submit a completed Department-provided applica-

tion form, a copy of the inspector's National Board Commission and the required fee under § 3a.2 (relating to fees) to the Department.

**§ 3a.9. Suspension or revocation of Pennsylvania inspector commission.**

(a) *General.* The Department may suspend or revoke a Pennsylvania inspector commission for due cause under section 11(d) of the act (34 P. S. § 1331.11(d)). Due cause includes the following:

- (1) Practicing fraud or deceit or making untrue representations in obtaining a commission.
- (2) Failure to remit the required commission fee under § 3a.2 (relating to fees).
- (3) Violating a provision of the act or this chapter.
- (4) Incompetence or gross negligence while acting as a boiler inspector.
- (5) Acting in a manner presenting a danger to public health and safety.
- (6) Having a commission or any other authorization to engage in the business of boiler inspection revoked or suspended or having other disciplinary action taken, surrendering a commission or other authorization in lieu of discipline, or having an application for a commission or authorization to engage in the business of boiler inspection refused or denied by the National Board, the proper authority of another state or Federal district, territory, insular possession of the United States or Canada.
- (7) Engaging in fraud, deceit or other act of moral turpitude while acting as a boiler inspector.
- (8) Failure to enforce the act or this chapter.
- (9) Engaging in boiler inspection activities without a current commission issued by the Department.
- (10) Pleading guilty, entering a plea of nolo contendere, being found guilty, receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition for any felony or for any other crime relating to boiler inspection in the courts of this Commonwealth, a Federal court, a court of any other state, territory or insular possession of the United States or a court of Canada.

(b) *Notice and hearing.* Actions of the Department relating to suspension or revocation under this section will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Suspension and revocation proceedings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(c) *Procedure for suspension or revocation.*

(1) The Department will serve the boiler inspector with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause will contain notification that the certification may be subject to action and the grounds for the action. The order to show cause will require that the boiler inspector respond in writing within 30 days after the date of service of the order. The Department will also serve a copy of the order to show cause upon the boiler inspector's current employer, if any.

(2) The boiler inspector shall file an answer in writing to the allegations set forth in the order to show cause in accordance with 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, answers shall be filed

with the Department at the appropriate address within 30 days after the date of service of the order to show cause. Failure to file an answer will result in the entry of a default judgment against the inspector.

(3) At the request of any of the parties, the Department will hold a hearing on the matter. The Secretary will designate a presiding officer to preside at the hearing and to issue a proposed report under 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports). The Secretary may delegate final authority to the hearing examiner.

(4) The presiding officer will have the power to conduct hearings under 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers). The presiding officer will issue a proposed report that must be served upon counsel of record or to the parties in the hearing. The presiding officer will transmit the proposed report and the certified record to the Secretary within 15-days after issuance of the proposed report.

(5) A participant desiring to appeal to the Secretary shall, within 30 days after the service of a copy of the proposed report, file exceptions to the proposed report under 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). A response may be filed within 20 days to the exceptions.

(6) The Secretary or a designee will issue a final order under 1 Pa. Code § 35.226 (relating to final orders).

(d) The Department may not reinstate a Pennsylvania inspector commission that was revoked under this section unless ordered to do so by a court of competent jurisdiction. The Department will order the surrender of the Pennsylvania inspector commission documents following an order of revocation or suspension.

(e) Subsection (c) supplements 1 Pa. Code §§ 35.14, 35.37, 35.185—35.190, 35.201—35.207, 35.211 and 35.226.

**Subchapter B. REQUIREMENTS FOR BOILERS  
AND UNFIRED PRESSURE VESSELS  
GENERAL REQUIREMENTS**

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3a.21.	Stamping.
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**INSTALLATIONS OF POWER BOILERS**

- 3a.51. Compliance with the ASME Code for power boilers.

**INSTALLATIONS OF LOW-PRESSURE HEATING  
BOILERS**

- 3a.61. Compliance with the ASME Code for low-pressure boilers.  
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**INSTALLATIONS OF UNFIRED PRESSURE  
VESSELS**

- 3a.71. Compliance with the ASME Code for installations of unfired pressure vessels.

**REPAIRS AND ALTERATIONS**

- 3a.81. Major repairs and alterations.
- 3a.82. Reconstruction and repair.
- 3a.83. Repairs by welding.

**GENERAL REQUIREMENTS**

**§ 3a.21. Stamping.**

(a) A boiler or unfired pressure vessel destined for use in this Commonwealth must be built to the applicable ASME code of construction or meet the requirements of section 7 of the act (35 P. S. § 1331.7).

(b) A boiler or unfired pressure vessel built to the ASME Code must be stamped with the appropriate ASME symbol, the manufacturer's information in accordance with stamping requirements of the code of construction, and its National Board registration number. The stamping may be applied to a nameplate in accordance with the code of construction.

(c) National Board registration and stamping requirements do not apply to cast iron boilers, which are constructed under ASME Code provisions and do not require final inspection by a National Board inspector.

(d) A new boiler or unfired pressure vessel installed in this Commonwealth must be stamped with an identifying serial number consisting of the keystone symbol and figures, which may not be less than 5/16 inches in height and arranged as follows:



(e) A boiler or unfired pressure vessel that is not built to the ASME Code may be stamped with a Pennsylvania special number if it meets the requirements of section 7(b) of the act.

(f) The Department may accept a boiler or unfired pressure vessel with a registration number from another state for use in this Commonwealth if a National Board inspector inspected and approved the boiler or unfired pressure vessel during construction.

(g) Stamping required under this section must be exposed at all times and may not be concealed by paint or lagging.

**§ 3a.22. Other state stamps.**

A boiler or unfired pressure vessel stamped with the ASME symbol and another state stamp may be installed and operated if a National Board inspector witnessed its construction and the shop data report is provided to the Department with a completed Department-provided intent to install form under § 3a.98 (relating to plan approval).

**§ 3a.23. Lap seam crack.**

The shell or drum of a boiler or unfired pressure vessel containing a lap seam crack along a longitudinal riveted joint shall be immediately taken out of service. Repairs may not be made without Department approval.

**§ 3a.24. Boiler controls.**

(a) The installation of boiler controls performed after February 4, 2006, must comply with ASME CSD 1 and NFPA 85.

(b) The maintenance and inspection of boilers must comply with ANSI/NB 23.

**§ 3a.25. Pressure reducing stations.**

(a) The installation of pressure reducing stations must comply with ASME B 31.1.

(b) Hand-controlled bypasses around reducing valves may be used if the bypass has no greater capacity than the reducing valve. Hand controlled bypasses may be used around reducing valves at greater capacity than the reducing valve if the system or unfired pressure vessel has adequate relief or safety valve protection, or meets the requirements of the high pressure system.

(c) A pressure gauge must be installed on the low-pressure side of a reducing station.

**§ 3a.26. Safety devices.**

(a) A boiler or unfired pressure vessel must be protected by safety relief devices, and indicating and controlling devices sufficient to insure its safe operation which meet all of the following requirements:

(1) The devices must be constructed, located, installed and maintained to prevent the safety devices from becoming inoperative.

(2) The devices must have sufficient relieving capacity to prevent a rise of pressure in the boiler or unfired pressure vessel of more than 10% above the maximum allowable working pressure, taking into account the effect of static head.

(3) The discharge from safety devices must be carried to a safe place away from the boiler or unfired pressure vessel.

(b) Safety valves for other than noxious liquids or toxic vapors must be direct spring-loaded type valves, designed with substantial lifting devices so that the disk can be lifted from its seat by the spindle of at least 1/8 the diameter of the valve if the pressure of the vessel is at 75% of the safety valve setting.

(c) Each safety valve must have clear manufacturer markings that are 1/4-inch or larger. The markings must contain all of the following information stamped on the valve, cast on the valve body, or cast on a plate securely fastened to the valve:

(1) The name or identifying trademark of the manufacturer.

(2) The pipe size, in inches, of the valve inlet.

(3) The pressure, in pounds, at which the valve is set to open.

(4) The blow down, in pounds.

(d) If the valve inlet is not threaded, the initial diameter of the inlet may not be less than the inside diameter of a standard pipe of the same size.

(e) The difference between the opening and closing pressures of a safety valve must be a minimum of 20%.

(f) Existing safety valves bearing ASME stamping different from the requirements in subsection (c) are permitted if the safety valves have equivalent construction and relieving capacity.

(g) Safety valves with a cast iron seat or a disk may not be used.

(h) If more than one safety valve is used, the discharge capacity must be the combined capacity of all safety valves.

(i) A boiler or unfired pressure vessel in which pressure is not generated and is derived from an outside source must have a safety device connected to the vessel or

system which it protects in a manner to prevent a rise in pressure beyond the maximum allowable pressure.

(j) A boiler or unfired pressure vessel in which pressure may be generated must have a safety device or devices connected directly to the vessel and comply with all of the following:

(1) When the contents of a vessel may cause interference with the operation of the vessel or safety valve when the safety valve is directly attached, the safety valve or valves may be connected in a manner to avoid the interference.

(2) An escape pipe may be used. The pipe must be full sized and fitted with an open drain to prevent liquid from lodging in the upper part of the safety valve. A valve may not be placed on the escape pipe between the safety valve and the atmosphere.

(3) An elbow may be placed on an escape pipe if it is located close to the safety valve outlet or the escape pipe is securely anchored and supported. If two or more safety devices are placed on one connection, the connection must have a cross sectional area at least equal to the combined area of the safety devices' inlets.

(k) Every safety valve which is exposed to temperatures of 32°F or less must have a drain of at least 3/8 inch in diameter at the lowest point where water can collect.

(l) A spring in a safety or relief valve in service for pressures 250 psi and less may not be reset for a pressure more than 10% above or 19% below the pressure at which the valve is marked. For pressures higher than 250 psi, the spring may not be reset for any pressure more than 5% above or 50% below the pressure at which the safety or relief valve is marked.

(m) Safety valves for compressed air tanks cannot be larger than 3-inch diameter. The valves must be proportioned for the maximum number of cubic feet of free air that may be applied per minute.

(n) A rupture disk may be used as a pressure safety device on boilers or unfired pressure vessels containing nontoxic gases, when it is designed to fail at not more than the design pressure of the vessel.

(o) Safety valves on systems using toxic gases must discharge in accordance with the ASME Code, Section VIII, Division 1, 2 or 3.

(p) A company or organization holding a Department-issued certificate of authorization to reset and reseal safety valves and relief valves or a current VR stamp is required to reset and reseal safety valves and relief valves.

(q) A company or organization holding a current VR stamp is required to repair safety valves and relief valves.

(r) A safety valve or relief valve may not be loaded to maintain a working pressure in excess of the maximum working pressure stated on the boiler or unfired pressure vessel's certificate of operation.

(s) Additional or supplemental safety or relief valves installed on a boiler or unfired pressure vessel, may exceed maximum working pressure if the valves comply with the applicable code of construction or this chapter.

#### § 3a.27. Different working pressures.

(a) At least one safety valve on each boiler must be set at or below the maximum allowable working pressure. All other valves may be set within a range of 3% above the maximum allowable working pressure. The range of

setting of all of the saturated steam valves on the boiler may not exceed 10% of the saturated steam valve set at the highest pressure.

(b) When a boiler system is comprised of boilers with different maximum allowable working pressures having minimum safety valve settings varying more than 6% and connected so that steam flows toward the lower pressure boiler, the boiler system must meet one of the following requirements:

(1) A check valve must be installed in the steam line to protect the lower pressure boilers.

(2) Additional safety valves on the low-pressure side of the boiler system must protect lower pressure boilers and meet the following requirements:

(i) The additional safety valve capacity must be based on the maximum amount of steam that can flow into the low-pressure system.

(ii) Additional safety valves must have at least one valve set at a pressure that is not greater than the lowest maximum allowable pressure.

(iii) Other valves must be set within a range of not more than 3% above the lowest allowable pressure.

#### § 3a.28. Blowoff tanks.

(a) Blowoff piping from a power boiler or a miniature boiler may not discharge directly into a sewer. A blowoff tank will be used if conditions do not provide an adequate and safe open discharge.

(b) ASME Section VIII, Division I governs the construction of metal blowoff tanks.

(c) The cross sectional area of the outlet from blowoff tanks must be twice the area of the inlet. The outlet pipe must be located to drain the blowoff tank to within 8 inches of the bottom of the tank.

(d) A vent pipe comprised of at least four times the area of the inlet pipe must lead to the outer atmosphere.

(e) Vents must lead as directly as possible to the outer air and discharge in a safe location. There may be no valve or other obstructions such as water pockets between the tank and the discharge end of the vent pipe.

(f) Pipe connections between the boiler blowoff valves and the tank must be as direct as possible and conform to the ASME Code.

(g) A manhole or an access opening shall be installed for cleaning the tank.

(h) A blowoff tank that is not vented as required in this section must meet one of the following requirements:

(1) Constructed to withstand pressure equal to the pressure allowed on its attached boiler.

(2) Equipped with a safety valve or valves of sufficient capacity to prevent the pressure from exceeding the safe working pressure of the tank.

#### § 3a.29. Discharge outlets.

Discharge of safety valves of a boiler generating in excess of 500 pounds of steam per hour must be piped to the outside atmosphere and to a safe point of discharge. Blowoff pipes and other outlets must be located to prevent injury to personnel.

#### § 3a.30. Electric boilers.

Appliances required for electric boilers must be attached to the boilers in accordance with the following requirements:

(1) A cable shall be provided for grounding the boiler shell and shall be the same gauge as the incoming power line to the boiler. The cable must be permanently connected and grounded.

(2) A suitable screen or guard shall be placed around high-tension bushings with a sign containing a high voltage warning. The screen or guard shall be located to prevent a person from accidentally coming in contact with the high-tension circuit.

(3) The power circuit to the boiler must be open when safety valves are adjusted.

(4) The power line must be open when the boiler is under steam pressure and the operator is making a necessary adjustment.

(5) Safety or relief valves must have a relieving capacity of 3 1/2 pounds per hour for each kilowatt rating.

(6) Boiler shell grounding connectors shall be installed in accordance with the following:

(i) The NEC, Chapter 4, except that the cable gauge size must comply with paragraph (1).

(ii) A conductor will be permanently attached to the boiler shell by suitable lugs, pressure connectors, clamps, or other Department-approved means. Connectors that depend on solder to maintain connection may not be used.

**§ 3a.31. Forced circulation boilers.**

Forced circulation boilers and boilers with no fixed steam or waterline must conform to the ASME Code, section 1.

**§ 3a.32. Supports.**

(a) A boiler or unfired pressure vessel must be supported by masonry or structural supports sufficient to safely support the boiler or vessel and its contents.

(b) An air compressor vessel must be shock mounted.

**§ 3a.33. Explosion doors.**

Stoker coal fired boilers under positive pressure must be equipped with explosion doors to relieve furnace pressure. The explosion doors must be located in the setting wall within 7 feet of the firing floor or any platform, and must be provided with substantial deflectors to divert the blast away from personnel.

**§ 3a.34. Ventilation for combustion equipment.**

Adequate air to support combustion shall be provided. The recommendations of the manufacturer of the equipment shall be utilized.

**§ 3a.35. Ladders and runways.**

(a) Walkways, runways and platforms are required between and on top of boilers, which are more than 8-feet high from the operating floor to afford accessibility for the operation and servicing.

(b) Walkways, runways and platforms must meet the following requirements:

(1) Be constructed of metal.

(2) Be constructed of safety treads, standard grating, or similar material with a minimum clear width of 30 inches.

(3) Be constructed by bolts, welds or rivets.

(4) Be equipped with handrails that are 42-inches high with an intermediate rail and 6-inch toeboard.

(c) A stairway that is a means of access to the walkways, runways or platforms must not exceed an angle of 45°.

(d) A ladder that serves as a means of access to walkways, runways or platforms must be constructed:

(1) Of metal.

(2) So the rungs extend through the side members and are permanently secured to the side rails.

(3) So the front of the rungs have a distance of at least 30 inches from the nearest permanent object on the climbing side of the ladder.

(4) So the back of the rungs have a distance of at least 6 1/2 inches from the nearest permanent object.

(5) So there is a clear width of at least 15 inches from the centerline of the ladder on either side across the front of the ladder.

(e) A welder qualified under Standard Qualification Procedures of the American Welding Society is required for welding a walkway, runway, platform or ladder.

(f) A walkway, runway or platform exceeding 6 feet in length must have at least two means of exit access.

**§ 3a.36. Clearances.**

(a) The following clearances apply for boilers installed after January 1, 1960:

(1) The minimum clearance around each boiler must be 30 inches with at least 6 feet clearance from the floor to overhead obstructions.

(2) The minimum clearance around each unfired pressure vessel must be 18 inches. The minimum clearance in front of a manhole cover must be 30 inches.

(3) A clearance of at least 12 inches must be provided between the floor and lower head or the underside of the shell of an unfired pressure vessel. The clearance distance must be the measurement from a vessel appendage to the next object.

(b) The following requirements apply to a single installation or assembly of storage water heaters or instantaneous water heaters, which operate as a unit:

(1) The unit may be arranged with a minimum clearance of 6 inches between components if an 18-inch clearance shall be maintained around the assembly. The clearance in front of a manhole opening is a minimum of 30 inches.

(2) An assembly may not exceed 9 million BTU input.

(3) Casings must be readily removable for inspection purposes, if casings are provided.

(c) A new building containing multiple boiler installations must meet the following minimum overhead clearance requirements:

(1) Between the boiler platform and the ceiling: 7 feet.

(2) Between the top of the boiler proper and the ceiling for all installations: 3 1/2 feet.

(3) Between the highest point of any valve or fitting and the ceiling: 6 inches.

(d) Subsections (a) and (b) do not apply to pressure vessels of factory assembled package units that are governed by § 3a.111 (relating to field inspections) if there is adequate clearance for operation and inspection. Subsection (a) applies to the entire factory assembled unit.

(e) The minimum clearance around a wall-hung boiler must be 30 inches except for the wall mount side.

(f) The clearance between modules in a modular system may be reduced to the manufacturer's recommendations if the entire modular boiler system meets the 30-inch clearance requirement of subsection (a)(1).

(g) This section does not apply to a miniature boiler if the boiler can be safely inspected as installed.

(h) Tripping hazards are not permitted.

**§ 3a.37. Special design.**

(a) The owner or user of a new boiler or unfired pressure vessel having unusual features of special design intended for installation and operation in this Commonwealth shall submit the following to the Department for approval:

(1) One copy of complete specifications.

(2) Drawings that show all details of the proposed construction and the method of computation used in determining the safe working pressure for each new boiler and unfired pressure vessel.

(b) A specially designed boiler or unfired pressure vessel may not be operated until the Department approves its design.

**§ 3a.38. Commercial beverage dispensing systems.**

(a) An unfired pressure vessel used in a commercial beverage dispensing system must have clearance of 18 inches for at least 50% of the vessel surface. The remaining vessel surface may have its clearance reduced to 1 inch.

(b) The Department will issue one certificate of operation and charge one fee under § 3a.2 (relating to fees) for all vessels used in a commercial dispensing system at a single business location at the same design maximum working pressure.

**§ 3a.39. Manufactured parts.**

Parts manufactured for boilers or unfired pressure vessels constructed to the ASME Code must be manufactured and stamped in accordance with the applicable section of the ASME Code. Data reports must be furnished in accordance with the applicable section of the ASME Code.

**INSTALLATIONS OF POWER BOILERS**

**§ 3a.51. Compliance with the ASME Code for power boilers.**

Installations of power boilers must comply with the provisions of section 1 of the ASME Code, ASME/CSD1 and NFPA 85.

**INSTALLATIONS OF LOW-PRESSURE HEATING BOILERS**

**§ 3a.61. Compliance with the ASME Code for low-pressure boilers.**

Installations of low-pressure heating boilers must comply with section IV of the ASME Code and ASME/CSD 1.

**§ 3a.62. Registration and installation.**

(a) An installer of low-pressure steel heating boilers shall provide a copy of the manufacturer's data report to the inspector when the boiler is installed.

(b) A cast iron boiler shall be hydrostatically tested when it is installed. The inspector may accept the factory hydrostatic test.

(c) An installer of low-pressure cast iron boilers shall submit a "Cast Iron Installation Report" to the Department on a Department-provided form. The Cast Iron Installation Report contains manufacturer, testing and installation information.

**INSTALLATIONS OF UNFIRED PRESSURE VESSELS**

**§ 3a.71. Compliance with the ASME Code for installations of unfired pressure vessels.**

Installations of unfired pressure vessels must comply with sections VIII or X of the ASME Code.

**REPAIRS AND ALTERATIONS**

**§ 3a.81. Major repairs and alterations.**

(a) An owner or user of a boiler or unfired pressure vessel shall consult with an inspector on a repair that affects the working pressure or safety of a boiler or unfired pressure vessel.

(b) A repair to a boiler or unfired pressure vessel must comply with the applicable provisions of the ASME Code or ANSI/NB 23. A manufacturer or repair company may not perform welded repairs and tube replacements without holding an "R" Stamp.

(c) An owner or user of a boiler or unfired pressure vessel shall consult with the inspector responsible for completing the report of welded repair before commencement of work or repairs that alter the original design of a boiler or unfired pressure vessel. A manufacturer or repair company holding an ANSI/NB 23 "R" stamp may perform alterations to other vessels.

(d) Welds shall be documented on a Department-issued "Record of Welded Repair Form" or a R-1 form. Hydrostatic testing of welded repairs may be conducted at the inspector's discretion in accordance with ANSI/NB23.

(e) An owner or user of a boiler or unfired pressure vessel that requires an inspection under this chapter shall immediately notify the Department when a defect affecting the safety of the boiler or unfired pressure vessel is discovered.

**§ 3a.82. Reconstruction and repair.**

Workmanship, materials, fittings and attachments used in the reconstruction or repair of a boiler or unfired pressure vessel must meet ANSI/NB 23. The boiler or unfired pressure vessel may not become operational until an inspector approves all repairs.

**§ 3a.83. Repairs by welding.**

(a) Welding repairs must comply with section IX of the ASME Code.

(b) A repair to a boiler or unfired pressure vessel that involves welding may be made if an inspector approves the repair and signs a record of welded repairs.

(c) Repairs by fusion welding must comply with ANSI/NB 23.

(d) Repairs listed as routine in ANSI/NB 23 may be preapproved by an inspector.

**Subchapter C. ADMINISTRATION**

Sec.	
3a.91.	Certificates of operation.
3a.92.	Unsafe operation.
3a.93.	Accident notification.
3a.94.	Restamping.
3a.95.	Condemnation.
3a.96.	Removal from service.
3a.97.	Reinstallation.
3a.98.	Plan approval.



- 3a.99. Notice of deficiency.
- 3a.100. Appeals.

**§ 3a.91. Certificates of operation.**

(a) The Department will issue a certificate of operation for a boiler or unfired pressure vessel upon receipt of an inspection report indicating that the boiler or unfired pressure vessel is safe to operate at the pressure limit listed in the inspection report.

(b) The owner or user shall post the certificate in a visible location that is as close as possible to the boiler or unfired pressure vessel.

**§ 3a.92. Unsafe operation.**

The Department will suspend the certificate of operation and seal a boiler or unfired pressure vessel that is unsafe. A person, firm, partnership or corporation operating a boiler or unfired pressure vessel with a suspended certificate of operation is subject to the penalties of section 19 of the act (35 P. S. § 1331.19).

**§ 3a.93. Accident notification.**

(a) Under section 16 of the act (35 P. S. § 1331.16), the owner, user or operator shall immediately notify the Department by telephone, facsimile transmission, electronic mail or messenger of an accident or explosion. Immediate notification means within 24 hours of the accident. The owner, user or operator shall file a written report with the Department on the Department's boiler accident report form within 5 days of the accident. The boiler accident report form may be obtained on the Department's website ([www.dli.state.pa.us](http://www.dli.state.pa.us)).

(b) The boiler or unfired pressure vessel, its parts or equipment involved in the accident or explosion may not be removed or disturbed before a Department inspection is made except to prevent harm to persons or property.

**§ 3a.94. Restamping.**

(a) An inspector will instruct the owner or user to restamp a boiler or unfired pressure vessel when the stamping becomes indistinct or detached. The owner or user shall submit a request for restamping the boiler or unfired pressure vessel to the Department. The request must be accompanied with proof of the original stamping consisting of a rubbing of the original stamping or a copy of the manufacturer's data sheet.

(b) A Department inspector has sole authorization to perform the Department restamping. The restamping will contain the same information as the original stamping. The Department will not restamp the ASME symbol.

**§ 3a.95. Condemnation.**

(a) A Department inspector will stamp an unsafe boiler or unfired pressure vessel by crossing out the serial number stamping. The following designation will be used:

Pa < XX >

(b) The stamping will be at least 5/16 inch in height.

(c) A Department inspector will remove the stamping of subsection (a) when a boiler or unfired pressure vessel has been restored or repaired to comply with this chapter. No other person may remove the stamping.

**§ 3a.96. Removal from service.**

An owner or user shall notify the Department when a boiler or unfired pressure vessel is removed from service for a repair or alteration within 10 days.

**§ 3a.97. Reinstallation.**

(a) Fittings and appliances used for the reinstallation of a boiler and pressure vessel must comply with this chapter.

(b) The owner or user of a boiler or unfired pressure vessel shall notify the Department within 10 days of the new location of a boiler or unfired pressure vessel that is moved.

(c) The owner or user may not place a reinstalled boiler or unfired pressure vessel into service until it passes a Department inspection.

**§ 3a.98. Plan approval.**

(a) Installation of a boiler must comply with all of the requirements of this section.

(b) A boiler owner shall submit an intent to install form or other data showing compliance with the act and this chapter to the Department before a boiler is installed.

(c) A boiler owner shall submit drawings and a request for a variance to the Industrial Board if the installation clearances do not meet the requirements of § 3a.36 (relating to clearances). Drawings must be at least 18 inches by 24 inches in size drawn to a scale of not less than 1/4 inch equals 1 foot. Drawings for boiler installations must include the following:

- (1) A floor plan and cross section of the boiler room.
- (2) The proposed location of all boilers, drums, headers, doors, steam, air and water gages, safety devices, blowoffs, all necessary piping, and all other parts and equipment.
- (3) The exit ways from all of the following:
  - (i) Boiler rooms.
  - (ii) Blowoff pits and ashpits or alleys.
  - (iii) High pressure steam line tunnels.
  - (iv) Other places where there is danger to persons in confined space in case of explosion.
  - (v) Platforms.
- (4) Walkways located over boilers.
- (5) Clearance dimensions above, around and between boilers, equipment and other construction.

**§ 3a.99. Notice of deficiency.**

(a) The Department will use the following procedures if an inspection reveals any violation of the act or this chapter:

(1) The Department will issue a written notice of deficiency to the boiler or unfired pressure vessel owner or user. The notice will contain a description of the violations and an order requiring correction of the violations and repairs within 30 days of the date of issuance. When a violation relates to the unsafe operation of a boiler, the Department will act under § 3a.92 (relating to unsafe operation).

(2) The written notice of deficiency will include a certification requiring the boiler or unfired pressure vessel owner or user to sign, date and return the certification when the corrective action or repair has occurred. The Department will inspect boilers or unfired pressure vessels which have been placed out of service to verify the corrective action or repair. The Department must approve the corrective action or repair before the boiler or unfired pressure vessel is returned to service.

(3) If the boiler or unfired pressure vessel owner or user does not correct the deficiency within the period of time allowed in the notice of deficiency, the Department may initiate action to seal the boiler or unfired pressure vessel by issuing an order to show cause to the boiler or unfired pressure vessel owner or user.

(4) The order to show cause must contain a statement of the grounds for the action, the alleged violations of the act and this chapter and notification that the boiler or unfired pressure vessel may be sealed. The order to show cause must contain notification that the owner or user shall submit a written answer within 30 days. The Department will serve the order to show cause upon the owner or user by certified mail or personal service.

(5) The owner or user may file a written answer to the order to show cause with the Department within 30 days following service of the order to show cause. The answer must contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or regulation interpretation relied upon by the owner or user. The answer may contain a request for a variance or an extension of time for compliance.

(b) The Department will consider a timely-filed request for variance or extension of time, or a timely-filed appeal as a stay to an enforcement action unless the Department acts under § 3a.92 (relating to unsafe operation) or the boiler constitutes a danger to life or property under section 10(e) of the act (35 P. S. § 1331.10(e)).

(c) The Department will inspect the boiler or unfired pressure vessel at the expiration of an extension of time or other time period granted for compliance under this section. If the boiler or unfired pressure vessel violates the act or this chapter following inspection, the Department may seal or condemn the boiler or unfired pressure vessel under section 13 of the act (35 P. S. § 1331.13). The Department will serve the seal order upon the owner or user by certified mail or personal service.

(d) Under section 13 of the act, the Department will issue a notice to discontinue operation to the boiler or unfired pressure vessel owner or user for a violation that was not corrected. The notice to discontinue operation will require the owner or user to discontinue the use of the boiler or unfired pressure vessel within 24 hours. The boiler or unfired pressure vessel may not be returned to service until the violations have been corrected, the repairs have been made and the Department notifies the owner or user that the boiler or unfired pressure vessel may be returned to service.

(e) Subsection (a) supplements 1 Pa. Code §§ 35.14 and 35.37 (relating to orders to show cause; and answers to orders to show cause).

#### § 3a.100. Appeals.

(a) A person aggrieved by a notice of deficiency or a notice to discontinue operation may appeal the order to the Industrial Board within 30 days of the issuance of the order.

(b) The Industrial Board will decide petitions for variances and extensions of time, and appeals of Department decisions.

(c) The Board may consider the following factors, among others, when reviewing and ruling upon a request for an extension of time or a variance or other appropriate relief:

(1) The reasonableness of the Department's rules and regulations as applied in the specific case.

(2) The extent to which an extension of time or a variance will subject occupants to unsafe conditions.

(3) The availability of professional or technical personnel needed to come into compliance.

(4) The availability of materials and equipment needed to come into compliance.

(5) The efforts being made to safeguard occupants against boiler and unfired pressure vessel hazards.

(6) The efforts being made to come into compliance as quickly as possible.

(7) Compensatory safety features which will provide an equivalent degree of protection for the occupants.

#### Subchapter D. INSPECTIONS

Sec.	
3a.111.	Field inspections.
3a.112.	Inspection preparation.
3a.113.	Inspection accessibility.
3a.114.	Removal of covering for inspection.
3a.115.	Hydrostatic pressure test.
3a.116.	Inspection during construction.
3a.117.	Inspection report.

#### § 3a.111. Field inspections.

Field inspections shall be conducted by an individual holding a current Pennsylvania Inspector Commission to inspect boilers and unfired pressure vessels in this Commonwealth. Field inspections shall be conducted according to the following timetable:

(1) Power boilers and process boilers will be inspected internally and externally while not under pressure every 12 months except as provided under section 9(e) and (f) of the act (35 P. S. § 1331.9(e) and (f)).

(2) The Department may extend power boiler internal inspections to 24 months and process boiler internal inspections to 60 months if the boiler passes an annual external inspection and the following requirements are met:

(i) There is continuous boiler water treatment under the direct supervision of a person trained and experienced in water treatment for controlling and limiting corrosion and deposits.

(ii) The records are available for review and contain the following:

(A) The date and time the boiler was out of service and the reason for being taken out of service.

(B) Daily analysis of water samples showing water conditions and elements or characteristics that produce corrosion or other deterioration to the boiler or its parts.

(iii) An inspector performed annual inspections of the boiler, which included inspection of the items contained in paragraphs (1) and (2).

(iv) The boiler is operated under direct supervision of a trained operator.

(v) Inspection records demonstrate no significant scaling, corrosion, erosion or overheating.

(3) Internal and external inspection of low-pressure steam vapor boilers that are not under pressure will be conducted every 24 months.

(4) External inspection of hot water supply boilers will be conducted every 24 months. An inspector may require internal inspection because of a vessel's age or condition. The Department will notify the boiler owner or operator verbally or in writing of the need for an internal inspection.

(5) Internal inspection of steel hot water heating boilers will be conducted every 48 months. External inspections will be conducted every 24 months.

(6) Internal and external inspections of low-pressure boilers in schools will be conducted every 24 months.

(7) External inspections of cast iron boilers will be conducted every 24 months and will include an internal inspection of the firebox. The unit shall be flushed until clean if the watersides appear to contain sludge.

(8) Unfired pressure vessels will be inspected every 36 months. An inspector may require internal inspections because of a vessel's age or condition. The Department will notify the boiler owner or operator verbally or in writing of the need for an internal inspection.

**§ 3a.112. Inspection preparation.**

(a) An owner or user shall prepare a boiler or unfired pressure vessel for internal inspection in accordance with the ANSI/NB23 after a inspector provides notification.

(b) The inspector will not inspect a boiler or unfired pressure vessel that is not properly prepared for an internal inspection.

**§ 3a.113. Inspection accessibility.**

Underground-unfired pressure vessels shall be installed or reinstalled in a manner that allows for external inspection of the vessel after February 4, 2006.

**§ 3a.114. Removal of covering for inspection.**

An owner or user shall remove a portion of the jacketing, setting wall or other form of casing or housing so an inspector may view rivet size and pitch, and other data necessary to determine the safety of a boiler or unfired pressure vessel when a portion of the jacketing, setting wall or other form of casing or housing is not visible and there is no other means to obtain this information.

**§ 3a.115. Hydrostatic pressure test.**

(a) A hydrostatic pressure test must comply with the following requirements:

(1) A hydrostatic pressure test may not exceed the following pressures:

(i) For boilers or unfired pressure vessels in the field, 1.5 times the maximum allowable working pressure.

(ii) For boilers of locomotives, 1.25 times the maximum allowable working pressure.

(iii) For glass-lined unfired pressure vessels, the maximum allowable working pressure.

(iv) For unfired pressure vessels fabricated to ASME section VIII, division 1 after January 1, 2000, 1.3 times the maximum allowable working pressure.

(v) For unfired pressure vessels fabricated to ASME Section VIII, Divisions 2 and 3, the pressure that was preapproved by an inspector.

(2) Pressure must be controlled at all times and may not be more than 106% of the test pressure allowed by the ASME Code at the time of construction.

(3) The temperature of the water used to apply the test must be between 70° and 120°F.

(4) A safety valve must be removed or each valve shall be held to its seat by a testing clamp. Screwing down the compression screw upon the spring is prohibited. A VR stamp holder must reseal the valves.

(5) Pressure must be equal to or below the release pressure of the safety valve having the highest release setting when a test is applied to an existing installation to determine tightness.

(b) An inspector may require a hydrostatic test after the completion of a repair to insure the pressure containing boundaries hold design pressure.

**§ 3a.116. Inspection during construction.**

An inspector shall comply with ASME requirements for inspections of cast iron boilers in construction.

**§ 3a.117. Inspection report.**

An inspector shall submit a copy of each boiler or unfired pressure vessel inspection to the Department no more than 30 days after the inspection.

**Subchapter E. BOILERS INSTALLED PRIOR TO JULY 1, 1916, AND UNFIRED PRESSURE VESSELS AND POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 1, 1937**

- Sec.
- 3a.131. Allowable working pressure.
- 3a.132. Fusible plugs.
- 3a.133. Repair and replacement.
- 3a.134. Weighted safety valves.

**§ 3a.131. Allowable working pressure.**

The ASME Code governs calculation of allowable working pressure.

**§ 3a.132. Fusible plugs.**

Fire-actuated fusible plugs may be used if the plugs conform to the requirements of Sections A19—A21, Appendix A, section I of the ASME Code. The plugs must be replaced annually.

**§ 3a.133. Repair and replacement.**

Repairs or replacements to fittings or appliances must comply with the requirements for installations in the ASME Code and ASME/CSD1.

**§ 3a.134. Weighted safety valves.**

Weighted safety valves may not be used on boilers or unfired pressure vessels.

**Subchapter F. LOW PRESSURE HEATING BOILERS INSTALLED PRIOR TO JULY 1, 1916**

- Sec.
- 3a.141. Riveted boilers.
- 3a.142. Welded boilers.
- 3a.143. Cast iron boilers.
- 3a.144. Safe pressure.
- 3a.145. Steam stop valves.

**§ 3a.141. Riveted boilers.**

(a) The ASME Code governs the determination of the maximum allowable working pressure on the shell of a riveted heating boiler.

(b) The maximum allowable working pressure of a steam heating boiler may not exceed 15 psig.

(c) The maximum allowable working pressure of a hot water boiler may not exceed 160 psig at a temperature not exceeding 250°F.

**§ 3a.142. Welded boilers.**

The maximum allowable working pressure on the shell of a welded steel or wrought iron heating boiler may not exceed the requirements of ASME Code, section IV.

**§ 3a.143. Cast iron boilers.**

(a) The maximum allowable working pressure on the shell of a cast iron boiler may not exceed 15 psig for a steam boiler and the stamped working pressure for a hot water boiler.

(b) The maximum allowable working pressure for a boiler having a cast iron shell or heads, and steel or wrought iron tubes may not exceed 15 psig for a steam boiler and the stamped working pressure for a hot water boiler.

**§ 3a.144. Safe pressure.**

An inspector may reduce the operating pressure of a heating boiler if the inspector determines that the boiler is unsafe for operation at the approved pressure and the boiler is not properly repaired. The inspector may reduce the operating pressure based upon the remaining thickness of the pressure boundaries and code of construction requirements.

**§ 3a.145. Steam stop valves.**

(a) A boiler equipped with a steam stop valve must contain a check valve in the condensate return line between the boiler and the system.

(b) A heating system equipped with a steam stop valve must have a check valve in the condensate return pipe from the part of the system equipped with the steam stop valve.

**Subchapter G. UNFIRED PRESSURE VESSELS  
INSTALLED PRIOR TO SEPTEMBER 1, 1937**

Sec.

- 3a.151. Maximum allowable working pressure.
- 3a.152. Safety appliances.
- 3a.153. Pipe connections and fittings.
- 3a.154. Repair and renewal.

**§ 3a.151. Maximum allowable working pressure.**

(a) The maximum allowable working pressure on the shell of an unfired pressure vessel is determined by the following:

- (1) The strength of the weakest course completed from the thickness of the plate.
- (2) The tensile strength of the plate.
- (3) The efficiency of the longitudinal joint.
- (4) The inside diameter of the course.
- (5) The safety factor allowed by the ASME Code.

(b) The equation for computing the maximum allowable working pressure is:

$TS \times t \times E =$  Maximum allowable working pressure in psi where:

$R \times FS$

(1) TS equals the ultimate strength of the shell plates in psi. If the tensile strength is not known, 55,000 psi must be used for temperatures not exceeding 700° F.

(2) T equals the maximum thickness of shell plates of weakest course in inches.

(3) E equals the efficiency of longitudinal joint depending upon construction.

(i) ANSI/NB 23, Appendix C, sections A-1 to A-9 must be used to calculate efficiency for a riveted joint.

(ii) Fusion welded joints must have the flowing E values:

- (A) Single lap weld is 40%.

(B) Double lap weld is 60%.

(C) Single butt weld is 60%.

(D) Double butt weld is 75%.

(E) Forge weld is 70%.

(F) Brazed steel and brazed copper is 80%.

(4) R equals the inside radius of the weakest course of the shell in inches if the thickness of the shell does not exceed 10% of the radius. The outer radius is used in the equation if the thickness is over 10% of the radius.

(5) FS equals the minimum safety factor allowed by this section. The minimum allowable safety factors are as follows:

(i) For unfired pressure vessels, except those of lap seam construction, the minimum safety factor is five.

(ii) For unfired pressure vessels with longitudinal lap joints the minimum safety factor is 5 1/2.

(iii) For unfired pressure vessels with reinstalled or secondhand lap seamed construction the minimum safety factor is six.

(iv) For unfired pressure vessels with reinstalled or secondhand butt strap or welded construction the minimum safety factor is 5 1/2.

(c) The ASME Code, section VIII, Division 1 is incorporated as the maximum allowable working pressure for cylindrical unfired pressure vessels subjected to external or collapsing pressure.

(d) The formulas in ASME Code, section VIII, divisions 1 and 2 or ASME, section X are incorporated and must be used to calculate the maximum allowable pressure for the head of an existing unfired pressure vessel that was not constructed in accordance with this chapter.

(e) The effect of static head must be considered in checking an existing vessel's maximum allowable working pressure.

**§ 3a.152. Safety appliances.**

An unfired pressure vessel must be protected by safety appliances required in § 3a.26(a)—(o) (relating to safety devices).

**§ 3a.153. Pipe connections and fittings.**

(a) The general arrangement of piping shall be designed to reduce vibration, expansion and drainage, and provide adequate support at the proper points.

(b) The code of construction governs repairs of existing high-pressure/temperature piping systems installed before 1998.

**§ 3a.154. Repair and renewal.**

Repairs to fittings and controls must comply with the ASME Code and ASME/CSD1 requirements for installations.

**Subchapter H. SPECIAL INSTALLATIONS**

Sec.

- 3a.161. Modular boilers.
- 3a.162. Portable boilers.
- 3a.163. Fired coil water heaters and instantaneous water heaters.
- 3a.164. Storage water heaters.
- 3a.165. Steam/hot water coil storage water heater.
- 3a.166. Miniature boilers and kitchen equipment.
- 3a.167. Hot water/steam heat exchangers.
- 3a.168. Autoclaves and quick opening vessels.
- 3a.169. Fuel trains and piping systems.
- 3a.170. Swimming pool heaters.
- 3a.171. Locomotive boilers.

**§ 3a.161. Modular boilers.**

(a) A modular boiler as defined in ASME Code, section IV shall be installed in accordance with § 3a.36 (relating to clearances). The distance between modules may be reduced to the manufacturer's recommendations if the entire modular boiler system meets the 30-inch clearance requirements.

(b) A modular boiler must have only one inlet and one outlet valve, as required by ASME Code, section IV. The boiler controls must comply with ASME Code, section IV and ASME/CSD1.

(c) Inspection of modular boilers shall be performed in accordance with § 3a.111(1)—(7) (relating to field inspections).

**§ 3a.162. Portable boilers.**

(a) A portable boiler must meet the requirements of § 3a.21 (relating to stamping).

(b) A portable boiler may be mounted in covered trailers if the following conditions are met:

(1) A 30-inch clearance is provided on both ends of the boiler.

(2) The boiler's trailer is provided with chocks and is anchored to prevent movement during operation.

(3) The boiler is anchored to the trailer.

(4) The trailer provides a means or area to remove boiler tubes.

(5) The roof or the ceiling of the trailer provides space to allow proper operation of all valves and appurtenances.

(c) The clearance on one side of a boiler mounted in a covered trailer may be reduced to 3 inches if the trailer has access panels for removal of handhole plugs for inspection and maintenance.

(d) The user or operator shall notify the Department in writing and obtain written Department approval before a portable boiler is moved and placed in service.

(e) Inspection of portable boilers shall be performed in accordance with § 3a.111(1)—(7) (relating to field inspections).

**§ 3a.163. Fired coil water heaters and instantaneous water heaters.**

(a) A fired coil water heater and instantaneous water heater shall be installed in accordance with ASME Code, section IV, articles HLW 700, HLW 800 and HG 614.

(b) A storage vessel may be used with a fired coil water heater and instantaneous water heater, if its controls comply with ASME CSD1, and it meets the ASME Code over-pressure protection requirements. The vessel must be ASME Code constructed if the Btu input exceeds 200,000 Btu.

(c) Temperature controls must be designed to not exceed 210°F.

(d) Inspection of fired coil water heaters and instantaneous water heaters shall be performed in accordance with § 3a.111(4) (relating to field inspections).

**§ 3a.164. Storage water heaters.**

(a) A storage water heater shall be installed in accordance with ASME Code, section IV, articles HLW 700 and HLW 800, and comply with safety valve requirements of ASME CSD1.

(b) Temperature controls must be designed to not exceed 210°F.

(c) Inspection of storage water heaters shall be performed in accordance with § 3a.111(4) (relating to field inspections).

**§ 3a.165. Steam/hot water coil storage water heater.**

(a) The design and construction of a steam/ hot water coil storage water heater must comply with ASME Code, section VIII and the additional control requirements of ASME/CSD1.

(b) Temperature controls must be designed to not exceed 210°F.

(c) Inspection of steam/hot water coil storage water heaters shall be performed in accordance with § 3a.111(8) (relating to field inspections).

**§ 3a.166. Miniature boilers and kitchen equipment.**

(a) A miniature boiler must be manufactured under the ASME "S," "H" or "M" Code. A boiler manufactured under ASME "S" and "H" Code must be stamped with a National Board registration number.

(b) Clearance requirements contained in § 3a.36 (relating to clearances) do not govern a miniature boiler or kitchen equipment if all pressure containing parts with appurtenances are visible for inspection.

(c) Miniature boiler controls must comply with ASME/CSD1.

(d) The sight glass and pressure gauge of a miniature boiler installed in a cabinet must always be visible during operation.

(e) Discharge from safety valves must be piped to a safe point.

(f) Burners for gas-fired installations must be AGA approved.

(g) Inspection of miniature boilers and kitchen equipment shall be performed in accordance with § 3a.111(1)—(6) (relating to field inspections).

**§ 3a.167. Hot water/steam heat exchangers.**

(a) Heat exchangers must be manufactured under the ASME Code.

(b) Heat exchangers must have adequate over-pressure protection to protect both systems.

(c) Heat exchangers used for domestic hot water supply must have a high temperature limit switch designed not to exceed 210°F.

(d) Inspection of hot water/steam heat exchangers shall be performed in accordance with § 3a.111(8) (relating to field inspections).

**§ 3a.168. Autoclaves and quick opening vessels.**

(a) An inspector shall inspect autoclaves and quick opening vessels with close examination of all moving parts, locking devices, pins and interlocking devices, in accordance with ANSI/NB 23.

(b) An autoclave and quick opening vessel must have interlocking systems to prevent charging the vessel until all openings and locking devices are fully in place.

(c) A pressure-relieving device must be sized in accordance with the data plate for pressure. The capacity must be based on the pressure and pipe size or the total Btu valve of the boiler.

(d) Inspection of autoclaves and quick opening vessels shall be performed in accordance with § 3a.111(8) (relating to field inspections).

**§ 3a.169. Fuel trains and piping systems.**

(a) The piping of low-pressure steam systems, except PVC materials, must comply with Chapters 10 and 12 of the IMC.

(b) The piping of low-pressure hydronic piping systems, except PVC materials, must comply with Chapter 12 of the IMC.

(c) The design and installation of high-pressure steam and high temperature hot water piping must comply with ASME B31.1.

(d) The repair of high pressure/temperature piping systems installed before 1998 must comply with the code of construction.

(e) The installation of fuel trains and associated piping must comply with ASME/CSD1.

(f) Inspection of fuel trains and piping systems shall be determined by the type of boiler to which the system is attached and performed in accordance with § 3a.111 (relating to field inspections).

**§ 3a.170. Swimming pool heaters.**

(a) A swimming pool heater is an instantaneous water heater. The heater must meet the construction requirements of ASME Code, section IV and the control requirements of ASME/CSD1 except if exempt under § 3a.3(d) (relating to scope).

(b) A pool heater may be piped with polyvinyl chloride material rated for the pressure and temperature of the heater after the isolation valves.

(c) Inspection of swimming pool heaters shall be performed in accordance with § 3a.111(4) (relating to field inspections).

**§ 3a.171. Locomotive boilers.**

(a) New installations for boilers of locomotives must comply with ASME Code, section I.

(b) Inspection of locomotive boilers shall be performed in accordance with § 3a.111(1) and (2) (relating to field inspections).

[Pa.B. Doc. No. 06-176. Filed for public inspection February 3, 2006, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 17]

Licensure of Medical Doctors

The State Board of Medicine (Board) amends §§ 17.1, 17.2, 17.5 (relating to license without restriction; license without restriction—endorsement; and graduate license) and adds § 17.9 (relating to credentials verification service) to read as set forth in Annex A.

**A. Effective Date**

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

**B. Statutory Authority**

Section 8 of the Medical Practice Act of 1985 (act) (63 P. S. § 422.8) authorizes the Board to promulgate standards for licensing consistent with the requirements of sections 27—29 of the act (63 P. S. §§ 422.27—422.29).

**C. Background and Purpose**

The Board has determined that its regulations pertaining to eligibility for a license to practice medicine of graduates of foreign medical schools and applicants for a license by endorsement are, in view of currently available alternatives, unduly restrictive and costly. The Board therefore amends §§ 17.1(b) and 17.5(c)(2) to delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of instruction and 72 weeks of clinical instruction. The Board's experience indicates that these requirements have become unduly restrictive to qualified applicants to the practice of medicine in this Commonwealth. Further, the Board has determined that the time and expense involved with verifying each credit hour and each clinical rotation exceeds the relative benefit. Few, if any, other jurisdictions have comparable requirements. Thus, this Commonwealth is placed at a competitive disadvantage in attracting qualified applicants.

The Board continues, but clarifies, the requirement that graduates of foreign medical colleges submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States. These changes provide the Board greater flexibility in ascertaining the qualifications of applicants without relying on an arbitrary hourly/weekly breakdown of foreign curricula.

Next, the Board amends § 17.2(c), pertaining to license by endorsement, to delete the examination as a mandatory requirement. The deletion of the mandatory requirement will provide the Board with greater discretion in assessing the qualifications for license by endorsement of physicians who have extensive practice experience. In enforcing this section, the Board has reviewed applications from eminently qualified physicians of high professional reputation. The Board has come to recognize that requiring these practitioners to take general licensing examinations poses an undue restriction to licensing these qualified practitioners.

The prior language in § 17.2(d) described criteria that the Board viewed as equivalent to Education Commission for Foreign Medical Graduates (ECFMG) certification for physicians licensed prior to March 25, 1958. This language is no longer necessary because they would be applicable to individuals who would now be approximately 74 years of age. ECFMG certification has included steps 1 and 2 of the United States Medical Licensing Examination (USMLE) since June and September 1992, respectively. Prior certification by the ECFMG required the passage of one of several alternative examinations. At this point, individuals who have prior ECFMG certification should also possess over 10 years of experience. Accordingly, the Board believes it appropriate for endorse-

ment purposes to treat individuals with ECFMG certification as possessing the equivalent of passing scores on steps 1 and 2 of the USMLE. Accordingly, § 17.2(d) is amended to recognize this equivalency.

The Board identified the criteria it has considered when reviewing applications for license by endorsement from individuals who otherwise are qualified to practice medicine but who have not taken a licensing examination recognized by the Board. This final-form rulemaking codifies those criteria. Under the final-form rulemaking, the Board may consider whether the applicant has a significant history in the practice of medicine, has recognized professional and academic achievement and credentials and has obtained certification by a Board-recognized specialty certification body.

The Board also will accept the Federation of State Medical Board's Credentials Verification Service (FCVS) as an optional mechanism for all applicants to document completion of education, training and examination requirements. The FCVS serves as a document depository and as a clearinghouse for applicants. Applicants who are seeking licensure must submit documentation demonstrating completion of medical education and clinical training. Applicants applying in more than one jurisdiction will have the option of submitting credentialing documents to the FCVS, which will verify the authenticity of those documents. Applicants who utilize the FCVS may save time and expense because their credentials will be verified once rather than multiple times.

#### D. Description of Amendments

The amendments to §§ 17.1(b) and 17.5(c)(2) delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of instruction and 72 weeks of clinical instruction. These requirements are replaced with the requirement that graduates of foreign medical colleges submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States.

Section 17.2(c), pertaining to license by endorsement, is amended to delete the examination requirement as mandatory. Section 17.2(d) is amended to accept ECFMG certification as the equivalent of passing scores on steps 1 and 2 of the USMLE.

Section 17.2(e) is amended to identify the criteria the Board will consider instead of examination when reviewing applications for license by endorsement.

Section 17.9 has been added to indicate that applicants have the option of using the FCVS to authenticate and maintain records of their credentials.

#### E. Compliance with the Regulatory Review Act and Public Comment

In drafting and promulgating this final-form rulemaking, the Board solicited input and suggestions from the regulated community and other parties who have identified themselves as interested in the Board's regulatory agenda. Proposed rulemaking was published at 34 Pa.B. 4887 (September 4, 2004). The Board entertained

public comment for of 30 days during which time the Board received comments from the Pennsylvania Academy of Family Physicians and from the Federation of State Medical Boards of the United States, Inc. Both organizations supported the Board's proposed rulemaking. The Board received no negative public comments. Following the close of the public comment period, the Board also received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The following is a summary of those comments and the Board's response.

IRRC asked if the proposed rulemaking allowed licenses without restriction and graduate licenses to be issued to applicants who cannot qualify under the existing regulation. IRRC also asked why Board verification of the specific time period requirements under §§ 17.1(b) and 17.5(c) is no longer needed. Under the existing regulation, the Board's administrative staff verifies the specific number of hours of academic study and the specific number of weeks of clinical study in which the applicant participated. The Board's staff verifies this information directly with the source foreign medical colleges and teaching hospitals. The Commonwealth is, to the best of the Board's knowledge, the only state that does this. Over time the foreign medical colleges and teaching hospitals have become increasingly unable or unwilling to break down the attendance of their students with the level of specificity that the regulation requires. As a consequence, applicants who have completed a course of study that would be generally accepted in the United States cannot obtain a license in this Commonwealth based upon a review of the standard academic credentials available for Board staff review. Specifically, in regard to graduate training licenses, this either delays significantly or prevents the issuance of the license. As a further consequence, teaching hospitals in this Commonwealth are unable to fill graduate medical training residency positions, leading to vacancies and reduction of available care in teaching hospitals. These vacancies are likely to lead to increased demand on the available hospital staff. Vacancies in graduate medical programs also potentially impact the availability of future residency slots and may negatively impact the availability of Federal funds that support graduate medical training in this Commonwealth.

IRRC also requested information about the FCVS. Detailed information on this service is available through the Federation of State Medical Board's website at [www.fsmb.org](http://www.fsmb.org). The FCVS is a document clearing house and authentication service. It was established in 1996 to provide a centralized, uniform process for state medical boards, as well as private and governmental entities, to obtain a verified, primary source record of a physician's core medical credentials. The FCVS obtains primary source verification of medical education, postgraduate training, licensure examination history, board action history and identity. This repository of information allows an individual to establish a confidential, lifetime professional portfolio that can be forwarded at the individual's request to any interested party, including state medical boards, hospitals, managed care plans and professional societies. Without this final-form rulemaking, this Commonwealth would remain one of only four states, along with Alaska, Arkansas and Nebraska, that do not recognize the FCVS. The Board, by this final-form rulemaking, will allow applicants the option of using the FCVS to authenticate and maintain their credentials rather than requiring the applicant to obtain those documents separately from the original source for Board review.

In the proposed rulemaking, the Board had determined to rely on ECFMG certification to support an application instead of verifying the completion of the 4,000 hours of academic and 72 weeks of clinical study. The HPLC questioned the wisdom of deleting the specific requirement of verification of 4,000 hours of academic and 72 weeks of clinical study. The HPLC also questioned whether the Board has statutory authority to rely solely on the ECFMG certification as a demonstration of graduation from medical college and completion of clinical study. The Board has authority under section 8 of the act to promulgate standards for licensing consistent with the requirements of sections 27—29 of the act. Historically, the Board's authority to ascertain whether applicants who have graduated from international medical schools possess education and training has been well established. See section 5 of the Medical Education and Licensure Act of 1911 and section 6 of the Medical Practice Act of 1974. Moreover, the Board has historically been permitted to use private standard setting bodies to aid in ascertaining the quality of education and training of its applicants. See sections 5 and 6(b) of the Medical Practice Act of 1974. The Board continues to possess these authorities under the current act. See *McKeesport Hospital v. Pennsylvania State Board of Medicine*, 539 Pa. 384, 652 A.2d 827 (1995). Accordingly, the statutory amendments the HPLC suggests are unnecessary to further the intent of this final-form rulemaking.

In response to the HPLC's concerns, the Board agrees that it is the Board's responsibility to evaluate the education credentials of applicants for licensure. Therefore, the Board has modified the final-form rulemaking so as to continue, but clarify, the requirement that the applicant submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States. In this way, the Board may continue to ascertain the quality of the applicant's education as compared to recognized standards as established by the Liaison Committee for Medical Education in the United States. In regard to the Committee's concern that the Board verify 4,000 discrete hours of academic study and 72 discrete weeks of clinical study, for the reasons stated above continuing this requirement is impracticable.

Because the Board has amended this final-form rulemaking to address the HPLC concern that the Board continue to evaluate the credentials of applicants as opposed to relying on ECFMG certification pertaining to the ECFMG verification process, it is not necessary to address the Committee's comments regarding the ECFMG certification process. The Board notes that the ECFMG, among other things, verifies the authenticity of source documents. In this regard they perform functions similar to the Board. It was not the Board's intent to suggest that ECFMG performs the identical functions of the Board.

Lastly, although supportive of the Board's efforts in regard to identifying the criteria the Board uses in licensing physicians by endorsement, the HPLC provided editorial suggestions to clarify that portion of the rulemaking. The Board has adopted the HPLC's editorial

suggestions in part, but has declined to rewrite the language in its entirety because it believes the suggestions adopted sufficiently clarify the final-form rulemaking.

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

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

#### G. *Sunset Date*

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

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 23, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4887, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on December 14, 2005, the final-form rulemaking was approved by the HPLC. On January 4, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 5, 2006, and approved the final-form rulemaking.

#### I. *Contact Person*

Further information may be obtained by contacting Gerald S. Smith, Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, [gerasmith@state.pa.us](mailto:gerasmith@state.pa.us).

#### J. *Findings*

The Board finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 4887.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

#### K. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 17, are amended by amending §§ 17.1, 17.2 and 17.5 and by adding § 17.9 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.



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

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

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

CHARLES D. HUMMER, Jr., M. D.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 362 (January 21, 2006).)*

**Fiscal Note:** Fiscal Note 16A-4917 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 17. STATE BOARD OF MEDICINE—MEDICAL DOCTORS**

**Subchapter A. LICENSURE OF MEDICAL DOCTORS**

**§ 17.1. License without restriction.**

(a) Except as provided in § 17.2 (relating to license without restriction—endorsement), to secure a license without restriction an applicant shall:

(1) Have passed a licensing examination acceptable to the Board by having achieved one of the following:

(i) A passing score on Step 1, Step 2 and Step 3 of the USMLE as determined by USMLE completed within a 7-year period.

(ii) A score of 75 on FLEX I and a score of 75 on FLEX II, as determined by the Federation.

(iii) A score of 75, obtained in an individual attempt, on the licensing examination provided by the Federation from June 1968 to December 1984.

(iv) A passing score as determined by the NBME on the National Boards.

(v) A passing score on Part I of the National Boards or Step 1 of the USMLE plus Part II of the National Boards or Step 2 of the USMLE plus Part III of the National Boards or Step 3 of the USMLE completed within a 7-year period.

(vi) A score of 75 on FLEX I and Step 3 of the USMLE completed within a 7-year period.

(vii) A passing score on Part I of the National Boards or Step 1 of the USMLE plus Part II of the National Boards or Step 2 of the USMLE plus FLEX II completed within a 7-year period.

(viii) A passing score, as determined by the Medical Council of Canada, on the examination of the Medical Council of Canada taken in or after May 1970, if the examination was taken in English.

(ix) A passing score, as determined by the licensing authority of another state, territory or possession of the

United States, on a state board examination taken prior to December 1973, if the examination was taken in English.

(2) Have graduated from an accredited medical college or from an unaccredited medical college.

(3) Have been certified by the ECFMG if the applicant is a graduate of an unaccredited medical college.

(4) Have successfully completed the following graduate medical training requirement:

(i) A year of graduate medical training at a first or second-year level if the applicant is a graduate of an accredited or unaccredited medical college and participated in a graduate medical training program prior to June 30, 1987.

(ii) Two years of graduate medical training at a first and second-year level if the applicant is a graduate of an accredited medical college and did not participate in a graduate medical training program prior to June 30, 1987.

(iii) Three years of graduate medical training at a first, second and third-year level if the applicant is a graduate of an unaccredited medical college and did not participate in a graduate medical training program prior to June 30, 1987.

(5) Satisfy the general qualifications for a license specified in § 16.12 (relating to general qualifications for licenses and certificates).

(b) An applicant who is a graduate of an unaccredited medical college shall submit a complete application and shall, in addition to satisfying the requirements in subsection (a), submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The transcript must identify the successful completion of the equivalent of 4 academic years of medical education including 2 academic years in the study of the arts and sciences of medicine generally recognized by the medical education community in the United States and 2 academic years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States.

**§ 17.2. License without restriction—endorsement.**

\* \* \* \* \*

(c) *License examination.* In evaluating the qualifications of an applicant who seeks a license without restriction on the basis of endorsement, the Board will accept a passing score on a licensing examination acceptable to the Board. If the examination was not taken in English, but is otherwise acceptable, and a passing score was secured, the Board will accept the examination result if the applicant has also secured a passing score on the Test of English as a Foreign Language (TOEFL).

(d) *ECFMG certification.* For purposes of endorsement, a graduate from an unaccredited medical school who has obtained certification by the ECFMG shall be deemed to have the equivalent of a passing score on steps 1 and 2 of the USMLE.

(e) The Board may, in lieu of the examination requirement provided for in subsection (c), consider whether the applicant has a significant history in the practice of medicine, has recognized professional and academic achievement and credentials and has obtained certification by a Board recognized specialty certification body.

§ 17.5. Graduate license.

\* \* \* \* \*

(c) Additional requirements for securing a graduate license are that the applicant shall satisfy the following:

\* \* \* \* \*

(2) If the applicant is a graduate of an unaccredited medical college or satisfies the requirements of subsection (b)(2), and files an application for a graduate license, the application will not be considered filed with the Board until it is complete. The applicant shall submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The transcript must identify the successful completion of the equivalent of 4 academic years of medical education including 2 academic years in the study of the arts and sciences of medicine generally recognized by the medical education community in the United States and 2 academic years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States.

(3) Satisfy the requirements in § 16.12 (relating to general qualifications for licenses and certificates).

\* \* \* \* \*

§ 17.9. Credentials verification service.

Applicants may use the Federation of State Medical Boards credentials verification service (FCVS) to verify the authenticity of their diplomas, transcripts, examination scores, and other documentation held by the FCVS.

[Pa.B. Doc. No. 06-177. Filed for public inspection February 3, 2006, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19] Protest Proceedings

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) amends § 19.3 (relating to applicability of general rules) and adds §§ 19.31—19.38 (relating to protest proceedings).

Description and Need for Rulemaking

This final-form rulemaking adds §§ 19.31—19.38 to set forth procedural requirements for litigants to follow in vehicle protest matters before the Board. These procedural requirements supplement 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP).

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 35 Pa.B. 2408 (April 23, 2005) with a 30-day public comment period. The Board received no comments from any member of the public. The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure

Committee (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act.

The HPLC first noted that § 19.3 states that §§ 19.31—19.38, regarding applicability of general rules, supplement the GRAPP. The HPLC suggested that the Board revise § 19.3 to make clear that §§ 19.31—19.38 apply solely to protest proceedings and not to disciplinary matters before the Board. The Board revised the proposed rulemaking accordingly. HPLC also “ask[ed] the Board to ensure that the proposed procedural rules comport with the requirements of the Due Process Clause of the U. S. Constitution and the Pennsylvania Constitution, and that the right to be heard and the right to receive notice be preserved in the proposed rules.” Although the Board does not believe that anything in this final-form rulemaking infringes upon the due process rights of any litigant, the Board will endeavor to assure that application of the provisions of this final-form rulemaking, together with the provisions of the Board of Vehicles Act (act) (63 P. S. §§ 818.1—818.37) and the GRAPP, does not result in any denial of due process.

IRRC commented that the term “papers” in § 19.31 (relating to filing of documents) lacks clarity and recommended that the Board replace it with the term “documents.” The Board revised this section accordingly.

IRRC also commented on § 19.36(c) (relating to prehearing statements), which provides that the failure to file a prehearing statement as required may subject a party to sanctions, including being precluded from presenting evidence. IRRC questioned under what circumstances the Board would impose sanctions and what other sanctions could be imposed. Because the Board has no authority to impose monetary sanctions in protest proceedings, it would be limited to sanctioning a litigant by precluding the litigant from presenting evidence or otherwise contesting issues. The Board anticipates that sanctions would be imposed when, due to its failure to timely file an adequate prehearing statement, the litigant has unfairly precluded an opponent from preparing to present, challenge or oppose evidence on specified issues.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective Date

The final-form rulemaking will become effective upon publication in the Pennsylvania Bulletin.

Statutory Authority

The final-form rulemaking is adopted under sections 4(a)(9), 8, 11, 13 and 27 of the act (63 P. S. §§ 818.4(a)(9), 818.8, 818.11, 818.13 and 818.27).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 23, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2408, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC 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 December 13, 2005 the final-form rulemaking was approved by the HPLC. On January 4, 2006, the final-form rulemaking was deemed approved by SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 5, 2006, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1697, st-vehicle@state.pa.us.

*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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) This final-form rulemaking is necessary and appropriate for the administration of the act.
- (4) This final-form rulemaking does not enlarge the scope of proposed rulemaking published at 35 Pa.B. 2408.

*Order*

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

- (a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by adding §§ 19.32—19.38 to read as set forth at 35 Pa.B. 2408; and by amending § 19.31 and adding § 19.31 to read as set forth in Annex A.
- (b) The Board shall submit this order, 35 Pa.B. 2408 and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order, 35 Pa.B. 2408 and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

EDWIN K. GALBREATH, Jr.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 362 (January 21, 2006).)*

**Fiscal Note:** Fiscal Note 16A-608 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**  
**PART I. DEPARTMENT OF STATE**  
**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**  
**CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**  
**GENERAL PROVISIONS**

**§ 19.3. Applicability of general rules.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to General Rules of Administra-

tive Practice and Procedure) (General Rules), is applicable to the activities of and proceedings before the Board. Sections 19.31—19.38 (relating to protest proceedings) supplement the General Rules and apply solely to proceedings under sections 8(d), 13 and 27 of the act (63 P. S. §§ 818.8(d), 818.13 and 818.27).

**PROTEST PROCEEDINGS**

**§ 19.31. Filing of documents.**

(a) *Place of filing.* Every pleading and other document in a protest matter shall be filed with the prothonotary for the Department of State at One Penn Center, 2601 North Third Street, Post Office Box 2649, Harrisburg, PA 17105-2649.

(b) *Copies.* An original and one copy of each document shall be filed with the prothonotary. A copy of each document shall be served on each party to the protest. An additional copy of each document shall be served on the Board's counsel for protest matters (protest counsel) at One Penn Center, 2601 North Third Street, Post Office Box 2649, Harrisburg, PA 17105-2649.

[Pa.B. Doc. No. 06-178. Filed for public inspection February 3, 2006, 9:00 a.m.]

**Title 67—TRANSPORTATION**

**DEPARTMENT OF TRANSPORTATION**

**[67 PA. CODE CHS. 201, 203, 204, 211, 212 AND 217]**

**Official Traffic-Control Devices**

The Department of Transportation (Department), under the authority of 75 Pa.C.S. §§ 3353, 3354, 6103, 6105, 6121, 6122, 6123 and 6123.1, deletes Chapters 201, 203, 204, 211 and 217 and adds Chapter 212 (relating to official traffic-control devices) to read as set forth in Annex A. Included as part of the new Chapter 212, the Department adopts the National Manual on Uniform Traffic Control Devices (MUTCD) as published by the Federal Highway Administration (FHA).

*Purpose of this Chapter*

The purpose of Chapter 212 is to adopt the National MUTCD, to establish new regulations regarding additional study requirements, warrants, principles and guidelines not included in the MUTCD; and to establish greater uniformity for the design, location and operation of all official traffic signs, signals, markings and other traffic-control devices within this Commonwealth.

*Purpose of this Final-Form Rulemaking*

With the promulgation of this final-form rulemaking, the most recent edition of the National MUTCD, published by the FHA, will become the standard for traffic control in this Commonwealth. As provided in 75 Pa.C.S. §§ 6103(c) and 6121 (relating to promulgation of rules and regulations by department; and uniform system of traffic-control devices), this final-form rulemaking will also establish additional regulations regarding study requirements, warrants, principles and guidelines and insure uniformity for the design, location and operation of all official signs, signals, markings and other traffic-control devices within this Commonwealth, incorporating, revising and adding to regulations in deleted Chapters 201, 203, 204, 211 and 217.

*Publication for Public Comment*

The proposed rulemaking was published at 34 Pa.B. 4712 (August 28, 2004) and the public was invited to submit comments. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Transportation Committees. Comments were received from IRRC and from the public. The Department considered the written comments in formulating this final-form rulemaking. A separate comment and response document has been prepared to address these comments and is available upon request. Several commentators expressed concern that the final-form rulemaking would require local municipalities to be responsible for the installation and maintenance of stop signs, stop ahead signs and other traffic controls on State highways where they intersect with local roads. As explained more fully in the response document, it is the intention of the final-form rulemaking to clarify local responsibility for stop signs and stop ahead signs on local road approaches where they intersect with State highways. The Department will retain responsibility for the installation and maintenance of these signs and other traffic controls on State highways, except as specifically provided for in this final-form rulemaking.

*Persons and Entities Affected*

This final-form rulemaking affects the Commonwealth, the Pennsylvania Turnpike Commission, local authorities, contractors, consultants, utility companies, vendors, and the motoring public.

*Fiscal Impact*

Elimination of current Department Publications Nos. 68, 201 and 203 is projected to annually reduce publication costs by approximately \$30,000. It is estimated that changes in signing requirements, particularly in work zones, will result in approximately \$6.0 million savings to the regulated community and State and local governments.

Contractors and highway agencies may have some modest savings since fewer traffic-control devices will be required in some construction and maintenance projects. In addition, consultants and suppliers of traffic-control devices should be able to be more efficient due to increased uniformity from state to state.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 12, 2003, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4712, 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 December 14, 2005, 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 December 15, 2005, and approved the final-form rulemaking.

*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, however, will continue to closely monitor these regulations for their effectiveness.

*Contact Person*

The contact person for this proposed rulemaking is Glenn C. Rowe, P. E., PTOE, Division Chief, Bureau of Highway Safety and Traffic Engineering, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, (717) 787-3620.

*Order*

The Department orders that:

(a) The regulations of the Department of Transportation, 67 Pa. Code Chapters 201, 203, 204, 211, 212 and 217, are amended by deleting §§ 201.1—201.6, 201.21, 201.22, 201.31—201.33, 201.35, 201.51, 201.52, 201.52a, 201.53, 201.54, 201.61, 201.62, 201.71, 201.81—201.83, 201.91, 203.1, 203.3—203.9, 203.21—203.24, 203.41—203.44, 203.51—203.61, 203.71, 203.72, 203.81—203.87, 203.101—203.106, 203.121—203.131, Appendix A, 204.1—204.3, 204.5, 204.6, Appendix A, 211.1—211.12, 211.21—211.32, 211.41—211.43, 211.51, 211.52, 211.52a, 211.53—211.57, 211.71—211.81, 211.91—211.98, 211.111—211.133, 211.141, 211.151—211.153, 211.155—211.167, 211.181, 211.191, 211.191a, 211.192, 211.193, 211.201—211.206, 211.221—211.223, 211.231—211.245, 211.251—211.256, 211.271, 211.272, 211.274, 211.275, 211.291—211.297, 211.301—211.307, 211.322—211.329, 211.341—211.345, 211.351—211.357, 211.371, 211.372, 211.381, 211.383, 211.384, 211.391—211.395, 211.411—211.424, 211.431—211.440, 211.451, 211.451a, 211.452, 211.452a, 211.453, 211.457, 211.458, 211.471, 211.472, 211.474—211.479, 211.491—211.495, 211.511, 211.517, 211.519, 211.531, 211.534—211.538, 211.541—211.545, 211.546a, 211.547—211.555, 211.561, 211.562, 211.571, 211.581, 211.583, 211.585, 211.587, 211.589, 211.591, 211.592a—211.600, 211.602—211.605, 211.611, 211.612, 211.613a, 211.614, 211.615, 211.631—211.633, 211.641, 211.642, 211.642a, 211.642c—211.642g, 211.643—211.645, 211.645, 211.651—211.656, 211.671—211.682, 211.691, 211.692, 211.694—211.696, 211.701—211.703, 211.711, 211.721—211.725, 211.725a, 211.726—211.732, 211.741—211.744, 211.751—211.760, 211.764—211.771—211.777, 211.781—211.797, 211.811, 211.821—211.824, 211.831, 211.832, 211.841—211.843, 211.851, 211.861—211.864, 211.871—211.875, 211.881—211.883, 211.885, 211.886, 211.901, 211.902, 211.911, 211.914, 211.921, 211.923, 211.924, 211.926, 211.927, 211.941—211.947, 211.961—211.971, 211.981, 211.983, 211.991—211.1017, 211.1031—211.1042, 211.1051—211.1058, 211.1071—211.1075, 211.1081—211.1085, 211.1091—211.1095, 211.1097—211.1111, 211.1131—211.1141, 211.1151—211.1185, 211.1201, 211.1211—211.1214 and 217.1—217.4; and by adding §§ 212.1—212.12, 212.101—212.123, 212.201—212.203, 212.301—212.303, 212.401—212.419, 212.501, 212.601 and 212.701 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 of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

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

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 35 Pa.B. 7072 (December 31, 2005).)

**Fiscal Note:** Fiscal Note 18-392 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 VIII. ADMINISTRATION AND ENFORCEMENT**

**CHAPTER 201. (Reserved)**

- §§ 201.1—201.6. (Reserved).
- § 201.21. (Reserved).
- § 201.22. (Reserved).
- §§ 201.31—201.33. (Reserved).
- § 201.35. (Reserved).
- § 20151. (Reserved).
- § 20152. (Reserved)
- § 201.52a. (Reserved).
- § 201.53. (Reserved).
- § 201.61. (Reserved).
- § 201.62. (Reserved).
- § 201.71. (Reserved).
- §§ 201.81—201.83. (Reserved).
- § 201.91. (Reserved).

**CHAPTER 203. (Reserved)**

- § 203.1. (Reserved).
- §§ 203.3—203.9. (Reserved).
- §§ 203.21—203.24. (Reserved).
- §§ 203.41—203.44. (Reserved).
- §§ 203.51—203.61. (Reserved).
- § 203.71. (Reserved).
- § 203.72. (Reserved).
- §§ 203.81—203.87. (Reserved).
- §§ 203.101—203.106. (Reserved).
- §§ 203.121—203.131. (Reserved).
- Appendix A. (Reserved).

**CHAPTER 204. (Reserved)**

- §§ 204.1—204.3. (Reserved).
- § 204.5. (Reserved).
- § 204.6. (Reserved).
- Appendix A. (Reserved).

**CHAPTER 211. (Reserved)**

- §§ 211.1—211.12. (Reserved).
- §§ 211.21—211.32. (Reserved).
- §§ 211.41—211.43. (Reserved).
- § 211.51. (Reserved).
- § 211.52. (Reserved).
- § 211.52a. (Reserved).
- § 211.53. (Reserved).
- §§ 211.71—211.81. (Reserved).
- §§ 211.91—211.98. (Reserved).
- §§ 211.111—211.133. (Reserved).
- § 211.141. (Reserved).
- §§ 211.151—211.153. (Reserved).
- §§ 211.155—211.167. (Reserved).
- § 211.181 (Reserved).
- § 211.191a. (Reserved).
- § 211.192. (Reserved).
- § 211.193. (Reserved).
- § 211.198. (Reserved).
- §§ 211.201—211.206. (Reserved).
- §§ 211.221—211.223. (Reserved).

- §§ 211.231—211.245. (Reserved).
- §§ 211.251—211.256. (Reserved).
- § 211.271. (Reserved).
- § 211.272. (Reserved).
- § 211.274. (Reserved).
- § 211.275. (Reserved).
- §§ 211.291—211.297. (Reserved).
- §§ 211.301—211.307. (Reserved).
- §§ 211.322—211.329. (Reserved).
- §§ 211.341—211.345. (Reserved).
- §§ 211.351—211.357. (Reserved).
- § 211.371. (Reserved).
- § 211.372. (Reserved).
- § 211.381. (Reserved).
- § 211.383. (Reserved).
- § 211.384. (Reserved).
- §§ 211.391—211.395. (Reserved).
- §§ 211.411—211.424. (Reserved).
- §§ 211.431—211.440. (Reserved).
- § 211.451. (Reserved).
- § 211.451a. (Reserved).
- § 211.452. (Reserved).
- § 211.452a. (Reserved).
- § 211.457. (Reserved).
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- §§ 211.474—211.479. (Reserved).
- §§ 211.491—211.495. (Reserved).
- § 211.511. (Reserved).
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- §§ 211.534—211.538. (Reserved).
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- § 211.546a. (Reserved).
- §§ 211.547.—211.555. (Reserved)
- § 211.561. (Reserved).
- § 211.562. (Reserved).
- § 211.571. (Reserved).
- § 211.581. (Reserved).
- § 211.583. (Reserved).
- § 211.585. (Reserved).
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- § 211.591. (Reserved).
- §§ 211.592a—211.592c. (Reserved).
- §§ 211.593—211.605. (Reserved).
- § 211.611. (Reserved).
- § 211.612. (Reserved).
- § 211.613a. (Reserved).
- § 211.614. (Reserved)
- § 211.615. (Reserved).
- §§ 211.631—211.633. (Reserved).
- § 211.641. (Reserved).
- § 211.642. (Reserved)
- § 211.642a. (Reserved).
- §§ 211.642c—211.642g. (Reserved).
- §§ 211.643.—211.645. (Reserved)
- §§ 211.651—211.656. (Reserved).
- §§ 211.671—211.682. (Reserved).
- § 211.691. (Reserved).
- § 211.692. (Reserved).
- §§ 211.694—211.696. (Reserved).
- §§ 211.701—211.703. (Reserved).
- § 211.711. (Reserved).
- §§ 211.721—211.725. (Reserved).
- § 211.725a. (Reserved)
- §§ 211.726.—211.732. (Reserved)
- §§ 211.741—211.744. (Reserved).

- §§ 211.751—211.760. (Reserved).  
 §§ 211.771—211.777. (Reserved).  
 §§ 211.781—211.797. (Reserved).  
 § 211.811. (Reserved).  
 §§ 211.821—211.824. (Reserved).  
 § 211.831. (Reserved).  
 § 211.832. (Reserved).  
 §§ 211.841—211.843. (Reserved).  
 § 211.851. (Reserved).  
 §§ 211.861—211.864. (Reserved).  
 §§ 211.871—211.875. (Reserved).  
 §§ 211.881—211.883. (Reserved).  
 § 211.885. (Reserved).  
 § 211.886. (Reserved).  
 § 211.901. (Reserved).  
 § 211.902. (Reserved).  
 § 211.911. (Reserved).  
 § 211.914. (Reserved).  
 § 211.921. (Reserved).  
 § 211.923. (Reserved).  
 § 211.924. (Reserved).  
 § 211.926. (Reserved).  
 § 211.927. (Reserved).  
 §§ 211.941—211.947. (Reserved).  
 §§ 211.961—211.971. (Reserved).  
 § 211.981. (Reserved).  
 § 211.983. (Reserved).  
 §§ 211.991—211.1017. (Reserved).  
 §§ 211.1031—211.1042. (Reserved).  
 §§ 211.1051—211.1058. (Reserved).  
 §§ 211.1071—211.1075. (Reserved).  
 §§ 211.1081—211.1085. (Reserved).  
 §§ 211.1091—211.1095. (Reserved).  
 §§ 211.1097—211.1111. (Reserved).  
 §§ 211.1131—211.1141. (Reserved).  
 §§ 211.1151—211.1185. (Reserved).  
 § 211.1201. (Reserved).  
 §§ 211.1211—211.1214. (Reserved).

## CHAPTER 212. OFFICIAL TRAFFIC-CONTROL DEVICES

### Subchap.

- A. GENERAL PROVISIONS  
 B. SIGNS  
 C. MARKINGS  
 D. HIGHWAY TRAFFIC SIGNALS  
 E. TEMPORARY TRAFFIC CONTROL  
 F. TRAFFIC CONTROLS FOR SCHOOL AREAS  
 G. TRAFFIC CONTROLS FOR BICYCLE FACILITIES  
 H. SPECIAL EVENTS

### Subchapter A. GENERAL PROVISIONS

- Sec.  
 212.1. Definitions.  
 212.2. Adoption of Federal standards.  
 212.3. Pennsylvania's Supplement to the MUTCD.  
 212.4. Application.  
 212.5. Installation and maintenance responsibilities.  
 212.6. Removal of traffic hazards.  
 212.7. Signs and banners across or within the legal limits of a State-designated highway.  
 212.8. Use, test, approval and sale of traffic-control devices.  
 212.9. Traffic calming.  
 212.10. Requests for changes, interpretations or permission to experiment.  
 212.11. Metric measurements.  
 212.12. Department publications.

#### § 212.1. Definitions.

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

*ADT—Average daily traffic*—The total volume of traffic during a number of whole days—more than 1 day and less than 1 year—divided by the number of days in that period.

*Active work zone*—The portion of a work zone where construction, maintenance or utility workers are on the roadway or on the shoulder of the highway, and workers are adjacent to an active travel lane. Workers are not considered adjacent to an open travel lane if they are protected by a traffic barrier and no ingress or egress to the work zone exists through an opening in the traffic barrier.

*Advisory speed*—The recommended speed for vehicles operating on a section of highway based on the highway design, operating characteristics and conditions. When posted, the speed is displayed as a warning sign; that is, either a black-on-yellow or a black-on-orange sign.

*Angle parking*—Parking, other than parallel parking, which is designed and designated so that the longitudinal axis of the vehicle is not parallel with the edge of the roadway.

*Assemblage*—

(i) An organized gathering of people without vehicles, or with vehicles that are stationary, which encroaches onto a street or highway and interferes with the movement of pedestrian or vehicular traffic.

(ii) The term includes street fairs, block parties and other recreational events.

*Bureau*—The Bureau of Highway Safety and Traffic Engineering, which is the office of the Department responsible for traffic regulations and statewide policies regarding traffic-control devices.

*City of the first and second class*—A city so classified in accordance with section 1 the act of June 25, 1895 (P. L. 275, No. 188) (53 P. S. § 101), known as the City Classification Law.

*Conventional highway*—A highway other than an expressway or a freeway.

*Corner sight distance*—

(i) *Available corner sight distance*—The maximum measured distance along a crossing highway which a driver stopped at a side road or driveway along that highway can continuously see another vehicle approaching. For the purpose of measuring the available sight distance, the height of both the driver's eye and the approaching vehicle should be assumed to be 3.5 feet above the road surface. In addition, the driver's eye should be assumed to be 10 feet back from the near edge of the highway or the near edge of the closest travel lane if parking is permitted along the highway.

(ii) *Minimum corner sight distance*—The minimum required corner sight distance based on engineering and traffic studies, to ensure the safe operation of an intersection. The minimum value is a function of the speed of the approaching vehicles and the prevailing geometrics.

*Crash*—

(i) A collision involving one or more vehicles.

(ii) Unless the context clearly indicates otherwise, the term only includes those collisions that require a police report; that is, the collision involves one of the following:

(A) Injury to or death of any person.

(B) Damage to any vehicle involved to the extent that it cannot be driven under its own power in its customary manner without further damage or hazard to the vehicle, to other traffic elements, or to the roadway, and therefore requires towing.

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

*Delineator*—A retroreflective device mounted on the road surface or at the side of the roadway in a series to indicate the alignment of the roadway, especially at night or in adverse weather.

*Divided highway*—A highway divided into two or more roadways and so constructed as to impede vehicular traffic between the roadways by providing an intervening space, physical barrier or clearly indicated dividing section.

*85th percentile speed*—The speed on a roadway at or below which 85% of the motor vehicles travel.

*Engineering and traffic study*—An orderly examination or analysis of physical features and traffic conditions on or along a highway, conducted in accordance with this chapter for the purpose of ascertaining the need or lack of need of specific traffic restrictions, and the application of traffic-control devices.

*Expressway*—A divided arterial highway for through traffic with partial control of access and generally with grade separations at major intersections.

*Freeway*—A limited access highway to which the only means of ingress and egress is by interchange ramps.

*Grade*—The up or down slope in the longitudinal direction of the highway, expressed in percent, which is the number of units of change in elevation per 100 units of horizontal distance. An upward slope is a positive grade; a downward slope is a negative grade.

*Highway*—

(i) The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(ii) The term includes a roadway open to the use of the public for vehicular travel on grounds of a college or university, or public or private school, or public or historical park.

*Local authorities*—

(i) County, municipal and other local boards or bodies having authority to enact regulations relating to traffic.

(ii) The term includes airport authorities except when those authorities are within counties of the first class or counties of the second class.

(iii) The term also includes State agencies, boards and commissions other than the Department, and governing bodies of colleges, universities, public and private schools, public and historical parks.

*MUTCD*—The current edition of the Manual on Uniform Traffic Control Devices, as adopted by the Federal Highway Administration (FHWA), and available on the FHWA website.

*Narrow bridge or underpass*—A bridge, culvert or underpass with a two-way roadway clearance width of 16 to 18 feet, or any bridge, culvert or underpass having a roadway clearance less than the width of the approach travel lanes.

*Night or nighttime*—The time from 1/2 hour after sunset to 1/2 hour before sunrise.

*Normal speed limit*—The regulatory speed limit or the 85th percentile speed that existed before temporary traffic control was established, for example, prior to the beginning of a work zone.

*Numbered traffic route*—A highway that has been assigned an Interstate, United States or Pennsylvania route number, consisting of one, two, or three digits, sometimes with an additional designation such as business route, truck route or other similar designation.

*Private parking lot*—A privately owned parking lot open to the public for parking with or without restriction or charge.

*Procession*—

(i) An organized group of individuals, or individuals with vehicles, animals or objects, moving along a highway on the roadway, berm or shoulder in a manner that interferes with the normal movement of traffic.

(ii) The term includes walks, runs, parades and marches.

*Retroreflective sheeting*—

(1) Material which allows a large portion of the light coming from a point source to be returned directly back to a location near its origin, and is used to enhance the nighttime reflectivity of traffic control signs, delineators, barricades and other devices.

(ii) The term includes materials with nonexposed glass bead lens and microprismatic retroreflective sheeting.

*Roadway*—That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder. If a highway includes two or more separate roadways, the term refers to each roadway separately but not to all roadways collectively.

*Safe-running speed*—The average speed for a portion of highway determined by making a minimum of five test runs while periodically recording the speed at different locations while driving at a speed which is reasonable and prudent, giving consideration to the available corner and stopping sight distance, spacing of intersections, roadside development and other conditions.

*Sales Store*—The Department facility that sells maps and publications.

*School*—A public, private or parochial facility for the education of students in grades kindergarten through 12.

*School zone*—A portion of a highway that at least partially abuts a school property or extends beyond the school property line that is used by students to walk to or from school or to or from a school bus pick-up or drop-off location at a school.

*Secretary*—The Secretary of the Department.

*Special activity*—

(i) An organized vehicle race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or any other type of event conducted for the purpose of making a speed record.

(ii) The term includes those races defined in 75 Pa.C.S. § 3367 (relating to racing on highways).

*State-designated highway*—A highway or bridge on the system of highways and bridges over which the Department has assumed or has been legislatively given jurisdiction.

*Stopping sight distance*—The length of highway over which a 2-foot high object on the roadway is continuously visible to the driver, with the driver's eye height assumed to be 3.5 feet above the road surface.

*TTC—Temporary traffic control*—An area of a highway where road user conditions are changed because of a work zone or incident by use of temporary traffic-control devices, flaggers, police officers or other authorized personnel.

*TTC plan*—A plan for maintaining traffic through or around a work zone.

*Through highway*—

(i) A highway or portion of a highway on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way in obedience to a Stop Sign (R1-1), Yield Sign (R1-2) or other traffic-control device when the signs or devices are erected as provided in this chapter.

(ii) The term includes all expressways and freeways.

*Traffic calming*—The combination of primarily physical measures taken to reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for nonmotorized street users. The primary objectives of traffic calming measures are to reduce speeding and to reduce the volume of cut-through traffic on neighborhood streets.

*Traffic-control devices*—Signs, signals, markings and devices consistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

*Traffic restriction*—A restriction designated by a traffic-control device to regulate the speed, direction, movement, placement or kind of traffic using any highway.

*Traffic signal*—

(i) A power-operated traffic-control device other than a sign, warning light, flashing arrow panel or steady-burn electric lamp.

(ii) The term includes traffic-control signals, pedestrian signals, beacons, in-roadway warning lights, lane-use-control signals, movable bridge signals, emergency traffic signals, firehouse warning devices, ramp and highway metering signals and weigh station signals.

*Travel lane*—

(i) A lane of a highway which is used for travel by vehicles.

(ii) A lane in which parking is permitted during off-peak hours but is restricted for use as a travel lane during peak hours to obtain greater traffic movement.

*Warrant*—A description of the threshold conditions to be used in evaluating the potential safety and operational benefits of traffic-control devices based upon average or normal conditions.

*Work zone*—The area of a highway where construction, maintenance or utility work activities are being conducted, and in which traffic-control devices are required in accordance with this chapter.

### § 212.2. Adoption of Federal standards.

(a) *General provisions.* Consistent with the authority contained in 75 Pa.C.S. §§ 6103(c) and 6121 (relating to promulgation of rules and regulations by the Department; and uniform system of traffic-control devices), the Department hereby adopts the MUTCD, as published by the Federal Highway Administration. The MUTCD is adopted in its totality except where this chapter clearly indicates that it is not being adopted, or that additional warrants or criteria are being provided.

(b) *Modification of Federal statutes, regulations or provisions.* As provided in 75 Pa.C.S. § 6103(d), if the MUTCD is amended or modified by the Federal Highway Administration, the amendment will take effect on the effective date specified by the Federal Highway Administration unless the Department publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification will not apply.

### § 212.3. Pennsylvania's Supplement to the MUTCD.

The Department will publish this chapter as a supplement to the MUTCD. This publication will be called *Official Traffic Control Devices* (Department Publication 212), and will include an appendix with additional guidance information, including the following:

(1) How to determine various elements associated with engineering and traffic studies.

(2) How to obtain crash rates for various types of roads.

(3) How to measure the various types of sight distance.

(4) Where National study data is located.

### § 212.4. Application.

(a) *General.* This chapter applies to the approval, location, installation, revision, operation, maintenance and removal of all traffic signs, signals, markings and other traffic-control devices on all streets and highways in this Commonwealth. All signs, signals, markings and other traffic-control devices erected shall conform to this chapter. Traffic restrictions, which were posted or erected prior to February 4, 2006, in accordance with any regulations in effect at that time, are not subject to this chapter.

(b) *New restrictions.* Except as noted in §§ 212.109 and 212.117 (relating to bridge speed limits; and weight, size and load restrictions), engineering and traffic studies can be performed by police officers, roadmasters, maintenance supervisors or traffic technicians. The establishment or revision of a traffic restriction may be warranted if one of the following applies:

(1) One or more of the engineering and traffic study warrants covered in this chapter justifies the traffic restriction.

(2) Sound engineering judgment based upon a combination of all data sources substantiates the need for the restriction.

(c) *Removal of an existing restriction.* The removal of an existing traffic restriction may be warranted if one of the following applies:

(1) A study indicates that none of the engineering and traffic study warrants covered in this chapter justify the existing traffic restriction.

(2) The condition that originally justified the restriction no longer exists.

(d) *Warrants no substitute for engineering judgment.* Warrants established under this chapter provide the threshold for consideration of the installation of a traffic-control device, but are not a substitute for engineering judgment. The fact that a warrant for a particular traffic-control device is met is not conclusive justification for the installation of the device.

(e) *Traffic-control during emergencies.* During National, State or local emergencies including floods, fires, hurricanes, tornadoes, earthquakes, terrorist events, sink holes and bridge collapses, the Department on State-designated highways and local authorities on highways under their



jurisdiction may suspend existing restrictions or effect temporary restrictions without an engineering and traffic study as provided in 75 Pa.C.S. §§ 6108 and 6109(a)(20) (relating to power of Governor during emergency; and specific powers of department and local authorities). These temporary restrictions expire at the end of the emergency.

(f) *Highway construction projects.* The standards in this chapter apply to all highway construction projects that do not have design field view approval before January 1, 2006, and all highway construction projects that have plans, specifications and estimate (PS&E) packages submitted to the Department's Bureau of Design on or after July 1, 2006. Highway construction projects that have design field view approval before January 1, 2006, and PS&E packages submitted to the Department's Bureau of Design before July 1, 2006, must comply with the standards applicable at the time of design. Those standards may be found in Department Publications 68, *Official Traffic Control Devices*, 1975 Edition, 201M, *Engineering and Traffic Studies*, dated December 1993, and 203M, *Work Zone Traffic Control*, dated September 24, 2002.

(g) *Highway occupancy permits and utility work.*

(1) The standards in this chapter are applicable to all utility work and work performed under a highway occupancy permit, except that work performed under a highway occupancy permit or utility work requiring a permit, with the permit issued before January 1, 2006, must comply with the standards applicable at the time the permit was issued. Those standards may be found in Department Publications 68, *Official Traffic Control Devices*, 1975 Edition, 201M, *Engineering and Traffic Studies*, dated December 1993, and 203M, *Work Zone Traffic Control*, dated September 24, 2002.

(2) The standards in this chapter apply to all utility work performed on or after January 1, 2006, using an emergency permit card under § 459.6 (relating to emergency work).

**§ 212.5. Installation and maintenance responsibilities.**

(a) *Authority to erect traffic-control devices.* The delegation of responsibilities for the installation and maintenance of traffic-control devices is in accordance with 75 Pa.C.S. §§ 6122 and 6124 (relating to authority to erect traffic-control devices; and erection of traffic-control devices at intersections).

(b) *Traffic-control devices on State-designated highways.*

(1) *Conventional highways.*

(i) Local authorities may not revise or remove any traffic-control device installed by the Department or by a contractor for the Department without written approval of the Department.

(ii) Cities of the first and second class are responsible for the installation, revision, removal, maintenance and operation of all traffic-control devices on the highways within their city boundaries. Department approval is not required, except as follows:

(A) As may be required in an agreement between the city and the Department.

(B) Department approval is required for traffic signals if the city does not have municipal traffic engineering certification in accordance with Chapter 205 (relating to municipal traffic engineering certification).

(iii) Local authorities other than cities of the first and second class shall obtain written Department approval before installing any new, or revising or removing any existing traffic-control device unless noted otherwise in this chapter or as provided in an agreement with the Department.

(iv) Local authorities may install, revise or remove the following devices, and Department approval is not required:

(A) Stopping, standing or parking signs (R7 and R8 Series).

(B) Street name signs (D3 Series).

(C) Crosswalk markings.

(D) Parking stall markings, except written Department approval is required prior to creating new angle parking.

(E) Curb markings.

(F) Parking meters.

(v) Local authorities, or other agencies as indicated, are responsible for installing, maintaining and operating the following traffic-control devices, subject to Department approval prior to any change in the traffic restriction:

(A) Traffic signals, and all associated signs and markings included on the Department-approved traffic signal plan.

(B) Speed Limit Signs (R2-1) for speed limits of 35 miles per hour or less. The Department will be responsible for all hazardous grade speed limits and bridge speed limits, and for all speed limits at Department rest areas, welcome centers and weigh stations.

(C) Stop lines and yield lines at intersections.

(D) Pedestrian group signs (R9 Series).

(E) Traffic signal group signs (R10 Series).

(F) Street Closed (\_\_\_\_) to (\_\_\_\_) Sign (R11-10).

(G) Snowmobile Road (\_\_\_\_) Closed to All Other Vehicles Sign (R11-11).

(H) All Trucks Must Enter Weigh Station Sign (R13-1-1) and Weigh Station signs (D8 Series) for weigh stations not owned or operated by the Department.

(I) Railroad Crossbuck Sign (R15-1), Track Sign (R15-2), Emergency Notification Sign (I-13a), and other signs, gates, or lights that are within the railroad company's right-of-way, shall be installed by the railroad company.

(J) Signal Ahead Sign (W3-3).

(K) Entrance and crossing signs (W11 Series), which warn of possible crossings by pedestrians, hikers, cattle, farm equipment, ATVs, fire apparatus, and so forth, except the Deer Crossing Sign (W11-3), Elk Crossing Sign (W11-3A), Horsesdrawn Vehicle Sign (W11-11), Left Turns and Cross Traffic Sign (W11-21), Left Turns Sign (W11-21-1) and Watch for Turns Sign (W11-21-2) will be the responsibility of the Department.

(L) Children group signs (W15 Series).

(M) Parking Area Sign (D4-1).

(N) Telephone directional signs (D9-1 series), which shall be installed by the telephone company.

(O) Bicycle Route Sign (D11-1).

(P) Traffic Signal Speed Sign (I1-1).

(Q) Trail group signs (I4 Series).

(R) Snowmobile and all terrain vehicles group signs (I12 Series).

(S) School zone speed limits, and all school signs (S Series).

(T) Pavement markings for mid-block crosswalks.

(U) Pavement markings for bicycles such as the bicycle lane symbol.

(2) *Expressways and freeways.* Local authorities may not install, revise or remove traffic-control devices on an expressway or freeway or at an intersection with an expressway or freeway without written Department approval, unless noted otherwise in this chapter.

(c) *Traffic-control devices on local highways.* As provided in 75 Pa.C.S. § 6122, local authorities are responsible for the installation, revision, maintenance, operation and removal of any traffic-control device on highways under their jurisdictions, except local authorities shall obtain written Department approval for the following two items:

(1) Installing, revising or removing any school zone speed limit or traffic signal as indicated in 75 Pa.C.S. § 3365(b) (relating to special speed limitations) and § 6122(a)(2), respectively, except Department approval is not required for cities of the first and second class, and other local authorities that have municipal traffic engineering certification in accordance with Chapter 205.

(2) Revising or removing a traffic-control device installed in accordance with an agreement between the local authorities and the Department.

(d) *Traffic-control devices on local highway approaches to intersections with State-designated highways.*

(1) The Department is responsible for approving the traffic control at intersections of local highways and State-designated highways, including the local highway approaches.

(2) At new intersections, the permittee is responsible for installing traffic-control devices on local highway approaches as required by an approved highway occupancy permit issued in accordance with Chapter 441 (relating to access to and occupancy of highways by driveways and local roads).

(3) At existing intersections, local authorities or permittees are responsible to install, remove and maintain traffic-control devices as required to control traffic on the local highway approaches, including replacement or repair of missing, damaged, blocked or outdated devices in need of upgrade.

(i) Traffic-control devices to be maintained on local roadways include the following, as applicable:

(A) Stop Signs (R1-1) and Yield Signs (R1-2).

(B) Stop lines and yield lines.

(C) No Right Turn Signs (R3-1), No Left Turn Signs (R3-2), No Turns Signs (R3-3), Left Turn Signs (R3-5), Left Lane Must Turn Left Signs (R3-7L), One-Way Signs (R6 Series) and other similar type traffic restriction, prohibitions or lane control signs.

(ii) Local authorities or permittees shall obtain written Department approval before implementing any revised traffic-control scheme at the intersection.

(4) The Department may take appropriate action if it deems it necessary to carry out the maintenance responsibility of a local authority or permittee because of failure or inability to act in a timely manner.

(5) Local authorities are responsible to determine the need for any Stop Ahead Signs (W3-1) and Yield Ahead Signs (W3-2) on local highway approaches to State-designated highways, and for installing and maintaining any warranted signs.

(e) *Police authority.* Police officers may install temporary traffic-control devices on any highway without approval from the Department or the local authorities. These traffic-control devices may be used to close highways during emergencies, to weigh or inspect vehicles, to establish sobriety checkpoints or to conduct other enforcement programs or activities.

#### § 212.6. Removal of traffic hazards.

(a) *Interfering signs, lights or markings.* The Secretary and local authorities, under their respective jurisdictions, have the authority to cause the removal of all colored or flashing lighted signs or other lights, signs or markings so located as to interfere with traffic or to be confused with or to obstruct the view or effectiveness of traffic-control devices.

(b) *Trees, plants, shrubs or other obstructions.* The Department on State-designated highways, and local authorities on any highway within their boundaries, may require a property owner to remove or trim a tree, plant, shrub or other obstruction or part thereof which constitutes a traffic hazard. The following are examples of traffic hazards:

(1) The obstruction restricts the stopping sight distance for drivers of through vehicles or the available corner sight distance for drivers entering from side roads or driveways to distances less than the appropriate minimum stopping sight distance or minimum corner sight distance values.

(2) The obstruction critically restricts the sight distance to a traffic-control device.

(3) Vehicle crash records indicate that a crash has involved the obstruction or that the obstruction contributed to one or more of the vehicle crashes.

#### § 212.7. Signs and banners across or within the legal limits of a State-designated highway.

(a) *Prohibition.* It is unlawful to place any sign, marking or banner containing advertising matter of any kind on, across or within the right-of-way of any State-designated highway without the written consent of the Department.

(b) *Abatement.* A sign, marking or banner containing advertising matter placed without the written consent of the Department will be declared to be a public nuisance and may be removed by the Department with or without notice to the persons responsible for the placing of the sign, marking or banner containing advertising matter.

#### § 212.8. Use, test, approval and sale of traffic-control devices.

(a) *Statutory requirements.* Under 75 Pa.C.S. § 6127 (relating to dealing in nonconforming traffic-control devices), it is unlawful for a person to manufacture, sell, offer for sale or lease for use on the highway, any traffic-control device unless it has been approved and is in accordance with this title.

(b) *Devices requiring Department approval.* Department approval is required prior to the sale or use of the following types of traffic-control devices on any highway:

(1) Delineation devices, including flexible delineator posts, guide rail and barrier-mounted delineators and raised pavement markers.

(2) Pavement marking materials including paint, epoxy, polyesters, methyl methacrylate, thermoplastic, preformed tapes and glass beads.

(3) Retroreflective sheeting materials used for traffic-control devices.

(4) Traffic signal equipment, including the following:

- (i) Controller units.
- (ii) Signal heads—lane-use traffic-control, pedestrian, and vehicle.
- (iii) Detectors—pedestrian and vehicle.
- (iv) Load switches.
- (v) Flasher units.
- (vi) Time clocks.
- (vii) Relays.
- (viii) Preemption and priority control equipment.

(ix) Electrically-powered signs—variable speed limit signs, blank-out signs and internally illuminated signs, including School Speed Limit Signs.

- (x) Portable traffic-control signals.
- (xi) Local intersection coordinating units.
- (xii) Dimming devices.
- (xiii) In-roadway warning lights.
- (xiv) Auxiliary devices and systems.

(5) Traffic signs and the associated breakaway sign supports.

(6) Work zone traffic-control devices, including the following:

- (i) Arrow panels.
- (ii) Barricades.
- (iii) Citizen band traffic alert radios.
- (iv) Cones.
- (v) Crash cushions.
- (vi) Drums.
- (vii) Portable changeable message signs.
- (viii) Portable traffic sign supports.
- (ix) Speed display signs, as used to inform motorists of the speed of their vehicles.
- (x) Stop/slow paddles.
- (xi) Temporary pavement marking tapes.
- (xii) Temporary traffic barrier.
- (xiii) Tubular markers.
- (xiv) Variable speed limit signs.
- (xv) Vertical panels.
- (xvi) Warning lights.

(7) Yield to pedestrian channelizing devices, which are designed for placement between lanes of traffic to remind motorists to yield to pedestrians in crosswalks.

(c) *Approval procedure.* A manufacturer or person desiring approval for the sale, use or lease of one or more of the devices listed in subsection (b) shall contact the Bureau of Highway Safety and Traffic Engineering.

(d) *Listing of approved traffic-control devices.* Approved traffic-control devices will be listed in the Department's *Approved Construction Materials* (Department Publication

35), available from the Department's Sales Store or through the Department's website.

**§ 212.9. Traffic calming.**

(a) *General policy.* The Department on State-designated highways, and local authorities on any highway within their boundaries, may implement traffic calming measures in conformance with *Pennsylvania's Traffic Calming Handbook* (Department Publication 383).

(b) *Department approval.* Local authorities shall obtain approval of the Department prior to implementing a traffic calming measure on a State-designated highway, except when the Department's handbook provides otherwise or when the Department has entered into an agreement with local authorities that provides otherwise.

**§ 212.10. Requests for changes, interpretations or permission to experiment.**

A local authority may submit a request to the Department for a change or an interpretation of the provisions of this chapter, or for approval to use an alternate device or to experiment with a device in a way not provided for in this chapter.

(1) The request must be submitted in writing to the Bureau of Highway Safety and Traffic Engineering.

(2) The request must include information in accordance with Section 1A.10 of the MUTCD (relating to interpretations, experimentation, changes and interim approvals). If appropriate, the Department will forward the request to the Federal Highway Administration according to procedures in Section 1A.10 of the MUTCD.

(3) The type of information to be compiled during any experiment must be identified in the request, and the collection of any data and the development of any follow-up report will be a conditional part of the request.

**§ 212.11. Metric measurements.**

(a) *General policy.* The following conversion factors may be used for the design and placement of traffic-control devices as included in this chapter:

- (1) One inch equals 25 millimeters.
- (2) One foot equals 0.30 meter.
- (3) One mile equals 1.6 kilometers.

(b) *Metric sign messages.* Unless authorized in writing by the Secretary, sign messages on regulatory, warning and guide signs, except for auxiliary signs used for educational purposes, may not display metric units of measurement.

**§ 212.12. Department publications.**

The Department will publish or make available documents to assist those persons responsible for conducting engineering and traffic studies; manufacturing traffic signs and other traffic-control devices; erecting, maintaining and operating traffic-control devices; and maintaining traffic in work zones. The following documents will be available from the Department's Sales Store:

(1) *Approved Construction Materials* (Department Publication 35) which contains listings of approved suppliers of specific materials.

(2) *Official Traffic-Control Devices* (Department Publication 212) which contains this chapter, and an appendix containing additional guidance related to elements of appropriate engineering and traffic studies and the provisions of this chapter.

(3) *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) which contains the design and application details of official traffic signs.

(4) *Signing and Marking Standard* (Department Publication 111M) which contains the traffic standards that provide detailed guidance for sign legends, expressway and freeway signs, sign spacing and location criteria and sign posts. The publication also includes detailed drawings of pavement marking lines and symbols, and the placement of delineation devices at on-ramps, off-ramps and lane drops.

(5) *Traffic Signal Design Handbook* (Department Publication 149M) which contains information for use in the design and operation of a traffic signal installation.

(6) *Traffic Signal Standard Drawings, TC-8800 Series* (Department Publication 148M) which contains detailed guidance for the construction of traffic signals, controller assemblies, traffic signal supports, electrical distribution, signal heads and detectors.

(7) *Work Zone Traffic Control Guidelines* (Department Publication 213) which provides additional guidance and suggested temporary traffic-control plans for maintaining traffic through highway construction, maintenance and utility work zones to supplement various situations not included in the MUTCD.

### Subchapter B. SIGNS

Sec.

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#### § 212.101. Official signs.

(a) *Approved signs.* Official traffic signs are identified in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) which includes sign standards that show the shape, color, dimensions, legends, application and placement of official signs. When sign messages are required other than those provided for in the *Pennsylvania Handbook of Approved Signs*, the Bureau of Highway Safety and Traffic Engineering may authorize new sign standards. When approved by the Secretary, through the Chief, Traffic Engineering and Operations Division, these signs shall also be regarded as official signs.

(b) *Existing nonstandard signs.* Official signs must replace existing signs of nonstandard design or application as rapidly as is economically feasible.

(c) *Unacceptable variations.* Variations in the proportion of symbols, stroke width and height of letters, width of borders or layout of word or symbol messages will be sufficient cause for the Secretary to order the removal or

replacement of a sign, but will not be a defense in prosecution for violation of any mandatory traffic control provided by the sign.

#### § 212.102. Sign manufacturers.

Only signs manufactured by the Department or a Department-approved sign manufacturer shall be used on any highway. Commercial or municipal sign manufacturers who wish to obtain Department approval to manufacture signs shall request an application from the Bureau of Highway Safety and Traffic Engineering.

#### § 212.103. Sign size.

Signs smaller than the minimum size or larger than the largest size specified on the sign standards in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) are not permitted without written approval from the Department.

#### § 212.104. Retroreflectorization.

Retroreflective sheeting or other approved retroreflective materials must be used on all signs that do not have sign illumination, unless the sign standard as included in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) indicates that the sign does not need to be retroreflective. Type III or higher type retroreflective sheeting is encouraged to improve nighttime visibility of signs, especially for older drivers.

#### § 212.105. Sign posts and mountings.

Unless physically protected by guide rail or a barrier, or installed beyond the clear zone as defined in the Department's *Design Manual, Part 2* (Department Publication 13M), all sign posts must be of a Department-approved breakaway design as listed in the *Approved Construction Materials* (Department Publication 35), and in accordance with the *Signing and Marking Standards* (Department Publication 111M).

#### § 212.106. Additional warrants for Stop Signs (R1-1) and Yield Signs (R1-2).

(a) *Through highways.* The Department and local authorities may designate highways as through highways to permit more continuous movement and less delay to the major flow of traffic.

(1) Stop Signs (R1-1) or Yield Signs (R1-2) may be installed at all approaches to the through highway to provide preferential right-of-way at intersections.

(2) The designation of a highway as a through highway does not prevent modification of the right-of-way assignment at intersections of the through highway.

(3) The justification for the modification at a particular intersection will be based on the warrants in the MUTCD and the additional warrants in subsection (b), (c) or (d).

(b) *Stop Signs (R1-1) at intersections.* In addition to the warrants for stop signs in the MUTCD (relating to stop sign applications), a Stop Sign (R1-1) may be installed on a channelized right-turn roadway at a signalized intersection where the traffic-control signals are not readily visible, and the right-turn roadway does not have separate signals, and a Yield Sign (R1-2) is not appropriate.

(c) *Multway stop applications.* In addition to the criteria and options warranting multway stop applications in the MUTCD, the following apply:

(1) The five or more reported crashes in a 12-month period for Warrant B may include both reportable crashes, and nonreportable crashes that are documented

in the police files, that occurred during a 12-month period during the most recent 3 years of available crash data.

(2) Multiway stop applications may not be used because of limited available corner sight distance unless there is no practical method of improving the sight distance or reducing the speed limit to satisfy the minimum corner sight distance values.

(d) *Stop and yield control at locations other than intersections.*

(1) *One-lane bridges and underpasses.* Stop Signs (R1-1) are warranted in advance of a one-lane bridge or underpass when roadway geometry is such that drivers cannot see an approaching vehicle in sufficient time for both vehicles to stop prior to entering the bridge or underpass. If sight distance is not a problem, a Yield Sign (R1-2) with the supplemental To Oncoming Traffic Sign (R1-2a) may be installed at both ends of a one-lane bridge or underpass.

(2) *Crossings.* Stop Signs (R1-1) may be installed on highways on a temporary basis at officially designated crossings such as construction haul roads. These Stop Signs (R1-1) should only be visible and in effect during the time periods the crossing is being used and should be supplemented with a flashing red light for added visibility.

(3) *Private roads and driveways.* Stop Signs (R1-1) or Yield Signs (R1-2) may be installed to control traffic exiting from a private road or driveway onto a highway or to control traffic on the highway at a private road or driveway if the warrants applied at highway intersections are satisfied.

(4) *Truck pulloffs on hazardous grades.* A Stop Sign (R1-1) may be installed within an officially designated truck pull-off area in advance of a hazardous grade indicating the location that trucks are to stop within the pulloff.

(5) *Temporary traffic control.* Stop Signs (R1-1) may be installed at both ends of short one-lane construction, maintenance or utility operation to provide self-regulating traffic control providing the one-lane section excluding the tapers is less than 250 feet, the ADT is less than 1,500, and the sight distance is sufficient.

**§ 212.107. Except Right Turn Sign (R1-1-1).**

When a major traffic movement at an intersection is a right turn, the Except Right Turn Sign (R1-1-1) may be placed below the Stop Sign (R1-1) on that approach to minimize the total delay at the intersection. When this sign is used, Stop Signs (R1-1) are required on all other intersection approaches except for the approach with a corresponding left-turn movement.

**§ 212.108. Speed limits.**

(a) *General.* This section applies to maximum speed limits established according to 75 Pa.C.S. §§ 3362 and 3363 (relating to maximum speed limits; and alteration of maximum limits). Engineering and traffic studies are not required for statutory speed limits, but documentation should be on file for urban districts and residence districts to show that the requirements defined in the Vehicle Code are satisfied.

(b) *Engineering and traffic studies.* Speed limits established in accordance with 75 Pa.C.S. § 3363 may be established in multiples of 5 miles per hour up to the maximum lawful speed. The speed limit should be within 5 miles per hour of the average 85th percentile speed or the safe-running speed on the section of highway, except

the speed limit may be reduced up to 10 miles per hour below either of these values if one or more of the following conditions are satisfied:

(1) A major portion of the highway has insufficient stopping sight distance if traveling at the 85th percentile speed or the safe-running speed.

(2) The available corner sight distance on side roads is less than the necessary stopping sight distance values for through vehicles.

(3) The majority of crashes are related to excessive speed and the crash rate during a minimum 12-month period is greater than the applicable rate in the most recent high-crash rate or high-crash severity rate table included in the appendix of Official Traffic-Control Devices (Department Publication 212). Crashes related to excessive speed include those crashes with causation factors of driving too fast for conditions, turning without clearance or failing to yield right-of-way.

(c) *Variable speed limits.* To improve safety, speed limits may be changed as a function of traffic speeds or densities, weather or roadway conditions or other factors.

(d) *Special speed limits.*

(1) Within a rest area or welcome center, a 25 mile per hour speed limit may be established without the need for an engineering and traffic study if pedestrians walk across the access roadways between the parking lot and the rest facilities.

(2) Within a toll plaza or a truck weight station, an appropriate speed limit may be established without an engineering and traffic study by the authorities in charge to enforce the safety of the operations or to protect the scales.

(e) *Posting of speed limits.* A Speed Limit Sign (R2-1) or variable speed limit sign showing the maximum speed limit shall be placed on the right side of the highway at the beginning of each numerical change in the speed limit, but an additional sign may also be installed on the left side of the highway. If the new speed limit begins at an intersection, the first sign should be installed within 200 feet beyond the intersection. The placement of this sign must satisfy both the requirement to post the beginning of the new speed limit and the requirement to post the end of the previous speed limit. Additional requirements for posting are as follows:

(1) Speed limits of 50 miles per hour or less shall be posted as follows:

(i) A Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), or a Speed Reduction Sign (W3-5), shall be placed on the right side of the highway 500 to 1,000 feet before the beginning of every speed reduction unless one of the following applies:

(A) The speed reduction is 10 miles per hour or less.

(B) The speed reduction begins at an intersection and all traffic entering the roadway with the speed reduction has to either stop at a Stop Sign (R1-1) or make a turn.

(C) The new speed limit is posted on variable speed limit signs.

(ii) Speed Limit Signs (R2-1) or a variable speed limit sign showing the maximum speed shall be placed on the right side of the highway at the beginning of the speed limit and at intervals not greater than 1/2 mile throughout the area with the speed limit.

(iii) The end of a speed limit is typically identified by the placement of a sign indicating a new speed limit, but

the End Plaque (R2-10) may be placed above a Speed Limit Sign (R2-1) at the end of the zone if the appropriate speed limit is not known on the following section of roadway.

(2) On freeways, a Speed Limit Sign (R2-1) shall be installed after each interchange unless insufficient space exists for the signs.

**§ 212.109. Bridge speed limits.**

(a) *Establishment.* A bridge speed limit shall be established under 75 Pa.C.S. § 3365(a) (relating to special speed limitations) if an engineering investigation by a professional engineer establishes the need to reduce the vibration and impact of vehicles due to a structural condition of the bridge or elevated structure.

(b) *Posting.* An established bridge speed limit shall be posted similar to other speed limits in § 212.108(e) (relating to speed limits), except that a Bridge Sign (R12-1-2) must be mounted directly above each Speed Limit Sign (R2-1) and Reduced Speed (\_\_\_\_) Ahead Sign (R2-5). The sign indicating the beginning of the bridge speed limit should be installed within 50 feet of the beginning of the structure. The end of the bridge or elevated structure must be the end of the bridge speed limit.

**§ 212.110. Hazardous grade speed limits.**

(a) *Establishment.* A hazardous grade speed limit may be established under 75 Pa.C.S. § 3365(c) (relating to special speed limitations) if an engineering and traffic study establishes the need for all vehicles or vehicles having a gross weight in excess of a designated weight to be limited to a maximum speed on a downgrade.

(1) The designated weight should be 26,000 pounds unless the engineering and traffic study determines that a different weight should be used.

(2) When a hazardous-grade speed limit is established, it should be consistent with the speed that similar vehicles can climb the hill or other Department-approved methodology, except that a hazardous-grade speed limit should not be greater than the lowest advisory speed or legal speed limit either on the hill or at the base of the hill.

(3) A hazardous-grade speed limit may be established when one or more of the following conditions exist:

(i) The length of grade exceeds the value set forth in the following table:

Average Grade (percent)	Length of Grade (feet)	
	Condition A*	Condition B**
-3	20,000	—
-4	8,000	16,000
-5	5,000	10,000
-6	3,000	6,000
-7	2,000	4,000
-8	1,800	3,600
-10	1,500	3,000
-12	1,250	2,500
-15	1,000	2,000

\* Condition A applies if vehicles are required to stop or reduce speed at or before the bottom of the hill or if there is an urbanized area at the base of the hill.

\*\* Condition B pertains to all other locations.

(ii) A crash has occurred on the downgrade that can be attributed to the speed of a vehicle having a gross weight in excess of the designated weight.

(iii) A verified report has been received during the past 3 years of an operator losing control of a vehicle on the grade, and the vehicle is a type having a gross weight in excess of the designated weight.

(b) *Posting.* A hazardous grade speed limit shall be posted with traffic-control devices as follows:

(1) A Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), advising of the maximum hazardous grade speed limit, with a Truck Marker (M4-4), or other marker as applicable, mounted directly above the Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), shall be placed on the right side of the highway at a distance of 500 to 1,000 feet before the hazardous grade speed limit, except that this advance sign is not required if the hazardous grade speed limit begins at a vehicle pull-off where all applicable vehicles are required to stop.

(2) A Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1), or other sign as applicable, shall be erected at the beginning of the hazardous grade speed zone and at intervals not greater than 1/4 mile throughout the zone.

(3) A Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1), or other sign as applicable, with an End Sign (R2-10) mounted above the Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1) or other sign, shall be installed at the end of the hazardous grade speed limit.

**§ 212.111. Turn restriction warrants.**

A straight-through or turning movement may be restricted if the movement can be made at an alternate location, and if one or more of the following conditions are present:

(1) A review of vehicle crashes shows that ten crashes have occurred during the previous 3 years, or five crashes have occurred during any 12-month period in the previous 3 years that can be attributed to vehicles making or attempting to make the movement.

(2) When a capacity analysis or field review of the intersection indicates that turning or crossing vehicles are causing unreasonable delays or creating a potential crash situation for through vehicles.

(3) When a field review of the intersection indicates that significant conflicts occur between vehicles making or attempting to make a particular movement and other vehicular or pedestrian movements.

(4) When a field review of the intersection indicates that a turn or straight-through movement delays the platoon of vehicles through a progressive signal system.

(5) When a field review of the intersection indicates that the geometric design or the available corner sight distance does not adequately provide for the movement or the movement frequently cannot be safely executed.

(6) A study shows that the turning movement is frequently being made by through traffic onto a residential street to avoid downstream congestion.

**§ 212.112. Signs to prohibit passing.**

The No Passing Zone Pennant (W14-3) is the primary sign to identify the beginning of a no-passing zone on a two-lane highway and shall be installed on the left side of the road. The Do Not Pass Sign (R4-1) may be installed on the right side of the roadway to supplement the No Passing Zone Pennant Sign (W14-3). The Pass With Care Sign (R4-2) may be installed at the end of the no-passing zone. Warrants for no-passing zones are included in § 212.202 (relating to no-passing zones).

**§ 212.113. One-way streets.**

A one-way street may be established if the following conditions are satisfied:

- (1) The traffic flow can be accommodated in both directions. Whenever possible, an adjacent parallel street should be used to form a one-way couplet.
- (2) The street has a reasonable number of intersections for entrance to or exit from the one-way street or one-way system.
- (3) The roadways at the terminal points of the one-way street provide satisfactory transitions to and from the two-way operation.
- (4) There will be a reduction of intersection delays.
- (5) Existing bus routes can be satisfactorily accommodated.
- (6) Emergency vehicles can reasonably and expeditiously reach their destinations.

**§ 212.114. Stopping, standing and parking restrictions.**

(a) *General.* Stopping, standing or parking may be restricted along the curb or edge of a roadway when one or more of the following conditions exist:

- (1) The distance between the center of the center line pavement markings (or the center of the roadway if center line pavement markings are not present) and the curb or edge of roadway is less than 19 feet on major arterial highways, or less than 18 feet on other roadways.
- (2) The street width is such that, if vehicles are parked along one or both curb faces or edges of the roadway, two vehicles cannot move abreast of one another in the same or the opposite direction without one yielding to allow the other vehicle to pass.
- (3) A capacity analysis indicates that parking should be removed at all times or during certain hours to accommodate the traffic volume.
- (4) At an intersection, the available corner sight distance for a driver on the minor road is less than the

necessary minimum stopping sight distance value for the driver on a through roadway.

(5) An analysis of vehicle crashes indicates that at least three crashes during the previous 3-year period have been directly or indirectly attributed to one of the following primary causes:

- (i) Vehicles parking on the roadway.
  - (ii) Vehicles entering or leaving the parked position.
  - (iii) Drivers or passengers getting out of parked vehicles on the street side.
  - (iv) Reduced sight distance due to the parked vehicles.
- (6) The area is designated as an official bus stop or as a loading and unloading zone.
- (7) The area is adjacent to or opposite of a fire station driveway or any other type driveway or intersection where turning maneuvers would be restricted if parking were present.

(8) The width of the shoulder is not sufficient to allow a vehicle or its load to park completely off the roadway.

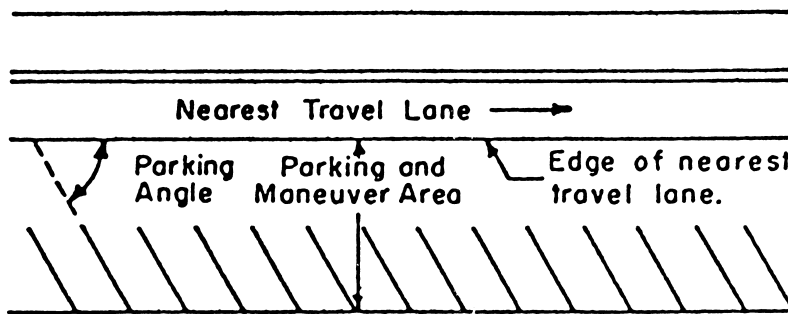
(9) Along roadways having three or more lanes and speed limits of 40 miles per hour or above, parking may be restricted to allow vehicles to use the berm or shoulder as a clear recovery area.

(b) *Angle parking.* As defined in § 212.1 (relating to definitions), angle parking will only be authorized as follows:

(1) New angle parking may be established only along streets where the following criteria are satisfied:

(i) The parking and maneuver area, as shown in the diagram which follows, adjacent to the near edge of the nearest travel lane equals or exceeds the distance indicated in the following table:

Parking Angle (degrees)	Parking and Maneuver Area (feet)
30	26
45	30
60	37
90	43



- (ii) Parked vehicles do not adversely affect the available corner sight distance.
- (iii) Additional travel lanes are not required for the existing traffic volumes to achieve a satisfactory level of operation.
- (iv) Parking stalls will be adequately marked and spaced.
- (v) Pedestrian activity is minimal within the parking maneuver area.

(2) It is recommended that existing angle parking be eliminated if an analysis of vehicle crashes indicates that the parking-related crash rate within the area of existing angle parking is greater than the rate on similar portions of the same street or other streets within the same municipality which have parallel parking.

(c) *Parking meters.* When parking is permitted, local authorities may install parking meters and appropriate pavement markings to designate parking stalls. The

hours of effectiveness of parking meters must be indicated either on the meter or within the dome of the meter, but official traffic signs shall be erected to indicate hours when parking is prohibited.

(d) *Prohibition of kinds and classes.* When parking is permitted, local authorities or the Department may prohibit certain kinds and classes of vehicles from parking for safety, capacity or environmental reasons. Official signs must indicate the prohibitions.

(e) *Parking reserved for persons with disabilities.* The Reserved Parking Penalties Sign (R7-8f) shall be installed below all Reserved Parking Signs (R7-8), as provided in 75 Pa.C.S. § 3354(d) (relating to handicapped persons and disabled veterans).

(f) *Miscellaneous restrictions.*

(1) Local authorities or the Department may restrict or regulate parking without an engineering and traffic study to accomplish the following:

- (i) Facilitate construction, maintenance or utility operations.
- (ii) Eliminate long-term parking or parking in excess of a specified time limit.
- (iii) Provide for reserved parking spaces.
- (iv) Provide for snow emergency routes.
- (v) Provide for mail delivery or pickup.

(2) Restrictions for the elimination of long-term parking must apply only during short periods of time such as early morning hours when it will not seriously inconvenience local residents.

(g) *Double parking.* When parking is permitted, local authorities may, by local ordinance without an engineering and traffic study, authorize double parking (standing or parking on the roadway side of a vehicle stopped or parked at the edge or curb of a roadway) for the purpose of loading or unloading persons or property. On State-designated highways, double parking is not permitted without written approval of the Department.

(h) *Authority.* Local authorities may establish, revise or remove stopping, standing or parking restrictions on State-designated highways within their physical boundaries, except Department approval is required prior to revising or removing any of the following:

- (1) Established in conjunction with a State or Federal aid project.
- (2) Requested or posted by the Department for safety or capacity reasons.
- (3) Included as a condition on a traffic signal permit.

#### § 212.115. Posting of private parking lots.

(a) *General.* Posting of private property, including parking lots, giving notice to the public of parking restrictions as required by 75 Pa.C.S. §§ 3353(b)(2) and 3354(d)(3) (relating to prohibition in specified places; and additional parking regulations) must be in accordance with this section.

(b) *Public notice signs.*

(1) The legend on public notice signs at private parking lots must indicate the restrictions which apply. In addition to a primary restriction such as those contained in subparagraph (i), the sign may contain one or more supplemental restrictions or messages of the type included in subparagraph (ii).

(i) Primary restrictions include messages such as private parking, parking by permit only, authorized parking only, private parking for (\_\_\_\_) apartment and parking only for patrons of (\_\_\_\_).

(ii) Secondary restrictions or messages may include applicable hours of the day, applicable days of the week, applicable charges and warnings that unauthorized vehicles may be towed.

(iii) The name and telephone number of the owner or other person in control or possession of the property should also be included on the legend.

(2) Public notice signs should be erected at each entrance to the private parking lot and positioned so as to face traffic entering the lot. If there are no designated entrances—such as when a lot has one or more sides continuously open to a roadway—one or more signs should be erected so as to be readily visible to an ordinarily observant driver. Minimum message size shall be as follows:

(i) A primary restriction as defined in paragraph (1)(i) must have a minimum letter height of 3 inches. Signs erected at a distance of more than 75 feet from an entrance point must have letter height which is at least one additional inch in high for each 25-foot interval in the distance. The stroke width of the legend must be a minimum of 1/8 of the required height of the legend.

(ii) A secondary restriction as defined in paragraph (1)(ii) must have minimum dimensions equal to one-half of the minimum dimensions required for the primary restriction, except the letter height must be at least 2 inches.

(3) Signs which have application during hours of darkness must have a retroreflectORIZED sign message or background and be positioned so as to be illuminated by the headlight beams of entering vehicles, or the sign may be illuminated during applicable hours of darkness so as to be readily visible to an ordinarily observant driver.

(4) Under 75 Pa.C.S. § 3353(b), the prosecution of an owner or towing a vehicle from a private parking lot is prohibited unless restrictions are posted in accordance with this subsection.

(c) *Reserved parking signs or markings.*

(1) Special signs may be used to reserve designated parking stalls for named persons or classes of people, for particular vehicles, or for persons with special placards or assigned permit numbers. When used, these signs may be erected at the front of each parking stall or, in the case of parallel parking, at intervals not exceeding 100 feet along the side of the stalls. The minimum size sign must be 12 inches by 12 inches, and the minimum size message must be 2 inches in height.

(2) In lieu of signs to designate parking stalls as noted in subsection (a), pavement markings may be used on the pavement or an applicable curb for this purpose if:

(i) The public notice sign indicates that a permit is required.

(ii) The markings are readily visible to an ordinarily observant driver.

(3) The Reserved Parking Sign (R7-8) shall be used to designate reserved parking stalls for handicapped persons or severely disabled veterans. The Reserved Parking Penalties Sign (R7-8f), which indicates the minimum and maximum fine for violators and that violators may be towed, shall be installed below the Reserved Parking Sign (R7-8).



(4) Parking stalls designated under paragraph (3) for handicapped persons or severely disabled veterans may only be used by vehicles bearing a handicapped person or severely disabled veteran registration plate or displaying a handicapped person or severely disabled veteran parking placard issued by the Commonwealth or another state.

(5) Whenever signs required to implement the provisions of paragraph (3) become either obsolete or missing, they must be replaced with new official signs as rapidly as is feasible. The costs associated with the installation and replacement of the required signs for a particular location must be borne by the owner or person in control or possession of the property on which the signs are to be erected.

**§ 212.116. No Turn on Red Sign (R10-11 sign series).**

(a) *Warrants for no-turn-on-red restrictions.* The following warrants may be used in addition to the warrants for no-turn on red restrictions in the MUTCD (relating to traffic signal signs).

(1) A right turn on red, or left turn on red from a one-way highway to another one-way highway, may be prohibited from an intersection approach where an engineering and traffic study indicates that one or more of the following conditions exist:

(i) The available corner sight distance between a driver desiring to turn on red and an approaching vehicle on the cross street is less than the minimum shown on the following table:

Speed Limit or 85th Percentile Speed	Minimum Sight Distance to Approaching Vehicle*						
	Std. Values	Cross Street Approach Grade					
		-9%	-6%	-3%	3%	6%	9%
25	152	173	165	158	147	143	140
30	197	227	215	205	200	184	179
35	247	287	271	257	237	229	222
40	301	354	333	315	289	278	269
45	360	427	400	378	344	331	320
50	424	507	474	446	405	388	375
55	493	593	553	520	469	450	433

\* Measure sight distance from a location 10 feet before a marked pedestrian cross walk or, if none, 10 feet from the edge of the cross street roadway or curb line, where both the eye and the approaching vehicle are 3.5 feet high.

(ii) The intersection has more than four approaches or has restrictive geometry that is likely to cause vehicular conflicts which are not easily recognized by drivers.

(iii) The turning movement is allowed from more than one lane on a specific approach.

(iv) The vehicular turning movement would result in significant vehicular and pedestrian conflicts, such as locations where the crosswalk is designated as a school crossing or is used by large numbers of children, senior citizens or persons with physical disabilities. A no-turn-on-red restriction at these locations may only apply during the time periods that significant vehicular-pedestrian conflicts would occur, in accordance with paragraph (3).

(v) Opposing traffic has unusual movements, such as double left turns, which would not be expected by drivers turning on a red signal.

(vi) An analysis of vehicle crash data indicates that the turn-on-red movement has created an unsafe condition.

(2) Part-time or intermittent prohibition of the turn-on-red movement must be used at locations where a potential safety concern exists for only a portion of the day. These restrictions must be implemented by the use of one or more of the following:

(i) A Restricted Hours Panel (R10-20A) under the No Turn On Red Sign.

(ii) A supplemental message incorporated directly into the No Turn On Red Sign.

(iii) A sign designating the hours the restriction is effective.

(iv) A blank-out No-Turn-On-Red Sign.

(3) A part-time or intermittent prohibition of the turn-on-red movement may be used at an intersection approach where vehicles turning on red would cross an at-grade railroad crossing within 200 feet and the traffic signal controller is preempted during train movements during the time the signal controller is preempted in accordance with paragraph (2).

(b) *Application.* This section applies to signalized roadway and driveway intersections along all highways.

(c) *Engineering and traffic studies.* Engineering and traffic studies required by subsection (a)(1) shall be conducted by local authorities. The Department will be responsible for conducting the study at the following locations:

(1) At intersections where the traffic signal controller is preempted during train movements for a nearby crossing.

(2) At new or revised traffic signal installations when the traffic signal is designed by the Department.

(d) *Department approval.* Written approval of the Department's district executive shall be obtained prior to installation of a No Turn on Red Sign (R10-11 Series) at any intersection where the Department has issued the traffic signal permit.

**§ 212.117. Weight, size and load restrictions.**

(a) *Weight restriction based on condition of bridge.* Traffic on a bridge may be prohibited or restricted by weight of vehicle, number of vehicles, or kinds or classes of vehicles when an engineering evaluation conducted by

a professional engineer establishes the need. Engineering evaluation of a bridge or bridge component may be based on structural analysis and rating computations, testing, engineering judgment or a combination thereof. Restriction is warranted when one or more of the following conditions are present:

(1) The safe load capacity of the bridge is exceeded by the load effect of any of the legal load configurations. The capacity and load effects are to be determined in accordance with the *Bridge Safety Inspection Manual* (Department Publication 238).

(2) Engineering judgment indicates that the condition or material of construction of one or more portions or components of a bridge is such that further use by heavy vehicles may damage the bridge because of severe impact, fatigue or other reasons.

(3) The bridge is damaged due to fire, a vehicle crash or environmental deterioration, and engineering judgment indicates that a vehicle weight restriction is necessary to ensure an adequate level of safety.

(b) *Weight restriction based on condition of highway.* Traffic on a highway may be prohibited or restricted by weight of vehicle, or kinds or classes of vehicles when warranted by an engineering evaluation. Engineering evaluation may be based on structural analysis, testing, engineering judgment or a combination thereof. A restriction is warranted when one or more of the following conditions are present:

(1) The highway pavement or shoulders have inadequate structural capacity or have been weakened due to deterioration, high traffic volumes or climatic condition, and may be seriously damaged unless a restriction is imposed.

(2) An engineering evaluation of previous similar climatic conditions on the highway or on similar highways indicates that vehicles over a certain weight should have been prohibited.

(c) *Size restriction based on condition of bridge or highway.* Traffic on a bridge or highway may be restricted by size of vehicle or kinds or classes of vehicles when, after an engineering evaluation, one or more of the following conditions are found to be present:

(1) A bridge has poor alignment, substandard horizontal or vertical clearance, or creates problems for vehicles with low ground clearance, or the restriction is otherwise necessary to protect the bridge from vehicle crashes or damage.

(2) A highway has inadequate turning radii, horizontal width or creates concerns for vehicles with low ground clearance at one or more locations.

(d) *Weight and size restrictions based on traffic conditions.* Traffic on a highway or bridge may be prohibited or restricted by weight or size of vehicle, or kinds or classes of vehicles when, an engineering evaluation of the horizontal and vertical alignment, prevailing traffic speeds, compatibility of the various types of traffic, history of vehicle crashes or vehicular characteristics, indicates that the movement of certain vehicles constitutes a safety hazard. Restrictions may include weight; height, width or length of vehicles or their loads; types of cargo; speed or gearing; stopping requirements; specified travel lanes; and hours of operation.

(e) *Erection of signs.* Appropriate signs shall be erected within 25 feet of each end of a restricted portion of a highway or bridge whenever vehicles are prohibited under

subsection (a), (b), (c) or (d). In the case of a restriction on a highway or bridge which does not begin or end at an intersection with an unrestricted highway, an advance information sign shall also be erected at the intersection nearest each end of the restricted highway or bridge to allow drivers to avoid the restricted highway or bridge.

(f) *Alternate routes.* An alternate route shall be established whenever vehicles are prohibited under subsection (a) or (b) on either a numbered traffic route or a State-designated highway on the National Highway System, as established by the Federal Highway Administration, when the following apply:

(1) A reasonable alternate route exists which is not readily perceived by drivers.

(2) The alternate route can legally, safely, structurally and physically accommodate the weight and size of vehicles and their loads that are being detoured.

(3) Five or more vehicles per day are estimated to be prohibited from using the original route.

#### § 212.118. Street name signs.

For street name signs, white lettering on a green background is recommended, but local authorities may use white lettering on blue or brown background, or black lettering on white background, provided the same colors are used systematically throughout the municipality. To improve sign legibility, upper and lower case lettering is recommended.

#### § 212.119. Signing of named highways.

Signs carrying the name of the highway will be permitted at intervals of at least every 15 miles on conventional highways.

#### § 212.120. General motorist service signs.

The application of general motorist service signs shall be in accordance with the Department's Statewide policy and the *Signing and Marking Standards* (Department Publication 111M), and will be limited to expressways and freeways, except:

(1) Small trailblazer signs shall be installed on conventional highways when motorist services are signed on an expressway or freeway and it is necessary to guide motorists along conventional highways to the physical site of the motorist service.

(2) Hospital symbol signs are permitted on all highways.

#### § 212.121. Specific service signs.

(a) The Department may enter into an agreement with a private agency to administer a program for specific service signs for gas, food, lodging, camping and attractions. Specific service signs may only be installed on freeways, except small trailblazer signs shall be installed on conventional highways when it is necessary to guide motorists to the physical site of the specific service. If a trailblazer is required on a local roadway to direct motorists to a specific business, and the local authority refuses to allow the trailblazer on its local highway, specific service signs may not be provided for that business.

(b) Airports may be signed on either major guide signs or on specific service signs at freeway-to-freeway interchanges.

#### § 212.122. Recreational and cultural interest area signs.

Recreational and Cultural Interest Area Signs, as described in Chapter 2H of the MUTCD, that is, relating to

the RG, RM, RA, RL, RW and RS Series signs, will be authorized for use within any State park, State forest picnic area, Federal recreation area, National forest or public park.

**§ 212.123. Tourist-oriented directional signs.**

Tourist-Oriented Directional Signs (D7-4) must be of the size and type specified in the Department's *Handbook of Official Signs* (PennDOT Publication 236M) or as specified in an agreement with the Department, instead of the design included in Chapter 2G of the MUTCD (relating to tourist-oriented directional signs). The Department may enter into an agreement with an outside entity to administer a program for tourist-oriented directional signs.

**Subchapter C. MARKINGS**

- Sec.
- 212.201. Pavement marking standards.
- 212.202. No-passing zones.
- 212.203. Delineation.

**§ 212.201. Pavement marking standards.**

The *Signing and Marking Standards* (Department Publication 111M) contains additional design details for pavement markings. Pavement markings for lane drops, expressways, freeways, on-ramps and off-ramps, and all pavement marking words and symbols must conform to the *Signing and Marking Standards*.

**§ 212.202. No-passing zones.**

(a) *Additional warrants on two-lane, two-way highways.* In addition to the sight distance warrant in Section 3B.02 of the MUTCD (relating to no-passing zone pavement marking and warrants), no-passing zones may be established at the following locations on two-lane, two-way highways with center line pavement markings:

- (1) In advance of a divided highway or an obstruction such as a bridge support pillar, a channelizing island or a safety zone, which separates the two lanes of traffic.
- (2) On or within, and in advance of any bridge, tunnel or underpass designated as a narrow bridge or underpass in accordance with § 212.1 (relating to definitions).
- (3) In advance of a Stop Sign (R1-1), Yield Sign (R1-2) or traffic signal.
- (4) On the approach to an intersection where passing may be undesirable due to the high number of crossing or turning movements.
- (5) Within a school zone.
- (6) In areas where an analysis of vehicle crashes shows an unusually high number of passing-related crashes.
- (7) In areas where the roadside development includes many driveways and intersections where passing would create frequent potential conflicts.
- (8) At locations where the roadway width is very restrictive, shoulders are nonexistent or in poor condition, the roadway cross-section has an excessive crown, or obstacles are close to the roadway.
- (9) In areas where traffic volumes are very heavy and there would be very limited opportunities for motorists to pass other vehicles.
- (10) At locations where a passing zone would otherwise be less than 600 feet in length.
- (11) At locations where engineering judgment indicates that allowing passing is undesirable because a better passing area exists farther ahead.

(b) *Minimum advance distance.* No passing zones established according to subsection (a)(1)—(5) must precede the location by the minimum distance noted in the following table:

<i>Speed Limit or 85th Percentile Speed (mph)</i>	<i>Distance (feet)</i>
35 or less	300
40	350
45	400
50	450
55	500

**§ 212.203. Delineation.**

The 4-foot mounting height for delineators specified in the MUTCD (relating to delineator placement and spacing) is not applicable for guide rail and barrier-mounted delineators. In addition, post-mounted delineators may be 4 feet above the ground instead of 4 feet above the near edge of pavement as specified in the MUTCD.

**Subchapter D. HIGHWAY TRAFFIC SIGNALS**

- Sec.
- 212.301. Purpose.
- 212.302. Traffic-control signals.
- 212.303. Pedestrian-control signals.

**§ 212.301. Purpose.**

This subchapter sets forth additional guidance and criteria relating to the design, application and operation of traffic-control signals within this Commonwealth. The *Traffic Standards—Signals TC-8800 Series* (Department Publication 148M) and the *Traffic Signal Design Handbook* (Department Publication 149M) contain additional design details, specifications, checklists and forms.

**§ 212.302. Traffic-control signals.**

(a) *Flashing operation of traffic-control signals.* During flashing operation, a minimum of two vehicular signal heads on each approach must be flashed for the through movement. Any other signal heads may be blanked out.

(b) *Warrants.* In addition to the criteria in the MUTCD, the following applies:

- (1) *Traffic volumes.* The traffic volume for channelized right-turn movements may not be included in any warrant analysis.
- (2) *Vehicle crashes.* The five or more reported crashes within a 12-month period for Warrant 7 in the MUTCD (relating to Warrant 7, crash experience) may include both reportable crashes, and nonreportable crashes that are documented in the police files, that occurred within a 12-month period during the most recent 3 years of available crash data.
- (3) *Warrant 9, ADT volume warrant.*

(i) An "ADT volume warrant" is added as "Warrant 9" and may be used in addition to the eight warrants contained in Sections 4C.02 through 4C.09 of the MUTCD (relating to Warrants 1 through 8). This warrant must apply at a proposed intersection, an intersection revised by a highway construction project, or at the driveway of a proposed commercial or residential development where vehicle counts cannot be taken. If a traffic-control signal is installed under this warrant, a traffic count must be taken within 6 months of the opening of a development or within 2 years of the opening of a highway. If the traffic volumes do not satisfy this warrant, or one or more of the other eight warrants, consideration should be given to

removing the traffic-control signal and replacing it with appropriate alternative traffic-control devices, if any are needed.

(ii) This warrant is satisfied when the estimated ADT volumes on the major street and on the higher volume

minor street or driveway approach to the intersection, when projected using an accepted procedure such as put forth in the Trip Generation Manual published by the Institute of Transportation Engineers, equals or exceeds the values in either Condition A or Condition B:

Condition A—ADT Volume Warrant					
Number of Lanes for Moving Traffic on Each Approach		Estimated ADT*			
Major Street	Minor Street	Major Street (Both Approaches)		Higher-Volume Minor Street (One Direction Only)	
		100%	70%**	100%	70%**
1	1	10,000	7,000	3,000	2,100
2 or more	1	12,000	8,400	3,000	2,100
2 or more	2 or more	12,000	8,400	4,000	2,800
1	2 or more	10,000	7,000	4,000	2,800

Condition B—ADT Volume Warrant					
Number of Lanes for Moving Traffic on Each Approach		Estimated ADT*			
Major Street	Minor Street	Major Street (Both Approaches)		Higher-Volume Minor Street (One Direction Only)	
		100%	70%**	100%	70%**
1	1	15,000	10,500	1,500	1,050
2 or more	1	18,000	12,600	1,500	1,050
2 or more	2 or more	18,000	12,600	2,000	1,400
1	2 or more	15,000	10,500	2,000	1,400

\* Based on the volume projected to be present within 6 months of the opening of the development or within 2 years of the opening of the highway.

\*\* May be used if the 85th percentile speed of the major street traffic exceeds 40 miles per hour or the intersection lies within the built-up area of an isolated community having a population of less than 10,000.

**§ 212.303. Pedestrian-control signals.**

Pedestrian-control signals provide special types of traffic signal indications for the exclusive purpose of controlling pedestrian traffic. These indications consist of the illuminated symbols of a walking person (symbolizing WALK) and an upraised hand (symbolizing DON'T WALK) or the illuminated words WALK and DON'T WALK.

(1) New pedestrian-control signals must use symbolized messages.

(2) Signals using word messages may be retained for their useful service life.

**Subchapter E. TEMPORARY TRAFFIC CONTROL**

- Sec.
- 212.401. General.
- 212.402. Exempt work.
- 212.403. Temporary traffic-control plans.
- 212.404. Sign supports.
- 212.405. Regulatory speed limits.
- 212.406. Channelizing devices.
- 212.407. Markings.
- 212.408. Impact attenuators.
- 212.409. Travel lane rumble strips.
- 212.410. Delineators.
- 212.411. Flaggers.
- 212.412. Flagger signaling devices.
- 212.413. Portable traffic-control signals.
- 212.414. Emergency work.
- 212.415. Type D Arrow Panels.

- 212.416. Shadow vehicles.
- 212.417. Flashing warning lights.
- 212.418. Good management principles.
- 212.419. Special controls in work zones.

**§ 212.401. General.**

This subchapter supplements the criteria in the MUTCD, and applies to highway construction, maintenance operations and utility work or incident management, either on a highway or so close to a highway that workers, equipment or materials encroach on the highway. Compliance with this subchapter does not relieve the contractor or others of their general responsibility for the protection of the public and the employees in work zones.

**§ 212.402. Exempt work.**

(a) *General.* The following types of work are exempt from the requirements contained in this chapter and in the MUTCD:

(1) Snow plowing and other snow or ice control operations.

(2) Refuse collection, trash collection, leaf pick-up, street cleaning, municipal street sweeping and residential lawn care.

(3) Operations which do not involve construction, maintenance operations or utility work, such as mail, newspaper, home fuel or other local deliveries.

(4) Studies or inspections of highway or utility features which may be completed without blocking any part of a travel lane.

(5) Construction, maintenance operations or utility work in areas outside the highway right-of-way; except when the work is so close to the highway that workers, equipment or materials encroach on the highway.

(6) Construction, maintenance operations or utility work where all workers, equipment or materials are behind a guide rail, more than 2 feet behind a curb or 15 feet or more from the edge of a roadway.

(7) Mowing operations on roads with less than 10,000 vehicles per day and where equipment does not encroach on the roadway.

(8) Traffic data collection.

(b) *Safety considerations.* While the types of work in subsection (a) are exempt from the specific traffic-control guidelines of this subchapter, they must be accomplished in a manner that will provide an adequate degree of safety for the workers and the public.

**§ 212.403. Temporary traffic-control plans.**

Plans for construction projects must either reference or include a temporary traffic-control (TTC) plan, which must consist of one of the following:

(1) A reference to a specific figure either in the MUTCD or in the *Work Zone Traffic Control Guidelines* (Department Publication 213) that properly depicts actual site conditions.

(2) A copy of a specific figure either in the MUTCD or the *Work Zone Traffic Control Guidelines* (Department Publication 213) which has been modified to depict actual site conditions and the necessary traffic-control requirements for the specific project.

(3) One or more detailed plan sheets or drawings showing the actual site conditions and the TTC requirements for the specific project.

**§ 212.404. Sign supports.**

(a) *Post-mounted signs.* Post-mounted signs or signs on fixed supports shall be installed in accordance with the *Signing and Marking Standards* (Department Publication 111M).

(1) Post-mounted sign installations must be of a breakaway or yielding design unless they are adequately placed behind guide rail or median barrier.

(2) Signs may not be mounted on existing utility poles or other structures unless the owner grants written permission and the signs can be properly positioned to convey their messages effectively.

(b) *Portable sign supports.* Portable sign supports must be of a type approved by the Department and listed in *Approved Construction Materials* (Department Publication 35).

**§ 212.405. Regulatory speed limits.**

(a) *General.* Regulatory speed limits in temporary traffic-control zones and in the area in advance of a work zone where traffic queues are anticipated may be established as follows:

(1) A regulatory speed limit up to 10 miles per hour below the normal speed limit may be established without an engineering and traffic study, provided the reduced regulatory speed limit is at least 25 miles per hour. Regulatory speed limits less than 25 miles per hour or

more than 10 miles per hour below the normal speed limit require an engineering and traffic study and the prior approval of the Department for State-designated highways and approval of local authorities for local highways. To qualify for an additional speed limit reduction, the engineering and traffic study must indicate that traffic queues, erratic maneuvers, high vehicle crash rates or undesirable working conditions exist on the project or have existed on similar projects.

(2) Regulatory speed limits for temporary traffic control must be signed with either Speed Limit Signs (R2-1), Work Area Speed Limit Signs (R2-2-2) or variable speed limit signs. For speed limits that are 50 miles per hour or less, the signs must be spaced not greater than 1/2 mile apart throughout the limits of the reduced speed limit zone. Conflicting regulatory or warning signs must be removed, covered, folded or turned so that they are not readable or identifiable by oncoming traffic whenever the reduced regulatory speed limit is in effect.

(3) A Speed Limit Sign (R2-1) showing the speed limit on the section of highway immediately after the work zone must be positioned at the end of the reduced regulatory speed limit, except an R2-1 sign is not necessary if a Work Area Speed Limit Sign (R2-2-2) is used and an End Road Work Sign (G20-2) or End Work Area Sign (G20-3) is in place at the end of the regulatory speed limit.

(b) *Variable speed limits.* In an effort to avoid unnecessary speed restrictions, variable speed limits are encouraged in lieu of static signs. These speed limits may be remotely controlled, either manually or by a computer using hardware and software to monitor functions such as traffic speeds, volumes, densities and queues.

**§ 212.406. Channelizing devices.**

(a) *Device consistency.* Channelizing devices used to form a particular taper or a particular longitudinal line of devices must all be of a single type. For example, cones, drums, barricades and vertical panels may not be intermixed within the same taper or line, but the type of device being used in a taper may differ from the type of device being used in a longitudinal section.

(b) *Cones.* Cones may only be used as a channelizing device for operations where work is in active progress. The minimum height of cones is 28 inches except cones that are 18 inches high may be used to protect new pavement markings.

**§ 212.407. Markings.**

When lane line and center line pavement markings on more than 250 linear feet of highway are covered or destroyed by construction, maintenance, utility, permit or other work, they must be replaced, before ending work each day, with standard pavement markings, or with temporary pavement markings as included in the MUTCD.

**§ 212.408. Impact attenuators.**

The design and application of temporary impact attenuators must comply with the *Roadway Construction Standards* (Department Publication 72M) for concrete median barrier and other obstructions.

**§ 212.409. Travel lane rumble strips.**

Temporary bituminous rumble strips may be used in the travel lanes to provide an audible warning to alert drivers of a potentially dangerous situation including a median crossover, lane reduction and congested area. Recommended rumble strip designs are available from

the Bureau of Highway Safety and Traffic Engineering. When used, the rumble strip patterns must extend onto the shoulder whenever possible to discourage drivers from making erratic maneuvers in an attempt to bypass or avoid the rumble patterns.

**§ 212.410. Delineators.**

The application of delineators must comply with the *Signing and Marking Standards* (Department Publication 111M).

**§ 212.411. Flaggers.**

(a) *Helmet.* In addition to the requirements of the MUTCD, flaggers shall wear a protective helmet.

(b) *Mechanical flaggers.* Mechanical flaggers or mannequins, which look and act somewhat like flaggers, may not be used to alert, slow or stop traffic.

**§ 212.412. Flagger signaling devices.**

A red flag shall only be used to control traffic in emergencies when a Stop/Slow Paddle (R21-10) is not available or at intersections where a single flagger is used within an intersection.

**§ 212.413. Portable traffic-control signals.**

Portable traffic-control signals may be used to control one-lane, two-way traffic. They may also be used for other special applications such as a highway or street intersection with a temporary haul road or equipment crossing. The design and application of portable traffic-control signals must conform with the applicable requirements of the Department's certificate of approval issued to the manufacturer for portable traffic-control signals, and with any special requirements defined in the TTC Plan. For these applications, it may be desirable to use traffic-actuated or manual control to compensate for unbalanced traffic flows.

**§ 212.414. Emergency work.**

(a) *General.* Emergency work may be initiated without prior compliance with the traffic-control provisions specified by this subchapter, provided the foreman or lead worker implements all available safety measures, and the traffic control is brought into compliance with this subchapter as soon as possible. The foreman or lead worker may use flares as attention-getting and warning devices.

(b) *Utility work.* Emergency repair for utility work may be initiated under this section or repair to a utility facility undertaken under Chapter 459 (relating to occupancy of highways by utilities) to repair damage resulting from a vehicle crash or collision with the facility, a failed component or storm damage. Utility service connections or disconnections unrelated to a vehicle crash, a failed component, or storm damage must otherwise comply with this subchapter.

(c) *Expediting emergency work.* Emergency work may be completed without installation of work zone traffic-control devices required by this subchapter, if one of the following conditions is met:

(1) Review of the condition indicates that the emergency work can be completed in less time than it would take to install the temporary traffic-control devices, and the work or condition would not create a significant potential hazard.

(2) Temporary traffic control has been set up and it is found that additional traffic-control devices are desirable,

but that it would take longer to obtain and install additional traffic-control devices than it would to complete the work.

**§ 212.415. Type D Arrow Panels.**

Type D Arrow Panels shall only be used on vehicles during short-term stationary, short duration or mobile operations.

**§ 212.416. Shadow vehicles.**

When used with a truck-mounted attenuator (TMA), the shadow vehicle must be loaded to a weight recommended by the manufacturer of the TMA.

**§ 212.417. Flashing warning lights.**

If used, flashing warning lights may not be used in a series unless the spacing between successive flashing lights is at least 250 feet.

**§ 212.418. Good management principles.**

Agencies administering highway construction, utility work and maintenance operations shall mandate the application of the following good management principles:

(1) Keep the temporary traffic-control zones as short as practical to avoid long stretches with no work activity.

(2) Minimize lane restrictions.

(3) Remove all traffic-control devices as soon as practical after the construction, maintenance or utility operation is complete.

**§ 212.419. Special controls in work zones.**

(a) *General.* Special signing required in 75 Pa.C.S. §§ 3326, 3365, 4309, 6123 and 6123.1 will be in addition to the traffic-control devices required by the MUTCD and shall be installed in accordance with this section.

(b) *Application.* Signing under this section is discretionary in the following work zones:

(1) Short duration work, where the operation will be completed in less than 1 hour.

(2) Mobile operations, where the work moves intermittently or continuously.

(3) Stationary work where the daily duration of the construction, maintenance or utility operation is less than 12 hours and all traffic-control devices are removed from the highway at the completion of the daily operation, including all advance warning signs.

(4) Work along highways other than expressways or freeways where the normal speed limit is 45 miles per hour or less.

(5) Work in response to emergency work or conditions such as a major storm.

(c) *Work Zone—Turn on Headlights Sign (R22-1).* The Work Zone—Turn on Headlights Sign (R22-1) shall be erected as the first sign on each primary approach to the work zone, generally at a distance of 250 to 1,000 feet prior to the first warning sign. On high-speed roadways including all expressways and freeways, the larger advance distances should be used. If work begins at or near a border to this Commonwealth, the R22-1 signs should be installed within this Commonwealth.

(d) *Active Work Zone When Flashing Sign (W21-19).* The Active Work Zone When Flashing Sign (W21-19) shall be erected as close as practical to the beginning of the active work zone.

(1) The sign should not be erected within a transition or at a location where workers are put at risk when they may need to turn the light on and off.

(2) When a construction, maintenance or utility project has more than one active work zone and the active work zones are separated by a distance of more than 1 mile, signs for each active work zone shall be erected.

(3) The W21-19 signs shall be installed on temporary sign posts or on Type III barricades, and a white Type B high-intensity flashing light must be attached to the upper portion of each W21-19 sign. The light shall be activated only when workers are present, and deactivated when workers are not anticipated during the next 60 minutes.

(e) *End Active Work Zone Sign (W21-20)*. The End Active Work Zone Sign (W21-20) shall be erected immediately at the end of each active work zone, except this sign is not necessary if either the End Road Work Sign (G20-2a) or the End Work Area Sign (G20-3) is installed at the end of the active work zone.

(f) *Work zones on expressways or freeways*. When the work zone is on an expressway or freeway, appropriate signs and lights identified in subsections (c), (d) and (e) at on-ramp approaches to the work zone shall be installed.

(g) *Portable changeable message sign*. A portable changeable message sign (PCMS) may be used in lieu of the R22-1, W21-19 or W21-20 signs.

(h) *Speed display sign*. In Interstate highway work zones with a project cost exceeding \$300,000, a speed display sign shall be installed on each mainline approach to the work zone to inform motorists of their speed.

(1) The speed display sign must display the motorist's speed in miles per hour in numerals at least 18 inches in height.

(2) As an alternative, a portable changeable message sign (PCMS) may be equipped with radar and programmed to display vehicles speeds.

(3) PCMSs may also flash appropriate messages such as "YOU ARE SPEEDING" or "SLOW DOWN." The signs shall be placed 1/2 to 1 mile in advance of the physical work zone.

**Subchapter F. TRAFFIC CONTROLS FOR SCHOOL AREAS**

Sec. 212.501. School zone speed limits.

**§ 212.501. School zone speed limits.**

(a) *Establishment*. A 15 miles per hour school zone speed limit may be established in a school zone during the normal hours that walking students are arriving at or leaving school, under 75 Pa.C.S. § 3365(b) (relating to special speed limitations).

(1) To establish a school zone, local authorities shall be responsible to prepare and submit a drawing showing the locations where students walk along or across roadways that are adjacent to school property, the hours that students are going to or from school and the proposed limits for the school zone to the Department for approval.

(2) The Department is responsible for approving the establishment of all school zones, including the locations and hours of operation, except local authorities shall be responsible for approving school zones at the following locations:

(i) On local highways when the municipality has received municipal traffic engineering certification under Chapter 205 (relating to municipal traffic engineering certification).

(ii) On State-designated highways when the municipality has entered into an agreement with the Department thereby transferring to the local authorities the authority to install traffic-control devices without specific Department approval.

(iii) On highways in cities of the first and second class, except not on expressways.

(3) The duration of a 15 miles per hour school zone speed limit should be only long enough to include the time that walking students routinely arrive at or leave school.

(b) *Posting*. A school zone speed limit shall be posted on official traffic-control devices as follows:

(1) At the beginning of the school zone speed limit, one of the following signs or groups of signs shall be posted either on the right side of the roadway or over the roadway:

(i) A Speed Limit Sign (R2-1) with the appropriate school zone speed limit, with a School Panel (S4-3) mounted above the Speed Limit Sign (R2-1) and a When Flashing Sign (S4-4) mounted below the Speed Limit Sign (R2-1), with two flashing speed limit sign beacons.

(ii) A Speed Limit Sign (R2-1) with the appropriate school zone speed limit, with a School Panel (S4-3) mounted above the Speed Limit Sign (R2-1) and a Restricted Hours Panel (R10-20A) mounted below the Speed Limit Sign (R2-1).

(iii) A School Speed Limit When Flashing Sign with a blank-out "15" and flashers as illustrated in the *Traffic Signal Design Handbook* (Department Publication 149M).

(2) An End School Zone Sign (S5-2) shall be posted on the right side of the roadway to define the end of the school zone speed limit.

(3) The limits of a school zone may extend beyond the school property lines to improve the sight distance or to encompass a school crosswalk, except that the length of the zone may not be greater than 1,600 feet.

**Subchapter G. TRAFFIC CONTROLS FOR BICYCLE FACILITIES**

Sec. 212.601. Shared road facilities.

**§ 212.601. Shared road facilities.**

Where there is a need to warn motorists to watch for bicyclists traveling along the highway, the Share the Road Sign (W15-3) sign may be used instead of the Bicycle Warning Sign (W11-1) and the Share the Road Plaque (W16-1) as provided in the MUTCD.

**Subchapter H. SPECIAL EVENTS**

Sec. 212.701. Processions, assemblages and special activities.

**§ 212.701. Processions, assemblages and special activities.**

(a) *Criteria*. The closure or partial closure of a highway for a procession, assemblage or a special activity, may be permitted on local roadways by local authorities and on State-designated highways by the Department if the following criteria are satisfied:

(1) *Conventional highways and expressways*.

(i) An alternate route, which is not more than 5 miles longer or five times greater in length than the normal travel distance, is established to detour traffic around any closed routes, except an alternate route is not required if one of the following exists:

(A) The highway to be closed is not a numbered traffic route and is primarily used by local drivers who are familiar with the alternate route.

(B) The highway is only partially or periodically closed and police control can safely maintain traffic on the remainder of the highway.

(C) The highway closing is for less than 20 minutes and excessive traffic backup will not occur during the closing.

(ii) The local authorities provide adequate detour signing or police controls for the rerouting of traffic along the alternate route if required.

(iii) The highway closure or partial closure will not adversely affect adjacent properties.

(iv) A review of previous, similar closures shows no substantial problems or citizen complaints.

(2) *Freeways.*

(i) The freeway has a minimum of two lanes to move traffic in each direction of flow.

(ii) If a procession, it will orderly and uniformly move along the highway and will be easy to control and regulate by police officers.

(iii) If a procession or assemblage, it will use a maximum of one lane of the highway and police officers can safely maintain traffic on the remainder of the highway.

(iv) Delays for traffic entering or leaving the highway at ramps will not be more than 5 minutes and uniformed police officers will control all delayed traffic.

(v) The Secretary and the Commissioner of the State Police have determined that the procession, assemblage or special activity is in the National, State or regional interest or has National, State or regional significance and can be conducted with greater safety for motorists and procession or special activity participants by using the freeway.

(b) *Use of State-designated highways.* The Department may issue a permit for a procession, assemblage or special activity on a State-designated highway if the criteria in subsection (a) and the following requirements are satisfied:

(1) On conventional highways and expressways, the district executive may issue a permit for processions, assemblages or special activities. The permit request must be made in writing by the sponsor, and be received by the district executive at least 3 weeks before the proposed event. The request must include the following items as applicable, a copy of which the sponsor must also submit to the Commissioner of the State Police:

(i) A map of the proposed routing showing all State Route (SR) numbers and the names of all highways, including terminal points for the special activity.

(ii) The known or anticipated number and type of vehicles or pedestrians that will be in the event.

(iii) The purpose, the proposed date and rain date and the time and duration.

(iv) A statement that the sponsor will agree to reimburse the Commonwealth for all costs for police escort and traffic-control services.

(v) A copy of the letter sent from the sponsor of the event to each municipality in which the event is to occur, requesting permission to allow the event.

(vi) A copy of a letter from each municipality in which the event is to occur indicating the following:

(A) Approval of the municipality allowing the sponsor to conduct the event.

(B) A statement that the municipality will agree to fully indemnify, save harmless and, if requested, defend the Commonwealth, Commonwealth departments and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees.

(vii) A statement that the sponsor will fully indemnify, save harmless and, if requested, defend the Commonwealth, Commonwealth departments, and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees. The sponsor shall also name the Department as an additional insured on its liability policies. The liability insurance policies must be occurrence based and the insurance certificate must indicate that the insurance is occurrence based.

(2) On freeways, the Secretary may issue a permit for processions, assemblages or special activities. The permit request must be made in writing by the sponsor, and be received by the Secretary at least 3 weeks before the proposed partial highway closure. The request must include the following items as applicable, a copy of which the sponsor also submits to the Commissioner of the State Police:

(i) A map showing the location of the assemblage or the proposed routing of the procession or special activity.

(ii) The known or anticipated number and type of vehicles or pedestrians that will be in the event.

(iii) The estimated speed of travel of the procession or special activity.

(iv) The purpose, the proposed date and rain date, and the time and duration.

(v) The reasons the special event should use a freeway, including the safety aspects to both motorists and procession participants.

(vi) A statement that the sponsor of the procession will agree to reimburse the Commonwealth for all costs for police escort and traffic-control services.

(vii) A statement that the sponsor of the special event will fully indemnify, save harmless and, if requested, defend the Commonwealth, Commonwealth departments and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees. The sponsor shall also name the Department as an additional insured on its liability policies. The liability insurance policies must be occurrence based and the insurance certificate must indicate that the insurance is occurrence based.

(c) *Use of local roadways.* Requests to close a local roadway for a procession, assemblage or special activity must be made in writing to the local authorities at least 3 weeks before the anticipated road closure. If the procession, assemblage or special activity also requires the closure of State-designated highways, the request must be made in writing to the local authorities at least 2 months before the anticipated road closure.

**CHAPTER 217. (Reserved)**

**§§ 217.1—217.4. (Reserved).**

[Pa.B. Doc. No. 06-179. Filed for public inspection February 3, 2006, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 143]  
Manufactured Housing

The Department of Community and Economic Development (Department), under the authority of section 6 of the Manufactured Housing Construction and Safety Standards Authorization Act (35 P.S. § 1656.6), proposes to amend Chapter 143 (relating to manufactured housing). The purpose of this proposed rulemaking is to establish fees charged to manufacturers and retailers to cover the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development (HUD) and to update the existing regulations with the term "housing standards division."

### Introduction

Under the act, HUD funds the Department with a monitoring inspection fee in an amount authorized by HUD under the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5424). When the Department is required to perform additional monitoring because the manufacturer or retailer fails to take appropriate corrective measures, the funds received from HUD are insufficient to cover the costs of the same. Under section 6 of the act, the proposed rulemaking establishes fees to cover the costs of extraordinary/follow-up monitoring beyond that which is presently funded.

### Analysis

Sections 143.4, 143.12 and 143.13 (relating to responsibility of the Department; consumer complaints; and investigations) are amended to delete the term "division of manufactured housing" and replace it with the updated term "housing standards division."

Section 143.14 (relating to hearings) is amended to delete the word "held."

Section 143.15 (relating to fees) is added to allow the Department to charge manufacturers or retailers fees to cover the costs of extraordinary/follow-up monitoring and inspection incurred by the Department beyond those covered by fees authorized by HUD.

### Fiscal Impact

#### Commonwealth

The additional fees allowed under this proposed rulemaking will enable the Department to recover the costs associated with extraordinary/follow-up monitoring when it is determined that either a manufactured home manufacturer or retailer fails to remediate failures to comply with applicable standards or regulations.

#### Political Subdivisions

There will be no fiscal impact on political subdivisions.

### Public

Manufacturers and retailers of manufactured homes that fail to take corrective steps after being informed of failures to comply with applicable standards or regulations will incur the additional fees allowed under this proposed rulemaking.

### Paperwork

The proposed rulemaking will not change existing paperwork requirements.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 23, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce Committee and the Senate Community and Economic Development Committee. A copy of this material is available to the public upon request.

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

### Effective Date/Sunset Date

(a) The regulations will become effective 60 days after final-form publication in the *Pennsylvania Bulletin*.

(b) The regulations will be monitored on an annual basis and updated as needed.

### Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed rulemaking within 30 days of publication of this proposed rulemaking to Lisa Maiorana, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7330; or Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7416.

DENNIS YABLONSKY,  
Secretary

**Fiscal Note:** 4-84. No fiscal impact; (8) recommends adoption.

Currently the Department is using Federal reimbursements to cover the cost of monitoring manufactured housing; however these reimbursements do not cover all of the costs associated with this function. The addition of this fee will allow the Department to recover all costs associated with these responsibilities.

## Annex A

## TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

## PART V. COMMUNITY AND ECONOMIC DEVELOPMENT

## Subpart C. COMMUNITY DEVELOPMENT AND HOUSING

## CHAPTER 143. MANUFACTURED HOUSING

## § 143.4. Responsibility of the Department.

The [ **Division of Manufactured Housing** ] **Housing Standards Division** of the Department is responsible for enforcing the manufactured home standards of the Federal act, and may join with the Department of Housing and Urban Development and other States or public or private agencies for these purposes.

## § 143.12. Consumer complaints.

Individuals alleging wrongful acts by persons involved in the manufacture or sale of manufactured homes within this Commonwealth shall contact the Department of Community and Economic Development, [ **Division of Manufactured Housing, at Commonwealth Keystone Building** ] **Housing Standards Division**, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. An investigation will be conducted by the Division upon the receipt of a written and signed complaint. Complaints [ **shall** ] **must** contain the writer's name and address, and contain sufficient detail to enable the Division to fully understand the nature and extent of the complaint. Copies of all documents shall be appended to the complaint.

## § 143.13. Investigations.

The Department, through the [ **Division of Manufactured Housing** ] **Housing Standards Division**, after investigation on its own initiative or upon the receipt of a verified complaint under § 143.12 (relating to consumer complaints) has the power, after notice and hearing, to order the payment of civil penalties not to exceed \$1,000 per violation for violations of this chapter, the act, the Federal act or regulations promulgated under the Federal act. The maximum civil penalty that may be imposed will not exceed \$1 million for any related series of violations occurring within 1 year from the date of the first violation.

## § 143.14. Hearings.

Hearings [ **held** ] under this chapter will be conducted in accordance with 1 Pa. Code Part II (relating to [ **general rules of administrative practice and procedure** ] **General Rules of Administrative Practice and Procedure**).

## § 143.15. Fees.

To offset the costs of follow-up monitoring or inspections incurred by the Department beyond those provided for in the monitoring inspection fees authorized by the United States Department of Housing and Urban Development, the Department may charge the manufacturer or retailer the following fees:

**Follow-up inspection or monitoring services—\$400 per day or \$60 per hour.**

**Administrative services associated with follow-up inspection or monitoring services—\$175 per day or \$25 per hour.**

**Travel and per diem expenses—Current Commonwealth travel and per diem expenses.**

[Pa.B. Doc. No. 06-180. Filed for public inspection February 3, 2006, 9:00 a.m.]

**DEPARTMENT OF EDUCATION****[22 PA. CODE CH. 339]****Vocational Education**

The Department of Education (Department) proposes to amend Chapter 339 (relating to vocational education) to read as set forth in Annex A. This rulemaking is proposed under the authority of § 4.32(a) (relating to standards and reports), Article XII of the Public School Code of 1949 (code) (24 P. S. §§ 18-1801—18-1855), section 2603-B of the code (24 P. S. § 26-2603-B), regarding powers and duties of the State Board of Education (Board), and the act of May 29, 1931 (P. L. 210, No. 126) (24 P. S. §§ 1224—1231).

*Purpose*

Chapter 339 establishes regulations to define school entities eligible to receive payments on the account of pupils enrolled in vocational curriculums. This proposed rulemaking reflects current State and Federal statutory requirements and Department policies and practices.

*Requirements of the Proposed Rulemaking*

The proposed amendments to § 339.1a (relating to definitions) deletes the definition of "Competency-Based Vocational Education (CBVE)"; amends the definitions of "articulation," "attendance area" and "diversified occupations program"; and adds definitions of "AVTS," "action plan," "CIP Codes—Classification of Instructional Programs," "CTSOs—Career and Technical Student Organizations," "cluster vocational education," "completer," "concentrator," "Department," "Educational and Occupational Objectives for a Student Enrolled in an Approved Vocational Technical Program," "Evaluation Plan," "IEiP," "occupational program," "participant," "registered apprenticeship," "SBVE—Standards-Based Vocational Education," "School Code," "school entity," "Secretary" and "technical institute."

Section 339.2 (relating to operation) is amended to incorporate references to academic and career and technical education to reflect Chapter 4 (relating to academic standards and assessment) and Federal legislation requirements.

Section 339.3(1)(v) (relating to satellite program) is amended to reflect current language by removing the term "handicap" and including the term "disability."

Section 339.4(a)(1) (relating to program approval) is amended to reflect the current name of the Bureau of Career and Technical Education.

Section 339.4(a)(2) is amended to reflect current reapproval cycle.

Section 339.4(b)(2) states that the programs are preparing students for high priority occupations.

Section 339.4(b)(4) states that students achieve industry credentials and Pennsylvania Skills Certificates.

Section 339.4(b)(8) clarifies that special services for students is defined under other chapters of the school code.

Section 339.4(b)(10) adds further clarification as to secondary and postsecondary articulation and reference to dual enrollment.

Section 339.4(b)(13) adds a requirement that evidences sending schools and career and technical schools plan instructional program jointly.

Section 339.4(d)(1) removes minimum placement rate as means to retain program approval and adds reference to the accountability standards established by the Secretary of Education.

Section 339.4(d)(3)(i) adds accountability standards schools must meet to continue program approval.

Section 339.4(e)(1) and (iii) adds reasons why approved programs would be terminated.

Section 339.4(f) adds annual reporting requirement on attainment of secondary performance measures and standards.

Section 339.4(g) adds annual reporting requirement on student achievement.

Section 339.4(h) clarifies the requirement for students to complete the educational and occupational objectives form annually.

Section 339.13 (relating to local advisory committee) adds clarification of advisory committee membership.

Section 339.14 (relating to occupational advisory committee) clarifies occupational advisory committee membership.

Section 339.15 (relating to minutes) adds requirement to retain committee meeting minutes for a 5-year period.

Section 339.21(c) (relating to admissions) adds reference to charter schools.

Section 339.21(d) adds a requirement that guidance counselors help students to make informed decisions related to academic achievement and post-high school opportunities.

Section 339.21(e) adds opportunity for students denied admissions into an approved program to appeal decision to the Board.

Section 339.21(f) adds requirement that career and technical education staff be invited to attend Individualized Education Program meetings.

Section 339.22 (relating to program content) clarifies that purpose of approved programs is to prepare students for high priority occupations, successful employment and postsecondary education. Clarifies that programs are to be standards based and lead to industry skills certification.

Section 339.22(a)(1) updates language to reflect Chapter 4 and standards-based philosophy of the Department.

Section 339.22(a)(2) reinforces Chapter 4 and integration of academic standards into career and technical education curriculum.

Section 339.22(a)(3) reinforces that programs are identified by Classification of Instructional Programs code.

Section 339.22(a)(4) requires that planned instruction includes academics.

Section 339.22(a)(5) requires that occupational analysis leads to performance objectives and assessments.

Section 339.22(a)(6) requires students to achieve industry standards and credentials.

Section 339.22(a)(7) clarifies that students are provided work-based opportunities.

Section 339.22(a)(10) clarifies the minimum hours requirement for approved programs and removes course sequencing example and references to course length requirements.

Section 339.22(b)(5) clarifies that diversified occupations programs require a properly certified instructor.

Section 339.22(c)(1) updates the program title to reflect the current title used by United States Department of Education.

Section 339.22(c)(1)(i)(A) requires family and consumer science programs to meet the requirements of Chapter 4 by including academic standards.

Section 339.22(c)(1)(i)(B) reinforces family and consumer science programs to meet Chapter 4 by including Family and Consumer Science academic standards.

Section 339.22(c)(1)(ii) removes reference to planned course requirement for approved consumer and homemaking education programs.

Section 339.22(c)(2) removes reference to industrial arts programs.

Section 339.22(a) reinforces the requirement for schools to develop secondary and postsecondary articulations.

Section 339.23(4) (relating to vocational education safety) references the American's With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213).

Section 339.29 (relating to cooperative vocational education) requires cooperative education programs to meet Department developed cooperative education guidelines.

Section 339.30(a) (relating to student organizations) updates titles of student organizations to reflect United States Department of Education titles.

Section 339.30(c) clarifies which student organizations are recognized by the United States Department of Education.

Section 339.30(d) clarifies that certified instructors direct student organizations and joint operating committee or school boards make the assignment.

Section 339.30(e) requires that student organizations hold a charter with the National organization and Department.

Section 339.32(1) (relating to services) requires assistance be provided to students rather than encouraging assistance to be provided.

Section 339.32(2) requires student career plans include academic and technical coursework that prepares students for postsecondary education training.

Section 339.41 (relating to certification) references the updated school code in relation to certification and preparation of professional personnel.

Section 339.51(1) (relating to learning environment) indicates that program laboratory meet industry standards and reflect occupational advisory committee recommendations.

Section 339.53 (relating to contemporary equipment) adds the requirement that equipment and facilities be comparable to industry standards or reimbursement may be withheld.

Section 339.56 (relating to technical institutes) adds technical institute standards, the process for establishing technical institutes and funding of technical institutes.

*Affected Parties*

The proposed rulemaking affects professional educators, public schools, teacher education programs and professional employees of the public schools of this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alternative schools) who hold approved vocational-technical education programs.

*Cost and Paperwork Estimates*

Since this proposed rulemaking largely reflects existing provisions of State and Federal statutes, court decisions and regulations, the costs associated with compliance would be negligible to the school entities. Estimated cost to the Commonwealth to support the technical institutes is \$9,849,112.

*Effective Date*

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

*Sunset Date*

In accordance with its policy and practice respecting all regulations promulgated by it, the Department plans to review the effectiveness of Chapter 339 after 4 years. Therefore, no sunset date is necessary.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 19, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

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

*Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert G. Barlett, Director, Bureau of Career and Technical Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367.

GERALD L. ZAHORCHAK, D.Ed.,  
Secretary

**Fiscal Note:** 6-298. (1) General Fund; (2) Implementing Year 2005-06 is \$0; (3) 1st Succeeding Year 2006-07 is \$0; 2nd Succeeding Year 2007-08 is \$0; 3rd Succeeding Year 2008-09 is \$549,000; 4th Succeeding Year 2009-10 is \$914,000; 5th Succeeding Year 2010-11 is \$1,300,000; (4)

2005-06 Program—\$59,600,000; 2004-05 Program—\$58,200,000; 2003-04 Program—\$56,800,000; (7) Vocational Education; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART XVI. STANDARDS**

**CHAPTER 339. VOCATIONAL EDUCATION**

**VOCATIONAL EDUCATION STANDARDS**

**§ 339.1. Scope of applications.**

[ This program applies to programs for which vocational education payments are made under sections 2502.8, 2504, 2504.3, 2506.1, 2507, 2508, 2508.1—2508.4 of the Public School Code of 1949 (24 P. S. §§ 25-2502.8, 25-2504, 25-2504.3, 25-2506.1, 25-2507, 25-2508, 25-2508.1—25-2508.4) and 24 P. S. § 1707. Also included are the Federal Acts as follows: The Vocational Education Act of 1963 (20 U.S.C.A. §§ 2301—2471), section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794), Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000d—2000d-4), and Title IX of the Educational Amendments of 1972 (20 U.S.C.A. §§ 1681—implementing regulations thereto and Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap (45 CFR Part 80 Appendix B). ] This chapter applies to school entities that provide vocational education programs under sections 1801-1855 of the School Code (24 P. S. §§ 18-1801—18-1855). These programs may receive:

(1) Payments on account of pupils enrolled in vocational curriculums. (See section 2502.8 of the School Code (24 P. S. § 25-2502.8).)

(2) Payments on account of students enrolled in technical institutes. (See section 2504.3 of the School Code (24 P. S. § 25-2504.3).)

(3) Payments on account of approved adult programs. (See section 2506.1 of the School Code (24 P. S. § 25-506.1).)

(4) Payments on account of approved vocational extension classes and preemployment training. (See section 2507 of the School Code (24 P. S. § 25-2507).)

(5) Payments on account of equipment purchased by area vocational-technical schools and technical institutions. (See section 2508.1 of the School Code (24 P. S. § 25-2508.1).)

(6) Payments for vocational training of recipients of public assistance and unemployment compensation. (See section 2508.3 of the School Code (24 P. S. § 25-2508.3).)

(7) Payments on account of improvements and additions in vocational-technical curriculums. (See section 2508.4 of the School Code (24 P. S. § 25-2508.4).)

(8) Payments under the Vocational and Applied Technology Act of 1998 (20 U.S.C.A. §§ 2301—2417).

**§ 339.1a. Definitions.**

(a) The definitions in [ § 6.1 (Reserved) ] § 4.3 (relating to definitions) apply to this chapter.

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

**AVTS**—Area vocational technical school, as defined in § 4.3.

**Action plan**—Formal strategies and accountability plans for ensuring that all students are equipped with the academic and occupational skills they need for career success and lifelong learning.

**Articulation**—A planned process of curriculum development, instructional strategies and administrative procedures, which link [one or more educational departments or] educational agencies with other education [departments or] agencies or with industries. The [purpose of the linkage is to help a student to] linkage helps students make a [smooth and successful] transition from one to the other without experiencing delays in or duplication of learning.

**Attendance area**—A geographical area of school districts and pupils to be served by an area vocational-technical school or technical institute which has been approved by the State Board for Vocational Education. (See section 1840.1 of the School Code (24 P. S. § 18-1840.1).)

**CIP Codes**—Classification of Instructional Programs—A numerical coding of instructional programs developed by the United States Department of Education used to identify vocational programs within the Commonwealth.

**CTSOs**—Career and Technical Student Organizations—In-school organizations that provide personal and leadership development related to a career and technical program area as recognized by the United States Department of Education. (See § 339.30 (relating to student organizations).)

**Cluster vocational education**—A program that consists of competencies found in more than one vocational education program as defined by CIP codes. (See § 339.22(k) (relating to program content).)

**Completer**—A student who completes all the requirements of a vocational technical program, takes the appropriate occupational competency assessment under the Pennsylvania Skills Assessment Program, and graduates.

[ **Competency-Based Vocational Education (CBVE)**—An instructional system utilizing a written planned vocational course that is based on occupational analysis and performance objectives that meet the definition in § 339.22(1)(i) (relating to program content). Instruction is derived from tasks performed in an occupation/job that have been reviewed by trade/technical and occupational advisory committees. ]

**Concentrator**—A student who is at least 14 years of age and is enrolled full time, 360 hours per year, in a career and technical education program. Only concentrator students are counted for vocational subsidies.

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

**Diversified [occupations program] Occupations Program**—A planned vocational program, which may be offered at either the area vocational-technical school or a

comprehensive high school. The program prepares [a heterogeneous group of] students from more than one vocational education area of instruction for gainful employment. The program is a [direct relationship/] partnership between a local business\ [/] and industry and the [local education agency] school entity. [Career competency and manipulative aspects of a] A full range of career competencies are developed at the job training station site. The school, in a classroom setting, provides related [general as well as] academic and technical instruction, including safety. A cooperative education certified teacher is required for such a program.

**Educational and Occupational Objectives for a Student Enrolled in an Approved Vocational Technical Program**—A statement of the classes or courses a student has taken or will take and expected occupational outcomes to be achieved, including graduation, postsecondary participation and employment.

**Evaluation plan**—A formal plan of assessing the effectiveness of vocational programs.

**IEP**—Individualized Education Program under § 14.131 (relating to IEP).

**Occupational program**—A plan to deliver rigorous workforce preparedness through knowledge, skills and attributes required for a specific or cluster occupation through completion of a vocational program.

**Participant**—A student who enrolls in vocational education planned instruction, but who is not a concentrator. Participants do not qualify for vocational education subsidy.

**Registered apprenticeship**—A plan registered with the Apprenticeship and Training Council of the Commonwealth and evidenced by a Certificate of Registration or other appropriate document as meeting the apprenticeship standards of the Council. These programs are articulated with postsecondary institutions, technical institutes and industry partners who offer registered apprenticeship, certificate or degree programs.

**SBVE**—Standards-Based Vocational Education—An instructional system utilizing a written, planned vocational course that is based on occupational analysis and performance objectives. Occupational tasks reviewed by an occupational advisory committee provide the basis for instruction. The instructional system also incorporates and addresses attainment of academic standards (§ 4.12).

**School Code**—The Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

**School entity**—Any local public education provider (such as, public school, charter school, cyber charter school, AVTS, intermediate unit).

**Secretary**—The Secretary of the Department.

**Technical institute**—An institute established, maintained, conducted and operated for the purpose of providing technical education and training by offering nondegree-granting post high school programs and courses of not more than 2 years' duration, which shall prepare out-of-school youth and adults for technical areas leading to technical certificates. (See section 1841 of the School Code

(24 P. S. § 18-1841) regarding to establishment of schools). Technical institutes may not grant degrees, but are encouraged to develop articulation agreements with degree-granting institutions to facilitate transfer of student credit.

§ 339.2. Operation.

A board of school directors, acting individually or in conjunction with other boards of school directors, may establish, operate, maintain and conduct rigorous academic and career and technical education vocational or technical education programs or both, under the approved [ long range ] strategic plans.

§ 339.3. Satellite program.

A satellite vocational education program is a program established, maintained and administered by an area vocational-technical board in a participating school district facility as an integral part of the [ area vocational-technical school( ) AVTS ( ) ]. The requirements for satellite programs are:

(1) AVTS requirements. In school districts having approved satellite programs, the area vocational-technical board shall be required to:

\* \* \* \* \*

(v) Develop recommendations that assist students in meeting their career needs without regard to [ a student's ] sex, race or [ handicap ] disability.

(vi) [ Insure ] Ensure that a program of safety is incorporated into the curriculum.

(2) School district requirements. School districts receiving coordination services for [ their ] approved satellite vocational educational program shall:

(i) Maintain budgetary control [ regarding ] over supplies and equipment, insurance, utilities [ , ] and routine upkeep [ and the like ].

\* \* \* \* \*

§ 339.4 Program approval.

(a) General rule. New, expanded or revised programs will be approved by the Secretary prior to operation. A program will not receive vocational education payments until it has been approved by the Secretary under this chapter. Vocational education programs in existence and approved prior to September 1, [ 1986 ] 2005, [ and approved prior to September 1, 1986, ] will be reapproved by the Secretary as set forth in paragraph (2).

(1) New, expanded or revised programs. After September 1, [ 1986 ] 2005, new, expanded or revised programs will be approved by the Secretary prior to operation. For funding purposes, new, expanded or revised programs shall be submitted to the Bureau of [ Vocational and Adult ] Career and Technical Education prior to August 1 to receive full-year reimbursement.

(2) Reapproval. Previously approved vocational education programs will be reviewed for approval by the Secretary for assurance of compliance with [ Chapter 6 (Reserved) ] this chapter. The reviews will take place between September 1, [ 1986 ] 2005 and [ August 31, 1988 ] June 30, 2010.

(b) Application for approval or reapproval. Programs shall be reviewed for compliance with this section. New,

expanded, [ or ] revised, and existing programs shall submit evidence of compliance with this chapter. [ Substantial revision includes, but is not limited to: A change in the number of years a program is offered; a change in the number of hours a program is offered; a change in the objectives of the vocational planned courses; and a change in the facilities. ] Application shall be made on forms supplied by the Department[. Applications shall include ], which must include, but not be limited to:

(1) [ Evidence of planning under § 6.12 (Reserved). ]

(2) [ A description of the program and how a [ competency ] standards-based philosophy has been incorporated as required by § 339.22 (relating to program content). ]

(2) Evidence that the program prepares students for high priority occupations or other occupations supported by local labor market information and is supported by local employers.

(3) Evidence that the instructional equipment is comparable to industry needs as recommended by the Advisory Committee. Evidence may be the minutes of the Advisory Committee meetings.

(4) Student achievement of industry-based standards and Pennsylvania Skills Certificate.

[ (3) ] (5) The length of time students will be scheduled into a program as required by § 339.22(a)(4)(i).

[ (4) ] (6) \* \* \*

[ (5) Evidence that the program is justified by local labor market information and is supported by local employers. ]

(6) Evidence that the instructional equipment is comparable to industry needs as recommended by the Advisory Committee. See § 6.61 (reserved). Evidence may be the minutes of the Advisory Committee meetings. ]

\* \* \* \* \*

(8) Assurance that support or special services are available to the [ instructor ] students when disadvantaged, disabled or limited English-speaking students are enrolled as required by [ § 6.31 (reserved) ] Chapters 14 and 15 (relating to special education programs and services; and protected handicapped students). These students are provided with the support and assistance as written in the IEP or service agreement, and that are necessary to succeed in the vocational program.

(9) Assurance shall be given that students have the appropriate competencies in mathematics, science and English prior to entrance in a vocational training program and that subsequent instruction in these academic areas [ be ] is appropriate to their chosen area of occupational training.

[ (i) Articulation shall be in Mathematics, Science, English, Industrial Arts and Home Economics and be incorporated into courses/credits mandated by Chapter 5 (Reserved). ]

(ii) Competencies in existing planned courses shall be documented in the following areas:

(A) Mathematics applications.

- (B) Computer science.
- (C) Applied science.
- (D) Basic manipulative skills.
- (E) Measurement skills.
- (F) Communication skills. ]

(10) Assurance that articulation exists between secondary and postsecondary institutions within a service area [ according to § 6.12 ] and that a system exists promoting seamless transition to ensure the maximum opportunity for student placement including opportunities for dual enrollment and other strategies that promote acquisition of postsecondary credit while still in high school.

(11) Program sponsorship and involvement in CTSOs.

(12) Evidence, if a program submitted for reapproval is reduced in hours, that the reduction in hours will not result in a less effective education program being offered.

(13) Evidence that joint planning with sending schools around academic and other needs of attending students occurs.

(c) *Documentation.* Documentation supporting compliance with each item on the application for approval or reapproval—subsection (b)—shall be maintained at the local educational agency and shall be available for Department review. [ Review includes, but is not limited to, procedures listed in § 339.61 (relating to evaluation). ]

(d) *Retain approval.*

(1) [ In order to ] To retain program approval, it shall be necessary to achieve [ a minimum placement rate—employment, military service or enrollment in postsecondary training program—within 3 years. By March 1, 1987, the Secretary will determine the minimum placement rate, and it will be published as an amendment to this section ] the accountability standards established by the Secretary.

[ (2) In determining compliance with the established placement rate, the Secretary will consider such factors as unemployment rates for needs students served by the program; and other characteristics, which might affect the placement rate, and may, at his discretion, waive compliance with the minimum placement rate.

(3) If a program does not meet the minimum placement rate, an additional year will be granted to permit the program to meet that rate before the program approval is withdrawn. During this period, the Department will provide assistance to the local education agency. ]

(i) *Accountability standards.* School entities shall implement the following standards, which shall be subject to review by the Department:

(A) Industry assessment, industry credentials, certification or State assessment will serve as the vehicle for occupational competency testing. Student performance on occupational competency testing will be measured by the Pennsylvania Skills Certificate or other approved industry certification to define the level of occupational achievement. All completers shall complete an occupational competency evaluation.

(B) Student performance on achieving academic standards will be measured, and the Pennsylvania System of School Assessment (PSSA) will be used to define the level of academic achievement.

(C) Statewide performance measures and standards must address:

(I) Student attainment of rigorous academic and vocational skill proficiencies.

(II) Student attainment of secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

(III) Placement in, retention in and completion of postsecondary education or advanced training (including registered apprenticeships), placement in military service, or placement and retention in employment.

(IV) Student participation in and completion of vocational education programs that lead to non-traditional training and employment.

(D) Local entities shall conduct studies to determine the effectiveness of the career and technical education program in preparing students to achieve academic and technical standards. These data shall be shared with local boards of directors or joint operating committees to ensure that students' performance correlates with current workforce needs.

(2) School entities shall submit for reapproval at least every 5 years.

(3) In addition, the Department will notify, in writing, each school entity that does not meet or exceed expectations of the standards set by the Secretary, and will require the school to submit a compliance plan to the Bureau of Career and Technical Education. Each noncomplying school entity shall develop a compliance plan and document all corrective actions taken pursuant to it. Upon its approval of the plan, the Department will continue to review the program and provide technical assistance.

(e) *Terminations.*

(1) Programs will be terminated for the following reasons:

(i) Program fails within a 3-year period to successfully meet the accountability standards established by the Secretary and may be terminated in accordance with § 339.62 (relating to noncompliance: appeal process).

(ii) School entities request termination. Before program termination, the local administrator shall secure board approval and forward a copy of the board's minutes with a letter of explanation to the Department. If the Department does not respond to the school entity's submission within 60 days, the termination shall be considered approved.

(iii) Program fails to report student enrollment for 3 consecutive school years and may be terminated in accordance with § 339.62.

(f) School entities shall report annually to the Department on the accomplishment of Secondary Performance Measures and Standards as outlined in the State plan.

(g) School entities shall report student achievement annually to the Department.

(h) Students entering career and technical education programs shall complete annually an Educational and Occupational Objectives for a Student Enrolled in an Approved Vocational Technical Program.

[ (e) ] (i) *Private school contracts.* Contractual arrangements may be made by public schools with approved private institutions to provide secondary or postsecondary vocational-technical instruction [ **Instruction shall be limited to** ] **only in** occupational fields [ **in** ] **for** which public school programs are unavailable. The private institutions shall meet program certification and other mandates regarding vocational education programs contained in the [ **Public** ] School Code [ (24 P. S. §§ 1-101—27-2702) ] and this title.

[ (f) *Terminations.* Before program termination the local administrator shall secure board approval and forward a copy of the board's minutes with a letter of explanation to the Department. If the Department does not respond to the school entity's submission within 60 days, the termination shall be considered approved. ]

#### PLANNING

##### § 339.13. Local advisory committee.

[ A local advisory committee shall include representatives of education, industry, business, community-based organizations, joint apprenticeship councils—if available—labor, management, parents and students. The committee shall advise the board and the administration concerning the general philosophy, objectives and program needs of the school. The board and the administration will make the decisions. ] The local advisory committee as set forth in § 4.33(a) (relating to advisory committees) shall also include representatives authorized by the workforce investment board, civic organizations, and higher education institutions.

##### § 339.14. Occupational advisory committee.

The occupational advisory committee [ shall be comprised of representatives from business and industry actively engaged in the occupation for which training is being provided. Representation may also include management and labor personnel, home-makers, vocational education students, recent graduates of the program and members-at-large from the community. The occupational advisory committee shall provide advice on performance objectives to the classroom teacher. See § 339.22 (relating to program content). The classroom teacher will set performance objectives. ] as set forth in § 4.33(c) (relating to advisory committees) shall also include representatives authorized by the workforce investment board, civic organizations, and higher education institutions.

##### § 339.15. Minutes.

Official minutes of the advisory, occupational advisory and administrative committee meetings shall be maintained by the respective committee for 5 years from the meeting date.

#### CURRICULUM

##### § 339.21. Admissions.

An admissions policy developed by the local education agency regarding entrance to a vocational education program [ shall ] **must** state whether enrollment is unlimited or limited. If enrollment is limited, an admissions policy shall include nondiscriminatory eligibility requirements for the purpose of predicting a student's success in a given program. When the number of students predicted to be successful in a given program is less than the number of openings available in that given program, the openings may be available to adults or students at another school district, which are predicted to be successful in that program. When the number of students predicted to be successful in a given program exceeds the number of openings available, an admissions policy [ shall ] **must** include a nondiscriminatory selection procedure, as required by current Federal and Commonwealth statutes, regulations and guidelines.

\* \* \* \* \*

(2) If a school develops a recruitment program, announcements concerning vocational education [ shall ] **must** exemplify freedom from occupational stereotypes and to the extent possible the philosophy of equal access [ to the following:

- (i) Females and males.
- (ii) Individuals with Disabilities.
- (iii) Disadvantaged individuals.
- (iv) Limited English speaking individuals.
- (v) Racial or ethnic groups ].

(3) A student enrolled in a charter school may attend a vocational program available to students in the student's school district of residence, as defined in section 1302 of the School Code (24 P. S. § 13-1302).

(4) Guidance personnel shall provide to students the information necessary to make informed decisions regarding the selection of appropriate vocational education programs and discuss the importance of high school academic achievement and postsecondary education and training to career success.

(5) Denial of admission may be appealed to the board or joint operating board of the school making the decision. If the board refuses admission, the student may appeal its decision to the State Board of Vocational Education.

(6) With regard to the placement of students with IEPs or service agreements in vocational programming, faculty from the vocational programs in which students are recommended for placement will participate as members of the IEP and service agreement teams.

(7) IEP and service agreement team meetings, when scheduled by the school district, must give notice to the career and technical education instructor assigned and shall be attended by the program instructor to which the student is seeking admission. See § 339.22 (relating to program content).

##### § 339.22. Program content.

(a) *Occupational program requirements.* The primary [ objective of an occupational program is to provide



job information and help students acquire specific occupational skills, efficient work habits and positive attitudes about the personal, social and economic significance of work ] objectives of an occupational program are to prepare students for high priority occupations or other occupations supported by local labor market information and is supported by local employers, and for successful employment and lifelong learning through acquisition of high-level academic, technical and career development skills, efficient work habits and attitudes about the personal, social and economic significance of work. Occupational programs include vocational agriculture, vocational business education, vocational health occupations, vocational marketing and distributive education, vocational occupational [ home economics ] family and consumer sciences, and vocational trade, industrial and technical education. Occupational programs [ shall ] must be [ competency ] standards-based, meet licensure or [ requirements ] industry skill certification or Pennsylvania Skills Certificate, as required, provide extended classroom experience, and meet minimum time requirements. The specific requirements of the foregoing elements are as follows:

(1) [ Competency ] Standards-based. Programs [ shall ] must have [ competency ] standards-based plans. A [ competency ] standards-based plan is an instructional system that is planned and managed by the teacher, based upon occupational analysis and clearly stated performance objectives that are deemed critical to successful employment as recommended by occupational advisory committees [ that are deemed critical to successful employment ]. The instructional process [ shall ] must derive its content from the task performed in each occupation and job and provide for the assessment of student performance on the basis of preset performance standards. [ Competency ] Standards-based plans [ shall ] must include:

(i) Performance objectives. A vocational education program [ shall ] must identify performance objectives in accordance with criteria developed by the local education agency in cooperation with the occupational advisory committee. The performance objectives [ shall ] consist of the following three parts:

(A) The conditions under which the task will be performed—the, materials and supplies provided.

\* \* \* \* \*

(ii) Program plans. Vocational education program content shall be designed in accordance with one of the following [ competency ] standards-based plans:

\* \* \* \* \*

(2) Pennsylvania academic standards. Pennsylvania academic standards of mathematics, language arts and science shall be integrated within the technical curriculum and instruction.

(3) CIP Code. Programs will be identified by CIP code.

(4) Planned instruction. This planned instruction must include the integration of academic, career development and technical curricula at the secondary level.

(5) Occupational analysis. The occupational analysis leads to clearly stated performance objectives deemed critical to successful employment, and assessment of student competencies based upon performance standards.

(6) Industry standards. Prepare students to meet industry-defined standards, certifications, regulations or licensing agreements demonstrated through industry assessment, industry credentials, industry certification, license or State assessment.

(7) Work-based learning. Provide students with an opportunity to acquire experiences in appropriate work situations related to their program.

(8) License requirements. Programs designed to provide students with the background to meet certification[, registration ]. Registration and licensure requirements [ shall ] must meet the standards of the licensing agency and [ shall ] be supervised or administered according to the certifying or licensing agency, Part I (relating to State Board of Education) and Part II (relating to standards). Information on legal requirements or limitations relating to the occupations for which they are preparing shall be given to all students in writing.

[ (3) ] (9) \* \* \*

[ (4) ] (10) Minimum time requirements.

(i) The [ local educational agency ] school entity may develop vocational education programs, to qualify for subsidy, for any time length as long as they do not go below [ the minimums listed in this subsection ] 360 hours per year.

\* \* \* \* \*

[ (ii) The following requirements shall be considered in planning vocational education programs based on the minimum time requirements listed in subparagraph (i):

(A) A planned vocational course shall be equal to 120 clock hours and is equal to one unit of credit.

(B) Vocational education credits may be given for hours spent in supervised occupational experience and cooperative and clinical experiences.

(C) A minimum of two planned courses shall be operated per year. These two planned courses shall be skilled courses.

(D) Sequences shall be offered in consecutive years and the last year of the program will conclude in the twelfth grade.

(E) Where necessary to promote the educational program, up to three planned vocational courses may be substituted for the required graduation units of credit set forth in § 5.5(b) (Reserved), except that not more than one substitution may be made in a single listed course title and no substitution may be made for the one required unit of credit in health and physical education. The school district shall verify that a relationship exists between the content learned or the skills developed in the approved vocational course and the high school graduation credit for which it is substituted. The substitution shall be reported to the Department under the process for curriculum exceptions set forth in § 5.12(a) (Reserved).

(F) Options for awarding planned course credit are explained in § 5.11 (Reserved).

(G) This section includes the minimum requirements for a program to be eligible for vocational reimbursement. It is recognized that selected vocational programs may require more than the minimum hours to offer an effective education program.

(b) *Exceptional programs requirements.* Exceptional programs could include any of the occupational areas defined in this section. See subsection (a). An exceptional program will be approved to address special needs documented by the local education agency. The program content shall be designed in accordance with one of the following competency-based plans:

(1) *Special vocational.* A plan designed to meet the vocational education requirements of special students in accordance with their individualized education programs.

(2) *Experimental.* Special pilot, experimental, exemplary or innovative programs, which do not fit within the structure of any of the plans, may be approved on an annual basis after review by the Secretary.

(c) ] (b) *Diversified occupations program requirements.* Diversified occupations programs [ could ] may include any of the occupational areas defined in subsection (a) or other occupational areas not offered at the comprehensive high schools or [ area vocational technical school ] AVTS. The diversified occupations program shall be available as a 1-year or 2-year program. This program is for 11th and 12th grade students who are unable to gain admission to a vocational program due to excessive numbers of applicants, inability to meet entrance requirements for other existing vocational programs, or lack of specific vocational areas offered at the comprehensive high school or participating [ area vocational-technical school ] AVTS. The requirements for these programs are:

(1) One planned course—equal to one unit of credit—of general related theory or technical related content, or both, [ per year ] shall be offered per year.

(2) Students shall be legally employed a minimum of 15 hours a week during the school year[ —these ]. These hours can be other than school hours.

\* \* \* \* \*

(4) A training plan and a training agreement shall be developed with the employer and shall be on file with both the school and the employer.

(5) The program is taught by a certified cooperative education teacher.

[ (d) ] (c) *Nonoccupational program requirements.*

(1) [ Consumer and homemaking ] Family and consumer sciences education programs. The [ consumer and homemaking ] family and consumer sciences education programs [ shall ] must operate in a comprehensive high school. [ Only approved programs are eligible for Federal vocational funds. ]

(i) *Primary objectives.* The primary objectives of [ consumer and homemaking ] family and consumer sciences education programs are:

(A) Pennsylvania academic standards of mathematics, language arts, and science shall be integrated within the technical curriculum and instruction.

(B) To prepare both males and females with knowledge and skills [ in the five subject matter areas relating to home and family life. The areas include: food and nutrition, human development and interpersonal relationships, management and consumerism, housing and home furnishings and clothing and textiles ] required to meet the approved Family and Consumer Sciences Academic Standards.

[ (B) ] (C) \* \* \*

[ (ii) *Requirements.* The requirements for consumer and homemaking education programs are:

(A) The minimum instructional time for an approved consumer and homemaking education program shall be equal to two planned courses—240—clock hours for a minimum of 2 years beginning in the ninth grade or any year thereafter, providing a 2-year sequence.

(B) The consumer and homemaking education program shall include content from all five subject matter areas as follows: foods and nutrition; human development; management and consumerism; housing, furnishings and equipment; and textiles and clothing. The first year of the program offering shall be broad in scope. The second year may be more advanced or concentrated in several subject matter areas. Programs are to be designed to provide students adequate learning and activities in all subject matter areas for a comprehensive program.

(2) *Industrial arts programs.* Industrial arts programs shall operate only in approved secondary schools. Only approved programs are eligible for Federal vocational funds. Upon the conclusion of grade 9, the students shall have completed a planned course, equal to one unit of credit—120 clock hours—of instruction encompassing the following minimum clustered content:

(i) *Industrial Materials—Construction; Manufacturing.*

(ii) *Visual Communications—Drafting; Graphic Arts.*

(iii) *Power Technology—Electricity/Electronics; Power Mechanics/Systems; Fluids. ]*

(d) *Postsecondary education and training.* Encourage articulation of the secondary program of studies with postsecondary institutions, technical institutes and industry partners who offer registered apprenticeship, certificate or degree programs.

§ 339.23. Vocational education safety.

Vocational education shall be provided consistent with safety standards [ shall be met as defined by Department guidelines ] in the following areas:

(1) Safety instruction shall be practiced in the laboratory and classroom.

(2) Equipment guards and personal safety devices shall be in place and used.

(3) Class enrollment shall be safe relative to classroom or laboratory size and number of workstations.

(4) **[ Work stations ] Workstations** shall be barrier-free, assuring accessibility and safety under section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794) and 34 CFR 104.22(a) (relating to existing facilities) **and the Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213).**

(5) Provisions **shall be** made for safe practices to meet individual educational needs of handicapped persons under section 504 of the Rehabilitation Act of 1973, 34 CFR 104.33(b) (relating to free appropriate public education), OCR Guidelines, VI and 45 CFR Part 80 (relating to nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964).

(6) Storage of materials and supplies **[ meeting ] must meet** 34 Pa. Code Part I (relating to Industrial Board).

(7) Safety practices **[ met according to ] must meet** State and Federal regulations.

#### § 339.29. Cooperative vocational education.

**[ If cooperative vocational education is provided, it shall be planned in accordance with the stated career or occupational objectives of the student and shall include:**

(1) Related learning experiences at a school-approved work station.

(2) A memorandum of understanding as defined in the Department guidelines, signed by the student, parent or guardian, school official and cooperating employer or representative.

(3) Payment of the existing legal wage when applicable under section 206 of the Fair Labor Standards Act of 1938 (29 U.S.C.A. § 206) and The Minimum Wage Act of 1968 (43 P.S. §§ 333.101—333.115).

(4) Provision for administration and supervision by school staff members in cooperation with the employer.

(5) A minimum of one onsite student evaluation by a coordinator for on-the-job activities per month.

(6) At least 45 minutes per week, or 90 minutes every other week, for students to meet with their vocational instructor to discuss job problems and related information.

(7) Credit for cooperative vocational education work experience.

(8) A certified cooperative vocational education instructor coordinating the program.

(9) Compliance with Federal and State statutes.

(10) Insurance protection for both the school and students.] Cooperative education shall be conducted in accordance with the educational and occupational objectives for a student enrolled in an approved vocational technical program and shall meet published Department guidelines. See § 4.3 (relating to advisory committee).

#### § 339.30. Student organizations.

(a) **[ Recognized student organizations ] CTSOs** shall be an integral part of the respective vocational education program. Instruction shall provide for the development of human relations skills; knowledge of occupations; leadership competencies and positive attitudes towards fulfilling occupational, civic, social, and community responsibilities.

(b) **[ Student organizations ] CTSOs** recognized in this Commonwealth are those recognized as **[ vocational student organizations ] CTSOs career and technical student organizations** by the United States Department of Education. **[ (c) ] Members of [ vocational education student organizations ] CTSOs** shall be under the direct supervision of professional **[ vocational ] career and technical** education personnel within the respective **[ vocational ] career and technical** education program.

**(c) CTSOs in this Commonwealth include:**

(1) Distributive Education Clubs of America (DECA).

(2) Future Business Leaders of America (FBLA).

(3) Family, Career and Community Leaders of America (FCCLA).

(4) Health Occupations Students Organization (HOSA).

(5) National FFA Organization (FFA).

(6) National Young Farmer Educational Association (NYFEA).

(7) SkillsUSA (formerly Vocational Industrial Clubs of America).

(8) Technology Student Association (TSA).

(9) Other organizations that are approved by the United States Department of Education in the future.

(d) Members of CTSOs shall be under the direct supervision of certified professional education personnel as assigned by the joint operating committee or school board.

(e) CTSOs shall hold a charter between their National organization and the Department.

#### GUIDANCE

##### § 339.31. Plan.

There shall be a written plan on file, approved by the local board of school directors, for the development and implementation of a comprehensive, sequential program of guidance services for kindergarten through 12th grade. The plan **[ shall ] must** include procedures to provide for **[ the extension of ]** guidance services to **[ area vocational-technical schools that service participating school districts ] AVTS.** Upon request, the plan shall be submitted to the Secretary.

##### § 339.32. Services.

The plan shall be designed to promote equal opportunity and include the following guidance service areas:

(1) **[ Encouragement of students to select the vocational curriculum, which will meet their needs. ]**

**Assistance to students in selecting vocational curricula that meet their needs and address their interests.**

(2) Assistance for all vocational students in making educational career plans **including, but not limited to, high school academic and technical preparation and postsecondary education and training**, and adjustments through the use of individual and group counseling and appropriate student assessment procedures.

\* \* \* \* \*

(6) Support of a placement service **[ which ]** that is developmental and makes provisions for the transition from school to the world of work.

\* \* \* \* \*

**PERSONNEL**

**§ 339.41. Certification.**

Certification requirements **[ shall ]** include:

(1) *Professional [ employes ] employees.* **[ Professional personnel shall meet the standards as defined in the Department's publication, Certification and Staffing Policies and Guidelines. The publication may be obtained from the Bureau of Teacher Certification and Preparation of the Department. ] Professional staff shall meet standards as defined in Chapters 49 and 354 (relating to certification of professional personnel; and preparation of professional educators) as well as certification and professional standards and requirements for teachers under sections 1201—1215 and 2070.1—2070.18 of the School Code (24 P. S. §§ 12-1201—12-1215 and 2070.1—2070.18)**

(2) **[ Inservice ] In-service plan.** Local education agencies shall have a plan on file that **[ insures ] ensures** professional personnel will keep up with the technology and remain current with practices and standards of their professional areas**[—for example, participation in professional development activities ]**.

\* \* \* \* \*

(4) *Chief administrator of the area school.* **[ Since the Director of Vocational Education is not a commissioned school officer, the Public ]** The School Code **[ (24 P. S. §§ 1-101—27-2701) ]** provides that area vocational-technical boards shall designate the executive director of the intermediate unit or a chief school administrator of one of the participating school districts to serve in the capacity of the chief administrator of the area school.

\* \* \* \* \*

**FACILITIES**

**§ 339.51. Learning environment.**

The requirements for the learning environment are as follows:

(1) *Size of laboratory.* Shop laboratory size **[ shall ] must** be adequate as **[ recommended by the occupational advisory committee, ]** required by State licensing boards, accreditation providers and industry certification standards and take into consideration the recommendations of the occupational advisory committee.

(2) *Type of equipment [ and number of work station ].* Refer to **[ 22 Pa. Code ] § [ § 6.12(b)(6), 6.63 and 339.4(10) ] 339.4(b)(5)** (relating to **[ Reserved; Reserved; and ]** program approval) for requirements related to equipment.

(3) *Number of [ work stations ] workstations.* Students assigned may not be greater than the number of **[ work stations ] workstations** available.

\* \* \* \* \*

**§ 339.53. Contemporary equipment.**

**[ Equipment needs are identified in § 6.12(b)(6) (Reserved). ]** The equipment and facilities must be comparable to industry standards. The Department may withhold reimbursement if equipment and facilities are not comparable to industry standards.

**TECHNICAL INSTITUTES**

**§ 339.56. Technical institutes.**

(a) Article 18 of the School Code (24 P. S. §§ 18-1801—18-1855) authorizes school boards to establish and operate technical institutes (TIs) for the purpose of offering post-high school programs to prepare out of school youths and adults for occupations requiring technical training.

(b) TIs shall be regulated by Article 18 of the School Code, this chapter and by procedural guidelines prepared by the Department and adopted by the State Board for Vocational Education.

(c) Section 1841 of the School Code (24 P. S. § 18-1841) authorizes the establishment of a TI by a majority vote in convention or by mail called for by:

(1) Boards of public education.

(2) Intermediate units' board of directors through a certified vote. (See section 1844(a) and (d) of the School Code (24 P. S. § 18-1844 (a) and (d) regarding establishment of schools and institutes.) State Vocational Board approval is required prior to the establishment of a TI.

(d) Participating school districts shall have authority to enter into written agreements establishing their rights and obligations. This agreement may not be changed without the consent of each participating school district's board of directors as determined by a majority vote, in accordance with section 1850.1(a) of the School Code (24 P. S. § 18-1850.1(a)) regarding organization and operation of schools and institutes.

(e) To be eligible for funding, an institute must have:

(1) A statement of philosophy documenting how the mission fulfills the educational needs of this Commonwealth. § 40.2 (relating to statement of philosophy, mission and need).

(2) Strategic plans, including needs assessment; action plans; coordination and articulation plans among secondary, postsecondary, adult and apprenticeship programs; professional staff development plan; written plan for job placement; and a plan for repair, replacement and addition of instructional equipment.

(3) A local advisory committee.

- (4) An occupational advisory committee.
- (5) Admissions policies.
- (6) Planned instruction and programs that have been approved under criteria established by the Secretary.
- (7) A method of compliance review to meet requirement of being evaluated every 5 years.
- (8) A compliance plan as required by formal compliance review conducted by the Department.
- (9) Contemporary equipment.
- (10) Accreditation by those recognized accrediting agencies listed for postsecondary purposes by the United States Department of Education.
- (f) Once a favorable vote takes place, a proposal to establish a TI shall be presented to the State Board for Vocational Education for its approval.
- (g) The TI board may delegate operation to:
  - (1) A joint committee elected by the participating boards in accordance with sections 1850.1—1850.3 of the School Code (24 P. S. §§ 18-1850.1—18-1850.3).
  - (2) An intermediate unit board of directors in accordance with section 1850.2 of the School Code.
- (h) The TI board has the following powers:
  - (1) Budgeting.
  - (2) Setting institute policies.
  - (3) Employing supervisors and teachers.
  - (4) Buying, building, or renting buildings and land.
- (i) The participating school districts shall be responsible for all expenses in connection with the establishment of, addition to, and improvements of TIs in the proportion agreed upon. All property of each TI shall be owned jointly by the participating school districts. (See section 18-1845 of the School Code (24 P. S. § 18-1845) regarding cost of establishment, etc., ownership of property.)
- (j) The Commonwealth will pay every school district having out of school youth or adults enrolled in a TI, for each student in average daily membership, one-third of current expense per student as provided in the approved budget, or the per student cost for current expense, whichever is less. Reimbursement will be made in the subsequent State fiscal year and based upon data supplied to the Department by the TI. The remainder of the cost of total current expense shall be borne by the district of residence, or by the district of residence and the student. The student will not bear more than one-third of the current expense per student.
- (k) TIs are not degree-granting institutions, but can offer technical certificates.
- (l) Programs may be terminated at any time by the TI board. Any student enrolled in the program being terminated shall be given a reasonable opportunity to complete it.
- (m) Instructional programs in which licensure, certifications or examinations are required or would enhance the employment of completers shall be designed to meet those requirements.
- (n) Guidance counseling, placement and financial aid information shall be available to all students.

- (o) This section applies only to the establishment of TIs as authorized by section 18-1855 of the School Code (24 P. S. § 18-18-1855).
- (p) It shall be subject to the provisions of § 339.4 (relating to program approval), and to meeting the Standards set by the Secretary.

**EVALUATORS**

**§ 339.61. Evaluation.**

(a) *General rule.* Approved vocational education curriculum shall be subject to review by the Secretary [ **of Education** ] to determine compliance with [ **Chapter 6 (Reserved)** and ] this chapter.

\* \* \* \* \*

(c) [ **Reserved** ].

[ **(d)** ] *Report.* The Department evaluation team shall file a report with the board of school directors and area vocational-technical school board of directors within 30 calendar days after the on-site evaluation.

[ **(e)** ] (d) *Content.* The report [ **shall** ] **must** identify areas [ **which** ] **that** are not in compliance with [ **Chapter 6 and** ] § 339.1 (relating to scope of applications) and other applicable statutes, regulations and guidelines.

(f) *Noncompliance.* If an evaluation reveals noncompliance with this title, the school district or [ **area vocational-technical school** ] AVTS shall develop a compliance plan according to § [ **6.42 and** ] 339.62 (relating to [ **Reserved; and compliance** ] **noncompliances; appeal process**).

**§ 339.62. [ Compliance ] Noncompliance; appeal process.**

(a) *Plan.* If the evaluation report identifies areas of noncompliance, the board of school directors or area vocational-technical board of school directors shall file [ **with the Department of Education** ] a plan for correcting the noncompliance identified in the report **with the Department**.

(b) *Reevaluation.* Following a submission of the plan required in subsection (a), the Department will conduct a reevaluation to determine whether to issue, conditionally withhold, or withhold approval that will terminate State and Federal funding to the program.

\* \* \* \* \*

[Pa.B. Doc. No. 06-181. Filed for public inspection February 3, 2006, 9:00 a.m.]

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

[52 PA. CODE CH. 75]

[L-00050174]

**Alternative Energy Portfolio Standards**

The Pennsylvania Public Utility Commission, on November 10, 2005, adopted a proposed rulemaking order which promotes onsite generation by customer-generators using renewable resources and eliminates barriers which may have previously existed regarding net metering.

*Executive Summary*

Under 73 P. S. § 1648.5, the Public Utility Commission is required to develop regulations governing net metering within this Commonwealth through a stakeholder process. This rulemaking is the initial, formal proposed regulation resulting from the stakeholder process. The regulations govern the process by which a customer-generator, as defined by the Alternative Energy Portfolio Standards Act (73 P. S. §§ 1648.1—1648.8), can begin net metering electric usage and production from alternative energy resources. The regulations also provide for metering capabilities that will be required and a compensation mechanism which reimburses customer-generators for surplus energy supplied to the electric grid.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 19, 2006, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

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

Public Meeting held  
November 10, 2005

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

*Proposed Rulemaking Re Net Metering for Customer-Generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P. S. § 1648.5; L-00050174*

*Implementation of the Alternative Energy Portfolio Standards Act of 2004: Net Metering; M-00051865*

**Proposed Rulemaking Order***By the Commission:*

The Alternative Energy Portfolio Standards Act of 2004, 73 P. S. §§ 1648.1—1648.8 (Act), includes directives that the Commission develop regulations for net metering and interconnection for customer-generators. In accordance with section 5 of the Act, 73 P. S. § 1648.5, the Commission formally commences its rulemaking process to establish regulations governing net metering for customer-generators. The Commission seeks comments from all interested parties on these proposed regulations, which are found in Annex A. Additionally, the Commission will close the Net Metering sub-group as that sub-group has reached its goal by way of this proposed rulemaking Order and the companion rulemaking Order proposing regulations which set forth interconnection standards.

*Background*

Section 5 of the Act provides as follows:

The commission shall develop technical and net metering interconnection rules for customer-

generators intending to operate renewable onsite generators in parallel with the electric utility grid, consistent with rules developed in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth. The commission shall convene a stakeholder process to develop Statewide technical and net metering rules for customer-generators. The commission shall develop these rules within nine months of the effective date of this act.

73 P. S. § 1648.5.

On March 3, 2005, the Commission convened an Alternative Energy Portfolio Standards Working Group (AEPS WG). The AEPS WG was established to provide a forum for considering the technical standards, business rules and regulatory framework necessary for Act 213's implementation. The Net Metering sub-group was formed out of the AEPS WG and was specifically tasked with developing proposed regulations governing net metering and interconnection standards.

The Net Metering sub-group has met on several occasions since March 3 to discuss and develop a set of proposed regulations in two parts. First, the Net Metering sub-group focused on Net Metering, the purpose of this proposed rulemaking. Second, the Net Metering sub-group focused on interconnection standards, which will be the subject of a separate proposed rulemaking proceeding.

Participants in the Net Metering sub-group have included representatives from Commission Staff, the Department of Environmental Protection (DEP), the Energy Association of Pennsylvania and several of its member companies, the Pennsylvania Farm Bureau, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), Citizens for Pennsylvania's Future, the Small Generator Coalition with the Solar Energy Industries Association and several similar entities. From the foregoing, it is clear that the Net Metering sub-group had the benefit of a wide array of interests and broad expertise as it went through the process of developing the proposed regulations.

At the initial meeting, participants were requested to discuss various issues which any net metering rulemaking would need to address. Following that meeting, Commission Staff issued a proposed issues list to the sub-group and called for comments to add any issues not already included and propose solutions. That issues list and call for comments was also posted on the Commission's web site. A second meeting was held to discuss the comments filed in response to the Staff generated issues list. On August 3, 2005, Commission Staff issued a proposed set of Net Metering regulations to the Net Metering sub-group and called for comments. The proposal was also posted on the Commission's web site.

Following the receipt of comments to the August 3, 2005 Staff proposal, Commission Staff developed the recommendation now before us. This Staff proposal was developed based upon the comments submitted through the Net Metering sub-group process, consistent with the Act's mandate that the regulations be developed through a stakeholder process.

*Discussion*

The Act provides a great deal of flexibility to the Commission regarding Net Metering, providing only that the regulations are to be developed through a stakeholder process and, while not mandating conformity, to the extent possible, regulations promulgated here should be "consistent with rules defined in other states" within the

transmission zones of regional transmission organizations serving Pennsylvania. As the process moved forward, the Participants reviewed Net Metering regulations in existence in New Jersey and also followed rulemaking processes ongoing in Maryland and Ohio. Regulations in existence in New York and Vermont were also instructive.

The proposed Net Metering regulations are consistent with the rules now in place in other jurisdictions within the transmission zones of regional transmission organizations serving Pennsylvania. In addition, the proposed regulations have been drafted with a view towards promoting onsite generation by customer-generators using renewable resources, consistent with the over-arching goal of the Act. Accordingly, the proposed regulations strive to eliminate barriers which may have previously existed with regard to net metering while ensuring that net metering by customer-generators will not unduly burden other customers on a particular electric distribution company's (EDC) system.

#### A. *General Provisions of Chapter 75 of the Public Utility Code*

The Commission will be adding Chapter 75 to the Public Utility Code, which will serve as the location for most regulations adopted pursuant to the Act. As this Order represents the first proposed rulemaking in response to the Act, Annex A includes Chapter 75's general provisions at Subchapter A. At this time, Subchapter A contains those definitions that Staff has identified as potentially having application to more than one subchapter. This includes the definitions found in the Act as well as relevant definitions from Chapter 28 of the Public Utility Code. 73 P. S. § 1648.2, 66 Pa.C.S. § 2803. Subchapter A may be supplemented as the Commission issues additional rulemakings as part of its implementation of the Act. Definitions specific to the subject of net metering are listed separately in the net metering subchapter. Where possible, the Commission has chosen to make use of already existing definitions for terms that are used in these subchapters. Examples include "Alternative energy credit," "Customer-generator," and "Electric distribution company." As we move into this new area of regulation, we have taken every effort to be as specific as possible since we are operating under both the Public Utility Code and the Act. Accordingly, the Commission has chosen to strike a cautious note to provide regulatory certainty.

#### B. *Scope*

This section endeavors to set forth the scope of net metering under the Act. In the initial Staff proposal, the Scope of the regulations was described as applying to residential and small commercial customers. Several Participants commented that use of the phrase "residential and small commercial customers" had the potential of excluding some agricultural customers who otherwise would be considered "customer-generators" under the Act. Other Participants suggested that a capacity limit of 40 kilowatts (kW) be used (with an exception for agricultural applications) to restrict the scope of the regulations.

After reviewing the foregoing, we believe that paraphrasing the Act is the best method of setting forth the scope of the regulations. The Act expressly provides that the Net Metering regulations are to be developed for "customer-generators." That term is defined in the Act and has specific capacity limits in place. Accordingly, the proposed Scope of the regulations provides that they apply to electric generation suppliers (EGSs) and EDCs which have customer-generators who intend to pursue net metering opportunities in accordance with the Act.

#### C. *Net metering definitions*

Several new definitions are set forth in Subchapter B. Definitions for "Net metering," "Avoided cost of wholesale power," "Annualized period," and "Meter aggregation" have been developed, among others. Several Participants proposed ministerial edits to definitions which provided greater clarity and they have been adopted. For example, the OSBA observed that the definition of Net Metering should clearly state that any resulting billing credits are on a kilowatt hour (kWh) basis. Similarly, DEP suggested that "equipment package" be specifically defined. The OCA suggested that "Customer-generator facility" should include a specific reference to equipment used to deliver electricity to the EDC's system.

Three particular definitions have been changed from the Staff proposal which should be highlighted. First, we have changed the definition of "Annualized period" to be consistent with "Reporting period" as that term is defined in the Act. The Staff version referenced the PJM LLC (PJM) planning year, however several EDCs are not located within the PJM system. Accordingly, it is appropriate to adopt a more generic definition. We note that "Reporting period" as defined in the Act coincides with the PJM planning year.

The second and third definitions involve meter aggregation. Several Participants, including the Farm Bureau, strongly advocated that meter aggregation be permitted for net metering customers. Several other Participants opposed the concept. In keeping with the goal of the Act, we have provided for meter aggregation in these regulations. As noted by the OSBA, one of the problems inherent in meter aggregation is the issue of which rate class an aggregated facility would belong to since many such facilities include meters rated for different classes.

To resolve this issue in a manner that has the least impact on other rate payers, we have changed the definitions of "physical meter aggregation" and "virtual meter aggregation" to provide for the aggregation of meters "within a particular rate class on contiguous and adjacent properties owned and operated by a customer-generator." Thus, as currently proposed, aggregation will only be permitted for meters within the same rate class.

#### D. *Net metering general provisions*

This section describes the general operation of net metering in Pennsylvania. The method of crediting customer-generators for surplus kWhs from month to month, with a pay-out at the end of the annualized period is identical to the system now in place in New Jersey. Some Participants commented that a monthly payout system would be more advantageous. However, it is our view that the credit/pay-out system as proposed will better promote customer-generators and net metering as envisioned by the Act.

Some Participants questioned whether Tier II resources should be included in net metering. The comments suggested that Tier II resources generally had capacity ratings far in excess of that contemplated by the Act for customer-generator facilities. In addition, it was suggested that limiting net metering to Tier I resources would promote cleaner self generation. The Act does not restrict net metering to Tier I resources. Also, given that the Scope of the proposed regulations limits the capacity to that found in the definition of "customer-generator," we do not see any need to be more restrictive than proposed.

Some additional comments should be addressed here. First, the OSBA observes that net metering is to be offered on a first come, first served basis and queries

what the cap would be for customer-generators desiring to net meter. As will be seen in the proposed interconnection rulemaking, there is a ceiling on the amount of generation that can be interconnected at certain points on the distribution system. Once that ceiling is reached, the integrity of the electric grid will not permit additional ties. Thus, the "cap" is found in the interconnection rulemaking. To recognize that "cap" here, we have provided that net metering shall be offered on a first come, first served basis.

Several Participants note that while EGSs are permitted to offer net metering, they are not required to do so and any terms for EGS net metering are to be decided by the EGS and its customer. In our view, a regulatory mandate to EGSs regarding a net metering service offer would be inconsistent with a free market construct. It is our hope that EGSs will compete in this area and offer a net metering product that will be attractive to customer-generators. To that end, we have expressly provided that EDCs are to develop net metering protocols for EGSs operating over their systems. However, we do not find that it is appropriate to mandate such products by EGSs.

The Staff proposal had recommended an annual report that included information concerning the total number of customer-generator facilities; the total estimated rated generating capacity of net metering customer-generators; the total estimated net kWhs received from customer-generators; and, the total amount of energy produced by customer-generators. The OCA observed that the last two items may require sub-metering to acquire the information. Upon review, we propose to require information relating to the total number of customer-generator facilities that are net metering and the total estimated rated generating capacity. That information can be readily obtained without recourse to additional metering and will serve to provide the Commission with needed information regarding the scale of net metering in the Commonwealth. We will not require the reporting of total estimated net kWhs received from customer-generators or the total amount of energy produced by customer-generators.

Several sections of the proposed regulations provide that EDCs shall not discriminate against net metering customers and shall provide net metering at rates that are identical with respect to rate structure, retail rate components and monthly charges as are charged to other customers. Several Participants have commented that these provisions will retain certain charges that current net metering customers claim destroy the economics of net metered onsite generation. We invite additional comments on this issue, particularly in view of the meter aggregation opportunities provided.

It should be noted that proposed § 75.13(k) provides that an EDC may not require insurance for a net metering customer-generator. In the proposed interconnection regulations, we have not required indemnification or liability insurance. In the proposed interconnection regulations, Staff suggests that insurance requirements, if any, should be reserved for the interconnection agreement form. We note that the Mid-Atlantic Distributed Resource Initiative model does not require specific levels of insurance but recommends that interconnection customers voluntarily obtain coverage. We invite comments on this issue.

#### E. Meters and Metering

In this section, we address the nature of the metering equipment to be used, meter aggregation, cost responsibility and ownership of alternative energy credits which

may be produced by customer-generator facilities. With regard to meter equipment, some Participants favored a dual meter approach; others favored a single meter approach. The Staff proposal has been clarified here to provide that a single, bi-directional meter that can measure and record the flow of energy in both directions shall be required. Upon agreement of the EDC and the customer-generator, a dual meter approach will be permitted. We note that the single, bi-directional meter requirement is consistent with the current New Jersey regulations. We specifically request comments regarding the read and record capability of the meter and whether this addresses EDC concerns regarding the single meter approach. Comments should also address any cost or technical issues raised by a read and record requirement.

The proposed regulations also provide that if a customer-generator's existing equipment does not meet the regulatory requirement, then the EDC shall provide the appropriate meter at the EDC's expense. Several Participants requested that the regulation specify that the cost of the meter would be recoverable. We have not provided that treatment in the regulation. However, that issue may be raised and deliberated in an appropriate proceeding dealing with cost recovery under the Act or applicable provisions of the Public Utility Code. We also provide that any additional metering equipment change which is brought about by the customer-generator will be completed at the customer-generator's expense.

In the event that a single, bi-directional meter as specified is not deemed to be a qualifying meter for the purpose of qualifying alternative energy credits, the proposed regulations provide that the person who desires to take title to any alternative energy credits will bear the cost of any additional metering equipment required. The regulations make it clear that the customer-generator has the principle ownership interest in any alternative energy credits produced, but he may sell that interest to any third party or renounce it in favor of the EDC. Similarly, the cost of meter aggregation is to be borne by the customer-generator who requests that treatment. For virtual aggregation, the customer-generator is to be responsible only for the incremental difference in the cost of the billing process.

#### F. Treatment of Stranded Costs

Clearly, the Act contemplates that a successful customer-generator will reduce the amount of electricity taken from the grid and, in some cases, may even provide a small surplus into the grid. Section 2808(a) of the Public Utility Code (Code), 66 Pa.C.S. § 2808(a), provides in pertinent part:

If a customer installs on-site generation which operates in parallel with other generation on the public utility's system and which significantly reduces the customer's purchases of electricity through the transmission and distribution network, the customer's fully allocated share of transition or stranded costs shall be recovered from the customer through a competitive transition charge.

66 Pa.C.S. § 2808(a). (Emphasis added).

During the Net Metering sub-group meetings and in comments, several Participants expressed concerns about the interplay of the Act and section 2808(a) of the Code. The essential concern is that it would most likely cost more to track usage for residential customer-generators than would be recovered through the resulting allocated share of stranded costs. Accordingly, while all Participants recognize the applicability of section 2808(a) of the



Code, it has been forcefully argued that for the residential class, any reduction in usage should be deemed insignificant and not subject to an allocated payment of stranded costs.

The original Staff proposal provided that any reduction in usage from the grid that was equal to or greater than 10% when compared to the prior year would trigger the application of section 2808(a) of the Code. Based upon the comments received and the discussions in the sub-group meetings, we have revised this section and propose that it apply to small commercial, commercial and industrial customer classes only.

*Conclusion*

The Commission welcomes the filing of comments by all interested parties on all aspects of these regulations. As previously noted, the Commission is particularly interested in comments regarding a read and record bi-directional meter capability and the effect of nondiscriminatory rate treatment and charges that existing self-generating customers find to be onerous. Comments on the treatment of stranded costs are also desired.

To the extent that a party believes any sections of these proposed regulations need revising, we ask that alternative language be suggested. This is particularly important in the area of definitions. If a party believes that additional definitions are required, specific language should be proposed. A comment period of 60 days has been provided.

Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501; section 5 of the Alternative Energy Portfolio Supply Act, 73 P. S. § 1648.5; 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 at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P. S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P. S. § 745.5; and section 612 of The Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The proposed rulemaking will consider the regulations set forth in Annex A.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original and 15 copies of any written comments referencing the docket number of the proposed regulations be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.
6. A copy of this order and Annex A shall be served on the Department of Environmental Protection, all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Office of Trial Staff, the Office of

Consumer Advocate, the Office of Small Business Advocate and all other Participants in the Alternative Energy Portfolio Supply Working Group at M-00051865.

7. The contact persons for this proposed rulemaking are Calvin Birge, Bureau of Conservation, Economics and Energy Planning, (717) 783-1555 (technical), and H. Kirk House, Office of Special Assistants, (717) 772-8495 (legal).

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-244. No fiscal impact; (8) recommends adoption.

**Concurring Statement of Commissioner  
Terrance J. Fitzpatrick**

*Implementation of the Alternative Energy Portfolio  
Standards Act of 2004; Net Metering—  
Notice of Proposed Rulemaking*

Public Meeting November 10, 2005  
NOV-2005-OSA-0344\*  
M-00051865  
L-00050174

Today the Commission formally commences its rule-making process to establish regulations governing net metering for customer-generators via a Proposed Rule-making Order seeking comments from all interested parties. The proposed regulations before us were developed by Commission staff with the participation and comments of the Net Metering sub-group of the Alternative Energy Portfolio Standards Working Group.

While I support the issuance of these proposed regulations for comment, I am reserving judgment on the positions I may ultimately take concerning several issues, including cost recovery, as well as the general level of subsidies. I look forward to the comments of all interested parties on these specific issues, as well as all of the aspects of these proposed regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES  
PART I. PUBLIC UTILITY COMMISSION  
Subpart C. FIXED SERVICE UTILITIES  
CHAPTER 75. ALTERNATIVE ENERGY  
PORTFOLIO STANDARDS**

**Subchap.**

- A. GENERAL PROVISIONS**
- B. NET METERING**

**Subchapter A. GENERAL PROVISIONS**

**Sec.**

- 75.1. Definitions.

**§ 75.1. Definitions.**

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

*Act*—Alternative Energy Portfolio Standards Act (73 P. S. §§ 1648.1—1648).

*Alternative energy credit*—The term has the same meaning as defined in section 2 of the act (73 P. S. § 1648.2).

*Alternative energy sources*—The term has the same meaning as defined in section 2 of the act.

*Alternative energy system*—The term has the same meaning as defined in section 2 of the act.

*Competitive transition charge*—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

*Cost recovery period*—The term has the same meaning as defined in section 2 of the act.

*Customer-generator*—The term has the same meaning as defined in section 2 of the act.

*Department*—The Department of Environmental Protection of the Commonwealth.

*EDC—Electric distribution company*—This term has the same meaning as defined in 66 Pa.C.S. § 2803.

*EGS—Electric generation supplier*—This term has the same meaning as defined in 66 Pa.C.S. § 2803.

*Force majeure*—The term has the same meaning as defined in section 2 of the act.

*kW—Kilowatt*—A unit of power representing 1,000 watts. A kW equals 1/1000 of a MW.

*MW—Megawatt*—A unit of power representing 1,000,000 watts. A MW equals 1,000 kW.

*Municipal solid waste*—The term has the same meaning as defined in section 2 of the act.

*RTO—Regional transmission organization*—The term has the same meaning as defined in section 2 of the act.

*Reporting period*—The term has the same meaning as defined in section 2 of the act.

*Retail electric customer*—The term has the same meaning as defined in section 2 of the act.

*Stranded costs*—This term has the same meaning as defined in 66 Pa.C.S. § 2803.

*Tier I alternative energy source*—The term has the same meaning as defined in section 2 of the act.

*Tier II alternative energy source*—The term has the same meaning as defined in section 2 of the act.

*True-up period*—The term has the same meaning as defined in section 2 of the act.

### Subchapter B. NET METERING

75.11.	Scope.
75.12.	Definitions.
75.13.	General provisions.
75.14.	Meters and metering.
75.15.	Treatment of stranded costs.

#### § 75.11. Scope.

This subchapter sets forth net metering requirements that apply to EGSs and EDCs which have customer-generators intending to pursue net metering opportunities in accordance with the act.

#### § 75.12. Definitions.

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

*Avoided cost of wholesale power*—The average locational marginal price of energy, or its successor, over the annualized period in the applicable EDC's transmission zone.

*Annualized period*—The term has the same meaning as "reporting period" as that term is defined in section 2 of the act.

*Base year*—For customer-generators who initiated self generation on or after January 1, 1999, the base year will be the immediate prior calendar year; for all other customer generators, the base year will be 1996.

*Billing month*—The term has the same meaning as set forth in § 56.2 (relating to definitions).

*Customer-generator facility*—The equipment used by a customer-generator to generate, manage, monitor and deliver electricity to the EDC.

*Electric distribution system*—That portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises.

*Equipment package*—A group of components connecting an electric generator with an electric delivery system, and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric source.

*Meter aggregation*—The combination of readings from and billing for all meters within a particular rate class on contiguous and adjacent properties owned and operated by a customer-generator. Meter aggregation may be completed through physical or virtual meter aggregation.

*Net metering*—A system of metering electricity in which:

(i) The EDC credits a customer-generator at the full retail rate for each kilowatt-hour produced by a Tier I or Tier II resource installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during an annualized period.

(ii) The EDC compensates the customer-generator at the end of the annualized period for any remaining kilowatt-hour credits, at a rate equal to the supplier/provider's avoided cost of wholesale power.

(iii) The credit or compensation mechanism between an EGS and a net metered customer-generator of an EGS shall be determined by the particular service agreement between the EGS and the customer-generator.

*Physical meter aggregation*—The physical rewiring of all meters within a particular rate class on contiguous and adjacent properties owned and operated by a customer-generator to provide a single point of contact for a single meter to measure electric service for that customer-generator.

*Virtual meter aggregation*—The combination of readings and billing for all meters in a particular rate class on contiguous and adjacent properties owned and operated by a customer-generator by means of the EDC's billing process, rather than through physical rewiring of the customer-generator's property for a physical, single point of contact.

#### § 75.13. General provisions.

(a) EDCs shall offer net metering to customer-generators that generate electricity on the customer-generator's side of the meter using Tier I or Tier II alternative energy sources, on a first come, first served basis. EGSs may offer net metering to customer-generators, on a first come, first served basis, under the terms and conditions as are set forth in agreements between EGSs and customer-generators taking service from EGSs.

(b) An EDC shall file a tariff with the Commission that provides for net metering consistent with this chapter. An EDC shall file a tariff providing net metering protocols that enable EGSs to offer net metering to customer-generators taking service from EGSs. To the extent that an EGS offers net metering service, the EGS shall

prepare information about net metering consistent with this chapter and provide that information with the disclosure information required in § 54.5 (relating to disclosure statement for residential and small business customers).

(c) If a customer-generator is a generation customer of an EDC and supplies more electricity to the electric distribution system than the EDC delivers to the customer-generator in a given billing month, the EDC shall credit the customer-generator for the excess on a kilowatt-hour for kilowatt-hour basis. The EDC shall reduce the customer-generator's bill for the next billing month to compensate for the excess electricity produced by the customer-generator in the previous billing period.

(d) An EDC shall carry over credits earned by a customer-generator from a billing month to successive billing months. Any unused credits shall accumulate until the end of the annualized period.

(e) At the end of each annualized period, the EDC shall compensate the customer-generator for excess kilowatt-hours generated at the EDC's avoided cost of wholesale power.

(f) The credit or compensation terms for excess electricity produced by customer-generators who are customers of EGSs shall be stated in the service agreement between the customer-generator and the EGS.

(g) If a customer-generator switches electricity suppliers, the EDC shall treat the end of the service period as if it were the end of the annualized period.

(h) An EDC and EGS which offer net metering shall submit an annual net metering report to the Commission. The report shall be submitted by July 30 of each year, and shall include the following information for the annualized period ending May 31 of that year:

(1) The total number of customer-generator facilities.

(2) The total estimated rated generating capacity of its net metering customer-generators.

(i) A customer-generator that is eligible for net metering owns the alternative energy credits of the electricity it generates, unless there is a contract with an express provision that assigns ownership of the alternative energy credits to another entity or the customer-generator expressly rejects any ownership interest in alternative energy credits under § 75.14(d) (relating to meters and metering).

(j) An EDC shall provide net metering at nondiscriminatory rates identical with respect to rate structure, retail rate components and any monthly charges to the rates charged to other customers that are not customer-generators. An EDC may use a special load profile for the customer-generator which incorporates the customer-generator's real time generation if the special load profile is approved by the Commission.

(k) An EDC may not charge a customer-generator a fee or other type of charge unless the fee or charge would apply to other customers that are not customer-generators. The EDC may not require additional equipment or insurance or impose any other requirement unless the additional equipment, insurance or other requirement is specifically authorized under this chapter or by order of the Commission.

(l) Nothing in this subchapter abrogates a person's obligation to comply with other applicable law.

#### § 75.14. Meters and metering.

(a) A customer-generator facility used for net metering shall be equipped with a single bi-directional meter that can measure and record the flow of electricity in both directions at the same rate. If the customer-generator agrees, a dual meter arrangement may be substituted for a single bi-directional meter.

(b) If the customer-generator's existing electric metering equipment does not meet the requirements in subsection (a), the EDC shall install new metering equipment for the customer-generator at the EDC's expense. Any subsequent metering equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

(c) When the customer-generator intends to take title or transfer title to any alternative energy credits which may be produced by the customer-generator's facility, the customer-generator shall bear the cost of additional net metering equipment required to qualify the alternative energy credits in accordance with the act.

(d) When the customer-generator expressly rejects ownership of alternative energy credits produced by the customer-generator's facility, the EDC may supply additional metering equipment required to qualify the alternative energy credit at the EDC's expense. In those circumstances, the EDC shall take title to any alternative energy credit produced. A customer-generator is not prohibited from having a qualified meter service provider install metering equipment for the measurement of generation, or from selling alternative energy credits to a third party other than an EDC.

(e) Meter aggregation within a particular rate class on contiguous and adjacent properties owned and operated by a customer-generator shall be allowed for purposes of net metering. Physical meter aggregation shall be at the customer-generator's expense. The EDC shall provide the necessary equipment to complete physical aggregation. If the customer-generator requests virtual meter aggregation, it shall be provided by the EDC at the customer-generator's expense. The customer-generator shall be responsible only for any incremental expense entailed in processing his account on a virtual meter aggregation basis.

#### § 75.15. Treatment of stranded costs.

If a net metering small commercial, commercial or industrial customer's self-generation results in a 10% or more reduction in the customer's purchase of electricity through the EDC's transmission and distribution network for an annualized period when compared to the prior annualized period, the net metering small commercial, commercial or industrial customer shall be responsible for its share of stranded costs to prevent interclass or intraclass cost shifting under 66 Pa.C.S. § 2808(a) (relating to competitive transition charge). The net metering small commercial, commercial or industrial customer's stranded cost obligation shall be calculated based upon the applicable "base year" as defined in this chapter.

[Pa.B. Doc. No. 06-182. Filed for public inspection February 3, 2006, 9:00 a.m.]

# STATE BOARD OF VETERINARY MEDICINE

## [49 PA. CODE CH. 31] Biennial Renewal Fees

The State Board of Veterinary Medicine (Board) proposes to amend § 31.41 (relating to schedule of fees) to read as set forth in Annex A. The proposed rulemaking would increase the biennial license renewal fee for veterinarians from \$225 to \$300 and would increase the biennial license renewal fee for certified veterinary technicians from \$60 to \$75.

### *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new fees will take effect for the biennial period beginning December 1, 2006.

### *Statutory Authority*

Section 13(a) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.13(a)) requires the Board to fix the fees for renewal of licenses and certificates by regulation. Section 13(b) of the act requires the Board to increase fees when revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

### *Background and Need for the Proposed Rulemaking*

The Board's current biennial license renewal fees were established by regulation and took effect for the December 1, 2000, biennial renewal period. The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. The act mandates that the Board protect the public by adopting rules and regulations that govern the practice of veterinary medicine and administer and enforce the laws, rules and regulations that relate to the practice of veterinary medicine.

The Board raises virtually all its revenue through fees and the biennial license renewal fee is the most substantial revenue-generating fee of the fees charged by the Board. If the Board anticipates that its revenue will not meet its expenditures, the Board must increase its revenue.

At its March 17, 2005, Board meeting, the Offices of Revenue and Budget for the Department of State (Department) presented a summary of the Board's actual revenues and expenses for Fiscal Years (FY) 1999-2000 to FY 2002-2003 and projected revenues and expenses for FY 2005-2006 through FY 2010-2011.

At the close of FY 2003-2004, the Board's expenses exceeded its revenues by \$36,890.59. The Budget Office estimates that deficits will continue to grow, with an anticipated FY 2007-2008 deficit of \$79,890.59 and a FY 2009-2010, projected deficit of \$182,890.59. The Budget Office anticipates that the proposed new fees will enable the Board to recapture the current deficit and meet its estimated expenditures through at least FY 2010-2011.

The Board, as with other licensing boards and commissions within the Bureau of Professional and Occupational Affairs (Bureau), budgets on the basis of the following categories: Administrative Costs, broken into Board Administration (Bureau-wide operating expenses such as printed forms, office supplies and interagency billings), Commissioner's Office (staff expenses) and Departmental Services (centralized support services such as the execu-

tive office, public information office, and legislative affairs office); Legal Costs, broken into Legal Office (staff expenses), Hearing Expenses (staff of hearing examiner's office and stenographer services) and Legislative and Regulatory Analysis (staff expenses); Enforcement and Investigation Costs, broken into Non-Travel (staff expenses) and Travel expenses; Professional Health Monitoring Program Expenses (staff expenses); and Board Member Expenses (travel to meetings and accommodations, when necessary).

The increases in the Board's biennial expenses occurred due to increases in costs of both Board services and Departmental expenses. The increases experienced by the Board itself are primarily in cost centers allocated to law enforcement costs and legal office costs. These increased expenditures are directly related to increases in the number of complaints filed, number of cases prosecuted and discipline imposed, the complexity of the cases, number of regulations promulgated and, finally, number of appeals taken to Commonwealth Court.

The increased expenses in the areas of law enforcement and legal office expenses have been the most significant, as indicated by the following.

### *Law Enforcement Expenses*

<i>Budgeted</i>	<i>Expended</i>
FY 99-00 \$99,500	\$68,941
FY 00-01 \$91,000	\$99,403
FY 01-02 \$96,000	\$148,372
FY 02-03 \$105,000	\$175,556
FY 03-04 \$170,000	\$209,209.86 (projected)

### *Legal Office Expenses*

<i>Budgeted</i>	<i>Expended</i>
FY 99-00, \$85,500	\$62,743
FY 00-01 \$72,450	\$101,404
FY 01-02 \$95,000	\$99,995
FY 02-03 \$98,000	\$114,844
FY 03-04 \$135,000	\$129,151 (projected)

An increased number of complaints have been filed with the Board. In the 4 years leading up to the last biennial renewal fee increase, the Board averaged 99.25 complaints filed per year. From 2000 through 2003, an average of 125.75 complaints were filed each year. Each complaint filed produces costs in law enforcement and in the complaints and prosecution divisions of the legal office. Of particular note are the expenses incurred in expert review of files involving practice issues. For those cases in which formal charges are filed, additional legal expenses are incurred through the legal counsel division and hearing examiner's office. In the 4-year period from 1996-1999, an average of 5.5 disciplinary sanctions were imposed each year, with an average of one serious sanction imposed each year. In the 4-year period from 2000-2003, an average of 17.5 disciplinary sanctions were imposed each year, with an average of four serious sanctions imposed. The increase in the number of serious sanctions imposed indicates an increase in the complexity of cases before the Board, as serious sanctions are likely to be imposed only in cases involving veterinary malpractice. Serious sanctions include active suspension or revocation.

Additionally, the Board incurred unprecedented legal expenses in defending Board actions in disciplinary matters on appellate review. Only one appeal was filed in 2002 and none were filed in 2003. By comparison, four appeals were filed in 2004, and two appeals have been filed thus far in 2005.

The Board's regulatory agenda has also generated additional costs in the legal counsel division and regulatory review division. One rulemaking became final in each year from 2001 to 2003. In 2004, two rulemakings became final. The Board currently has drafts of four rulemaking packages, which will likely be proposed in 2005.

Departmental expenses allocated in part to the Board included a one-time additional charge of \$60,000 associated with its testing administration contract. In addition, during FY 2003-2004, additional costs were incurred as a result of one-time charges to the Department for personnel costs. This one time charge was split equitably within the Professional Licensure Augmentation Account and other related restricted accounts administered by the Bureau.

*Description of Proposed Rulemaking*

Based upon the previous expense and revenue estimates provided to the Board, the Board proposes to amend its fee schedule in § 31.41 to increase the fee for biennial renewal of licenses for veterinarians from \$225 to \$300 and increase the fee for veterinary technicians from \$60 to \$75. By this increase, the Board will recoup its deficit and offset the projected deficits.

*Fiscal Impact*

The proposed rulemaking will increase the biennial renewal fee for veterinarians and veterinary technicians. A veterinarian will pay an additional \$75 for biennial renewal. A veterinary technician will pay an additional \$15 for biennial renewal. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

*Paperwork Requirements*

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

*Sunset Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act, (71 P. S. § 745.5(a)), on January 26, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the

close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly, and the Governor of comments, recommendations or objections raised.

*Public Comment*

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

BRIAN V. HARPSTER, V.M.D.,  
*Chairperson*

**Fiscal Note:** 16A-5717. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE**

**FEES**

**§ 31.41. Schedule of fees.**

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

*Veterinarians:*

\* \* \* \* \*

Biennial renewal ..... **§[ 225 ] 300**

\* \* \* \* \*

**[ Animal health ] Veterinary technicians:**

\* \* \* \* \*

Biennial renewal ..... **§[ 60 ] 75**

\* \* \* \* \*

[Pa.B. Doc. No. 06-183. Filed for public inspection February 3, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, 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 January 24, 2006.

### BANKING INSTITUTIONS

#### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-23-06	East River Bank Philadelphia Philadelphia County	4341 Ridge Avenue Philadelphia Philadelphia County	Commenced Operations

#### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-17-06	Compass Federal Savings Bank Wilmerding Allegheny County	111 Westinghouse Avenue Wilmerding Allegheny County	Filed
	<i>To:</i> Compass Savings Bank Wilmerding Allegheny County		
	Application represents conversion from a Federally-chartered mutual savings bank to a State-chartered mutual savings bank.		

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-17-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Cira Centre 2929 Arch Street Philadelphia Philadelphia County	Opened
1-17-06	CommunityBanks Millersburg Dauphin County	Village at Sprenkle Drive 1802 Folkemer Circle Manchester Township York County (Limited Service Facility)	Opened
1-19-06	Northwest Savings Bank Warren Warren County	1055 Union Road West Seneca, Buffalo Erie County, NY	Filed
1-20-06	Allegiance Bank of North America Bala Cynwyd Montgomery County	2960 Skippack Pike Lansdale Montgomery County	Filed
1-20-06	Allegheny Valley Bank of Pittsburgh Pittsburgh Allegheny County	333 Allegheny Avenue Oakmont Allegheny County	Filed

#### Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-17-06	Penn Liberty Bank Wayne Delaware County	<i>To:</i> 472 Norristown Road Blue Bell Montgomery County	Effective
		<i>From:</i> 649 West Germantown Pike Plymouth Meeting Montgomery County	
1-19-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 2014 Cottman Avenue Philadelphia Philadelphia County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> 2935 Bustleton Avenue Philadelphia Philadelphia County	
1-23-06	Fidelity Savings Bank Pittsburgh Allegheny County	<i>To:</i> 100 Broadway Street Carnegie Allegheny County	Filed
		<i>From:</i> 17 West Main Street Carnegie Allegheny County	

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Conversions to Community Charters**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-20-06	Corry Jamestown Credit Union Corry Erie County	Corry	Effective
	Represents conversion from an occupational-based credit union to a community charter; said conversion will be completed by filing Articles of Amendment with the Department of State (see following).		
1-23-06	White Rose Credit Union York York County	York	Filed
	Application represents request for approval to convert from an occupational-based credit union to a community charter.		

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-23-06	Butler Armco Employees Credit Union, Butler, and West Penn Northern Division Employees Federal Credit Union, Arnold Surviving Institution— Butler Armco Employees Credit Union, Butler	Butler	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
1-20-06	Corry Jamestown Credit Union Corry Erie County	Amendment to Article 8 of the Articles of Incorporation provides to a change in the field of membership of said credit union to be: "The membership of Corry Jamestown Credit Union hereby be changed to a Community Charter which will extend the field of membership of the credit union to include persons who live, work, worship, perform volunteer services, attend school, and businesses and other legal entities located in the aforementioned area which constitutes the Corry Area School District. The geographical area includes: Sparta Township in Crawford County; Concord Township, Wayne Township and the City of Corry in Erie County; and Columbus Township and Spring Creek Township in Warren County."	Effective

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 06-184. Filed for public inspection February 3, 2006, 9:00 a.m.]

# DEPARTMENT OF EDUCATION

## Application of Saint Francis University for Approval of Amendment of Articles of Incorporation

### Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions) the Department of Education (Department) will consider the application of St. Francis University to amend its Articles of Incorporation.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of the notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Paula Fleck, Chief, Division of Program Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623 by 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate should contact Paula Fleck at (717) 772-3623 to discuss how the Department may best accommodate their needs.

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

[Pa.B. Doc. No. 06-185. Filed for public inspection February 3, 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>
PA0053911 (Sewage)	East Bangor Municipal Authority P. O. Box 539 East Bangor, PA 18013	Northampton East Bangor Borough	Brushy Meadow Creek (1E)	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>
PA0034011 (Sewage)	Bedford Materials Company, Inc. 7676 Allegheny Road Manns Choice, PA 15550	Bedford County Napier Township	UNT Raystown Branch Juniata River 11-C	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>
PA0239712	Bear Creek Watershed Authority—Bruin STP 259 Argyle Street Petrolia, PA 16050	Parker Township Bruin Borough Butler County	South Branch Bear Creek 17-C	Y
PA0239721	Bear Creek Watershed Authority—Fairview STP 259 Argyle Street Petrolia, PA 16050	Fairview Township Fairview Borough Butler County	South Branch Bear Creek 17-C	Y
PA0239739	Bear Creek Watershed Authority—Karns City STP 259 Argyle Street Petrolia, PA 16050	Fairview Township Karns City Borough Butler County	South Branch Bear Creek 17-C	Y
PA0094200	Bear Creek Watershed Authority—Petrolia STP 259 Argyle Street Petrolia, PA 16050	Petrolia Borough Fairview Township Butler County	South Branch Bear Creek 17-C	Y
PA0031640	General McLane High School 11771 Edinboro Road Edinboro, PA 16412	Washington Township Erie County	Conneauttee Creek 16-A	Y

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

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

**PA0244074**, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in Worcester Township, **Montgomery County**.

Description of Proposed Activity: The applicant proposes to discharge treated sewage from a facility known as Stony Creek Farms WWTF. The facility is located near Township Line Road and North Wales Road.

The receiving stream, a pond discharging to Stony Creek, is in the State Water Plan Watershed 3F and is classified for TSF, MF. The nearest downstream public water supply intake for City of Norristown is located on Schuylkill River at Norristown.

The proposed effluent limits for Outfall 001 are based on a design flow of 42,863 gpd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10			20
Total Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.0			6.0
Nitrite + Nitrate an N	10			20
Phosphorus, Total	0.5			1.0
Fecal Coliform	50/100 ml as a geometric mean			
pH	Between 6.0 and 9.0 standard units at all times			
Dissolved Oxygen	Minimum of 6 mg/l at all times			
Temperature (°F)	Monitor and Report			

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Responsible Operator.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater.
5. Necessary Property Rights.
6. Small Stream Discharge.
7. Sewage Sludge Disposal.
8. Submit Data for TMDL/WLA Analysis.
9. I-Max Limits.
10. No Discharge Report.
11. 2/Month Monitoring.
12. UV Disinfection.
13. Laboratory Certification.

**PA0244091**, Industrial Waste, SIC 3823, **Patriot Sensors & Controls Corporation, Ametek Drexelbrook Division**, 205 Keith Valley Road, Horsham, PA 19044-1499. This existing facility is located in Horsham Township, **Montgomery County**.

Description of Proposed Activity: Issuance of NPDES permit for discharge of treated groundwater from a foundation groundwater trench to a storm sewer draining to Park Creek. Groundwater will be treated through a single activated carbon treatment unit prior to discharge.

The receiving stream, Park Creek, is in the State Water Plan watershed 2F and is classified for WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, SE Division is located on Neshaminy Creek 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.009 mgd.

<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>
1,1-Dichloroethene			0.00026		0.00065
1,1,1-Trichloroethane			0.0015		
Influent 1,1-Dichloroethene			Monitor		0.00375
Influent 1,1,1-Trichloroethane			Monitor		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures if Public Nuisance.
2. Change of Ownership.
3. Proper Sludge Disposal.
4. Monitor System.

5. Instantaneous Maximum Limitations.
6. Twice per Month Monitoring.
7. Specification of Test Method.

The EPA waiver is in effect.

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

**PAS402202**, Industrial, SIC Code 4953, **RPM Recycling, Inc.**, P. O. Box 639, Wind Gap, PA 18091. This proposed facility is located in Wind Gap Borough and Plainfield Township, **Northampton County**.

Description of Proposed Activity: Issuance of an NPDES permit.

The receiving stream, UNT to Little Bushkill Creek, is in the State Water Plan Watershed 01F and is classified for HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of N/A.

<i>Discharge Parameter</i>	<i>Units</i>	<i>Sample Type</i>	<i>Measurement Frequency</i>
Chemical Oxygen Demand	mg/l	1 Grab	1/6 months
Oil and Grease	mg/l	1 Grab	1/6 months
pH	Standard Unit	1 Grab	1/6 months
Total Dissolved Solids (TDS)	mg/l	1 Grab	1/6 months
Total Organic Carbon (TOC)	mg/l	1 Grab	1/6 months
Barium (Total)	mg/l	1 Grab	1/6 months
Cadmium (Total)	mg/l	1 Grab	1/6 months
Chromium (Total)	mg/l	1 Grab	1/6 months
Lead (Total)	mg/l	1 Grab	1/6 months
Mercury (Total)	mg/l	1 Grab	1/6 months
Magnesium			
Total	mg/l	1 Grab	1/6 months
Dissolved	mg/l	1 Grab	1/6 months
Selenium (Total)	mg/l	1 Grab	1/6 months
Silver (Total)	mg/l	1 Grab	1/6 months
Ammonia	mg/l	1 Grab	1/6 months
Arsenic (Total)	mg/l	1 Grab	1/6 months
Cyanide (Total)	mg/l	1 Grab	1/6 months
Nitrate plus Nitrite Nitrogen	mg/l	1 Grab	1/6 months
Iron (Total)	mg/l	1 Grab	1/6 months

**PA-0037290-A1**, Sewage, **Pennsylvania Utility Company, Inc., Tamiment Resort**, Bushkill Falls Road, Bushkill, PA 18341. This proposed facility is located in Lehman Township, **Pike County**.

Description of Proposed Activity: Amend NPDES Permit

The receiving stream, UNT to Little Bushkill Creek, is in the State Water Plan Watershed 1D and is classified for HQ-CWF. The nearest downstream public water supply intake for East Stroudsburg Municipal Authority is located on the Delaware River below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.25 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10.0		20.0
Total Suspended Solids	30.0		60.0
NH <sub>3</sub> -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.3		18.0
Phosphorus as "P"	1.0		2.0
Dissolved Oxygen	A minimum of 7.0 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	0.6		0.15
Nitrate/Nitrite-N	10.0		20.0

The proposed effluent limits for Outfall 001 based on a design flow of 1.15 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	5.0		10.0
Total Suspended Solids	5.0		10.0
NH <sub>3</sub> -N			

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(5-1 to 10-31)	1.0		2.0
(11-1 to 4-30)	1.0		2.0
Phosphorus as "P"	0.3		0.6
Dissolved Oxygen	A minimum of 7.0 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Nitrate/Nitrite-N	6.0		12.0

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

**Application No. PA 0247936**, Sewage, **Twin Cove Park Campground**, 1445 Suedburg Road, Pine Grove, PA 17963. This facility is located in Union Township, **Lebanon County**.

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

The receiving stream, a UNT to Swatara Creek, is in Watershed 7-D, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Lebanon Water Authority is located on the Swatara Creek, approximately 11 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.045 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N		
(5-1 to 10-31)	4.0	8.0
(11-1 to 4-30)	12	24
NO <sub>2</sub> -N + NO <sub>3</sub> -N		
Total Kjeldahl Nitrogen		Monitor and Report
Total Phosphorus		Monitor and Report
Total Residual Chlorine		Monitor and Report
Dissolved Oxygen	0.3	1.0
pH		Minimum of 5.0 at all times
Fecal Coliform		From 6.0 to 9.0 inclusive
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	5,000/100 ml as a geometric average	

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

The EPA waiver is in effect.

*Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-474, (412) 442-4000.*

**PA0036331**, Sewage, **George and Marion Fleehler**, 21 Timbercrest Circle, Cecil, PA 15321. This application is for renewal of an NPDES permit to discharge treated sewage from George and Marion Fleehler Sewage Treatment Plant in Cecil Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Millers 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 West View Municipal Authority located on the Ohio River.

*Outfall 001: existing discharge, design flow of 0.05 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	4.3			8.6

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.1			0.2
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218634**, Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from Heilwood STP in Pine Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Yellow Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Central Indiana County Water Authority on Yellow Creek.

*Outfall 001*: existing discharge, design flow of 0.045 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	11.0			22.0
(11-1 to 4-30)	25.0			50.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 1505428**, Sewerage, **Borough of Spring City**, 6 South Church Street, Spring City, PA 19475. This proposed facility is located in Spring City Borough, **Chester County**.

Description of Action/Activity: Installation of wastewater flow equalization tank and appurtenances and maximum monthly flow rate.

**WQM Permit No. 4605204**, Industrial, **Sunoco Inc. R & M**, 350 Eagleview Boulevard, Suite 300, Exton, PA 19341. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a groundwater remediation system.

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

**WQM Permit No. 0105409**, Sewerage, **Borough of Hanover**, 44 Frederick Street, Hanover, PA 17331. This proposed facility is located in Conewago Township, **Adams County**.

Description of Proposed Action/Activity: Application for construction to expand the sanitary wastewater service to the Edgemoor area Conewago Township and the northern portion of Hanover Borough.

**WQM Permit No. WQG02360601**, Sewerage, **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552. This proposed facility is located in Mount Joy Borough, **Lancaster County**.

Description of Proposed Action/Activity: Replacement of Pump Station No. 7 (Wood Street) with a new submersible pump station.

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

**WQM Permit No. 2075402**, Sewerage, **North and South Shenango Joint Municipal Authority**, 3397 Dam Road, Jamestown, PA 16134. This proposed facility is located in North Shenango Township and South Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: This project is to upgrade the pump, motor, backup engine, and/or electrical component replacements and upgrades to four of the Authority's existing interceptor pump stations. Work at the stations

is also to include the installation of suction and discharge connections for bypasses around the pump stations to be facilitated by a portable, diesel-powered pump. This piece of equipment is to be stored and housed in a garage-type building to be constructed at 1—3, where the diesel pump will be normally hooked up for pump station backup.

**WQM Permit No. 4305201**, Industrial Waste, **Duferco Farrell Corporation**, 15 Roemer Blvd., Farrell, PA 16121-2299. This proposed facility is located in Farrell City, **Mercer County**.

Description of Proposed Action/Activity: This project is for the permitting/installation of modifications to its existing No. 7 Pickle Line Rinse Water neutralization and Treatment System which discharges to the plant sewer system by means of existing internal Suboutfall 104.

**WQM Permit No. 2489405**, Sewerage, Amendment No. 1, **Borough of Ridgway**, P. O. Box 149, Ridgway, PA 15853-0149. This proposed facility is located in Borough of Ridgway, **Elk County**.

Description of Proposed Action/Activity: This project is for the operating of organic load capacity of the wastewater treatment plant.

**WQM Permit No. 1606401**, Sewerage, **James Kapp, Rocky River Development**, 8100 Ohio River Boulevard, Pittsburgh, PA 15202. This proposed facility is located in Perry Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve the Rocky River Development.

**WQM Permit No. 1606402**, Sewerage, **Monroe Township**, 17956 Route 68, Sligo, PA 16255. This proposed facility is located in Monroe Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for a new sewage treatment facility to serve the Village of Williamsburg and the surrounding area.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506004	Swinehart Realty Associates, LP Swinehart Subdivision P. O. Box 1906 West Chester, PA 19380	Chester	West Brandywine Township	Beaver Creek/Culbertson Run (HQ-TSF-MF)
PAI011506005	Phoenixville Area YMCA Phoenixville YMCA Expansion 2460 Boulevard of the Generals West Norriton, PA 19403	Chester	Schuylkill Township	Pickering Creek (HQ-TSF)
PAI011506005	Silvi Realty Development 212 East High Street Suite 201 Pottstown, PA 19464	Chester	East Vincent Township	UNT Schuylkill River (HQ-TSF)
PAI011506007	The Stonewall Links, LP 375 Bulltown Road P. O. Box 330 Elverson, PA 19530	Chester	East Nantmeal Township	French Creek (EV)
PAI012306001	Gannon Companies, LLC Gannon Development 10 Davis Avenue, 2nd Fl Frazer, PA 19355	Delaware	Edgmont Township	Ridley Creek (HQ-TSF)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q071-2R	Cedar Fair, LP 3830 Dorney Park Road Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024806001	Department of Transportation Attn: Gerald Fry, P. E. 1713 Lehigh St. Allentown, PA 18103	Northampton	Williams Township	Frya Run HQ-CWF MF

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

Centre 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>
PAI041406002	Samuel E. King Dev. Samuel E. King 131 Back Road Rebersburg, PA 16872	Centre	Miles Township	Elk Creek HQ-CWF
PAI041406001	Grove Park Subdivision Tomasz Kulakowski Grove Park Associates, Inc. P. O. Box 726 Lemont, PA 16851	Centre	Benner Township	Buffalo Run HQ-CWF

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051105005	Dennis Storm 374 Hanlon Road Gallitzin, PA 16641	Cambria	Clearfield Township	Chest Creek (HQ)

Greene County Conservation District: 93 East High Street, Room 215, Waynesburg, PA 15370, (724) 852-5278.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053005002	Allegheny Energy Supply Co., LLC 800 Cabin Hill Drive Greensburg, PA 15601-1689	Greene	Monongahela and Cumberland Townships	Little Whiteley Creek (WWF) Monongahela River (WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056306001	A & S Landscaping 1840 Washington Road Canonsburg, PA 15317	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

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

Jefferson Conservation District: 1514 Route 28, Brookville, PA 15825, (814) 849-7463.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063306001	SR 0028 Section 507-Hazen 3R Department of Transportation 2550 Oakland Ave. Indiana, PA 15701	Jefferson	Pinecreek Township Warsaw Township	Little Mill Creek HQ-CWF

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

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

## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

#### Permit No. 0906502, Public Water Supply

Applicant	<b>Bucks County Water and Sewer Authority</b> 1275 Almshouse Road Warrington, PA 18976
Township	Solebury
County	<b>Montgomery</b>
Responsible Official	John Butler
Type of Facility	PWS
Consulting Engineer	Carroll Engineering Corporation
Application Received Date	January 19, 2006
Description of Action	Installation of an arsenic removal system.

Permit No. 4606501, Public Water Supply Applicant	<b>Exelon Nuclear Limerick Generating Station</b>
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Township	Limerick
County	<b>Montgomery</b>
Responsible Official	Randy S. Eddinger
Type of Facility	PWS
Consulting Engineer	Ruby Engineering
Application Received Date	January 20, 2006
Description of Action	Installation of an arsenic reduction system.

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

#### Permit No. 0605523, Public Water Supply.

Applicant	<b>Mohrsville Water Supply Authority</b>
Municipality	Centre Township
County	<b>Berks</b>
Responsible Official	Alice Renshaw, Chairperson 378 Main Street Mohrsville, PA 19541-8840
Type of Facility	Public Water Supply
Consulting Engineer	Michael W. Wellet, P. E. Hammerhead Engineering & Environmental Services LLC 107 Hillside Terrace Califon, NJ 4119
Application Received Date	12/5/2005
Description of Action	Installation of arsenic treatment to existing water system.

#### Application No. 3605515, Minor Amendment, Public Water Supply.

Applicant	<b>Gerald Cox</b>
Municipality	Little Britain Township
County	<b>Lancaster</b>
Responsible Official	Gerald T. Cox, Property Owner 215 Fremont Road Nottingham, PA 19362
Type of Facility	Public Water Supply
Consulting Engineer	Daniel C. Leandri, P. E. Earth Tech 2 Market Plaza Way Mechanicsburg, PA 17055
Application Received Date	12/19/2005
Description of Action	Installation of GAC treatment to address the gasoline contamination of the source water serving the noncommunity Pasquale Pizza shop. Treatment will also include softening, UV disinfection and reverse osmosis.



## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Slutzsky Prop.**, Northampton Township, **Bucks County**. Edward E. Prout, Jr., American Resource Consultants, Inc., 1000 W. Broad St., Quakertown, PA 18951 on behalf of Harvey Slutzsky, 40 Tulip Road, Holland, PA 18966 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil. The intended use of the property will remain residential.

**Secane Dry Cleaners**, Upper Darby Township, **Delaware County**. David Farrington, P.G., Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of Avi Nechemia, Golden Gate Electronics, 1417 Callowhill St., Philadelphia, PA 19123 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with chlorinated solvents and MTBE.

**Lustrik Corp.**, City of Philadelphia, **Philadelphia County**. Richard Johnson, RT Environmental Svc., Inc., 215 W. Church Road, King of Prussia, PA 19406 on behalf of Tom Vezzosi, T&R Realty, Inc., 7701 Beech Lane, Wyndmoor, PA 19038 has submitted a Notice of Intent to Remediate. Soil and groundwater were impacted with No. 4 fuel oil, MTBE and chlorinated solvents. The future owner will continue to use the site as a metal finishing and anodizing facility.

**Frankford Candy & Candy Co.**, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E & R, Inc., 2755 Bergery Road, Hatfield, PA 19440 on behalf of Norman Milan, Stormin Warehousing, LP, 3248 Stonegate Drive, Huntingdon Valley, PA 19006 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with Nos. 4 and 6 fuel oil. The proposed future use of the property will be nonresidential for warehousing. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on December 27, 2005.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Carlisle Mailroom**, Borough of Carlisle, **Cumberland County**. Secor International, Inc., 102 Pickering Way, Suite 200, Exton, PA 19341, on behalf of Atlantic Richfield Company, 102 Pickering Way, Suite 200, Exton, PA 19341 and Judith Valentine and John Osborn, Jr., 5249 Strathmore Drive, Mechanicsburg, PA 17050, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline releases from pre-Act 32 underground storage tanks. The site is zoned for commercial use.

**Newark Paperboard Products, Mercer Division**, Manchester Township, **York County**. EPSYS Corporation, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103, on behalf of Rick Theriault, The Newark Group, Inc., 100 South Kimball Street, Bradford, MA 01835 and Robert H. Mullen, The Newark Group, Inc., 20 Jackson Drive, Cranford, NJ 07016, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The applicant intends to remediate the site to meet the Statewide Health Standards. The site will continue to be a paperboard products manufacturer and distribution facility.

**Former Fincor Automation, Inc.**, Springettsbury Township, **York County**. Environmental Strategies Consulting, LLC, 11911 Freedom Drive, Suite 900, Reston, VA 20190-5628, on behalf of Emerson Electric Company, 8000 West Florissant Avenue, St. Louis, MO 63136-8506, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with VOCs. The site will

continue to be used as industrial property and will be remediated to either a Statewide Health or a Site-Specific Standard.

**Stoudts Service Station**, Alsace Township, **Berks County**. Harper Environmental Associates, Inc., 1811 Hale Hollow Road, Bridgewater Corners, VT 05035, on behalf of Byron Stoudt, Stoudt's Service Station, 1980 Mount Laurel Road, Alsace Township, PA 19522, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by unleaded gasoline and kerosene from removal of storage tanks in 1996. The site will continue to be used as an automotive repair facility. The applicant proposes to remediate the site to a Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Tim Gundlach Property Cleanup**, Franklin Township, **Columbia County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Tim Gundlach, 436 Main Street, Wilburton, PA 17888 has submitted a Notice of Intent to Remediate soil contaminated with benzene and naphthalene. The applicant proposes to remediate the site to meet the Statewide Health Standard

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Brookville Chevrolet**, City of Brookville, **Jefferson County**. David J. Birchard, Environmental Remediation & Recovery Inc., 5719 Rt. 6N, Edinboro PA 16412 on behalf of Ludwig M. Druchniak, LT Land Partnership, 1 East Main Street, Brookville PA 15825 has submitted a Notice of Intent to Remediate. Site presently operates as an automobile dealership. Historical records indicate underground storage tanks were located at the site greater than 50 years ago. During removal, grossly impacted soils were identified. Contaminants of concern appear to be leaded gasoline constituents. NIR published December 22, 2005 in the *Courier Express/Tri-County Sunday/Jeffersonian Democrat*.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

**Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 100361. Rustick LLC., 19 Ness Lane, Kane, PA 16735, Sergeant Township, McKean County.** The application is a major permit modification to construct and operate a railroad siding and to increase the average and maximum daily volumes at the McKean County Landfill. This application was subject to the Local Municipality Involvement Process Policy (LMIP) and the Alternative Project Timeline (APT) requirement. The LMIP was held on November 18, 2005, and the APT was finalized on January 11, 2006. The application was found to be administratively complete on January 17, 2006. The application was received by the Northwest Regional Office on October 6, 2005.

Comments concerning the application should be directed to Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest

Regional Office, (814) 332-6848. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

### **AIR QUALITY**

#### **NOTICE OF 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 these 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 the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### **PLAN APPROVALS**

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05085A: New Morgan Landfill Co., Inc.** (P. O. Box 128, Morgantown, PA 19543-0128) for installation of an additional enclosed ground flare for the control of gaseous emissions from the municipal solid waste landfill in the Borough of New Morgan, **Berks County**. The landfill is subject to 40 CFR Part 60, Subpart WWW, Standards of Performance for New Stationary Sources and 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants.

**36-03021A: J. Walter Miller Co.** (411 East Chestnut Street, Lancaster, PA 17602) to vent the Disamatic Molding Line dust collector into the outdoor atmosphere in the City of Lancaster, **Lancaster County**.

**36-05001C: Armstrong World Industries, Inc.** (1507 River Road, Marietta, PA 17547) for modification of perlite expanders at their plant in East Donegal Township, **Lancaster County** facility.

**36-05019G: Anvil International, Inc.** (1411 Lancaster Avenue, Columbia, PA 17412) for construction of a new molding line at the foundry in Columbia Borough, **Lancaster County**.

**67-05005E: PPL Brunner Island, LLC** (2 North 9th Street, Allentown, PA 18101) for construction of a limestone and gypsum handling operation at the Brunner Island Steam Electric Station in East Manchester Township, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**33-002C: Owens Brockway Glass Container, Inc., Plant No. 19** (3831 Route 219 Brockport PA 15823) for modification of the HEST system in Snyder Township, **Jefferson County**. The facility is a Title V Facility.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0102B: Soil Technology, Inc.** (7 Steel Road East, Morrisville, PA 19067) for an increase to the emission limitations for PM, CO and Benzene (C<sub>6</sub>H<sub>6</sub>) established in the State-only Operating Permit, and the modification of the operating temperatures for the primary treatment unit and secondary treatment unit (afterburner) in Falls Township, **Bucks County**. The new emission limitations are: (a) PM shall not exceed 10.7 tons per year; (b) CO shall not exceed 15.2 tons per year; and (c) Benzene shall not exceed 0.12 pound per hour. The permit is for a non-Title V (State-only) facility. The permit will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-309-037C: Polyglass USA, Inc.** (555 Oak Ridge Drive, Hazleton, PA 18201) for construction of three new primary mixers and two new secondary mixers and for installation of a coalescing filter and carbon filter to replace an existing recuperative oxidizer at their asphalt roofing facility in Hazle Township, **Luzerne County**. The

facility is not a Title V facility. The construction of the sources will result in potential PM emissions of 9.1 tons per year and 7.14 tons per year of VOCs. Additionally, the asphalt roofing equipment is subject to Subpart UU of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.470—60.474. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**48-304-032A: Victaulic Co. of America** (4901 Kesslersville Road, Easton, PA 18045) for construction and operation of a second cold core box system, one shell making machine, the supporting sand handling systems and associated air cleaning devices in Forks Township, **Northampton County**. A cartridge filter will be utilized to capture particulate emissions from the core sand handling systems. A packed bed scrubber will be utilized to control the cold box core machine. The expected particulate emission rate from the cartridge filters will be less than 0.02 grain/dscf. The VOC emission rate from the packed bed scrubber will be 0.12 pound per hour. The company will operate the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Title V Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03160A: G/S/M Industrial, Inc.** (P. O. Box 607, Ephrata, PA 17522) for construction of a new coating booth in East Hempfield, **Lancaster County**. This is a non-Title V (State-only) facility. Standard recordkeeping and operating restrictions will be included to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**19-320-005A: Press Enterprise, Inc.** (3185 Lackawanna Avenue, Bloomsburg, PA 17815) for construction of an eight color heatset web offset lithographic printing press and two associated natural gas-fired dryers as well as for reactivation of an eight color nonheatset web offset lithographic printing press in Scott Township, **Columbia County**.

The VOC and volatile HAP emissions from the heatset press and two associated dryers will be controlled by an existing air cleaning device, a regenerative thermal oxidizer, which is currently used, and will continue to be used, for the control of VOC and volatile HAP emissions from an existing eight color heatset web offset lithographic printing press. The resultant VOC and volatile HAP emissions from the new heatset press and two associated dryers are not expected to exceed 3.28 and .83 tons per year, respectively. The VOC and volatile HAP emissions from the reactivated nonheatset press, when added to the VOC and volatile HAP emissions from two additional existing nonheatset presses, will be no greater than 7.21 and 1.73 tons per year, respectively.

The respective facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by Press Enterprise, Inc. indicates that the new heatset press and two associated dryers and the reactivated nonheatset

press will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the heatset web offset press and two associated dryers as well as for the reactivation of the nonheatset press.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The only fuel to be used in the two dryers associated with the heatset press and in the regenerative thermal oxidizer shall be natural gas.

2. The efficiency of the VOC capture system associated with the two dryers shall be 100%.

3. The VOC destruction efficiency of the regenerative thermal oxidizer shall be equal to, or greater than, 98%.

4. The combustion chamber of the regenerative thermal oxidizer shall be maintained at a temperature of at least 1,575°F at any time the heatset press is operating.

5. The regenerative thermal oxidizer shall be equipped with instrumentation to continuously monitor and record the temperature of the combustion chamber as well as incorporate interlocks to prevent operation of the dryers at any time the regenerative thermal oxidizer combustion chamber temperature is less than 1,575°F.

6. The inks used by the heatset press shall contain no more than 50% VOCs, by weight, and shall not contain any detectable amount of volatile HAPs.

7. The fountain solution additive used in the heatset press shall not contain more than .5 pound of VOCs and .5 pound of volatile HAPs per gallon of additive.

8. The vapor pressure of the fountain solution additive used in the heatset press shall not exceed 72.4 millimeters of mercury at 20°C.

9. The fountain solution used in the heatset press shall not contain more than 6 ounces of fountain solution additive for every gallon of water.

10. The blanket wash solution used for the heatset press shall contain no more than .11 pound of volatile HAPs per gallon of solution.

11. The vapor pressure of the blanket wash solution used on the heatset press shall be no greater than 3 millimeters of mercury at 20°C.

12. With the exception of "specialty inks," the inks used by the nonheatset press shall not contain more than 9% VOCs, by weight, and shall not contain any detectable amount of volatile HAPs. The "specialty inks" shall not contain more than 25% VOCs, by weight, and shall not contain any detectable volatile HAPs.

13. The fountain solution additive used in the nonheatset press shall not contain more than .5 pound of VOCs and .5 pound of volatile HAPs per gallon of additive.

14. The vapor pressure of the fountain solution additive used in the nonheatset press shall not exceed 72.4 millimeters of mercury at 20°C.

15. The fountain solution used in the nonheatset press shall not contain more than 6.5 ounces of fountain solution additive for every gallon of water.

16. The blanket wash solution used for the nonheatset press shall contain no more than .11 pound of volatile HAPs per gallon of solution.

17. The vapor pressure of the blanket wash solution used on the nonheatset press shall be no greater than 3 millimeters of mercury at 20°C.

18. The total combined amount of specialty inks used by all of the nonheatset presses onsite shall not exceed 17,872 pounds in any 12-consecutive month period.

19. The total combined amount of fountain solution additive used by all of the heatset presses onsite shall not exceed 5,600 gallons in any 12-consecutive month period.

20. The total combined amount of fountain solution additive used by all of the nonheatset presses onsite shall not exceed 6,600 gallons in any 12-consecutive month period.

21. The total combined amount of blanket wash used by all of the heatset presses onsite shall not exceed 700 gallons in any 12-consecutive month period.

22. The total combined amount of blanket wash used on all of the nonheatset presses onsite shall not exceed 1,430 gallons in any 12-consecutive month period.

23. The total combined VOC emissions from all heatset presses onsite shall not exceed 5.62 tons in any 12-consecutive month period and the total combined volatile HAP emissions shall not exceed 1.42 tons in any 12-consecutive month period.

24. The total combined VOC emissions from all nonheatset presses onsite shall not exceed 7.21 tons in any 12-consecutive month period and the total combined volatile HAP emissions shall not exceed 1.73 tons in any 12-consecutive month period.

25. All solvent-wet rags or cloths used for cleanup shall be stored in closed containers when not in use. Solvent-wet rags or cloths shall not be treated by intentionally promoting the evaporation of contained solvents.

26. Records shall be maintained of the identity and amount of each ink, fountain solution additive and blanket wash solution used in each of the heatset and nonheatset presses each month.

27. Stack testing shall be performed to determine the VOC destruction efficiency occurring in the regenerative thermal oxidizer, and the VOC emission rate occurring from the regenerative thermal oxidizer's exhaust, while both heatset presses ducted to the regenerative thermal oxidizer are in operation.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**10-298D: ESM Group, Inc.** (955 Saxonburg Boulevard, Saxonburg, PA 16056) for installation of a Magnesium Pulverizing Operation in the Township of Clinton, **Butler County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the Township of Clinton, **Butler County**. This plan approval will authorize the installation of a Magnesium Pulverizing Operation. The process will entail the pulverizing of clean ground Magnesium ingots/chips with appropriate control devices. The operation will reduce the ground Magnesium to a finer powder form. The facility has a

current State-only Operating Permit. This plan approval will be incorporated into the State-only Operating Permit at a later date.

Based on the information provided by the applicant and Department's own analysis the particulate emissions from the modification will be less than 1 ton/yr. Conditions of the plan approval include the following:

- A magnehelic gauge (or equivalent) shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the cyclone collector associated with the Pulverizer. The gauge employed shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within plus or minus 2% of full scale reading.
- The facility shall not process more than 936 tons of magnesium from this operation in any 12-month rolling period.
- The facility shall keep daily records of material processed in an onsite facility log when this unit is operating. The average material processed in the current month shall be added to the previous 11 months to assure compliance with Condition No. 3. Records shall be kept for a period of 5 years and be made available to the Department upon request.
- The taps for the magnehelic gauge shall be checked daily for blockage whenever the process is in operation.
- Daily reading of the magnehelic gauge shall be taken and entered into a facility log whenever the unit is in operation. The log shall be kept onsite and be retained for a period of 5 years.
- The facility shall notify the Department at least 2 weeks prior to any actual change in material use.
- The grinding process in Building No. 4 shall not be in operation whenever the pulverizing process is online.
- The Permittee shall notify the Department in writing, within 60 days of initial startup, of the pressure drop range developed across the cyclone collector during shutdown.
- The applicant shall maintain the sources and air cleaning device in accordance with the manufacturer's specifications and consistent with good air pollution control practices.

Persons wishing to provide the Department with additional information they believe should be considered may submit the information to the following address. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. PA-43-339A.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the

Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

**24-083I: Carbone of America Industries, Corp.** (215 Stackpole Street, St. Marys, PA 15857) for modification of emission limits (SO<sub>x</sub>) from plan approval 24-083E in St. Marys City, **Elk County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source: Current Title V conditions are applicable for sources 145—148, 402, 403 and 403A with the exception of the SO<sub>x</sub> emission limitations. The new SO<sub>x</sub> limitations are 20.7 tpy and 7.5 #/hr.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 05129: Sunoco, Inc.—R & M** (3144 Passyunk Avenue, Philadelphia, PA 19145) for modification of the 866 Unit Cat Feed Hydrotreater to have the ability to make Ultra Low Sulfur Diesel while preserving the ability to switch back to pretreating the feed to the 868 Fluid Catalytic Cracking Unit in the City of Philadelphia, **Philadelphia County**. Emissions increases from the project will be less than 2 tons per year each for NO<sub>x</sub>, CO, VOCs, SO<sub>2</sub> and PM. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable 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.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**63-00110: World Kitchen, Inc.** (100 Eighth Street, Charleroi, PA 15022) for manufacturing of pressed and blown glass at their Charleroi Plant in Charleroi, PA, **Washington County**. This is a Title V Operating Permit Renewal.

#### **Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00146: Republic Environmental Systems (PA), Inc.** (2869 Sandstone Drive, Hatfield, PA 19440) for operation of a Hazardous Waste Treatment, Storage, Disposal Facility located in Hatfield Township, Montgomery County. The permit is for a non-Title V (State-only) facility. The facility has elected to cap HAPs to less than 10 tons per year (individual HAP) and less than 25 tons per year (combination HAPs), and VOCs to less than 25

tons per year; therefore the facility is a Synthetic Minor. The permit incorporates the plan approvals 46-313-057E and PA-46-0146A. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00228: Plymouth Meeting Mall, Inc.** (500 Germantown Pike, Suite L-150, Plymouth Meeting, PA 19462) for operation of a retail shopping mall in Plymouth Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. Sources of air emissions are two boilers and one emergency generator. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**39-00074: SHI APD Cryogenics, Inc.** (1833 Vultee Street, Allentown, PA 18103) for a State-only (Synthetic Minor) Operating Permit in Allentown City, **Lehigh County**. The sources at the facility include three batch vapor degreasers and two cold cleaning degreasers. The sources have the potential to emit major quantities of regulated pollutants (HAPs) above Title V thresholds. The facility shall record solvent use, solvent waste and emission calculations to verify compliance with NESHAP, 40 CFR, Part 63, Subpart T. The emissions limitation under Subpart T shall be 30.7 lb/sq. ft./month (based on 3-month rolling average). The proposed State-only (Synthetic Minor) Operating Permit contains other applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to verify facility compliance with Federal and State air pollution regulations.

**40-00044: Modern Plastics Corp.** (152 Horton Street, Wilkes-Barre, PA 18702) for a State-only Operating Permit in Wilkes-Barre City, **Luzerne County**. The sources at the facility include one wood chip boiler, one spray booth and one heat tunnel. The sources do not have the potential to emit major quantities of regulated pollutants above Title V thresholds. The proposed State-only Operating Permit contains applicable requirements for monitoring, recordkeeping and reporting used to verify facility compliance with all applicable Federal and State air pollution regulations.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03020: The Bachman Co.** (51 Spring Valley Road, Reading, PA 19605) for operation of their pretzel manufacturing plant in Ephrata Borough, **Lancaster County**. This is a non-Title V (State-only) facility. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements.

**36-03050: Dorma Door Controls, Inc.** (Dorma Drive, Drawer AC, Reamstown, PA 17567) for an operating permit to operate their door controls operation at their site in East Cocalico Township, **Lancaster County**. Emissions are estimated to be less than 10 tons per year of VOCs. The vapor degreaser is subject to the conditions referenced in 40 CFR Part 63, Subpart T. The State-only Operating Permit will contain additional recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**17-00041: Allegheny Clearfield, Inc.** (114 Appalachian Drive, Firemen's Industrial Park, Clearfield, PA 16830) for operation of a powdered metal parts sintering facility in Lawrence Township, **Clearfield County**.

The facility incorporates nine sintering furnaces, a sizing operation, machining operations, packing operations, a solvent parts washer and several small natural gas-fired heating units. The facility is expected to emit more than 15.11 tons of VOCs, 5.97 tons of PM (all of which could possibly have an aerodynamic diameter of 10 or less microns, also known as PM10), 2.02 tons of volatile HAPs, .81 ton of NOx, .68 ton of CO and .005 ton of SOx per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and emission of air contaminants as well as conditions previously established in Operating Permit 17-399-012A, issued on October 25, 1995.

These previously-established conditions include:

1. A condition limiting the PM emissions from any sintering furnace processing parts containing a metal-bearing lubricant to .15 pound per hour.
2. A condition limiting the metal powders used to make the parts processed through the sintering furnaces to an organic lubricant content of no greater than 1.0%, by weight.
3. A condition requiring the atmosphere in the sintering furnaces to contain at least 3% hydrogen.
4. A condition requiring each sintering furnace to be equipped with a flame curtain located between the parts entry and the preheat zone.
5. A condition prohibiting the sintering furnaces from processing parts which have previously been treated with oil.
6. A condition prohibiting the sintering furnace exhaust stacks from being cleaned by high temperature cleanup ("burnout") procedures.
7. A condition limiting the amount of VOC-containing sizing material used in the sizing operation to 3,000 gallons in any 12-consecutive month period.
8. A condition requiring the maintenance of records of the identity and amount of VOC-containing sizing material used each month.

The Department additionally proposes to incorporate into the operating permit to be issued a number of new conditions, including:

1. A condition limiting the VOC emissions from the machining operations to less than 2.7 tons in any 12-consecutive month period and the volatile HAPs emissions to no greater than 1.0 ton in any 12-consecutive month period.
2. A condition limiting the VOC emissions from the packing operations to less than 2.7 tons in any 12-consecutive month period and the volatile HAP emissions to no greater than 1.0 ton in any 12-consecutive month period.

3. Conditions requiring the maintenance of records of the identity, amount, VOC content, volatile HAP content and acetone content of each VOC-containing, volatile HAP-containing and acetone-containing material used in the machining operations and packing operations.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**03-00229: Rosebud Mining Co.** (301 Market Street, Kittanning, PA 16201) for operation of a coal preparation plant at Logansport Mine in Bethel Township, **Armstrong County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson Facilities Permitting Chief, (814) 332-6940.*

**43-00039: Campbells Asphalt Products** (73 Glacial Till Road, Grove City, PA 16127-4019) for a renewal of Synthetic Minor Permit to operate a hot mix asphalt plant in Liberty Township, **Mercer County**. The significant sources are hot mix batch plant. The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

### 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 particu-

lar 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:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
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.*

**30831303. Cumberland Coal Resources, LP** (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County**, ACOE Pittsburgh District. (Garards Fort, PA, Quadrangle from: N: 11.9 inches;

W: 12.6 inches to N: 15.0 inches; W: 13.9 inches and from N: 12.8 inches; W: 15.7 inches to N: 14.4 inches; W: 17.2 inches and the Oak Forest, PA Quadrangle from N: 15.0 inches; W: 0.6 inch to N: 15.5 inches; W: 0.1 inch.

This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize stream restoration in three areas of Dutch Run, two areas of Dyers Fork and UNT, and three areas of Dyers Fork and Mt. Phoebe Run to alleviate subsidence pooling impacts from longwall mining.

Written comments or objections on the request for Section 401 Water Quality Certification or to the issuance of the Water Obstruction and Encroachment Permit, (Stream Module 15) may be submitted to the Department of Environmental Protection within 30 days of the date of this notice to the District Mining Office identified previously. Comments should contain the name, address and telephone number of the person commenting, identification of the request for 401 Water Quality Certification and Chapter 105 permit application, (Stream Module 15) to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including relevant facts upon which they are based.

The Water Obstruction and Encroachment permit application is available for review at the California District Mining Office, by appointment, at the previously listed address.

The application was received on October 28, 2005.

*Cambria District Mining Office: 286 Industrial Road, Ebensburg, PA 15931, (824) 472-1900.*

**32060101 and NPDES No. PA0249891. DJ & W Mining, Inc.**, P. O. Box 425, Indiana, PA 15701, commencement, operation and restoration of a bituminous surface mine in Washington Township, **Indiana County**, affecting 80.3 acres. Receiving streams: UNTs to South Branch Plum Creek and South Branch Plum Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 11, 2006. The application includes a stream encroachment to allow coal extraction and construction of E & S controls up to 50 foot stream barrier on the west side of the stream within the barrier area of UNT "A" to South Branch of Plum Creek. The application includes a stream encroachment to allow coal extraction and construction of E & S controls up to 50 foot stream barrier on eastern side of stream within the barrier area of UNT "B" to South Branch of Plum Creek.

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

**26000201 and NPDES Permit No. PA0202801. Carbon Fuel Resources, Inc.** (200 College Drive, Suite 300, Lemont Furnace, PA 15456). Renewal application to continue operation and reclamation of a bituminous surface mine, located in German Township, **Fayette County**, affecting 73.7 acres. Receiving stream: UNTs to Browns Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: January 19, 2006.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**61050102 and NPDES Permit No. PA0258083. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous surface strip operation in Scrubgrass Township, **Venango County** affecting 92.0 acres. Receiving streams: three UNTs to Little Scrubgrass Creek, classified for the following use: CWF and three UNTs to Allegheny River, classified for the following use: WWF. The first downstream potable water supply intakes from the point of discharge are Emlenton Water Company and Emlenton Water Bottling Co. Application received: December 27, 2005.

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

**54773005R4. Reading Anthracite Company** (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in St. Clair Borough, Blythe and East Norwegian Townships, **Schuylkill County** affecting 2,108.0 acres. Receiving stream: none. Application received January 3, 2006.

**54693031R4 and NPDES Permit No. PA0124168. Joe Kuperavage Coal Company** (916 Park Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation and discharge of treated mine drainage in Blythe Township, **Schuylkill County** affecting 307.5 acres. Receiving stream: UNT to Silver Creek. Application received January 9, 2006.

**54841303R4. Tito Coal** (118 Fairview Lane, Williamstown, PA 17098), renewal of an existing anthracite underground mine operation in Porter Township, **Schuylkill County** affecting 5.7 acres. Receiving stream: none. Application received January 17, 2006.

*Noncoal Applications Received*

*Effluent Limits*

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <sup>1</sup>		greater than 6.0; less than 9.0	
pH <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.



A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, 301 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10960301. Quality Aggregates, Inc.** (200 Neville Road, Neville Island, PA 15225). Renewal of NPDES Permit No. PA0227196, Marion Township, **Butler County**. Receiving streams: UNTs to Blacks Creek and UNT to Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received: January 18, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, (814) 342-8200.*

**17060301. Edward C. Griffith Quarrying, Inc.** (14472 Route 119 Highway North, Rochester Mills, PA 15771). Commencement, operation and restoration of a small industrial minerals (Sandstone) permit in Bell Township, **Clearfield County**, affecting 165 acres. Receiving streams: UNT to Bear Run and Bear Run to the West Branch Susquehanna River, classified for the following use: CWF. Application received: December 27, 2005.

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

**64940302C8 and NPDES Permit No. PA0223387. Bedrock Quarries, Inc.** (P. O. Box 1467, Skippack, PA 19474), renewal of NPDES Permit for existing discharge of treated mine drainage from a quarry operation in Damascus Township, **Wayne County**, receiving stream: UNT to North Branch Calkins Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 9, 2006.

**64900302C4 and NPDES Permit No. PA0595047. Ciccone Construction, Inc.** (2149 Owego Turnpike, Honesdale, PA 18431), renewal of NPDES Permit for existing discharge of treated mine drainage from a quarry operation in Palmyra Township, **Wayne County**, receiving stream: UNT to Middle Creek, classified for the following use: CWF. Application received January 13, 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.

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**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)).**

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## WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E23-456. Nolen Investments LLC**, 950 W. Valley Forge Road, King of Prussia, PA 19406, Aston Township, **Delaware County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the Courts at Spring Brooke Subdivision, a 146-unit town home residential subdivision situated along a UNT to Baldwin Run that runs along the eastern boundary of the property.

- 1) The filling of 0.17 acre of isolated wetland (PFO) associated with the construction of a roadway and residential units.
- 2) To place fill and grade within the assumed 100-year floodway of the UNT of Baldwin run to accommodate building construction.
- 3) To construct an unspecified emergency access road from adjoining property.

The project will permanently impact approximately 296 linear feet of stream length and 0.17 acre of wetland. The applicant proposes to construct 0.34 acre of wetland replacement as compensation for wetland impacts not avoided by this project. The project lies to the East of SR 0452 and is approximately 1,250 feet from the intersection Jefferson Street and SR 0452 in Aston Township, Delaware County (Marcus Hook PA, Quadrangle N: 18.97 inches; W: 7.99 inches).

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E64-259. Wayne County Commissioners**, 925 Court Street, Honesdale, PA 18431-1996, in Texas Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.27 acre of wetlands and 0.29 acre of open water for the purpose of constructing a county prison facility. The facility is partially located within the mapped floodplain of Indian Orchard Brook (HQ-CWF). The project includes sanitary sewer, water and aerial electric utility line crossings of Indian Orchard Brook and adjacent wetlands, temporarily impacting 0.30 acre of wetlands. The project is located approximately 0.1 mile due east of the intersection of SR 0006 (Texas Palmyra Highway) and SR 0652 (Beach Lake Highway) (White Mills, PA Quadrangle N: 8.8 inches; W: 11.6 inches).

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

**E06-603: Hamburg Municipal Authority**, 61 North Third Street, Hamburg, PA 19526 in Hamburg Township, **Berks County**, ACOE Philadelphia District.

To remove the existing outfall pipe and then to construct and maintain a 30-inch diameter outfall pipe at the left bank of the Schuylkill River (WWF) and associated improvements for the proposed improvements of the Hamburg Treatment Plant located about 150 feet upstream of the PA 61 bridge (Hamburg, PA Quadrangle N: 9.46 inches; W: 16.27 inches) in Hamburg Borough, Berks County.

**E67-791: Department of Transportation, Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699 in Washington Township, **York County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a two span bridge with a total clear span of 164.5 feet with a minimum underclearance of 14.3 feet across Bermudian Creek (WWF) and associated improvements on SR 4017, Section 001, Segment 0030, Offset 0084 to improve the traffic safety condition of the road located about 1.3 miles southeast of Kralltown Village (Wellsville, PA Quadrangle N: 1.6 inches; W: 12.3 inches) in Washington Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E55-205. Middleburg Municipal Water Authority**, 13 North Main Street, Middleburg, PA 17842. Water Intake Structure Replacement, in Franklin Township, **Snyder County**, ACOE Baltimore District (Middleburg, PA Quadrangle N: 3.7 inches; W: 7.4 inches).

The application proposes to remove the existing deteriorated stone masonry water intake structures located on Erb Run, West Branch Bowersox Run and East Branch Bowersox Run and Replace them with new cast-in-place reinforced concrete intake structures. The existing deteriorated stone masonry junction box between the East and West Branch of Bowersox Run will be replaced with a new Junction "y" waterline intersection. Approximately 20 feet of R-6 Rock Lining will be constructed in the downstream channels below the intake structures. The existing 4" and 6" waterlines that take the water from the intake structures to the junction box will be replaced with new 6" PVC waterlines. A construction access road will also be constructed utilizing a layer of geotextile and riprap. The proposed project will directly affect approximately 75 linear feet of West Branch Bowersox Run, 75 linear feet of the East Branch Bowersox Run, and 75 linear feet of Erb Run. Bowersox Run and Erb Run are both classified as HQ-CWF. There will be no permanent wetland impact and only temporary wetland impacts of 0.004 acre at the West Branch Bowersox Run site due to the proposed replacement of a waterline.

**E57-108. Muncy Creek Watershed Association**, P. O. Box 47 Muncy PA 17756. Muncy Creek Project, Nordmont to Sonestown, in LaPorte and Davidson Townships, **Sullivan County**, ACOE Baltimore District (Grove, PA Quadrangle N: 22.5 inches; W: 15 inches).

The project proposes to complete 4.6 miles of stream stabilization in the watershed of Muncy Creek, which carries a water quality designation of CWF. This project stretches from Nordmont to Sonestown and is intended to repair unstable channels and bank failures, improve channel stability and reduce sediment inputs. This phase of this project will incorporate natural channel stabilization techniques to reconfigure the stream channel geometry. In-stream rock structures will be constructed to direct high velocities away from the stream banks and create in-stream habitat. The limits of work will be within the stream channel and the active floodplain. Only previously disturbed fill material or riprap will be removed from the site. Disturbed area will be revegetated. The stream channel will maintain its current flow capacity and stable sections of the stream will not be disturbed.

**E60-178. William A. Moore**, 110 S. Second Street, Lewisburg, PA 17837. Paris Meadow Estates, in East Buffalo Township, **Union County**, ACOE Baltimore District (Lewisburg, PA Quadrangle N: 14.0 inches; W: 6.9 inches).

To: 1) relocate and maintain 1,808 linear feet of UNT to Limestone Run with the associated turf reinforcement mat; 2) construct and maintain three 28-foot long 13-inch by 17-inch CSP-Arch multi-culvert driveway crossings of an existing channel and the associated R-3 riprap armor-ing of the clean approach fill and culvert aprons for two separate proposed residential lots; 3) construct and maintain an out-of-scope dam for a stormwater detention basin immediately to the right of the realigned channel near the Corner of Ridge Road and Fairfield Drive; 4) construct and maintain an outfall of a 6-inch perforated HDPE underdrain pipe at Station 16+00 of the realigned channel near the stormwater basin emergency spillway; 5) construct and maintain a 93 square yard R-6 riprap apron for a 36-inch perforated HDPE-SB detention basin drain pipe at Station 17+50 of the realigned channel near the Corner of Ridge Road and Fairfield Drive, all of which is being done to create a 29-lot residential subdivision between Fairfield Road and Fairfield Drive. This project proposes to have 130 cubic yards of excavation and 250 cubic yards of fill within the 100-year floodway of the existing channel and the proposed lots 28 and 29, while permanently impacting 1,808 linear feet of a UNT to Limestone Run, which is classified as a WWF.

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

**E63-580. Thomas Hauch**, 2008 Whitfield Lane, Finleyville, PA 15332. To construct a bridge in East Finley Township, **Washington County**, Pittsburgh ACOE District. (Wind Ridge, PA Quadrangle N: 22.0 inches; W: 5.5 inches and Latitude: 39° 59' 46"—Longitude: 80° 24' 51"). The applicant proposes to construct and maintain a bridge having a span of 27.0 feet with a minimum underclearance of 2.5 feet across the channel of Enlow Fork (TSF) for the purpose of providing access to the applicants property. The project is located on the south side of SR 0231 and T-454 and will impact 15.0 linear feet of stream channel.

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

**E43-329, Borough of Grove City**, 123 W. Main St., P.O. Box 110, Grove City, PA 16127-4414. Grove City Regional Airport Obstruction Removal and Hanger Expansion Project, in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Mercer, PA Quadrangle N: 41° 08' 46"; W: 80° 10' 04").

To conduct the following activities as part of the obstruction removal and expansion project at the Grove City Regional Airport located north of SR 208 and west of SR 258.

1. To impact a total of 850 feet of a tributary to Black Run (CWF) currently flowing east along the south side of the runway by enclosing it within approximately 370 feet of 48-inch diameter polyethylene pipe to outlet to existing wetlands southeast of the glider landing area located south of the runway.

2. To fill a total of 0.1 acre of wetland (PEM) for construction of new hangars south of the runway and east of the terminal.

Project proposes creation of replacement wetland on airport property.

**DAM SAFETY**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D18-072A. Locust Ridge Hunting Club, Inc.**, 517 Berks Place, West Lawn, PA 19609. To operate and maintain Shafer/Zweizig Dam across a tributary to Fishing Creek (HQ-CWF) for the purpose of maintaining the existing structure for recreation, wildlife habitat and fire protection. To comply with Department of Environmental Protection's regulations regarding the size of dam and downstream hazard potential, the applicant is required to obtain a permit for the existing structure, perform maintenance and develop an emergency action plan. (Carroll, PA Quadrangle N: 14.5 inches; W: 7.6 inches) in Crawford Township, **Clinton 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>
PA0060984	Benton Hills Corporation P. O. Box 69 Benton Hills, PA 18602-0069	Benton Township Lackawanna County	UNT to South Branch of Tunkhannock Creek TSF (4F)	Y

In accordance with current Chesapeake Bay Tributary Nutrient Redirection Strategy Implementation Plan, only monitoring requirements were added to Outfall 001 of this permit, as published as draft on October 8, 2005.

<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>
PA0008885 Industrial Waste	Procter & Gamble Paper Products Co. P. O. Box 32 Mehoopany, PA 18629-0032	Wyoming County Washington Township	Susquehanna River (4G)	N

*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>
PA0081345 Amendment No. 1 (Sewage)	Douglas A. Grier Grier Foundation P. O. Box 308 Tyrone, PA 16686-0308	Huntingdon County Warriors Mark Township	Little Juniata River 11-A	Y
PA0087955 Amendment No. 1 (Sewage)	Barry Swope, Chairperson Cassville Water and Sewer Authority P. O. Box 48 Cassville, PA 16623	Huntingdon County Cass Township	UNT Little Trough Creek 11-D	Y
PA0085677 (Industrial Waste/GWCU)	Christopher Kelly Harley-Davidson Motor Company, Inc. 1425 Eden Road York, PA 17402	York County Springettsbury Township	Codorus Creek 7-H	Y
PA0083526 (Industrial Waste)	Julie L. Smith R. H. Sheppard Company, Inc. 101 Philadelphia Street Hanover, PA 17331	York County Hanover Borough	UNT of Oil Creek 7-H	Y
PA0009016 (Industrial Waste)	Charles Williamson Osram Sylvania Products, Inc. 1128 Roosevelt Avenue York, PA 17404-2348	York County West Manchester Township	Willis Run 7-H	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>
PA0039233	Rhodes Country Court P. O. Box 397 (SR 157) Reno, PA 16343	Cranberry Township Venango County	UNT to Little Sugar Creek 16-D	Y
PA0022608	Molded Fiber Glass Tray Co. 6175 US 6 Linesville, PA 16424-5921	Pine Township Crawford County	UNT to Shenango River 20-A	Y
PA0222861	Temple Inland Forest Products Corp. Mt. Jewett Complex 824 Glendale Court Cranberry Township, PA 16066	Sergeant Township McKean County	Little Sicily Run 001 UNT to Seven Mile Run 002 Seven Mile Run 003A-003B-004	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. PA0012629**, Industrial Waste, **Sunoco Inc. (R & M)**, 1801 Market Street, 10 Penn Center, Philadelphia, PA 19103. This proposed facility is located in the City and County of **Philadelphia**.

Description of Proposed Action/Activity: Approval for the renewal to discharge process wastewater, steam condensate, noncontact cooling water and stormwater into the Schuylkill River—Zone 4 of Delaware River Estuary in Watershed 3F.

**NPDES Permit No. PA0053384**, Sewage, **Assembly Hall of Jehovah's Witnesses**, 4414 New Hope Road, P. O. Box 338, Buckingham, PA 18912. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage to an UNT (PA Stream Code 2612) in Watershed 2F-Neshaminy.

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

**NPDES Permit No. PA-0064378**, Industrial Waste, **Horsehead Corporation**, 300 Frankfort Road, Monaca, PA 15061. This proposed facility is located in Palmerton Borough, **Carbon County**.

Description of Proposed Activity: Issuance of an NPDES Permit.

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

**NPDES Permit No. PA0085235, Amendment No. 1**, Sewage, **M. Carl DeGrazia, DeGrazia, LLC**, 604 Memorial Highway, Fleetwood, PA 19522. This proposed facility is located in Robeson Township, **Berks County**.

Description of Proposed Action/Activity: Permit Transfer.

**NPDES Permit No. PA0043052, Amendment No. 1**, Sewage, **William B. Myers**, Township of Spring, 2800 Shillington Road, Reading, PA 19608. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Permit Transfer.

**NPDES Permit No. PA0247804**, Sewage, **Douglas Yocum, PMP Investments, LLC**, 44 Denver Road, P. O. Box 300, Denver, PA 17517. This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Stony Run in Watershed 7-J.

**NPDES Permit No. PA0248045**, Sewage, **Lester Sauder, Sauder Brothers Partnership**, 1464 Mastersonville Road, Lot 1, Manheim, PA 17545. The proposed facility is located in Rapho Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Rife Run in Watershed 7-G.

**NPDES Permit No. PA0248053**, Sewage, **Lester Sauder, Sauder Brothers Partnership**, 1464 Mastersonville Road, Lot 2, Manheim, PA 17545. This proposed facility is located in Rapho Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge from Lot 2 to UNT Rife Run in Watershed 7-G.

**NPDES Permit No. PA0247731**, Industrial Waste, **Gregory Kendig, DS Waters of America, LP**, 1761 Newport Road, Ephrata, PA 17522. This proposed facility is located in West Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to stormwater swale to Cocalico Creek in Watershed 7-J.

**NPDES Permit No. PA0007391**, Industrial Waste, **Ryan Ural, The York Water Company**, 130 East Market Street, P. O. Box 15089, York, PA 17405-7089. This proposed facility is located in Spring Garden Township, **York County**.

Description of Proposed Action/Activity: Permit Cancellation.

**NPDES Permit No. PAS213502**, Stormwater, **Frank Casilio & Sons, Inc.**, 1035 Mauch Chunk Road, Bethlehem, PA 18018-6622. This proposed facility is located in Maxatawny Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Eastern Industries Quarry in Watershed 3-B.

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

**NPDES Permit No. PA0253065**, Sewage, **Carol Brode**, 1000 Small Road, Jeannette, PA 15644. This proposed facility is located in Penn Township, **Westmoreland County**.

Description of Proposed Action/Activity: Issuance of NPDES permit to discharge sewage for a single residence dwelling.

### **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. WQG010009**, Sewerage, **Jeffrey and Linda Zaks**, 628 Middle Road, Perkasie, PA 18944. This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a single family sewage treatment plant.

**WQM Permit No. 1505407**, Sewerage, **Borough of Phoenixville**, Borough Hall, 140 Church Street, Phoenixville, PA 19460. This proposed facility is located in Phoenixville Borough, **Chester County**.

Description of Action/Activity: Construction and operation of a pump station.

**WQM Permit No. 0905411**, Sewerage, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-1912. This proposed facility is located in Telford Borough, **Bucks County**.

Description of Action/Activity: Transfer a portion of current Telford WWTP flow to Pennridge WWTF.

**WQM Permit No. 1505420**, Sewerage, **West Vincent Township**, 729 Saint Matthews Road, Chester Springs, PA 19425-3301. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Construction and operation of a wastewater collection, treatment and disposal facilities.

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

**WQM Permit No. 0692409, T-1, Sewerage, M. Carl DeGrazia, DeGrazia, LLC, 604 Memorial Highway, Fleetwood, PA 19522.** This proposed facility is located in Robeson Township, **Berks County**.

Description of Proposed Action/Activity: Permit Transfer.

**WQM Permit No. 0690410, T-1, Sewerage, William B. Myers, Chairperson, Board of Supervisors, Township of Spring, 2800 Shillington Road, Reading, PA 19608.** This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Permit Transfer.

**WQM Permit No. 6705413, Sewerage, Carl Hughes, Newberry Township Municipal Authority, 1915 Old Trail Road, Etters, PA 17319.** This proposed facility is located in Newberry Township, **York County**.

Description of Proposed Action/Activity: Installation of a belt filter press in an existing garage on the Sewage Treatment Plant site.

**WQM Permit No. 2105404, Sewerage, Rory Morrison, Manager, Middlesex Township Municipal Authority, 350 North Middlesex Road, Carlisle, PA 17013-8422.** This proposed facility is located in Middlesex Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of interceptor sewer serving Keystone Arms consisting of townhouse units and six commercial lots.

**WQM Permit No. 3605413, Sewerage, Victor Schwarz, 53 Pinnacle Road, Holtwood, PA 17532.** This proposed facility is located in Martic Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of a septic tank and free access sand filtration with tablet chlorination followed by spray irrigation for denitrification.

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

**WQG Permit No. WQG016121, Sewerage, Steven Beltz, The Gatehouse—Blackburn Road, Sewickley, PA 15143.** This proposed facility is located in Sewickley Heights Borough, **Allegheny County**.

Description of Proposed Action/Activity: Construction and operation of a single-residence sewage treatment plant.

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

**WQM Permit No. WQG018439, Sewerage, Gregory and Patricia K. Fields, P. O. Box 42, Cochranon, PA 16314.** This proposed facility is located in Fairfield Township, **Crawford County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 2595402, Sewerage Amendment No. 1, Millcreek Township Sewer Authority, 3608 West 26th Street, Erie, PA 16506.** This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the diversion of flows from Peach Street sewer and Beaver Run interceptor sewer to the 24-inch Beaver Run Relief sewer.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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*Central Office: Bureau of Watershed Management, 400 Market Street, Floor 10, P. O. Box 8555, Harrisburg, PA 17105-8555.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use	DEP Protocol (Y/N)
PAI131500060001	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Multiple Counties	Multiple Municipalities	Numerous	N

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI011503081	Cornerstone Communities, Inc. Cornerstone Rise at Griffith Fields 771 East Lancaster Avenue Villanova, PA 19085	Chester	West Vincent Township	Birch Run/French Creek (EV)

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011505004	Telvil Corporation Telvil-Kolb Subdivision 528 Main Street Harleysville, PA 19428	Chester	East Pikeland Township	Stony Run Creek (HQ)
PAI011505072	The Raven Wood Trust Raven Wood Estate Development c/o Glick and Weintraub 1501 Broadway, Suite 2401 New York, NY 10036	Chester	Willistown Township	West Branch Crum Creek (Ev)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026404008	Robert J. Suhosky 120 Lakeview Heights Drive Honesdale, PA 18431	Wayne	Cherry Ridge Township	Tributary to Middle Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032105009	Silver Spring Square II, LP Regency Centers 150 Monument Road, Suite 406 Bala Cynwyd, PA 19004	Cumberland	Silver Spring Township	Trindle Spring Run HQ Conodoguinet WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062405001	MiCale Construction Service, Inc.	Elk	Fox Township	UNT Byrnes Run EV
PAI063305001	Rose Township Municipal Authority	Jefferson	Rose and Knox Townships Brookville Borough	Sandy Lick Creek TSF UNT Campbell Run CWF Swamp Run CSF Five Mile Run CWF Clement Run CWF UNT North Fork HQ-CWF
PAI063305002	Jefferson County	Jefferson	Pinecreek Township	UNT North Fork HQ-CWF and UNT Mill Creek CWF

*Tioga County Conservation District: 50 Plaza Lane, Wellsboro, PA 16901, (570) 724-1801.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045905004	Ultra Resources, Inc. 304 Inverness Way South Suite 295 Englewood, CO 80112	Tioga	Gaines Township	Elk Run and Wetmore Run (HQ-CWF)

## **VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

**List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2*

<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>
Bristol Borough Bucks County	PAG2000905025	Zober Industries, Inc. 500 Coventry Avenue Croydon, PA 19021	Otter Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG2000905069	Bucks County Montessori Charter School 8918 New Falls Road Levittown, PA 19054	Martin's Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Sellersville Borough Bucks County	PAG2000905132	Telvil Corporation Moylan Tract Subdivision 528 Main Street Harleysville, PA 19438	UNT Mill Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Borough Bucks County	PAG2000905079	Canesco Bristol, LP Proposed Wallgreens 765 Barry Drive Bryn Mawr, PA 19010	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Haverford Township Delaware County	PAG2002305068	Leah Atlas 2 College Avenue Haverford, PA 19041	Darby Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Birmingham Township Chester County	PAG2001505106	Dillworthtown Partners Dillworthtown Inn Site Improvement 1390 Old Wilmington Pike West Chester, PA 19382	Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Hanover Township Montgomery County	PAG2004605195	Anne Y. Kochenderfer 3026 Bowers Mill Road Pennsburg, PA 18073	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Trappe Borough Montgomery County	PAG2004605139	Gorski Engineering, Inc. New Covenant Church Development 1 Iron Bridge Drive Collegeville, PA 19426	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900



<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Providence Township Montgomery County	PAG2004605153	Montgomery County Harley Davidson 1217 South Trooper Road Norrstown, PA 19403	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
Upper Salford Township Montgomery County	PAG2004604131	Spring Hill Realty Potato Road Site-Phase 3 528 Main Street Harleysville, PA 19438	East Branch Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004604178-1	Godshall Quality Meats 675 Mill Road Telford, PA 19438	Indian Creek (TSF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
Lower Gwynedd Township Montgomery County	PAG2004605071	Jim Held The Eddie Murphy Tract 113 East Chestnut Street Souderton, PA 18964	UNT Trewellyn Creek (TSF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG2004605116	Wawa, Inc. Proposed Wawa 260 West Baltimore Pike Wawa, PA 19063	Stony Creek (TSF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105044	Rose Casual Dining Proposed Applebees Restaurant 826 Newtown Yardley Road Newtown, PA 18940	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norrstown, PA 19401 (484) 250-5900
Kingston Township Luzerne County	PAG2004005052	Aqua Pennsylvania Inc. Roswell McMullen HCR 6, Box 6040 Hawley, PA 18428	UNT to Toby Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Upper Saucon Township Lehigh County	PAG2003905025	Bob Bower Stabler Land Co. 4401 Camp Mtg. Rd. Suite 100 Center Valley, PA 18034	Saucon Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
North Whitehall Township Lehigh County	PAG2003905031	Curtis Schneck 5426 Route 873 Schnecksville, PA 18078	Coplay Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
North Whitehall Township Lehigh County	PAG2003906001	Erlinda Youwakim Ghassan Youwakim 3075 Rockdale Rd. Slatington, PA 18080	Rockdale Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Hanover Township Lehigh County	PAR10Q141-R-1	Lehigh Northampton Airport Authority 3311 Airport Rd. Allentown, PA 18109	Catasauqua Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Forks Township Northampton County	PAG2004805039	Gary Strausser Strausser Enterprises 1108 Van Buren Rd. Easton, PA 18045	Delaware River WWF, MF	Northampton Co. Cons. Dist. (610) 746-1971
Moore Township Northampton County	PAG2004805028	Ean Sussick & Sons Construction, Inc. 724 S. Delps Rd. Bath, PA 18014	Hokendauqua Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
Butler Township Luzerne County	PAG2004005047	Lamont Development Company, Inc. 330 W. Butler Drive Drums, PA 18222	Little Nescopeck Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991

<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>
Lower Paxton Township Dauphin County	PAG2002205067	Rite Aid Corp 30 Hunter Land Camp Hill, PA 17011	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Lower Paxton Township Dauphin County	PAG2002205057	S & A Custom Built Homes, Inc. 5709 Linglestown Rd. Harrisburg, PA 7112	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Cumru Township Berks County	PAG2000606001	Rodney Trusty 159 Mall Route Road Sinking Spring, PA 19608	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Conoy Township Lancaster County	PAG2003605115	Bob Kettering 3121 A Mount Joy Road Mount Joy, PA 17552	UNT Susquehanna River WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
West Cocalico Township Lancaster County	PAG2003606003	Delmas Witmer 160 Mountain Rd. Denver, PA 17517	UNT Cocalico Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
Brecknock Township Lancaster County	PAG2003606010	Luke Ulrich 150 Netzley Dr. Denver, PA 17517	UNT Muddy Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
Lower Paxton Township Dauphin County	PAG2002205060	McDonalds Corp 3025 Chemical Rd., Suite 200 Plymouth Meeting, PA 19462	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Jackson Township Snyder County	PAG200550603	Paul D. John Designer Homes Inc. 15 Industrial Rd. Mifflinburg, PA 17844	Penns Creek WWF	Snyder Co. Consv. Dist. 403 West Market St. Middleburg, PA 17842-1038 (570) 837-0007
Limestone Township Union County Jackson Township Snyder County	PAG2006005014	Department of Environmental Protection—Bridge at New Berlin Michael L Bender P. O. Box 218 Montoursville, PA 17754-0218	Penns Ck. WWF	Union Co. Consv. Dist. 155 N. 15th St. Lewisburg, PA 17837 (570) 523-8782
Duncan Township Tioga County	PAG2005906001	Phoenix Resources, Inc. 782 Antrim Rd. Wellsboro, PA 16901	UNT to Babb Ck. CWF	Tioga Co. Consv. Dist. 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801
Beaver County Chippewa Township	PAG2000406001	Gary Birmingham Tri-Venture Ltd. 665 Freedom Crider Road Freedom, PA 15042	North Branch Brady's Run (TSF)	Beaver County CD (724) 378-1701

<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>
Fayette County North Union Township	PAG2002605026	Null Land, Inc. P. O. Box 229 Mt. Braddock, PA 15465	Jennings Run (WWF)	Fayette County CD (724) 438-4497
Butler County Valencia Borough and Adams Township	PAG2001005025	Douglas Day St. Barnabas Health System 5850 Meridian Road Gibsonia, PA 15044 and Co-applicant Bob Geyer Geyer Construction 149 Ridge Road Valencia, PA 16059	UNT to Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Butler County Adams Township	PAG2001005027	Adams Crossing— Phase 3 Chris Frank Adams Development Group 117 Ridge Road Valencia PA 16059	UNT to Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Butler County Adams Township	PAG2001005033	Shoppes at Heritage Creek Eric J Lamm Kaclik Development Assoc. LP 215 Executive Drive Cranberry Township, PA 16066	Haufman Run WWF	Butler Conservation District (724) 284-5270
Butler County Slippery Rock Township	PAG2001005036	Weathervane Hill West Gary McKnight P. O. Box 773 Slippery Rock, PA 16057	UNT to Slippery Rock Creek CWF	Butler Conservation District (724) 284-5270
Erie County Edinboro Borough	PAG2002506001	Edinboro University of Pennsylvania 200 Scotland Road Edinboro, PA 16444	Darrows Creek WWF	Erie Conservation District (814) 825-6403
Erie County Millcreek Township	PAR10K172R	Joseph Montagna 5131 Millfair Road Fairview, PA 16415	Walnut Creek CWF; MF	Erie Conservation District (814) 825-6403
Foster Township Luzerne County	PAG02114005005	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790	Black Creek (WWF)	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Adams County New Oxford Borough	PAR123548	Pilgrim's Pride Corporation—New Oxford Plant P. O. Box 38 New Oxford, PA 17350-0038	UNT South Branch Conewago Creek WWF/7-F	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Vanport Township Beaver County	PAR806113	Interstate Chemical Company, Inc. 2797 Freedland Road Hermitage, PA 16148-9027	Ohio River at 28.5 mile marker	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Washington Washington County	PAR806148	United States Postal Service 15 Jefferson Avenue Washington, PA 15301-9721	Catfish Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4*

<i>Facility Location: Municipality &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>
Hilltown Township Bucks County	PAG040042	Jeffrey and Linda Zaks 628 Middle Road Perkasie, PA 18944	Morris Run Watershed 3E Perkiomen	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Allegheny County Sewickley Heights Borough	PAG046318	Steven Beltz The Gatehouse— Blackburn Road	UNT of Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Waterford Township Erie County	PAG048733	Victor A. Berti 989 Hull Road P. O. Box 741 Waterford, PA 16441	UNT to French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Fairfield Township Crawford County	PAG049228	Gregory and Patricia K. Fields P. O. Box 42 Cochranon, PA 16314	UNT to French Creek	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.*

**Operations Permit** issued to **Brodhead Creek Regional Authority**, 410 Stokes Avenue, East Stroudsburg, PA 18301 (PWS ID 2450034) Borough of Stroudsburg, Stroud, Pocono, Hamilton and Smithfield Townships,

**Monroe County** on January 13, 2006, for the operation of facilities approved under Minor Amendment issued on April 22, 2002; Construction Permit No. 4502501 issued on May 8, 2003 and Construction Permit No. 4504504 issued on January 28, 2005.

**Operations Permit** issued to **Washington Park Water Company**, 1199 Laurel Run Road, Wilkes-Barre, PA 18702 (PWS ID 2400141), Kingston Township, **Luzerne County** on January 17, 2006, for the operation of facilities approved under Construction Permit No. 4095507.

**Permit No. Minor Amendment** Public Water Supply.

Applicant **Pennsylvania American Water Co.**  
800 West Hersheypark Drive  
Hershey, PA 17033

Borough or Township **Dalton Borough**  
County **Lackawanna**

Type of Facility **PWS**

Consulting Engineer **Scott Thomas, P. E.**  
Pennsylvania American Water Co.  
852 Wesley Drive  
Mechanicsburg, PA 17055

Permit to Construct Issued **January 11, 2006**

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

**Permit No. 0604520**, Public Water Supply.

Applicant **Bernville Borough Authority**

Municipality **Bernville Borough**  
County **Berks**

Type of Facility **Construction of Well No. 4 as additional source to system. Project also requires a transmission main to connect the new well to the existing system.**

Consulting Engineer **David Bright, P. E.**  
Spotts, Stevens & McCoy, Inc.  
1047 North Park Road  
Reading, PA 19610-0307

Permit to Construct Issued: **1/6/2006**

**Permit No. 0605521 MA, Minor Amendment**, Public Water Supply.

Applicant **Curtis Armstrong**

Municipality **Richmond Township**  
County **Berks**

Type of Facility **Installation of three 120-gallon finished water storage tanks.**

Consulting Engineer **Charles A Kehew, II, P. E.**  
**James R. Holley & Assoc., Inc.**  
18 South George St.  
York, PA 17401

Permit to Construct Issued: **1/18/2006**

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

**Permit No. M.A.—Operation** Public Water Supply.

Applicant **Covington-Karthus-Girard Area Authority**

Township or Borough **Girard Township**  
County **Clearfield**

Responsible Official **Jack Reese, Co-Chairperson**  
Covington-Karthus-Girard Area Authority  
P. O. Box 104  
Frenchville, PA 16836

Type of Facility **Public Water Supply—Operation**

Consulting Engineer **N/A**

Permit Issued Date **1/18/2006**

Description of Action **Operation of a 32,000-gallon finished water storage tank located in Lecontes Mills.**

**Permit No. 267W014-T1—Transfer** Public Water Supply.

Applicant **Roulette Township Municipal Water Company**

Township or Borough **Roulette Township**  
County **Potter**

Responsible Official **William Grandin, Chairperson**  
Roulette Township Municipal Water Company  
P. O. Box 253  
Roulette, PA 16746

Type of Facility **Public Water Supply—Transfer**

Consulting Engineer **N/A**

Permit Issued Date **1/18/2006**

Description of Action **Transfer of permit covering the existing sources, treatment techniques and waterlines.**

**Permit No. 5390501-T1—Transfer** Public Water Supply.

Applicant **Roulette Township Municipal Water Company**

Township or Borough **Roulette Township**  
County **Potter**

Responsible Official **William Grandin, Chairperson**  
Roulette Township Municipal Water Company  
P. O. Box 253  
Roulette, PA 16746

Type of Facility **Public Water Supply—Transfer**

Consulting Engineer **N/A**

Permit Issued Date **1/18/2006**

Description of Action **Transfer of permit covering the existing sources, treatment techniques and waterlines.**

**Permit No. 5391501-T1—Transfer** Public Water Supply.

Applicant **Roulette Township Municipal Water Company**

Township or Borough **Roulette Township**  
County **Potter**

Responsible Official William Grandin, Chairperson  
Roulette Township Municipal  
Water Company  
P. O. Box 253  
Roulette, PA 16746

Type of Facility Public Water Supply—Transfer

Consulting Engineer N/A

Permit Issued Date 1/18/2006

Description of Action Transfer of permit covering the  
existing sources, treatment  
techniques and waterlines.

**Permit No. M.A.-T1—Transfer** Public Water Supply.

Applicant **Roulette Township Municipal  
Water Company**

Township or Borough Roulette Township

County **Potter**

Responsible Official William Grandin, Chairperson  
Roulette Township Municipal  
Water Company  
P. O. Box 253  
Roulette, PA 16746

Type of Facility Public Water Supply—Transfer

Consulting Engineer N/A

Permit Issued Date 1/18/2006

Description of Action Transfer of permit covering the  
existing sources, treatment  
techniques and waterlines.

**Permit No. 4905501—Construction** Public Water  
Supply.

Applicant **Lower Mahanoy Township  
Municipal Authority**

Township or Borough Lower Mahanoy Township

County **Northumberland**

Responsible Official Joseph Villone  
Lower Mahanoy Township  
Municipal Authority  
P. O. Box 235  
Dalmatia, PA 17017-0235

Type of Facility Public Water  
Supply—Construction

Consulting Engineer Edward Ellinger, P. E.  
Herbert, Rowland & Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111-2730

Permit Issued Date 1/20/2006

Description of Action Construction of a manganese  
greensand pressure filtration  
plant, including potassium  
permanganate and post-sodium  
hypochlorite feed systems.

**Permit No. 4991501-T1—Operation** Public Water  
Supply.

Applicant **Lower Mahanoy Township  
Municipal Authority**

Township or Borough Lower Mahanoy Township

County **Northumberland**

Responsible Official Joseph Villone  
Lower Mahanoy Township  
Municipal Authority  
P. O. Box 235  
Dalmatia, PA 17017-0235

Type of Facility Public Water Supply—Operation

Consulting Engineer Edward Ellinger, P. E.  
Herbert, Rowland & Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111-2730

Permit Issued Date 1/20/2006

Description of Action Operation of a corrosion control  
system, master meters and  
improvements to the distribution  
system.

**Permit No. Minor Amendment (2/27/1992)—Opera-  
tion** Public Water Supply.

Applicant **Lower Mahanoy Township  
Municipal Authority**

Township or Borough Lower Mahanoy Township

County **Northumberland**

Responsible Official Joseph Villone  
Lower Mahanoy Township  
Municipal Authority  
P. O. Box 235  
Dalmatia, PA 17017-0235

Type of Facility Public Water Supply—Operation

Consulting Engineer Edward Ellinger, P. E.  
Herbert, Rowland & Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111-2730

Permit Issued Date 1/20/2006

Description of Action Operation of the replacement  
cover for the reservoir.

**Permit No. 4993501—Operation** Public Water Sup-  
ply.

Applicant **Lower Mahanoy Township  
Municipal Authority**

Township or Borough Lower Mahanoy Township

County **Northumberland**

Responsible Official Joseph Villone  
Lower Mahanoy Township  
Municipal Authority  
P. O. Box 235  
Dalmatia, PA 17017-0235

Type of Facility Public Water Supply—Operation

Consulting Engineer Edward Ellinger, P. E.  
Herbert, Rowland & Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111-2730

Permit Issued Date 1/20/2006

Description of Action Operation of modifications to the  
upper terminals of Well Nos. 1  
and 2 and the use of Well No. 2  
as a source of public water  
supply.

**Permit No. Minor Amendment (3/1/1996)—Operation Public Water Supply.**

Applicant **Lower Mahanoy Township Municipal Authority**  
 Township or Borough Lower Mahanoy Township  
 County **Northumberland**  
 Responsible Official Joseph Villone  
 Lower Mahanoy Township Municipal Authority  
 P. O. Box 235  
 Dalmatia, PA 17017-0235  
 Type of Facility Public Water Supply—Operation  
 Consulting Engineer Edward Ellinger, P. E.  
 Herbert, Rowland & Grubic, Inc.  
 369 East Park Drive  
 Harrisburg, PA 17111-2730  
 Permit Issued Date 1/20/2006  
 Description of Action Operation of a finished water transmission line, a building to house treatment and laboratory facilities and finished water reservoir outlet structure modifications.

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

**Operations Permit issued to East Brady Borough-Clarion County**, 502 Ferry Street, Suite 15, East Brady, PA 16028, PWS ID 6160003, East Brady Borough, Clarion County, on January 23, 2006, for the operation of East Brady's new facilities and equipment to draw, treat and distribute the water to the Petroleum Valley Regional Water Authority, the Borough of Rimersburg and East Brady Borough, as approved under Construction Permit No. 1604502.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Dublin Borough	P. O. Box 52 Dublin, PA 18917	Bucks

*Plan Description:* VI Projects. The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Dublin Borough proposes the following projects:

Project 1—High Street Sewage Collection System Replacement—Replace approximately 1,550 linear feet of vitrified clay sanitary sewer main, manholes and the service laterals extending between manholes Nos. 37 and 41, inclusive.

Project 2—Elephant Road Trunkline Rehabilitation—Root treatment, joint testing/grouting, defective service lateral replacement, manhole pipe entry repairs and pipeline relining: MH 14-MH 13.

Project 3—Middle Road Sewer Line Rehabilitation—Root treatment, joint testing/grouting, defective service lateral replacement, manhole pipe entry repairs.

The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Wales Borough	300 School Street North Wales, PA 19454	Montgomery

*Plan Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. North Wales Borough proposes the following projects:

Phase 1—Wastewater Collection System:

Sewer Project 1: Rehabilitation of approximately 6,400 feet of sanitary sewer piping and appurtenances in Beaver, Walnut and Tenth Streets, budgeted at \$905,000, to be completed in 2006.

Sewer Project 2: Rehabilitation of approximately 7,900 feet of sanitary sewer piping and appurtenances in Second, Third, Fourth, School, Walnut and Ninth Streets, budgeted at \$1.195 million to be completed in 2007.

Phase 2—Wastewater Treatment Plant:

WWTP Project: Facility planning and alternative treatment evaluation for permit compliance to proceed in 2006, and design and construction projected to 2008, budgeted at \$1.5 million

The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Bern Township	P. O. Box 185 Shartlesville, PA 19554	Berks

*Plan Description:* The approved plan provides for the construction of a public sewer collection and conveyance system to serve the Northern Service Area as defined in the plan. The Plan also provides for the construction of a wastewater treatment facility that will provide an additional 100,000 gallons per day of capacity to the existing Shartlesville treatment facility. The plan also provides for the adoption and implementation of an onlot sewage disposal system management ordinance that will address the entire township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Taylor Township	P. O. Box 627 Hustontown, PA 17229	Huntingdon

*Plan Description:* The approved plan provides for the construction of a new Hustontown Joint Sewer Authority sewage treatment facility with stream discharge to replace an existing community onlot sewage disposal system. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Cromwell Township	P. O. Box 340 Orbisonia, PA 17243	Huntingdon

*Plan Description:* The approved plan provides for the regionalization of a public sewer collection, conveyance, and treatment system to serve the Pogue and Pine Tree Village areas of Cromwell Township by a connection to the Orbisonia-Rock Hill Joint Municipal Authority (ORJMA) wastewater treatment facility. The Plan also provides for an upgrade of the ORJMA facility. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Chambersburg Borough	100 S. Second St. Chambersburg, PA 17201	Franklin

*Plan Description:* The approved plan entitled Progress Village provides for a sewer extension to serve 467 residential lots and one commercial lot of 3 EDUs on Mill Road and Progress Road. The Water Quality Management Part II Permit, required because the sewer extension will serve more than 250 EDUs, will be issued in the name of the Borough of Chambersburg, who will own, operate and maintain the facilities. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
West Finley Township	164 Good Intent Road Claysville, PA 15323	Washington

*Plan Description:* The approved plan provides for construction of a 400-gallon per day single residence sewage treatment plant to serve the Loughman single family home. The property is located at 429 Burnsville Ridge Road. The proposed discharge point is a UNT of Robinson Run, classified as a WWF. Any required NPDES Permits

or WQM Permits must be obtained in the name of the applicant as appropriate. The Department of Environmental Protection's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

### **HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988**

#### **Proposed Interim Response**

#### **Gilbertsville PCE Site, Douglass Township, Montgomery County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), is proposing an interim response at the Gilbertsville PCE Site (Site) in Douglass Township, Montgomery County.

The Department, under the authority of HSCA, is conducting an investigation of the Site. This investigation includes the sampling of private drinking water supply wells, the collection of surface water and soil samples, the installation of monitoring wells within the Site area as well as other activities to determine the source and extent of the release of hazardous substances within the Site area. Approximately 23 wells are contaminated with detectable levels of Tetrachloroethylene (PCE). Trichloroethene and Methyl-T-Butylether were also detected in select wells, but PCE is the primary contaminant of concern. The Department is presently investigating the possibility of a spill of dry cleaning fluid within the Site area.

To address the release and threat of release of hazardous substances at the Site and corresponding threats to human health and the environment, the Department proposes a response action at the Site under sections 501(a) of HSCA (35 P. S. § 6020.501(a)). The Department hereby proposes the installation of a waterline, including water mains and lateral connections to the public water supply. This proposed alternative complies with Applicable, Relevant and Appropriate Requirements and is feasible and cost effective. Other possible alternatives include no action or the installation and continued monitoring and maintenance of whole-house carbon filtration units and/or continuation of supplying bottled water.

An Administrative Record, which contains more detailed information concerning this proposed response action, is available for public inspection. The Administrative Record may be examined from 8 a.m. until 4 p.m. at the Department's office at 2 East Main Street, Norristown PA 19401. Persons interested in examining the Administrative Record should contact Natalie Huff at (484) 250 5722 to arrange for an appointment. An additional copy of the Administrative Record is available for review at the Douglass Township Municipal Building, 1320 East Philadelphia Avenue, Gilbertsville, PA 19525.

Under section 506(d) of HSCA (35 P. S. § 6020.506(d)), the Department shall conduct a public hearing on March 15, 2006, at 7 p.m. in the Douglass Township Municipal Building. Anyone who would like to present formal oral comments regarding this interim response may do so by registering with the Department before the meeting. Individuals may register by calling the Department's Community Relations Coordinator, Lynda Rebarchak at (484) 250-5820.

Persons with a disability who wish to attend the public hearing and will require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Lynda Rebarchak at the telephone number listed



previously or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. The public may also submit written comments regarding the Department's proposed interim response action during the period of public comment. In accordance with section 506(c) of HSCA (35 P. S. § 6020.506(c)), the Department has established a period for public comment that is now open until close of business May 5, 2006. Written comments should be addressed to Natalie Huff, Project Officer, Department of Environmental Protection, 2 East Main Street, Norristown PA 19401.

Persons with questions regarding this notice should contact Natalie Huff at (484) 250-5722.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Venice Island**, City of Philadelphia, **Philadelphia County**. Tess Andress, RT Env. Svc., Inc., 510 Herson Dr., P. O. Box 521, Bridgeport, NJ 08014 on behalf of Dan Neducsin, Neducsin Prop. Mgmt., Inc., 161 Leverington Ave., Suite 100, Philadelphia, PA 19127 has submitted a Final Report concerning remediation of site soil contaminated with inorganics and PAH. The report is intended to document remediation of the site to meet the Site-Specific Standard.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Aaron Rubin & Sons Company North Property**, Susquehanna Township, **Dauphin County**. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109 behalf of Aaron Rubin & Sons Company, 3401 North Sixth Street, Harrisburg, PA 17110; L. P. Realty Group, 500 Fishing Creek Valley Road, Harrisburg, PA 17112; and Deaven Partnership, 105 West Plank Road, Port Matilda, PA 16870, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with petroleum products and groundwater contaminated with solvents. The report is intended to demonstrate attainment of the Statewide Health Standard for soils and a combination of the Statewide Health and Site-Specific Standards for groundwater.

**Former Yorgey's Fine Cleaning**, Manor Township, **Lancaster County**. Gannett Fleming, Inc., P. O. Box 10185, Lancaster, PA, 17605-0185, on behalf of Richard Yorgey, 328 South State Street, Ephrata, PA 17522, submitted a Remedial Investigation and a Risk Assessment concerning remediation of site soils and groundwater contaminated with volatile organics. The applicant proposes to remediate the site to meet the Site-Specific Standard requirements.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media,

benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Becker Prop.**, City of Philadelphia, **Philadelphia County**. Matthew E. Grubb, Env. Maintenance Co., Inc., 1420 E. Mermaid Ln., Glenside, PA 19038 on behalf of Peter Becker, 1239 Pleasure Ave., Ocean City, NJ 08224 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2. fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 11, 2006.

**Vacant Prop.**, City of Philadelphia, **Philadelphia County**. Staci Cottone, American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Mr. and Mrs. Elliot Timms, 1862 Lindley St., Philadelphia, PA 19141 has submitted a Baseline Env. Report concerning the remediation of site soil contaminated with lead. The Baseline Env. Report was approved by the Department on January 13, 2006.

**Cantol, Inc.**, City of Philadelphia, **Philadelphia County**. Gilbert J. Marshall, P. G. Marshall Geosciences, Inc., 170 E. First Ave., Collegeville, PA 19426 on behalf of Elmer Sneathen and Richard Petsche, Cantol, Inc., 2211 N. American St., Philadelphia, PA 19133-3396 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, No. 2 fuel oil and inorganics. The Final Report demonstrated attainment of the Statewide Health Standard and Site Specific Standard was approved by the Department on January 9, 2006.

**The Baldwin School**, Lower Merion Township **Montgomery County**. Richard Werner, P. G., Env. Consulting, Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of John Berg, The Baldwin School, 701 Montgomery Ave., Bryn Mawr, PA 19010 has submitted a Final Report concerning the remediation of site soil contaminated with No. 4 fuel oil. The Final Report

demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 9, 2006.

**Sunoco Inc. (R & M) Marcus Hook Refinery Phillips Island**, Marcus Hook Borough, **Delaware County**. Glenn C. Randall, P. G., URS Corp., 335 Commerce Dr., Ste, 300, Ft. Washington, PA 19034 has submitted a Final Report concerning the remediation of site soil contaminated with lead, heavy metals, pesticides, solvents, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons and groundwater contaminated with lead, heavy metals solvents, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department on January 9, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**ITT Engineered Process Solutions Group**, Borough of Columbia, **Lancaster County**. ENSR International, 2005 Cabot Boulevard West, Suite 100, Langhorne, PA 19047, on behalf of ITT Industries, Ten Mountainview Road, Upper Saddle River, NJ 07458, submitted a combined Remedial Investigation, Risk Assessment and Final Report concerning remediation of site soils and groundwater contaminated with gasoline and No. 2 fuel oil. The combined report demonstrated attainment of a combination of the Statewide Health and Site-Specific Standards, and was approved by the Department on January 12, 2006.

**Former Teledyne-AMCO Facility**, Mohnton Borough, **Berks County**. MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462-1216, on behalf of TDY Industries, 1000 Six PPG Place, Pittsburgh, PA 15222, submitted a Remedial Investigation Report concerning remediation of site soils, groundwater and surface water contaminated with solvents. The applicant proposes to remediate the site to meet a combination of Statewide Health and Site-Specific Standards. The Remedial Investigation Report was approved by the Department on January 12, 2006.

**Canoe Creek Quarry**, Frankstown Township, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of New Enterprise Stone & Lime Company, P. O. Box 77, New Enterprise, PA 16664, submitted a Final Report concerning remediation of site soils and groundwater contaminated with diesel fuel and other organics. The final report demonstrated attainment of a residential Statewide Health Standard and was approved by the Department on January 12, 2006.

**Millardsville Crop Center**, Jackson Township, **Lebanon County**. Environmental Resources Management, Inc, 350 Eagleview Boulevard, on behalf of GROWMARK FS, Inc., 1701 Towanda Avenue, Bloomington, IL 61702, submitted a Remedial Investigation concerning remediation of site groundwater contaminated with nitrate. The applicant proposed to remediate the site to a Site-Specific Standard. The Remedial Investigation Report was approved by the Department January 12, 2006.

**Property at 152 Huntzinger Road**, South Heidelberg Township, **Berks County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Fannie Mae, International Plaza, 15221 Dallas Parkway, Suite 1000, Dallas, TX 75254, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on January 12, 2006.

**Buckeye Pipe Line Company, LP, Tuckerton Station**, Muhlenberg Township, **Berks County**, Groundwater & Environmental Services, LP, 410 Eagleview Boulevard, Exton, PA 18049, on behalf of Buckeye Pipe Line Company, LP, 5002 Buckeye Road, Emmaus, PA 18049, submitted a Final Report concerning remediation of site soil contaminated with petroleum products. The Final Report demonstrated attainment of the nonresidential Statewide Health Standard, and was approved by the Department on January 18, 2006. Groundwater will be addressed separately.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

#### *Hazardous Waste Transporter License Issued*

**North Star Waste, LLC**, 223 Fellowship Road, Uwchlan, PA 19480. License No. PA-AH 0718. Effective December 22, 2005.

**IMS Environmental Services, Inc.**, P. O. Box 1779, Norfolk, VA 23501. License No. PA-AH 0724. Effective January 9, 2006.

#### *Hazardous Waste Transporter License Renewed*

**Enviroserve, J. V. Limited Partnership**, 5502 Schaaf Road, Cleveland, OH 44131. License No. PA-AH 0456. Effective December 22, 2005.

**Mccutcheon Enterprises, Inc.**, 250 Park Road, Apollo, PA 15613-8730. License No. PA-AH 0130. Effective December 29, 2005.

**Dalmatian, Inc.**, P. O. Box 1147, Hebron, OH 43025. License No. PA-AH 0653. Effective December 29, 2005.

**U. S. Bulk Transport, Inc.**, 205 Pennbriar Drive, Erie, PA 16509. License No. PA-AH 0408. Effective January 6, 2006.

**Valley City Disposal, Inc.**, DBA Valley City, 1040 Market Street S.W., Grand Rapids, MI 49503. License No. PA-AH 0410. Effective January 6, 2006.

**Frank's Vacuum Truck Service, Inc.**, 4500 Royal Avenue, Niagara Falls, NY 14303. License No. PA-AH 0331. Effective January 6, 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.*

**AQ-SE-0021: Brubacher Excavating, Inc.** (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507) on January 19, 2006, to operate a portable crusher in Bethel Township, **Delaware County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**35-310-041GP3: Haines and Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on January 18, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at the Scranton Materials Plant, located in Ransom Township, **Lackawanna 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.*

**09-0022B: Cleveland Steel Container Corp.** (350 Mill St., Quakertown, PA 18951) On January 19, 2006, to operate a litho press from 10% to 35% in Quakertown Borough, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**48-313-096: Elementis Pigments, Inc.** (1525 Wood Avenue, Easton, PA 18042) on January 17, 2006, to construct a blending and grinding mill and associated air cleaning devices in Easton, **Northampton County**.

**48-309-125: Keystone Cement Co.** (Route 329, P. O. Box A, Bath, PA 18014) on January 13, 2006, for construction of a finish mill and material feed system with an indirect coal firing system in East Allen Township, **Northampton County**.

**35-318-090: Vycom Corp.** (801 East Corey Street, Moosic, PA 18505) on January 18, 2006, to construct a paint spray booth and associated air cleaning device in Scranton, **Lackawanna County**.

**35-399-042: Vycom Corp.** (801 East Corey Street, Moosic, PA 18505) on January 18, 2006, to construct a molding machine and extruder in Scranton, **Lackawanna County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.*

**24-016C: Keystone Powdered Metal Co.** (251 State Street Street, St. Marys, PA 15857) on January 18, 2006, to replace an Induction Heat Treater with a new Induction Heat Treater and Smog Hog by in the City of St. Marys, **Elk County**. The facility is a Title V Facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-313-146: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) on January 18, 2006, to operate a base pigment dispersion facility in Hatfield Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05005A: Eastern Industries** (4401 Camp Meeting Road, Center Valley, PA 18034) on October 27, 2005, to modify their existing batch asphalt plant controlled by a knock out box and fabric filter to burn recycled No. 5 oil at their Oley Blacktop Plant in Oley Township, **Berks County**. This plan approval was extended.

**22-05039A: Dura-Bond Pipe, LLC** (2716 South Front Street, Steelton, PA 17113) on September 28, 2005, to restart their existing pipe coating facility and expand their existing facility to include the former Bethlehem Steel pipe fabricating operation and a new steel shapes fabrication operation in Steelton Borough, **Dauphin County**. This plan approval was extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**49-311-003: The Quikrete Companies, Inc.** (R. R. 1, Box 312, Paxinos, PA 17860) on January 11, 2006, to install two additional air cleaning devices, two small fabric collectors, on a dry redi-mix concrete batching and packaging operation in Shamokin Township, **Northumberland County**.

**41-00013B: Coastal Aluminum Rolling Mills, Inc.** (2475 Trenton Avenue, Williamsport, PA 17701) on January 19, 2006, to extend the deadline for performing VOC stack testing on a coil coating line (No. 7) and associated regenerative thermal oxidizer until March 15, 2006, in the City of Williamsport, **Lycoming County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**56-00025F: New Enterprise Stone and Lime** (P. O. Box 77, New Enterprise, PA 16664) on January 17, 2006, to complete construction for their Bakersville Quarry in Jefferson Township, **Somerset County**. This plan approval was extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.*

**10-345A: Allegheny Mineral Corp.—Murrinsville Quarry** (102 VanDyke Road, Harrisville, PA 16038) on January 31, 2006, to install a Limestone Processing Facility in conjunction with their new Limestone Mining Operation in Marion Township, **Butler County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**23-00026: Glasgow, Inc.** (P. O. Box 1089, Glenside, PA 19038) on January 19, 2006, to operate the batch asphalt plant Synthetic Minor Operating Permit in Springfield Township, **Delaware County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**22-03020: Hempt Bros., Inc.** (205 Creek Road, Camp Hill, PA 17011-7418) on January 11, 2006, to operate

their Steelton Quarry in Steelton Borough, **Dauphin County**. This is a renewal of the State-only operating permit.

**36-03106: Eastern Industries, Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034-9467) on January 19, 2006, to operate their Schoeneck limestone/dolomite quarry and crushing and screening plant in West Cocalico Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**36-03115: Prospect Aggregates, Inc.** (P. O. Box 7, Route 72, East Petersburg, PA 17520) on January 23, 2006, to operate a crushed and broken limestone processing operation in West Hempfield Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**67-05013: York City Sewer Authority** (1701 Black Bridge Road, York, PA 17402-1911) on January 19, 2006, to operate their wastewater treatment facility in Manchester Township, **York County**. This is a renewal of the State-only operating permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**63-00538: Dynamet, Inc.** (195 Museum Road, Washington, PA 15301) on January 20, 2006, for nonferrous metal extrusion at their Arden Facility in Green Hills Borough, **Washington County**. This permit is a State-only renewal.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**10-00079: BNZ Materials, Inc.** (191 Front Street, Zelienople, PA 16063-1088) on January 10, 2006, for an Administrative Amendment of the Title V Operating Permit, to incorporate the conditions of Plan Approval No. 10-079C in Source ID No. 104A: Kiln No. 1 in Zelienople Borough, **Butler County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.*

**S05-009: Philadelphia Phillies** (One Citizens Bank Park Way, Philadelphia, PA 19148) on January 19, 2006, to operate Citizens Bank Park baseball stadium in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three 191 HP boilers, an 1818 BHP generator and a 2889 BHP generator.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00050: Rohm and Haas Co.** (727 Norristown Road, Springhouse, PA 19477) on January 20, 2006, to operate a State-only Operating Permit in Lower Gwynedd Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility and was issued as an Administrative Amendment for a Change of Operator for the facility from Rohm and Haas Company to Rohm and Haas Chemicals, LLC. The facility's sources include five boilers and one dry cleaner. The amended State-only Operating Permit did not change and contains all of the applicable

regulatory requirements including monitoring recordkeeping, reporting and emission limits. The initial permit was issued April 23, 2004.

**23-00003: ConocoPhillips Co.** (4101 Post Road, Trainer, PA, 19061) on January 20, 2006, to incorporate changes brought about by Consent Decree (Civil Action H-05-258) in Trainer Borough, **Delaware County**. This minor permit modification is to address new applicable regulations promulgated since the previous version of the permit was issued in February, 2005, including Refinery MACT II, 40 CFR 63, Subpart UUU and Boiler and Process Heater MACT, 40 CFR 63, Subpart DDDDD. The amendment also addresses several typographical errors. Modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

**23-00007: Crozer Chester Medical Center** (1 Medical Center Blvd, Chester, PA 19013) on January 20, 2006, to operate three peaking power units at their Title V Operating Permit in Upland Borough, **Delaware County**. This amendment is to address the change of ownership from NEO Chester GEN, LLC to Crozer Chester Hospital and to establish an aggregate NOx emission limit for the two permits (23-00007 and 23-00052) that are under the ownership of the Crozer Chester Medical Center. Administrative Amendment of State-only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**23-00052: Crozer Chester Medical Center** (One Medical Center Boulevard, Upland, PA 19013-3995) on January 20, 2006, to operate a hospital in Upland Borough, **Delaware County**. The permit is for a non-Title V (State-only) facility. This amendment is to implement an existing NOx emission limit (24.95 tons/yr) as an aggregate for the two permits (23-00052 and 23-00007) that are under the ownership of the Crozer Chester Medical Center. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. Amendment of State-only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.461.

**15-00014: Saint Gobain Performance Plastics Corp.** (57 Morehall Road, Frazer, PA 19355) on January 23, 2006, an administrative amendment to Title V Operating Permit No. TVOP-15-00014 under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450 in East Whiteland Township, **Chester County** was issued to restrict the facility HAP emissions to 8 tons of each individual HAP emissions and 20 tons of combined HAP emissions.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05040: East Penn Manufacturing Co., Inc.** (P. O. Box 147, Lyon Station, PA 19536) on January 13, 2006, to modify the secondary lead smelter controlled by an afterburner, fabric collector and wet scrubber in Richmond Township, **Berks County**. This Operating Permit

was administratively amended pertaining to the sulfur dioxide emission limits for its lead smelter. This is revision No. 2.

**36-05010: American LaFrance, LLC** (64 Cocalico Creek Road, Ephrata, PA 17522-9455) on January 13, 2006, to operate a manufacturing plant at their Ephrata facility in West Earl Township, **Lancaster County**. This operating permit was administratively amended due to a change of ownership. This is revision No. 1.

**38-03007: Evans Eagle Burial Vaults, Inc.** (15 Graybill Road, Leola, PA 17540-1910) on January 20, 2006, to operate a human crematorium in Heidelberg Township, **Lebanon County**. This operating permit was administratively amended to incorporate plan approval 38-03007A. This is revision No. 1.

**38-03042: American LaFrance, LLC** (64 Cocalico Creek Road, Ephrata, PA 17522-9455) on January 13, 2006, to operate their manufacturing plant in West Lebanon Township, **Lebanon County**. This operating permit was administratively amended due to a change of ownership. This is revision No. 1.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**41-00018: Springs Window Fashions, LLC** (8601 Route 404, Montgomery, PA 17752) on January 11, 2006, to transfer a Title V Operating Permit from Springs Window Fashions, LP to Springs Window Fashions, LLC in Clinton Township, **Lycoming County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**33-00033: Owens-Brockway Glass Container Inc.—Plant No. 18** (Cherry Street, Brockway, PA 15824) on January 12, 2006, for an Administrative Amendment of the Title V Operating Permit, to incorporate the conditions of Plan Approval No. 33033C in Brockway Borough, **Jefferson County**.

**42-00061: Dresser Inc.** (42 Fisher Avenue, Bradford, PA 16701) on January 20, 2006, for an Administrative Amendment of the natural minor operating permit, to incorporate the newly applicable permit conditions from Plan Approval No. 42061B in the City of Bradford, **McKean County**.

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**De Minimis Emissions increases authorized under 25 Pa. Code § 127.449.**

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*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**04-00033: NOVA Chemicals, Inc.** (400 Frankfort Road, Monaca, PA 15061-2298) for their thermoplastic resin manufacturing facility at the Beaver Valley Plant in Monaca, **Beaver County**. On November 8, 2005, NOVA Chemicals Inc. requested to increase the Dylark process area VOC emissions by 175 pounds/year and potential fugitives by 0.2 ton/year. The Department has approved these emissions as de minimis emission increases in accordance with 25 Pa. Code § 127.449. This is a Title V Facility.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

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

**32881301 and NPDES Permit No. PA0215538, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to renew the permit and related NPDES permit and to revise the permit for the Penn Run Mine in Cherryhill Township, **Indiana County** to delete 1386.7 subsidence control plan area acres. No additional discharges. Permit issued January 19, 2006.

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

**32050103 and NPDES Permit No. PA0249734, Amerikohl Mining, Inc.** P. O. Bo 427, Acme, PA 15610, commencement, operation and restoration of a bituminous surface mine. The stream encroachment activities consist of mining activities occurring near UNT "A" to Two Lick Creek for the use of an existing stream crossing, on Coke Oven Lane; and mining activities occurring for approximately 2,800 feet along the northern bank of the UNT "B" to Two Lick Creek, in Center Township, **Indiana County**, affecting 61.1 acres. Receiving streams: UNTs to Two Lick Creek, Two Lick Creek classified for the following uses: CWF; TSF. There are no potable water supply intakes within 10 miles downstream. Application received March 3, 2005. Permit issued: January 18, 2006.

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

**65970105 and NPDES Permit No. PA0202053, Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in Derry Township, **Westmoreland County**, affecting 146.0 acres. Receiving streams: UNTs to Union Run, Union Run to Loyalhanna Creek to Conemaugh River. Application received: October 24, 2005. Renewal issued: January 19, 2006.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33020107 and NPDES Permit No. PA0242233, Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA

15767) Transfer of an existing bituminous strip operation from P. & N. Coal Co., Inc. in Oliver Township, **Jefferson County** affecting 138.7 acres. Receiving streams: Hadden Run. Application received: July 21, 2005. Permit Issued: January 19, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17030901 and NPDES Permit No. PA0243523, RAMM Coal, Inc.** (1092 Spruce Hill Road, Rockton, PA 15856), transfer of an existing bituminous surface mine application from RAMM Coal Company. The site is located in Brady Township, **Clearfield County**, and affects 3.1 acres. Receiving streams: LaBorde Branch and UNT to Luthersburg Branch. Application received: August 20, 2004. Permit issued: January 12, 2006.

### Noncoal Permits Actions

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

**4274SM11 and NPDES Permit No. PA0212512, New Enterprise Stone & Lime Company, Inc.,** P. O. Box 77, New Enterprise, PA 16664, permit revision to increase the permitted depth of the quarry from elevation 950 feet to elevation 900 feet on the Phase I (northern) dolomite area only in Taylor Township, **Blair County**, affecting 430 acres. Receiving streams: Plum Creek and Halter Creek classified for the following use: WWF. For the purposes of this permit application the Department determined that the existing use of Plum and Halter Creeks is CWF rather than the current designated use of WWF different than the currently designated use of WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 28, 2005. Permit issued December 12, 2005.

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

**3378NC17 and NPDES Permit No. PA0592579, Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal issued for continued operation and reclamation of a noncoal surface mine (limestone quarry) located in Connellsville Township, **Fayette County**, affecting 73.57 acres. Receiving streams: UNT to Connell Run and Connell Run. Application received: November 30, 2005. NPDES renewal issued: January 17, 2006.

**65900402 and NPDES Permit No. PA0591777, Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal issued for continued operation and reclamation of a noncoal surface mine (limestone quarry) located in Derry Township, **Westmoreland County**, affecting 1303.0 acres. Receiving streams: UNTs to both and including Harbridge Run and Tannery Hollow. Application received: November 4, 2005. NPDES renewal issued: January 17, 2006.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669.*

**24050802, M & M Contractors** (311 W. Center Street, Johnsonburg, PA 15845) Commencement, operation and restoration of a small noncoal sandstone operation in Jay Township, **Elk County** affecting 5.0 acres. Receiving stream: Spring Run. Application received: September 6, 2005. Permit Issued: January 13, 2006.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17052802. Gordon L. Delozier, Inc.** (One South Montgomery Street, Hollidaysburg, PA 16648-1797), commencement, operation, and restoration of a small industrial minerals (Sand and Gravel) surface mine permit in Bigler Township, **Clearfield County**, affecting 3.5 acres. Receiving stream: Clearfield Creek. Application received: October 13, 2005. Permit Issued: January 4, 2006.

**08010818. Brian M. Edsall** (R. R. , Box 94A, Towanda, PA 18848), transfer of an existing small industrial minerals (Flagstone) permit from Kenneth Shedden. The site is located in Asylum Township, **Bradford County**, affecting 2.0 acres. Application received: February 24, 2005. Permit issued: January 12, 2006.

**08050815. Larry A. Lee** (R. R. 2, Box 2642, Nicholson, PA 18846), commencement, operation, and restoration of a small industrial minerals (topsoil, subsoil, sand, sandstone, shale, bluestone) permit in Tuscarora Township, **Bradford County**, affecting 5.0 acres. Receiving stream: UNT. Application received: November 1, 2005. Permit issued: January 12, 2006.

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

**58050836. Chad H. Hollenbeck** (R. R. 2, Box 137, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Forest Lake Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received July 28, 2005. Permit issued January 20, 2006.

**40050804. Brenda L. Rizzo** (R. R. 2, Box 472, Sugarloaf, PA 18249), commencement, operation and restoration of a quarry operation in Black Creek Township, **Luzerne County** affecting 5.0 acres. Receiving stream: none. Application received August 8, 2005. Permit issued January 20, 2006.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**02064001. Mashuda Corporation** (21101 Rt. 19, Cranberry Township, PA 16066). Blasting activity permit for construction at the Clinton Industrial Park, located in Findlay Township, **Allegheny County**, with an expected duration of 1 year. Blasting activity permit issued: January 17, 2006.

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

**01064101. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Hunderfold Farm in Franklin Township, **Adams County** with an expiration date of January 30, 2007. Permit issued January 17, 2006.

**21064101. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Rolling Green Memorial Gardens in Lower Allen Township, **Cumberland County** with an expiration date of January 30, 2007. Permit issued January 17, 2006.

**21064102. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Waggoners UMC in North Middleton Township, **Cumberland County** with an expiration date of October 31, 2007. Permit issued January 17, 2006.

**28064103. TJ Angelozzi, Inc.** (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Shadow Creek in Antrim Township, **Franklin County** with an expiration date of January 11, 2007. Permit issued January 17, 2006.

**40064102. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for the Corby Project in Hazle Township, **Luzerne County** with an expiration date of January 11, 2007. Permit issued January 17, 2006.

**15064101. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510), construction blasting for Broad Run in West Bradford Township, **Chester County** with an expiration date of January 1, 2007. Permit issued January 19, 2006.

**22064102. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Quail Hollow in Lower Paxton Township, **Dauphin County** with an expiration date of January 30, 2007. Permit issued January 19, 2006.

**22064103. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Waverly Woods in Susquehanna Township, **Dauphin County** with an expiration date of January 30, 2007. Permit issued January 19, 2006.

**22064105. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Waverly Woods in Susquehanna Township, **Dauphin County** with an expiration date of January 1, 2007. Permit issued January 19, 2006.

**36064107. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Clearview Gardens in Clay Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued January 19, 2006.

**39064101. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Villages at Coldwater Crossing in Lower and Upper Macungie Townships, **Lehigh County** with an expiration date of September 30, 2006. Permit issued January 19, 2006.

**39064102. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Jordan Road Slope in South Whitehall Township, **Lehigh County** with an expiration date of January 10, 2007. Permit issued January 19, 2006.

**46064103. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for South View in Lower Pottsgrove Township, **Montgomery County** with an expiration date of January 20, 2007. Permit issued January 19, 2006.

**48064101. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Country Side Estates in Forks Township, **Northampton County** with an expiration date of January 11, 2007. Permit issued January 19, 2006.

**67064102. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Craft Sanitary Sewer Project in Conewago Township, **York County** with an expiration date of January 31, 2007. Permit issued January 19, 2006.

**22064001. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Hershey Park for a New Bath House Building in Derry Township, **Dauphin County** with an expiration date of December 31, 2006. Permit issued January 18, 2006.

**01064001. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Simme Valley Estates Subdivision in Oxford Township, **Adams County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**21064001. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Cooper Ridge Subdivision in Lemoyne Borough, **Cumberland County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064001. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Ashcombe Farms Subdivision in Dover Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064002. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Straffordshire Subdivision in Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064003. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Hedge Gate Subdivision in Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064004. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Green Ridge Subdivision in East Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064005. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Motter Tract Subdivision in Springettsbury Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064006. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Mill Creek Subdivision in Conewago Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064007. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Iron Bridge Subdivision in West Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064008. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Dauberton Subdivision in Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67064009. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at New Brittney Subdivision in Manchester Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

**67054010. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at the Joseph Road Wastewater Treatment Plant/New Pumping Station in North Codorus Township, **York County** with an expiration date of December 31, 2006. Permit issued January 19, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-746. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1575, Thornbury Township, Chester County, ACOE Philadelphia District.**

To remove, replace and maintain an existing 38-foot long, 16-foot wide and 6.5-foot high single span steel girder bridge with a single precast reinforced concrete ConSpan arch with 48 feet long, 31 feet and 7-inches wide and 12 feet high in and along tributary to the East



Branch of Chester Creek (WWF) on Westtown-Thornton Road (SR 2005, Section 62B).

Work will also include:

1. Approximately 212 feet and 158 feet of approach work on the north and south approaches, respectively.
2. Installation of the stormwater facilities and associated outfall relocation along the north side of the proposed road downstream from the bridge.
3. Installation of the temporary access, consisting of causeway crossings the creek.

This site is located immediately after the SEPTA railroad underpass on Westtown-Thornton Road (West Chester, PA, Quadrangle N: 10.0 inches; W: 6.4 inches). This Permit will replace an existing application E15-713.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E22-495: Spring Creek Golf Course**, 450 E. Chocolate Avenue, Hershey, PA 17033 in Derry Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain tee boxes and fairways in the floodway of Spring Creek (WWF) for the purpose of improving the existing Spring Creek Golf Course and to install and maintain five, 4-inch PVC outfalls along Spring Creek on the property of Spring Creek Golf Course, Hershey, PA Quadrangle 7.1" North, 1.7" West (Latitude: 40° 17' 19", Longitude: 76° 38' 13") in Derry Township, Dauphin County.

**E21-352: George Ely**, 1 Brenely Lane, Mount Holly Springs, PA 17065 in Mount Holly Springs Borough, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 410 square foot addition to an existing private residence at 11 Brenely Lane along Mountain Creek (TSF), located approximately 210 feet downstream of the Pine Street Bridge (Mt Holly Springs, PA Quadrangle N: 20.92 inches; W: 8.85 inches) in the Borough of Mt Holly Springs, Cumberland County.

**E21-370: Silver Spring Square II, LP**, Regency Centers, 150 Monument Road, Suite 406, Bala Cynwyd, PA 19004 in Silver Spring Township, **Cumberland County**, ACOE Baltimore District

To construct and maintain a bridge having a span of 137.9 feet, a width of 35.4 feet, and an average underclearance of 10.8 feet on Trindle Spring Run (HQ-CWF) at a point approximately 1,950 feet downstream of the Carlisle Pike (SR 11) bridge crossing of Trindle Spring Run, and to construct and maintain a 12-inch stormwater outfall structure located approximately 60 feet downstream of the proposed bridge (Wertzville, PA Quadrangle N: 0.3 inch; W: 1.1 inches; Latitude: 40° 15' 06", Longitude: 77° 00' 27") in Silver Spring Township, Cumberland County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E18-404. Jacob S. Fisher**, 70 Buggy Shop Lane, Loganton, PA 17747. Fisher's Dairy Farm bridge in Greene Township, **Clinton County**, ACOE Baltimore District (Loganton, PA Quadrangle N: 5.00 inches; W: 8.38 inches).

To construct and maintain a steel-framed bridge deck with a 45-foot clear span, 10-foot minimum underclearance and R-6 riprap on both abutting stream banks across Fishing Creek located 2,500 feet southwest of the intersection of SR 880 and SR 477 to replace an existing agricultural ford crossing on his dairy farm. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-555. Mark and Valerie Dunkle**, 538 Raven Circle, Wyoming, DE 19934. Small Projects Water Obstruction and Encroachment Joint Permit, in Pine Township, **Lycoming County**, ACOE Susquehanna River Basin District (English Center, PA Quadrangle N: 9.75 inches; W: 7.95 inches).

To construct and maintain an "at-grade" concrete pad measuring 12 feet wide by 33 feet long within the floodway of Little Pine Creek as well as 25 linear feet of riprap along the streambank of Little Pine Creek, located 1.6 miles southwest of the intersection of SR 0287 and SR 4001 along SR 4001 in Pine Township, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E10-402, Donald C. and Jennifer M. Kaelin**, 990 Prospect Road, Evans City, PA 16033. Pond Expansion, in Connoquenessing Township, **Butler County**, ACOE Pittsburgh District (Evans City, PA Quadrangle N: 16.95 inches; W: 5.3 inches).

To expand the existing pond having a normal pool area of 0.32 acre to a proposed normal pool area of 0.90 acre impacting 0.075 acre of PEM/PSS wetlands and to impact 130 feet of a UNT to the Little Connoquenessing Creek (CWF) approximately 250 feet northwest of the intersection of Shannon and Prospect Roads. The permittee is required to provide 0.075 acre of replacement wetlands.

**E37-168, Tennessee Gas Pipeline**, 1211 Greenville-Mercer Road, Mercer, PA 16137. TGP 300-1 Line Crossing at Buchanan Run, in Pulaski Township, **Lawrence County**, ACOE Pittsburgh District (Edinburg, PA Quadrangle N: 41° 07' 24.7"; W: 080° 23' 53.52").

To install and maintain concrete revetment within approximately 150 linear feet of the channel of Buchanan Run and approximately 100 linear feet of a tributary to Buchanan Run to provide cover and erosion protection to two existing, exposed natural gas pipeline crossings of Buchanan Run approximately 800 feet downstream of English Road.

**E42-317, Catalyst Energy, Inc**, 800 Cranberry Woods Drive, Cranberry Township, PA 16066. Bridge over unt Railroad Run Moody Lot No. 65, in Lafayette Township, **McKean County**, ACOE Pittsburgh District (Lewis Run, PA Quadrangle N: 19.35 inches; W: 0.36 inch).

To construct and maintain a single span pre-engineered/constructed steel bridge w/concrete stub abutments having a clear span of 18 feet a width of 10 feet and average underclearance of approximately 6 feet across a UNT to Railroad Run (EV) approximately 600 feet northwest of the intersection of Baltimore Railroad and Droney Road.

**E25-703, Department of Transportation, District 1-0**. S.R. 3013, Section B00, in Sandycreek Township and Victory Township, **Venango County**, ACOE Pittsburgh District (Polk, PA Quadrangle N 41° 20' 30"; W 79° 53' 00").

The applicant proposes to remove the existing structure and to construct and maintain a three-span steel girder bridge having clear spans of 130 feet, 175 feet and 130 feet and an approximate underclearance of 40 feet, approximately 2 miles SW of the intersection of SR 0008 and SR 3013 over Sandy Creek on SR 3013, Section B00. Sandy Creek is a perennial stream classified as a WWF. Project includes a temporary construction causeway. The project proposes to impact approximately 40 feet of stream.

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## SPECIAL NOTICES

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### **Plan Revision Approval under the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101**

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

The Department of Environmental Protection (Department) approved the Bucks County Municipal Waste Management Plan Revision on January 17, 2006.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users 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.

The plan revision is a public document and may be viewed at the Department's Regional Office noted previously.

Questions concerning this approval should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472 or to Calvin Ligons, Regional Planning and

Recycling Coordinator, Bureau of Land Recycling and Waste Management at the Regional Office, (484) 250-5960.

### **HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988**

#### **Statement of Decision**

The Department of Environmental Protection (Department) has filed a statement of the basis and purpose of its decision regarding the remedial response for Operable Unit 2 at the Bear Creek Area Chemical site (Site) in accordance with section 506(e) of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.506(e)). The Remedial Response for Operable Unit 2 is the construction of a new public water supply system to service the homes, businesses and institutions whose public or private water supply wells have been contaminated or threatened with contamination by impacted Site groundwater. The water supply source and the service area of the new public water supply system is described in the Department's statement of decision.

Under section 506 of the HSCA, the Department published a notice of proposed response in the December 21, 2002, editions of the *Pennsylvania Bulletin* and the *Butler Eagle*. Copies were also mailed to known potentially responsible persons for the Site on December 20, 2002. Written comments were accepted during the comment period, which closed on March 21, 2003. The Department received written comments from four interested parties. The Department considered all comments, criticisms and new data provided from all the interested parties in reaching its decision. The Department's Response to Public Comments Document for those written comments received is filed in the administrative record for this response.

The Department's statement of decision is also part of the administrative record for the Site and is available to the public at the Department's Northwest Regional Office in Meadville and at the Fairview Township Municipal Building, 1571 Hooker Road, Karns City, PA 16041.

#### **Announcement of Resource Recovery Demonstration Grant under the Solid Waste-Resource Recovery Development Act**

In accordance with 25 Pa. Code §§ 76.13 and 76.82(c) (relating to public notice of application; and review of Department decision), notice is hereby given that the Department of Environmental Protection (Department) has approved grants to the following application sponsor under the Pennsylvania Solid Waste Resource Recovery Development Act (35 P. S. §§ 755.1—755.14).

The grant offerings are subject to completion of a contract with the Department in accordance with the Scope of Work approved by the Bureau of Waste Management. Grants are limited to no more than the maximum amount provided in the grant offering, up to 75% of the total eligible demonstration project costs.

Inquiries concerning this notice should be directed to John Lundsted, Recycling Technical Assistance Coordinator, Department of Environmental Protection, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

**2004 Act 198 Demonstration Grants**

<i>Development Agency</i>	<i>Description of Project</i>	<i>Amount</i>
Waste System Authority of Eastern Montgomery County	The Township will develop and establish a waste management system utilizing "Pay-As-You-Throw" by billing customers for the actual weight of trash being disposed of as well as combining it with an incentive based recycling program.	\$100,000

**Categorical Exclusion**

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

*Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Jersey Shore Borough	232 Smith St. Jersey Shore, PA 17740	Lycoming

*Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Borough of Jersey Shore proposes a sanitary sewer slip lining and manhole rehabilitation project to reduce inflow and infiltration, which causes sanitary sewer bypasses at their Pump Station and Sewage Treatment Plant. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impacts resulting from this proposal. The Department has categorically excluded this project from the State Environmental Review Process.

*Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Municipal Authority of the City of Sunbury	562 S. 4th Street Sunbury, PA 17801	Northumberland

*Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Municipal Authority proposes a project to reduce wet weather discharges from its combined sewer system. The project will include upgrades at two pump stations, increasing capacity in conveyance lines and some upgrade work at the wastewater treatment facility. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impacts resulting from this proposal. The Department has categorically excluded this project from the State Environmental Review Process.

[Pa.B. Doc. No. 06-186. Filed for public inspection February 3, 2006, 9:00 a.m.]

**Agricultural Advisory Board Meeting Cancellation**

The Agricultural Advisory Board meeting scheduled for February 15, 2006, has been cancelled. The next meeting is scheduled to occur on April 19, 2006, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the cancellation of the February 15, 2006, meeting or the April 19, 2006, meeting should be directed to Randal Adams, Bureau of Watershed Management, (717) 772-5668, ranadams@state.pa.us. The agenda and meeting materials for the April 19, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5668 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-187. Filed for public inspection February 3, 2006, 9:00 a.m.]

**NOx Budget Trading Program; New Source Set-Aside 2006 Proposed Allocations**

The Department of Environmental Protection (Department) is providing notice and an opportunity for comment regarding the proposed allowance allocations from the new source set-aside for the 2006 control period (May 1, 2006—September 30, 2006). The new source set-aside contains 2,542 allowances, 1,920 of which are available for new sources after allocation corrections. For each NOx budget unit, Table 1 lists the following: the allowances applied for under the "request" column; the maximum potential number of allowances authorized by the regulation under the "maximum" column; and the final, pro-rata allocation under the "allocation" column. Each unit received approximately 33% of its requested 2006 NOx allowance allocation.

New source operators are advised that this allocation is for one control period only. To receive allocations from the new source set-aside for future control periods, source operators must submit new requests to the Department by January 1 each year.

*Written Comments*

Written comments on the proposed allowance allocations from the new source set-aside for the 2006 control period should be sent to the Department of Environmental Protection, Bureau of Air Quality, Division of Air Resource Management, 400 Market Street, P. O. Box 8468, Harrisburg, PA 17105-8468. The Department must receive written comments by February 21, 2006. Questions concerning this notice should be directed to Jane Mahinske, Division of Air Resource Management at (717) 783-8949.

Table 1—2006 New Source Set-Aside Allocations

<i>Facility</i>	<i>ORIS</i>	<i>Point ID</i>	<i>Request</i>	<i>Maximum</i>	<i>Allocation</i>
AES Ironwood, LLC	55337	1	92	92	31
AES Ironwood, LLC	55337	2	92	92	31
PEI Power (Archbald)	50279	2	84	84	28
Allegheny Energy 1	55196	1	42	42	14
Allegheny Energy 2	55196	2	42	42	14
Allegheny Energy 3	55710	1	38	38	13
Allegheny Energy 4	55710	2	38	38	13
Allegheny Energy 8	55377	8	52	52	17
Allegheny Energy 9	55377	9	52	52	17
Allegheny Energy 12	55654	12	51	51	17
Allegheny Energy 13	55654	13	51	51	17
UGI Hunlock Creek Energy	31760	4	38	38	13
Conectiv Bethlehem	55690	1	26	26	9
Conectiv Bethlehem	55690	2	26	26	9
Conectiv Bethlehem	55690	3	26	26	9
Conectiv Bethlehem	55690	5	26	26	9
Conectiv Bethlehem	55690	6	26	26	9
Conectiv Bethlehem	55690	7	26	26	9
Grays Ferry Cogen	54785	2	311	311	105
Grays Ferry Cogen	54785	25	205	205	69
Williams Gen. Hazelton	10870	2	39	39	13
Williams Gen. Hazelton	10870	3	39	39	13
Williams Gen. Hazelton	10870	4	39	39	13
Armstrong Energy LLC	55347	1	278	278	94
Armstrong Energy LLC	55347	2	278	278	94
Armstrong Energy LLC	55347	3	278	278	94
Armstrong Energy LLC	55347	4	278	278	94
Fairless Energy, LLC	555298	1A	39	39	13
Fairless Energy, LLC	555298	1B	39	39	13
Fairless Energy, LLC	555298	2A	39	39	13
Fairless Energy, LLC	555298	2B	39	39	13
PPL (Lower Mount Bethel)	55667	1	49	49	16
PPL (Lower Mount Bethel)	55667	2	49	49	16
Merck & Co. (Turbine #3)	52149	40	35	35	12
Liberty Electric Power	55231	1	76	76	26
Liberty Electric Power	55231	2	76	76	26
Reliant Energy (Seward)	313	CFB1	697	697	236
Reliant Energy (Seward)	313	CFB2	697	697	236
Reliant (Hunterstown LLC)	31100	CT101	52	52	17
Reliant (Hunterstown LLC)	31100	CT201	52	52	17
Reliant (Hunterstown LLC)	31100	CT301	52	52	17
Duke Energy Armaugh	880071	31301	52	52	17
Duke Energy Entriken	880072	31601	53	53	18
Duke Fayette Energy	55516	U1	43	43	14
Duke Fayette Energy	55516	U2	43	43	14
Ontelaunee Energy Center	55193	CT1	27	27	9
Ontelaunee Energy Center	55193	CT2	27	27	9
FPL Energy (Marcus Hook)	55801	CT1	54	54	18
FPL Energy (Marcus Hook)	55801	CT2	54	54	18
FPL Energy (Marcus Hook)	55801	CT3	54	54	18
FPL Energy (Marcus Hook)	55801	AB1	43	43	14
FPL Energy (Marcus Hook)	55801	AB2	43	43	14
FPL Energy (Marcus Hook)	55801	AB3	43	43	14
FPL Energy (Marcus Hook)	55801	AB4	43	43	14
Handsome Lake Energy	55233	EUZ1A	55	55	19
Handsome Lake Energy	55233	EUZ1B	55	55	19
Handsome Lake Energy	55233	EUZ2A	55	55	19
Handsome Lake Energy	55233	EUZ2B	55	55	19
Handsome Lake Energy	55233	EUZ3A	55	55	19
Handsome Lake Energy	55233	EUZ3B	55	55	19

<i>Facility</i>	<i>ORIS</i>	<i>Point ID</i>	<i>Request</i>	<i>Maximum</i>	<i>Allocation</i>
Handsome Lake Energy	55233	EUZ4A	55	55	19
Handsome Lake Energy	55233	EUZ4B	55	55	19
Handsome Lake Energy	55233	EUZ5A	55	55	19
Handsome Lake Energy	55233	EUZ5B	55	55	19
		Totals	5658	5658	1920

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-188. Filed for public inspection February 3, 2006, 9:00 a.m.]

### Water Resources Regional Committees Meeting Cancellations

The following meetings of the Water Resources Regional Committees have been cancelled:

Ohio Water Resources Regional Committee, February 13, 2006

Great Lakes Water Resources Regional Committee, February 14, 2006

Potomac Water Resources Regional Committee, February 17, 2006

Upper Susquehanna Water Resources Regional Committee, February 23, 2006

The next scheduled meetings of the listed committees will be held in May 2006. A notice concerning the dates and locations for these meetings will be published in a future issue of the *Pennsylvania Bulletin*.

Questions concerning the cancellation of the listed meetings should be directed to Lori Mohr, Water Planning Office, (717) 787-4628, laumohr@state.pa.us. Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department of Environmental Protection (Department) at (717) 787-4628 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-189. Filed for public inspection February 3, 2006, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### State Surplus Property

The Department of General Services, State Surplus Property is seeking contractors to remove scrap batteries from State agencies throughout this Commonwealth. Some of these contracts begin on July 1, 2006. For more information, call (717) 787-4085 or write to the Department of General Services, State Surplus Property, Room

G-46, 2221 Forster St., Harrisburg, PA 17125, mthrush@state.pa.us prior to the bid opening on May 4, 2006.

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 06-190. Filed for public inspection February 3, 2006, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Canonsburg General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Canonsburg General Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.A2 and A4, 7.2.B1 and B2, B4, B5, B6, B7, B9, B11, B12, B13a, B14, B15, B16, B17, B19 and B22 (relating to medical surgical/IRU nursing unit).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-191. Filed for public inspection February 3, 2006, 9:00 a.m.]

### Application of Valley Pain Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Valley Pain Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 06-192. Filed for public inspection February 3, 2006, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Masonic Village at Sewickley  
1000 Masonic Drive  
Sewickley, PA 15143

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Vincentian Home  
111 Perrymont Road  
Pittsburgh, PA 15237

Mountain Laurel Nursing and Rehabilitation Center  
700 Leonard Street  
Clearfield, PA 16830  
FAC ID 032702

Menno Haven, Inc.  
2075 Scotland Avenue  
Chambersburg, PA 17201  
FAC ID 132202

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.38(a) (relating to toilet facilities):

Beverly Healthcare—Oakmont  
26 Ann Street  
Oakmont, PA 15139

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-193. Filed for public inspection February 3, 2006, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Income Limits for the Categorically Needy Non-money Payment Medicaid Program

The Department of Public Welfare (Department) increased the income limits codified in 55 Pa. Code § 181.1(f)(1), (2) and (4) (relating to general policy on MA income common to all categories of MA) effective January 1, 2006.

The regulations in 55 Pa. Code § 181.1(f)(1), (2) and (4) establish that the income limits for the Categorically Needy Nonmoney Payment Medicaid Program (program) for aged, blind and disabled persons are based on the Federal benefit rate payable under Title XVI of the Social Security Act (42 U.S.C.A §§ 1381—1383c). Effective January 1, 2006, the Federal benefit rate was increased due to the Federal cost-of-living increase.

As required under 55 Pa. Code § 181.1(f), the Department revised the income limits for the program for aged, blind and disabled persons effective January 1, 2006. Those limits are set forth in Appendices A, B and D, which are recommended for codification in 55 Pa. Code Chapter 181 (relating to income provisions for categorically needy NMP-MA and MNO-MA). Appendix A is the Federal benefit rate plus the State supplement payable under Title XVI. Appendix B is 300% of the Federal benefit rate payable under Title XVI. Appendix D is the Federal benefit rate payable under Title XVI. Item 1 of Appendix D is 1/2 of the Federal benefit rate for one person. Item 2 of Appendix D is 1/2 of the Federal benefit rate for two persons.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-464. (1) General Fund;

	<i>Inpatient</i>	<i>Outpatient</i>	<i>Capitation</i>
(2) Implementing Year 2005-06 is	\$13,000	\$25,000	\$113,000
(3) 1st Succeeding Year 2006-07 is	\$41,000	\$82,000	\$252,000
2nd Succeeding Year 2007-08 is	\$43,000	\$88,000	\$277,000
3rd Succeeding Year 2008-09 is	\$44,000	\$95,000	\$305,000
4th Succeeding Year 2009-10 is	\$45,000	\$102,000	\$336,000
5th Succeeding Year 2010-11 is	\$46,000	\$110,000	\$370,000
(4) 2004-05 Program—	\$531,785,000	\$842,991,000	\$2,691,000,000
2003-04 Program—	\$411,042,000	\$727,979,000	\$2,298,000,000
2002-03 Program	\$407,104,000	\$666,832,000	\$2,013,000,000

(7) MA—Inpatient, MA—Outpatient and MA—Capitation; (8) recommends adoption. Funds have been included in the Department's budget to cover this increase.

**APPENDIX A**

CATEGORICALLY NEEDY NONMONEY PAYMENT  
MONTHLY INCOME LIMITS FOR THE AGED,  
BLIND AND DISABLED CATEGORIES  
EFFECTIVE JANUARY 1, 2006

1 PERSON	\$630.40
2 PERSONS	\$947.70

**APPENDIX B**

CATEGORICALLY NEEDY NONMONEY PAYMENT  
MONTHLY INCOME LIMITS FOR THE AGED,  
BLIND, AND DISABLED CATEGORIES RECEIVING  
SKILLED CARE, HEAVY CARE/INTERMEDIATE  
SERVICES OR INTERMEDIATE CARE  
EFFECTIVE JANUARY 1, 2006

1 PERSON	\$1,809
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**APPENDIX D**

MONTHLY FEDERAL BENEFIT RATE EFFECTIVE  
JANUARY 1, 2006

1 PERSON	\$603
2 PERSONS	\$904

PERCENTAGES OF MONTHLY FEDERAL BENEFIT  
RATE EFFECTIVE JANUARY 1, 2006

- ITEM 1) 50% of Federal Benefit Rate  
for 1 person = \$301.50
- ITEM 2) 50% of Federal Benefit Rate  
for 2 persons = \$462.00

[Pa.B. Doc. No. 06-194. Filed for public inspection February 3, 2006, 9:00 a.m.]

**DEPARTMENT OF  
TRANSPORTATION**

**Application for Lease of Right-of-Way**

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4 (relating to application procedure), gives notice that an application to lease highway right-of-way has

been submitted to the Department by Massaro Properties, LLC seeking to lease highway right-of-way located at 2336 Babcock Boulevard (SR 4011 Section 09M), Ross Township, Allegheny County, containing 6,000± square feet or 0.137± acre for the purpose of parking and landscaping.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use should be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

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

[Pa.B. Doc. No. 06-195. Filed for public inspection February 3, 2006, 9:00 a.m.]

**Finding  
Mercer County**

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration, Department of Transportation (Department) makes the following written finding:

The Department plans to replace the existing Milburn Road Bridge, carrying SR 2004 over Neshannock Creek in Springfield Township, Mercer County. The existing Milburn Road Bridge has been determined eligible for the National Register of Historic Places. The effect of this project on the Milburn Road Bridge will be mitigated by the following measures to minimize harm to the resources.

1. Prior to the replacement of the Milburn Road Bridge, the structure will be recorded following State level recordation guidelines. The Department shall ensure that all documentation is completed and accepted by the State Historic Preservation Officer (SHPO) prior to implementation of the undertaking and that copies of the recordation are available to the SHPO and appropriate local archives designated by the SHPO.

2. Prior to replacement of the Milburn Road Bridge, the bridge plaques shall be salvaged and offered to the Mercer County Historical Society (Society).

3. An educational program will be developed in association with the Society. The program will highlight the history and significance of the Milburn Road Bridge and educate the public about historic truss bridges in Mercer County. The educational program will include two components: a website on Mercer County truss bridges and a presentation at the Society.

4. The Milburn Road Bridge will be marketed for reuse utilizing the Department's Cultural Resources Management webpage.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize effects.

GARY L. HOFFMAN, P. E.,  
*Deputy Secretary for Highway Administration*

[Pa.B. Doc. No. 06-196. Filed for public inspection February 3, 2006, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Environmental Quality Board Meeting Cancellation

The February 21, 2006, Environmental Quality Board (Board) meeting has been cancelled. The next meeting of the Board is scheduled for Tuesday, March 21, 2006, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. An agenda and meeting materials for the meeting will be available on the Department of Environmental Protection's website: [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: EQB).

Questions concerning the Board's next scheduled meeting should be directed to Natalie Shepherd, (717) 783-8727, [nshepherd@state.pa.us](mailto:nshepherd@state.pa.us).

KATHLEEN A. MCGINTY,  
*Chairperson*

[Pa.B. Doc. No. 06-197. Filed for public inspection February 3, 2006, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Lake Erie Commercial Fishing—2006

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 69.31(b) (relating to seasons), has determined that the 2006 total allowable commercial catch for walleye from the Commonwealth waters of Lake Erie is 4,000 pounds. The commercial fishing season for walleye on Lake Erie is January 1 to midnight March 15 and 12:01 a.m. the first Saturday in May to December 31. This season ends when the Executive Director determines that 4,000 pounds of walleye probably have been taken by commercial fishing interests fishing in the Commonwealth waters of Lake Erie.

The Executive Director of the Commission, acting under the authority of 58 Pa. Code § 69.31(c), has established that the 2006 total allowable commercial catch for yellow perch from the Commonwealth waters of Lake Erie is 35,000 pounds. The commercial fishing season for yellow perch on Lake Erie is January 1 until the date the Executive Director determines that 35,000 pounds of yellow perch probably have been taken by commercial fishing interests fishing in the Commonwealth waters of Lake Erie.

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

[Pa.B. Doc. No. 06-198. Filed for public inspection February 3, 2006, 9:00 a.m.]

## GOVERNOR'S OFFICE

### Regulatory Agenda

Executive Order 1996-1, requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. The following is the twentieth publication of the Administration's regulatory agenda, grouped by agency. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed below (as well as any considered subsequent to publication of this Agenda) is published.



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ADMINISTRATION</b>			
No regulations being developed or considered at this date.			
<b>AGING</b>			
Pa. Code Title VI Chapter 3 Fair Hearings and Appeals	December 2006, as proposed	This regulation has been initially reviewed by stakeholders in response to passage of Acts 169-96 and 13-97 amending the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102) and of Executive Order 1996-1. It is being reviewed internally to improve Departmental procedures and efficiencies.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 11 Older Adult Daily Living Centers	September 2007, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of long term care services.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 15 Protective Services for Older Adults	December 2007, as proposed.	The law and regulations are under review in light of the decision of the Pennsylvania Supreme Court in <i>Nixon et al. v. Commonwealth, et al.</i> , which found the current protective services law and regulations to be unconstitutional.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 20 Family Caregiver Support Program	December 2007, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussion regarding development of the family caregiver support program.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 21 Domiciliary Care Services for Adults	December 2007, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of community living alternatives.	Robert Hussar 717-783-6207
Pa. Code Title VI Chapter 22 Pharmaceutical Assistance Contract for the Elderly	December 2006, as proposed.	The Department is working with the Administration to amend the PACE law and regulations to effect coordination of the Federal prescription drug benefit with the PACE/PACENET programs.	Thomas Snedden 717-787-7313
Pa. Code Title VI Chapter 23 Long Term Care Ombudsman Program	December 2007, as proposed.	The Department wishes to promulgate regulations for the Long Term Care Ombudsman program in order to bring it into conformity with national standards.	Robert Hussar 717-783-6207
<b>AGRICULTURE</b>			
Domestic Animal 7 Pa. Code Chapter 2	June, 2006, as proposed.	This long-term project is intended to update the Department's regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Paul Knepley, DVM (717) 772-2852
Cervidae 7 Pa. Code Chapter 18	June, 2006, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to license and regulate cervidae livestock operations.	Paul Knepley, DVM (717) 772-2852
Animal Exhibition Sanitation 7 Pa. Code Chapter 21	June, 2006, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to enforce sanitation requirements at animal exhibitions, and to regulate as necessary to meet this requirement.	Paul Knepley, DVM (717) 772-2852
Amusement Rides 7 Pa. Code Chapter 139	March, 2006, as proposed.	This regulation will update the current regulation at 7 Pa. Code Chapter 139 to reflect changes to the Amusement Ride Inspection Act (4 P. S. §§ 401—418).	Kent D. Shelhamer (717) 787-9089

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Harness Racing Commission 58 Pa. Code Chapters 181, 183, 185 and 186—190	May, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in harness racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 181, 183, 185 and 186—190, including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Anton J. Leppler (717) 787-5196
Horse Racing Commission 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173	May, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173 including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Benjamin H. Nolt, Jr. (717) 787-1942
Horse Racing Commission 58 Pa. Code § 163.531 Definitions	May, 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a short-term project and would amend 58 Pa. Code § 163.531 by amendment to the Definitions Section of the Pennsylvania Breeders' Fund Program found at 58 Pa. Code §§ 163.531—163.538.	Benjamin H. Nolt, Jr. (717) 787-1942
Fruit Tree Improvement Program 7 Pa. Code Chapter 120	November, 2008, as proposed.	This regulation would facilitate interstate and international export of Pennsylvania-grown fruit tree nursery stock. This regulation would amend 7 Pa. Code Chapter 120, which provides testing and inspection standards and procedures pursuant to which fruit tree nursery stock can be certified as to quality, consistency and disease/insect-free status. The regulation would be a technical update of current provisions, would bring this program into greater conformity with programs in other states and would provide more practical assistance to participating growers.	Ruth Welliver (717) 772-5222
Pesticide Regulations 7 Pa. Code Chapter 128	January, 2007, as proposed.	This regulation will amend 7 Pa. Code Chapter 128 and is necessary to update current regulations, to make them more user friendly, address pesticide security issues, set minimum certification age requirements, dealer licensing, and changes in federal pesticide registration changes.	David Scott (717) 772-5214

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Certification of Virus-Tested Geraniums 7 Pa. Code Chapter 122	September, 2008, as proposed.	This regulation would amend the current regulatory authority to update the voluntary program pursuant to which geranium producers may obtain the Department's certification of virus-tested geraniums. This amendment would establish an inspection fee to help cover the Department's costs in inspecting and testing geraniums offered for certification. This regulation would amend 7 Pa. Code Chapter 122 to: 1) expand the certification of virus-tested geraniums to include Culture-Indexed Geraniums, which are free from certain economically-important bacterial and fungal pathogens; and 2) establish a reasonable fee for the Department's inspection and certification services	Ruth Welliver (717) 772-5222
Chemsweep Regulations 7 Pa. Code Chapter 128b	March, 2006, as final.	This regulation will amend 7 Pa. Code Chapter 128b to expand the pesticide disposal program which has been limited to agricultural pesticide products. The amendment will include all Commonwealth citizens who are in possession of cancelled, unused or suspended pesticides.	Phil Pitzer (717) 772-5206
Nutrient Management Certification Program 7 Pa. Code Chapter 130b	Published as final in the December 3, 2005 edition of the <i>Pennsylvania Bulletin</i> .	This regulation will amend 7 Pa. Code Chapter 130b and is necessary to update and correct inconsistencies in the current regulations, redefine specialist categories; allow flexibility for the Department to modify competency areas and training focus; determine additional competency area needs and clarify continuing education requirements. The revision of this regulation will allow participants in the certification program to remain qualified to meet nutrient management planning requirements established in section 7(a) of the Nutrient Management Act of 1993 (Act 6).	Johan E. Berger (717) 772-4189
Fertilizer Regulations 7 Pa. Code Chapter 73	September, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S.A. §§ 6701—6725 (Fertilizer Act).	John Breitsman (717) 772-5215
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	September, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S.A. §§ 6901—6921 (Soil and Plant Amendment Act.)	John Breitsman (717) 772-5215
Dog Law 7 Pa. Code Chapters 23, 25 and 27	April, 2006, as proposed	House Bill 397 of 1996 accomplished revisions of the Dog Law that will necessitate regulatory revisions. This regulation is a long-term project and would amend 7 Pa. Code Chapters 23, 25 and 27 to bring them into greater conformity with statutory revisions. The Dog Law (3 P. S. §§ 459-10 et seq.) is the statutory basis for this regulation.	Mary Y. Bender (717) 787-4833
Clean and Green Regulations 7 Pa. Code Chapter 137b	March, 2006, as proposed.	This regulation will address statutory changes made by Act 235 of 2004, and will otherwise update the current regulation.	Sandra E. Robison (717) 783-3167
Agricultural Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	December, 2006, as proposed.	This regulation will address statutory changes made by Act 61 of 2005, and will otherwise update the current regulation.	Sandra E. Robison (717) 783-3167
Seed Testing Labeling and Standards 7 Pa. Code Chapter 111	June, 2007, as proposed.	This regulation will supplant the current regulation and implement provisions of 3 Pa.C.S.A §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
General Provisions and Standards for Seed Certification 7 Pa. Code Chapter 113	June, 2007, as proposed.	This regulation will replace 7 Pa. Code Chapter 113 and 115 by combining them into one chapter—Chapter 113 and implement provisions of 3 Pa.C.S.A. §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
Commercial Manure Hauler and Broker Certification Program 7 Pa. Code Chapter 130e.	May, 2006, as final.	This will establish regulations for the Commercial Manure Hauler and Broker Certification Program. This regulation will establish certification requirements for those persons commercially hauling or applying manure on behalf of an agricultural operation.	Johan E. Berger (717) 772-4189
<b><i>BANKING</i></b>			
Annual Assessment Regulation	Early 2006	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Carter D. Frantz (717) 787-1471
Regulation defining unfair/unethical and improper conduct of Mortgage Business under [Acts]	Early 2006	63 P. S. § 456.310(a); 7 P. S. § 6616(1); 7 P. S. § 6212.	Carter D. Frantz (717) 787-1471
<b><i>BOARD OF PARDONS</i></b>			
No regulations being developed or considered at this date.			
<b><i>COMMUNITY &amp; ECONOMIC DEVELOPMENT</i></b>			
Building Energy Conservation Standards 12 Pa. Code Chapter 147 (Final regulation with rulemaking omitted)	Spring 2006	The regulation will repeal this chapter, as the statute upon which this chapter is based has been repealed by the Pennsylvania Construction Code Act.	Jill B. Busch (717) 720-7314
Manufactured Housing Improvement Program (Final regulation)	Spring 2006	As required by the Manufactured Housing Improvement Act (act of November 29, 2004, P. L. _____, No. 158)), the department will propose final regulations governing the training and certification of new manufactured home installers; the training of those persons who inspect the installation of new manufactured homes in PA; and the enforcement of the regulations once promulgated.	Jill B. Busch (717) 720-7314
Manufactured Housing 12 Pa. Code Chapter 143 (Proposed regulation)	Summer 2006	The purpose of the proposed regulation is to establish fees charged to manufacturers and retailers to cover the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development and to update the existing regulation with the term "Housing Standards Division."	Lisa Maiorana (717) 720-7330
Industrialized Housing and Components 12 Pa. Code Chapter 145 (Proposed Regulation)	Spring of 2006	The purpose of the proposed regulation is to eliminate the exception for the insulation requirement for industrialized homes and adopt the model code requirements for energy efficiency; designate the International Residential Code as the primary standard; provide clarity for the third-party agencies regarding the frequency of inspections; and to reduce the number of required inspections by the Department.	Lisa Maiorana (717) 720-7330
Pennsylvania Industrial Development Authority 12 Pa. Code Chapter 73 (Statement of Policy)	Spring of 2006	The purpose of the statement of policy is to make comprehensive changes to PIDA's policy with respect to project eligibility, advanced technology designation, financial considerations, engineering guidelines, and project format.	Tim Anstine (717) 720-7312

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>COMMISSION ON CRIME AND DELINQUENCY</b>			
Office of Victims' Services, Victims Compensation Assistance Program—Deletion of 37 Pa. Code Chapter 191, replacement with new Chapter 411	February 2006, as Final Form.	To create a new chapter reflecting elimination of Crime Victim's Compensation Board and inclusion of its functions under PCCD pursuant to Act 1995-27 of the Special Session on Crime; changes in terminology and operations brought about by that act and by subsequent legislation, including Act 1998-111 and its relocation of the Crime Victims Act to Purdon's Statutes Title 18 P. S. §§ 11.101—11.5102; Act 85 of 2002 and Act 144 of 2002. This final form regulation will reflect all legislative changes since 1989, when existing regulations were most recently amended.	Lynn Shiner (717) 783-5153 ext. 3210
<b>CONSERVATION &amp; NATURAL RESOURCES</b>			
Conservation of Native Wild Plants (Chapter 45)	Publish proposed rulemaking April 2007.	This proposal is being developed to update existing native wild plant regulations. The legal basis for these regulations is the Wild Resource Conservation Act of 1982. This update is necessary to change the status of various plants to reflect field work completed during the last three years. Recommendations of the Rare Plant Committee and the Vascular Plant Technical Committee will be considered during the development of this proposed rulemaking.	Chris Firestone, Mike Lester and Dan Devlin 717-783-3227
<b>CORRECTIONS</b>			
Revisions to the existing regulations governing county correctional facilities, 37 Pa. Code Chapter 95.	June, 2006, as proposed	The regulation will be revised to eliminate unnecessary regulations and amending necessary regulations to be consistent with current correctional practice.	William Sprenkle (717) 975-4965
Promulgation of state intermediate punishment regulations.	Publication as proposed regulations is anticipated within next 6 months	The regulations will replace the guidelines currently in effect.	Randall N. Sears (717) 731-0444
<b>EDUCATION</b>			
Higher Education—General Provisions 22 Pa. Code, Chapter 31	July 2006, as final.	These regulations are necessary to establish procedures for the approval and operation of institutions of higher education in the Commonwealth. Specific revisions are necessary to clarify the intent of the chapters, modify the timeframe during which new institutions must achieve accreditation, update provisions for library and learning resources, address policies for marketing credit cards on campuses and amend regulations to accommodate for-profit baccalaureate and higher education. These regulations are promulgated under authority of the Public School Code of 1949. 24 P. S. §§ 1-101—27-2702.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Higher Education—Foreign Corporation Standards 22 Pa. Code, Chapter 36	March 2006, as proposed.	These regulations are necessary to establish procedures for the approval and operation of out-of-state institutions of higher education currently operating or seeking to operate programs in the Commonwealth.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041
Certification of Professional Personnel 22 Pa. Code, Chapter 49	May 2006, as final.	Regulations outline requirements for teacher preparation, certification and continuing professional education for professional educators.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
General Vocational Education Standards 22 Pa. Code, Chapter 339	February 2006, as proposed.	A revision of Chapter 339 is necessary to assist schools in developing, funding and maintaining programs that will provide the Commonwealth with a competent workforce. Discussions with the State Board of Vocational Education, as well as practitioners in that field, will be initiated to revise these standards. These regulations are promulgated under the authority of the Pennsylvania School Code, Article 18, regarding Vocational Education, and section 2502.8, regarding Vocational Education Funding. These standards are also provided for under Chapter 4 of Title 22 of the Pa. Code, section 4.32(a).	Lee Burket (717) 787-5530
Standards for Approved Private Schools 22 Pa. Code, Chapter 171 Subchapters A & B	Fall 2006, as proposed.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, PL 30, No. 14, March 16, 1949, P. S. Section 1-101, et. Seq. The revised standards will reflect the changes in Chapter 14 and IDEA.	John Tommasini (717) 783-6134
Regulations of the State Board of Private Academic Schools 22 Pa. Code, Chapters 51, 53, 55, 57, 61 and 63	The Board has informally discussed revision of the regulations, received public input and is reviewing that input with the Department to determine appropriate next steps.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. section 6701 et. Seq.).	Mary Ramirez (717) 783-3755
Academic Standards and Assessment, 22 Pa. Code, Chapter 4	May 2006, as final.	These regulations outline state academic standards that public schools must provide instruction to bring students up to proficiency and also provides for the Pennsylvania System of School Assessment, high school graduation requirements and requirements for credentials other than the high school diploma.	Jim Buckheit (717) 787-3787 or Diane Castelbuono (717) 787-2127
Chapter 4—Career Education and Work Academic Standards 22 Pa. Code, Chapter 4	April 2006, as proposed.	The Career Education and Work academic standards describe what students should know and be able to do at grades 2, 5, 8 and 11 in four areas: career awareness and preparation; career acquisition; career retention and advancement; and, entrepreneurship. Academic standards in career education and work are established in the State Board's Chapter 4 regulations.	Jim Buckheit (717) 787-3787 or Lee Burket (717) 787-5530
Regulations of the State Board of Private Licensed Schools 22 Pa. Code, Chapter 73	Accepted by Board on November 4, 2004 and with revisions on February 17, 2005. April 2006 as proposed.	These regulatory changes increase the minimum surety for schools, eliminate "Demonstrated Competency" as an instructor qualification, clarifies that violations of the ethics statement are enforceable, clarify last date of attendance for refund purposes, and eliminate tiered fines, setting the fine for all violations at the statutory maximum of \$1000.	Patricia Landis (717) 783-8228
Higher Education - Institutional Approval 22 Pa. Code, Chapter 40	May 2006, as proposed.	These regulations establish procedures for the approval and operation of independent two-year college, college seminary or university, or for status as a State System, State-related or State-aided institution for the purposes of awarding college credits and granting degrees.	Jim Buckheit (717) 787-3787 or James Gearity (717) 787-5041

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Pupil Attendance 22 Pa. Code, Chapter 11	February 2006, as proposed.	These regulations specify such matters as the school term, school day, minimum hours required, and school age. Proposed changes address requirements for pre-kindergarten program.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320 or (717) 783-6828
Students 22 Pa. Code, Chapter 12	February 2006, as proposed.	These proposed regulations address requirements for pre-kindergarten programs and include a description of the services that school districts must provide to students and include in a written plan. These services, while they may differ from school to school, must include such developmental services as guidance counseling, psychological and other health services, and social work services that support a student's academic, behavioral health, personal, and social development; and diagnostic, intervention and referral services for students experiencing problems attaining educational achievement appropriate to their learning potential.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320 or (717) 783-6828
Higher Education— Institutional Approval 22 Pa. Code, Chapter 4	May 2006, as proposed.	These regulations establish procedures for Specialized associate degree programs at a licensed trade, business, correspondence or beauty culture school which is chartered or established by statute in this Commonwealth; additional programs at a chartered two-year college, college or university which lead to degrees and which have not had prior consistent with the articles of incorporation; upper division undergraduate programs at junior or community colleges; additional programs of a foreign corporation approved to operate at a specific site in this Commonwealth; and, vocational educational programs at institutions desiring approval for State/Federal money allotted for vocational education.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320 or (717) 783-6828
Academic Standards and Assessment 22 Pa. Code, Chapter 4	February 2006, as proposed.	These regulations outline proposed curriculum and program standards for pre-kindergarten programs.	Jim Buckheit (717) 787-3787 or Harriet Dichter (717) 346-9320 or (717) 783-6828
<b><i>EMERGENCY MANAGEMENT AGENCY</i></b>			
No regulations being developed or considered at this time.			
<b><i>ENVIRONMENTAL HEARING BOARD</i></b>			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Pa. Code Title 25 Chapter 1021 Practice and Procedure	The proposed rulemaking was published in the April 9, 2005 issue of the <i>Pennsylvania Bulletin</i> . Final rulemaking was approved by the Independent Regulatory Review Commission on December 15, 2005, and is expected to be published in the <i>Pennsylvania Bulletin</i> in February 2006.	The Environmental Hearing Board Rules Committee has recommended the following revisions to the Board's rules of practice and procedure: 1) 1021.2 (Definitions)—Amend the definition of "Department" from "Department of Environmental Resources" to "Department of Environmental Protection" to reflect the agency's current title, and to add "and other agencies, boards and commissions" to reflect the fact that decisions of certain entities other than the Department of Environmental Protection are statutorily appealable to the Environmental Hearing Board. 2) 1021.34(b) (Service by a party)—Amend to require service on other parties by overnight delivery where filing with the Board is by overnight mail or personal service. 3) 1021.104 (Prehearing memorandum)—Amend to require that copies of exhibits be attached to the prehearing memorandum as well as "such other information as may be required in the Board's orders." 4) 1021.53 (Amendments)—Allow for the amendment of complaints and allow a more lenient standard for amending notices of appeal. 5) 1021.51(g)—(j) (Commencement, form and content)—Amend who must receive a copy of a notice of appeal and who is named as an automatic party. 6) 1021.54 (Prepayment of penalties)—Eliminate this rule. 7) 1021.91-95 (Motions)—Create a new and separate rule for summary judgment motions. 8) 1021.101(a) (Prehearing procedure)—Eliminate the bifurcation of expert and non-expert discovery, and change certain prehearing deadlines. 9) 1021.141 (Termination of proceedings)—Correct typographical errors.	Mary Anne Wesdock 412-565-5245
<b>ENVIRONMENTAL PROTECTION</b>			
New Source Review Air Pollution Control Act 25 Pa. Code, Chapter 127	FY05-06	The Department's existing new source review (NSR) regulations will be amended to clarify existing requirements and to develop an approvable "equivalency" demonstration as a revision to the State Implementation Plan	Terry Black, John Slade 717-787-2030
Storage Tank Amendments Storage Tank and Spill Prevention Act 25 Pa. Code, Chapter 246	FY05-06	This proposal represents comprehensive amendments to the Storage Tank and Spill Prevention provisions of Chapter 245, which was last updated in 1997.	Ray Powers 717-772-5809
Mine Opening Blasting Surface Mine Conservation and Reclamation Act 25 Pa. Code, Chapter 89	FY05-06	Revisions to Chapter 89 (Underground Mining of Coal and Coal Preparation Facilities) to better coordinate regulation of blasting of underground mine entries between surface blasting requirements and underground blasting requirements.	Bill Allen 717-783-9580
Chapter 85—Bluff Recession and Setback Amendments Bluff Recession and Setback Act 25 Pa. Code, Chapter 85	FY05-06	This proposal will update Chapter 85 based on the bluff study that resulted from a petition submitted by the Millcreek Township Board of Supervisors, Erie County.	Andrew Zemba 717-772-5633



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Nutrient Management 25 Pa. Code, Chapter 83	FY05-06	The State Conservation Commission proposes to revise the current nutrient management regulations affecting concentrated animal operations based on advances in the sciences of agronomics and manure management, as well as public concerns with livestock agriculture.	Doug Goodlander 717-787-8821
Water Resources Planning Water Resources Planning Act 25 Pa. Code, Chapter 110	FY05-06	Addition of new Chapter 110 (Water Resources) establishing requirements for the registration, record keeping and periodic reporting of water withdrawals and water uses in accordance with the Water Resources Act (Act 220 of 2002) to provide information for water resources planning and development of the State Water Plan.	Susan Weaver 717-783-8055
Coal Mine Reclamation Surface Mining Conservation and Reclamation Act 25 Pa. Code, Chapter 86	FY05-06	Revisions to Chapter 86 (Surface and Underground Mining: General) to eliminate an existing reclamation fee and to provide for the reclamation of sites where the operator reclamation bond has been forfeited.	Keith Brady 717-787-4814
Mercury Emissions Air Pollution Control Act 25 Pa. Code	FY05-06	Revise Air Quality regulations to reduce the emission of mercury following input from the Mercury Workgroup.	John Slade 717-783-9476
Newtown Creek et al Stream Redesignation Package Clean Streams Law 25 Pa. Code, Chapter 93	FY05-06	This proposal identifies seven streams (Pine Run, Clearfield County; Indian Spring Run, Chester and Lancaster Counties; Lizard Creek, Carbon County; Indian Creek, Fayette County; Messenger Run, Warren County; Newtown Creek, Bucks County; and Stone Creek, Bedford County) that should be redesignated to provide the correct aquatic life use designation in the water quality standards for these Commonwealth streams.	Bonita Moore 717-772-4462
Radiation Protection Program Radiation Protection Act Radon Certification Act 25 Pa. Code, Chapter 215-240	FY05-06	Rewording of existing requirements and definitions for clarity. Updating of U.S. Nuclear Regulatory Commission incorporation by reference citations. Reinstate industrial radiography incident reporting requirement inadvertently deleted by previous rulemaking. Updating radon protocols.	L. Ray Urciuolo 717-783-9730
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code, Chapter 77	FY05-06	Revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including, hydrologic data requirements.	Bill Allen 717-783-9580
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code, Chapter 78	FY05-06	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes changes to bond amount. Bond rates were established in the O & G Act in 1984 as \$2,500/single well and \$25,000/blanket well (any # wells greater than 10 wells). These rates are inadequate and the Department has been working with the Oil and Gas Technical Advisory Board to develop a new bond amount.	Ron Gilius 717-772-2199

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Muddy Run Unsuitable for Mining Surface Mining Conservation and Reclamation Act 25 Pa. Code, Chapter 86	FY05-06	Based on a technical study prepared as a result of a petition submitted by Reade Township Municipal Authority, this proposed rulemaking would designate certain coal seams within the Muddy Run (Clearfield and Cambria Counties) watershed be designated as unsuitable for mining operations.	Tom Callaghan 717-783-9582
Surface Mine Safety Surface Mine Conservation and Reclamation Act Noncoal Surface Mine Conservation and Reclamation Act 25 Pa. Code, Chapter 209	FY05-06	Revision to Chapter 209 (Coal Mines) to adopt by reference the Federal MSHA regulations for surface coal mines and surface noncoal mines.	Bill Allen 717-783-9580
Explosives Storage and Use Explosives Act Surface Mining Conservation & Reclamation Act 25 Pa. Code, Chapter 211	FY05-06	Revisions to Chapter 211 (Storage, Use and Handling of Explosives) that govern the storage and use of explosives.	Bill Allen 717-783-9580
Water Quality Toxics Management Strategy—Statement of Policy Clean Streams Law 25 Pa. Code, Chapter 16	FY 05-06	This annual review identifies amendments to the Water Quality Toxics Management Strategy—Statement of Policy. Water Quality Criteria in Appendix A, Table 1 are revised to reflect the latest scientific information and Federal guidelines for criteria development.	Bonita Moore (717) 772-4462
Sewage Facility Program Amendments Sewage Facilities Act 25 Pa. Code, Chapter 71, 72, 73a	FY05-06	Revisions to Chapter 71 (Administration of Sewage Facilities Planning Program), Chapter 72 (Administration of Sewage Facilities Permitting Program) and Chapter 73a (Standards for Onlot Sewage Treatment Facilities) that govern sewage facilities under the Sewage Facilities Act.	Jay Africa 717-783-2941
NPDES Permitting Program Amendments Clean Streams Law 25 Pa. Code, Chapter 91 & 92	FY05-06	Revisions to Chapter 91 (General Provisions) and 92 (National Pollution Discharges Elimination System Permitting, Monitoring and Compliance—NPDES) that govern the NPDES permitting program for point source discharges of water pollution.	Dana Aunkst 717-787-8184
Sewage Treatment Plant Program Amendments Clean Streams Law 25 Pa. Code, Chapter 94	FY05-06	Revisions to Chapter 94 (Municipal Wasteload Management) that govern construction and operation of sewage treatment plants.	Dana Aunkst 717-787-8184
Earth Moving and NPDES for Construction Program Amendments Clean Streams Law Dam Safety & Encroachment Act 25 Pa. Code, Chapters 102	FY05-06	Revisions to Chapter 102 (Erosion and Sedimentation Control).	Ken Murin 717-772-5975

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Water Obstruction, Encroachment & Dam Safety Program Clean Streams Law Dam Safety & Encroachment Act 25 Pa. Code, Chapter 105	FY05-06	Revisions to Chapter 105 (Dam Safety and Water Management) that govern the Commonwealth's water obstruction, wetlands and dam safety program.	Kelly Heffner, Dennis Dickey 717-772-5970
Chapter 109 Safe Drinking Water Act 25 Pa. Code, Chapter 109	FY05-06	This general update will revise several sections in Chapter 109 to retain or obtain primacy, including monitoring and reporting requirements for lead, copper, inorganic chemicals, volatile synthetic organic chemicals, and synthetic organic chemicals. Other sections will be clarified, such as QA/QC requirements for on-line instrumentation; reporting requirements for failure to monitor; and compliance determinations for the chemical contaminants. The update also will include mandatory electronic data reporting requirements.	Lisa Daniels 717-772-2189
Clean Vehicles Program Amendment Air Pollution Control Act 25 Pa. Code, Chapter 126	FY05-06	Revisions to the existing Pennsylvania Clean Vehicles Program in Chapter 126 (Motor Vehicles and Fuels Program). The regulation provides an extension to 2008 for automakers to comply with the current requirements.	Arleen Shulman 717-772-3926
Air Quality Permit Streamlining Air Pollution Control Act 25 Pa. Code, Chapter 127	FY05-06	The proposed regulation will revise certain public notice provisions and public comment provisions to extend from 120 to 180 days the duration for temporary "shake-down" operation of new equipment subject to the Plan Approval requirements.	Terry Black, John Slade 717-787-2030
Portable Fuel Containers Air Pollution Control Act, 25 Pa. Code, Chapter 130	FY05-06	The proposal would revise the portable fuel container regulation to reflect new technology. The new technology makes the containers more user-friendly and provides a slight increase in volatile organic compound and hazardous air pollutant emission reductions.	Terry Black 717-787-2030
Waste Facility Notification near Military Airports Solid Waste Management Act 25 Pa. Code, §§ 271.1, 279.101 & 293.112	FY05-06	This proposed regulation is in response to a petition filed by the Department of Defense. It would amend the Municipal and Residual Waste Regulations to include military airport in the definition of "airport." and require a transfer facility applicant to notify the PENNDOT's Bureau of Aviation and the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6 miles of an airport runway.	Steve Socash 717-787-7381
Residual Waste Program Solid Waste Management Act 25 Pa. Code, Chapter 287—299	FY05-06	Revisions to various chapters in Article IX (Residual Waste Management) that govern the generation, treatment, storage, transportation and disposal of residual waste.	Steve Socash 717-787-7381
Municipal Waste Program Solid Waste Management Act 25 Pa. Code, Chapters 271—285	FY05-06	Revisions to various chapters in Article VIII (Municipal Waste Management) that govern the generation, treatment, storage, transportation and disposal of municipal waste.	Steve Socash 717-787-7381

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Hazardous Waste Program Solid Waste Management Act 25 Pa. Code, Chapters 260—270	FY05-06	Revisions to various chapters in Article VII (Hazardous Waste Management) of Subpart D that govern the generation, treatment, storage, transportation and disposal of hazardous waste.	Rick Shipman 717-783-3390
Land Recycling Program Amendments Land Recycling and Environmental Remediation Standards Act 25 Pa. Code, Chapter 250	FY05-06	The proposed amendments will revise several aspects of the existing Chapter 250 regulations based upon updated scientific information. The amendments will also serve to clarify the existing regulations.	Dave Hess 717-783-9480
Operator Certification Regulations Water and Wastewater Systems Operators' Certification Act 25 Pa. Code, Chapter 302	FY05-06	This proposal will implement the provisions of Act 11 of 2002, the Water and Wastewater Systems Operators' Certification Act which restructures the testing and training program for operators and enhances security provisions for all water and wastewater treatment systems in Pa. Proposal also eliminates remaining provisions in Chapters 301, 303 and 305	Veronica Kasi 717-772-4053
Alternate Fuels Program Alternate Fuels Incentive Act 25 Pa. Code, New Chapter	FY05-06	Revise the existing program regulations to incorporate the program revisions made by Act 178.	Susan Summers 717-783-9242
<b>GENERAL SERVICES</b>			
Responsibility 4 Pa. Code, Chapter 60	February 2006, as proposed	This chapter should be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Mary B. Seiverling (717) 772-2749
Emergency Construction Repairs 4 Pa. Code, Chapter 67	August 2006, as proposed	The regulation should be amended to more accurately reflect present practice and to delete antiquated contract provisions.	Mary B. Seiverling (717) 772-2749
Processing Subscriptions and Sales of <i>Pennsylvania Code</i> and Related Publications 4 Pa. Code, Chapter 81	Summer 2006, as final omitted	These regulations should be repealed since the DGS' Bureau of Management Services no longer has responsibility for processing subscriptions and orders for the <i>Pennsylvania Code</i> .	Mary B. Seiverling (717) 772-2749
Surplus State Property 4 Pa. Code Chapters 41, 43, 45 & 47	February 2007, as proposed	These regulations will be reviewed to ensure that they accurately reflect present practice and are consistent with the Procurement Code.	Mary B. Seiverling (717) 772-2749
Distribution of Federally Donated Foods to Needy Households, 4 Pa. Code Chapters 51, 53 & 55	November 2006, as final omitted	These regulations should be repealed since the responsibility for this program was transferred to the Dept. of Agriculture.	Mary B. Seiverling (717) 772-2749
Committee on Construction Contract Documents, 4 Pa. Code Chapter 62	July 2006, as final omitted	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Mary B. Seiverling (717) 772-2749
Selections Committee, 4 Pa. Code Chapter 64	December 2006, as proposed	These regulations will be reviewed to ensure that they accurately reflect present practice and are consistent with the Procurement Code.	Mary B. Seiverling (717) 772-2749

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>HEALTH</b>			
Health Facility Licensure-General Administrative Chapter & General and Special Hospitals 28 Pa. Code § 51.1 et seq. 28 Pa. Code § 101.1 et seq.	April 2006, as proposed.	The amendments to existing regulations will update the licensure requirements for hospitals and other health care facilities. Pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b.	Barbara Holland 717-346-9692 James T. Steele, Jr. 717-783-2500
Communicable Diseases 28 Pa. Code § 27.1 et seq.	June 2006, as proposed.	The amendments to existing regulations will clarify the Department's authority to perform disease surveillance and investigation. Pursuant to the Disease Prevention and Control Law of 1955, 35 P. S. §§ 521.1—521.21.	Yvette M. Kostelac 717-783-2500
Head Injury Program	July 2006, as proposed	The amendments to existing regulations will address client enrollment and provider issues. Pursuant to 35 P. S. § 6934(e).	Crystal Fox 717-783-2500
Supplemental Nutrition Program for Women, Infant's and Children (WIC) 28 Pa. Code § 1101.1 et seq.	April 2006, as final-omitted	The amendments to existing regulations will bring the Commonwealth into compliance with the Child Nutrition and WIC Reauthorization Act of 2004 requirements and allow participants to use WIC vouchers at any WIC authorized store. The amendments will also prohibit authorization of stores that get more than 50% of their annual food revenue from the sale of WIC foods. The amendments will also clarify the availability of minimum inventory during store reviews.	Robert Datorre 717-783-2500
<b>HOUSING FINANCE AGENCY</b>			
No regulations being developed or considered at this date.			
<b>INFRASTRUCTURE INVESTMENT AUTHORITY</b>			
25 Pa. Code §§ 963.12(a)(6) and (7) 963.13(b) 2, 963.13(c), 963.14(a), 963.15(a), and 25 Pa. Code § 965.4(9).	Spring 2007	PENNVEST recommends the following revisions: (1). Delete 25 Pa. Code § 963.12(a) (6) in its entirety and the second sentence of 25 Pa. Code § 963.13(b)(2) thereby allowing PENNVEST to provide financial assistance (loan or grant) for costs associated with the development of an approvable official sewage plan under the Sewage Facilities Act, 35 P. S. § 750.1 et seq. (2). Delete 25 Pa. Code § 963.12(a)(7) thereby allowing PENNVEST to provide financial assistance (loan and grant) for costs associated with the extraction for profit of minerals or other resources from wastewater or sludge whether the project is sponsored by a public or private actor. (3). Amend 25 Pa. Code § 963.13 (c) by revising the section to provide for an amortization of advance funding loans with a term of 59 months of interest only and repayment on principal and interest on the 60th month. (4). Amend 25 Pa. Code § 963.14(a) by revising the section to clarify when the use of an affordability analysis for the award of grants is necessary. (5). Amend 25 Pa. Code § 963.15(a) by revising the first sentence to provide for a change in the normal loan term to allow 3 years of interest only preceding the 20 year term. (6). Amend 25 Pa. Code § 965.4 (9) to allow for eligible land costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	Shawn W. Weis (717)-783-6776

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>INSURANCE</b>			
Producer Licensing, 31 Pa. Code, Chapter 37, §§ 37.1—37.84	Summer/Fall 2006, as proposed.	Act 147 of 2002 sets new standards for Producers in the Commonwealth. This chapter will be repealed and replaced with new regulation consistent with the statute.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Credit Life Insurance & Credit Accident & Health Insurance, 31 Pa. Code, Chapter 73, §§ 73.103 & 73.138	Winter/Spring 2006, as proposed.	Amend the regulation to meet NAIC standards.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Replace Life Insurance Annuities, 31 Pa. Code, Chapter 81, §§ 81.1-9	Spring/Summer 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts, 31 Pa. Code, §§ 84a.1-84a.8	Winter/Spring 2006, as proposed.	Amend the regulation to new minimum standards adopted by the NAIC.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Life Insurance Illustrations (New Chapter 87a)	Fall/Winter 2006, as proposed.	Act 154 of 1996 provides for life insurance illustration requirements for life insurance policies. The statute sunsets when a life insurance illustration regulation becomes effective. A life insurance illustration regulation will eliminate misleading illustrations, make illustrations more understandable, and standardize terms and illustration formats for the entire life insurance industry. Further, it is more appropriate that technical requirements, such as these, appear in a regulation rather than in statutory form.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Cash Advances to Insurance Companies 31 Pa. Code, Chapter 105, §§ 105.1—105.2	Spring 2006, as proposed.	Review to determine whether to amend or repeal based on statutory amendments enacted in 2004 (Act No. 216 of 2004).	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Property and Casualty Actuarial Opinion, 31 Pa. Code, §§ 118a.1—118a.7 (NEW)	Winter/Spring 2006, as proposed.	New regulation to require property & casualty insurers to annually submit an Actuarial Opinion Summary of the Actuarial Report on loss and loss adjustment expense reserves, including information on the opining actuary's best estimate and/or range of reasonable estimates.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Preparation of Filing of Property and Casualty Forms for Approval, 31 Pa. Code, Chapter 133, §§ 133.1—133.12	Summer/Fall 2006, as proposed.	Repeal pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Description of Reserves—Prohibited Phrases, 31 Pa. Code, Chapter 139, §§ 139.1—139.3	Spring/Summer 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Unfair Insurance Practices; Unfair Claims Settlement Practices, 31 Pa. Code, Chapter 146, §§ 146.1—146.10	Spring/Summer 2006, as proposed.	Amend pursuant to Executive Order 1996-1.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Requirements for Qualified Reinsurers 31 Pa. Code, Chapter 161 §§ 161.1—161.9	Spring 2006, as proposed.	Amend to update requirements for assets held in trust.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Health Care Provider Retention Program, 31 Pa. Code, Chapter 248, §§ 248.1—248.11 (NEW)	Winter/Spring 2006, as proposed.	Adopt regulations per the Medical Care Availability and Reduction of Error (Mcare) Act (40 P. S. §§ 1303.1101 et seq.)	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
Viatical Regulations (NEW chapter)	Spring/Summer 2006, as proposed.	New regulation addressing issues pertaining to the Licensing of Viatical Brokers.	Peter J. Salvatore, Regulatory Coordinator 717-787-4429
<b>LABOR AND INDUSTRY</b>			
Repeal of mine and excavation regulations, Title 34, Chap. 33, Bureau of Occupational and Industrial Safety.	Submit final-omitted regulation in Spring 2006.	Will revoke Labor and Industry's authority to regulate mines and excavations. The Department of Environmental Protection now has this authority.	Edward Leister 717-787-3323
Boiler requirements, Title 34, Bureau of Occupational and Industrial Safety.	Publication as final-form regulation in Winter 2006.	The regulations will update requirements for boilers and unfired pressure vessels in accordance with the Boiler and Unfired Pressure Vessel Law.	Edward Leister 717-787-3323
Liquefied Petroleum Gas, Title 34, Bureau of Occupational and Industrial Safety.	Submit proposed rulemaking in Fall 2006.	Will enact the Propane and Liquefied Petroleum Gas Act passed in June 2002. Will govern the design, installation and construction of containers and equipment for storage and handling of liquefied petroleum gas, specify the odorization of the gases and establish guidelines for the processing and technologies that are not covered by industry standards.	Edward Leister 717-787-3323
Business Enterprise Program, Title 34, Bureau of Blindness and Visual Services	Submit proposed rulemaking in Summer 2006.	Concerns operation of snack bars and similar operations in Commonwealth facilities under the Federal Randolph-Sheppard Act and related Pennsylvania laws.	Pamela Shaw 717-783-3784
Office of Vocational and Rehabilitation, Title 34.	Submit Proposed Rulemaking Winter 2006	Regulations will govern the registration process and implement the Sign Language Interpreter and Transliterator Registration Act which was enacted in 2004. (Act 57 of 2004).	Catherine N. Wojciechowski 717-787-4186
Prevailing Wage Appeals Board (PWAB), Title 34, Chap 213.	Submit proposed rulemaking in Summer 2006.	PWAB will amend its regulations to reduce paperwork requirements and improve/streamline procedures.	Richard C. Lengler 717-783-9288
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Tax Services	Submit proposed rulemaking in Spring 2006.	Update Unemployment Compensation tax and select benefit regulations.	Scott Miedrich 717-787-2097
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Benefits	Submit proposed rulemaking in Spring 2006.	Update requirements and procedures for filing benefit and claim applications.	Jeri Morris 717-787-3667
Unemployment Compensation, Title 34, Chapter 101, Unemployment Compensation Board of Review	Submit proposed rulemaking in Spring 2006.	Update appeal and hearing procedures to reflect evolving procedures and statutory changes.	Edward Rawlings 717-787-1620

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Bureau of Workers' Compensation Title 34, Chapter 121	Submit final-form regulation Spring 2006.	Updating regulations concerning processing of claims forms/petitions to reflect changes in law and technology.	Thomas Dinsmore 717-772-0621
Bureau of Workers' Compensation, Title 34, Chapter 127, Medical Cost Containment	Submit proposed rulemaking by Spring 2006.	Update processes governing medical care and costs under the Workers' Compensation Act.	Eileen Wunsch 717-772-1912
Bureau of Workers' Compensation, Title 34, Chapter 123	Submit final-form regulation in Spring 2006.	Update procedures for qualifications of vocational experts to reflect passage of Act 88 (if needed).	Eileen Wunsch 717-772-1912
Bureau of Workers' Compensation, Title 34, Chapter 125A, Self-Insurance	Submit proposed rulemaking in Summer 2006.	Clarify standards and security requirements for individual self-insured employees.	George Knehr 717-783-4476
Bureau of Mediation, Title 34	Submit proposed rulemaking in Fall 2006	Specify procedures and process for Bureau mediators.	William D. Gross 717-787-2803
<b>MILITARY AND VETERANS AFFAIRS</b>			
State Veterans Home 43 Pa.Code Section 7.1 et. seq.	July 2006, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly. This regulation is a long-term project and would amend 43 Pa. Code Chapter 7.	Dennis T. Guise 717-861-8503
<b>MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION</b>			
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 203	Proposed regulations were published October 15, 2005.	The Commission intends to update regulations promulgated pursuant to 53 Pa. C.S. § 2164(1), (8), and (14 (relating to Part III, Subpart C, of the Local Government Code).	Syndi L. Guido 717-772-0905
<b>PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PROBATION AND PAROLE</b>			
The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5 (13) requires the Commission to "make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers."	The proposed regulation will be published in the <i>Pennsylvania Bulletin</i> in the fall of 2006.	The County Probation and Parole Officers' Education and Training Commission is in the process of promulgating these regulations and anticipates the completion of proposed regulations by Fall 2006 for publication in the <i>Pennsylvania Bulletin</i> .	Henry L. Van Brederode 717-787-5699 x 389



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
The Domestic and Sexual Violence Victim Address Confidentiality Act 23 Pa.C.S.A. § 6712 requires the Office of the Victim Advocate to promulgate regulations to establish an address confidentiality program to protect victims of sexual and domestic violence.	The proposed regulation will be published in the <i>Pennsylvania Bulletin</i> in the summer of 2006.	23 Pa. C.S.A. § 6712 (2) requires the Office of the Victim Advocate to promulgate the required regulations by July 1, 2006.	Victoria Sostack 717-783-5157
<b><i>PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM</i></b>			
No regulations being developed or considered at this time.			
<b><i>PUBLIC WELFARE</i></b>			
Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	June 2006, as proposed	This regulation incorporates the amendments to the Juvenile Act as a result of Act 126 of 1998 and the federal regulations (effective March 27, 2000) for Title IV-B and Title IV-E funding for child welfare services for children in their own homes and for children receiving placement services. Major changes include permanency hearings and the matters to be determined, requirements related to reasonable efforts including aggravated circumstances contrary to the welfare and best interests and redefining permanency goals for children.	Ruth O'Brien (717) 783-2800
Administration and Operation of a Children and Youth Social Services Agency 55 Pa. Code Chapter 3680	February 2007, as proposed	This regulation incorporates the changes identified in the Child and Family Services Review, including requirements for visitation with fathers and non-custodial parents and between siblings; concurrent planning; improving permanency outcomes for children; and preserving connections with family and community for children placed out of the home.	Ruth O'Brien (717) 783-2800
Food Stamp Disqualification Penalties 55 Pa. Code Chapter 501	June 2006, as proposed	This regulation incorporates a revision to the Food Stamp disqualification penalties as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The revision increases the Food Stamp intentional program violation disqualification penalties from six months to one year for the first violation and from one year to two years for the second violation. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Family Violence Option 55 Pa. Code Chapter 187	February 2007, as proposed	This regulation codifies the provision in the TANF State Plan to screen and identify victims of domestic violence, refer those individuals to counseling and supportive services, establish service plans, provide universal notification and make appropriate referrals to social service agencies. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Increases in Payment for Burial and/or Cremation 55 Pa. Code Chapter 285	April 2006, as final-form	This regulation codifies an increase to the maximum payment for burial and/or cremation for eligible persons. A deceased person of any age who received or was eligible to receive a money payment—TANF, General Assistance, State Blind Pension, or Supplemental Security Income—may be eligible for a maximum burial and/or cremation payment of \$750, if there are no resources that reduce the payment. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Breast and Cervical Cancer Prevention and Treatment Program 55 Pa. Code Chapter 140	September 2006, as final-form	This regulation provides Medicaid benefits to individuals diagnosed with Breast and Cervical Cancer, effective January 1, 2002. The BCCPT Act of 2000 amended Title XIX of the Social Security Act by giving states the option of providing full Medicaid benefits to a new group of individuals. This regulation provides Medical Assistance for women who have breast and cervical cancer, including pre-cancerous conditions of the breast and cervix, in addition to full Medicaid benefits. Specifically, uninsured and underinsured women under the age of 65, screened and diagnosed with either breast or cervical cancer, including pre-cancerous conditions of the breast or cervix, by a provider or facility funded in full or part by the Centers for Disease Control and Prevention under its National Breast and Cervical Cancer Early Detection Program, will be eligible for Medicaid benefits. Pennsylvania has chosen the Department of Health Healthy Woman Project as the screening entity for this program. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization, professional medical organizations and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Medical Assistance Changes (MAC) 55 Pa. Code Chapters 133, 140, 141, 178 and 181	March 2006, as proposed	This regulation incorporates eligibility requirements for Temporary Assistance for Needy Families (TANF)-related, Supplemental Security Income (SSI)-related and General Assistance (GA)-related Medicaid. Some of the major changes include revisions to: 1) the application and redetermination process; 2) the qualification requirements and eligibility rules for Healthy Beginnings; 3) the income eligibility methodologies for TANF-related categories of Medicaid; 4) the income and resource requirements for the Medicaid Program; 5) Extended Medical Coverage to include provisions as set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); 6) the GA-related Nonmoney Payment (NMP) and Medically Needy Only (MNO) eligibility criteria as set forth in Act 35; 7) the qualifying criteria for TANF-related categories to include a new eligibility group as set forth in § 1931 of the Social Security Act.	Ruth O'Brien (717) 783-2800
Early and Periodic Screening Diagnosis Treatment (EPSDT) 55 Pa. Code Chapters 1101, 1121, 1123, 1147, 1241	March 2007, as final-omitted	This regulation relating to services provided as a follow-up to an EPSDT visit or encounter that are not currently recognized under the approved Medical Assistance State Plan. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Medical Assistance Case Management Services 55 Pa. Code Chapter 1239	March 2007, as proposed	This regulation codifies payment for medically necessary case management services as mandated by Omnibus Budget Reconciliation Act '89 to Medical Assistance recipients under the age of 21. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
OMNIBUS Pharmacy 55 Pa. Code Chapters 1121, 1126, 1129, 1141, 1163, 1221, 1225, 1243	June 2006, as final-omitted	This final regulation codifies Act 1994-49 provisions that discontinue payment for all drugs, devices, products, services and procedures that are used or related to treating infertility, including surrogacy services, effective September 1, 1994. This regulation also provides that the medical assistance program provides drug coverage to medically needy only recipients receiving nursing facility services. This includes medically needy only recipients who reside in nursing facilities and intermediate care facilities/mental retardation (ICF/MR). This regulation was reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Residential Treatment Facilities (RTF) for Mental Health Services 55 Pa. Code Chapters 1157, 1165	July 2007, as proposed	This regulation codifies coverage for mental health services to children under 21 years of age that are provided in a residential treatment facility. This regulation was reviewed by the Medical Assistance Advisory Committee on 3/28/02. The Department received comments from 6 agencies. Revised regulations are under review by the Department.	Ruth O'Brien (717) 783-2800
Physician Assistant/Midwife 55 Pa. Code Chapter 1141	June 2007, as final-omitted	This final regulation codifies revised supervision requirements for physician assistants and midwives. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Discontinuance of the Mandatory Second Opinion Program 55 Pa. Code Chapter 1150	June 2006, as final-omitted	This final regulation removes the mandatory second opinion program requirement for certain surgical procedures. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Capital Component Payment for Replacement Beds 55 Pa. Code Chapter 1187	February 2007, as proposed	This regulation codifies the policy as set forth in the Statement of Policy published at 27 Pa. B. 6238 (November 29, 1997). This regulation will specify the conditions under which the Department will recognize nursing facility beds as replacement beds for purposes of making capital component payments for those beds. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
New Definition of "Emergency Medical Condition" 55 Pa. Code Chapters 1101, 1141, 1150, 1221	June 2006, as proposed	This regulation codifies the revised definition of "emergency medical condition" contained in the Balanced Budget Act of 1997, effective July 1, 1998. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Definition of Medically Necessary 55 Pa. Code Chapter 1101	February 2007, as proposed	This proposed regulation replaces the current definition of "medically necessary" with the definition found in the HealthChoices Request for Proposal. This regulation was reviewed on 9/21/01 by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Tobacco Cessation and Nutritional Supplements 55 Pa. Code Chapter 1121	June 2006, as final-omitted	This final regulation will provide coverage under the Medical Assistance Program for tobacco cessation products and counseling services and will extend coverage for nutritional supplements to eligible Medical Assistance recipients 21 years of age and older. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Dental Services 55 Pa. Code Chapter 1149	June 2006, as final-omitted	This final regulation will provide coverage for crown core build-up and will revise the Medical Assistance Orthodontia Program. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Preadmission Requirements for Nursing Facility Services 55 Pa. Code Chapter 1187	July 2007, as final	This regulation will require nursing facilities to have all individuals applying for nursing facility services, evaluated by the Department or an independent assessor if it is likely that the applicant will use Medical Assistance as a payer source within 12 months of admission. The purpose of this regulation is to allow an individual to remain in the community by delaying or eliminating the need for admission to a nursing facility. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Penile Prosthesis 55 Pa. Code Chapters 1141, 1163,	February 2007, as proposed	This regulation revises the current § 1141.59(8) non-compensable services and § 1163.59(a)(4) noncompensable services, items and outliers days.	Ruth O'Brien (717) 783-2800
Extension of County Transition Payments and Double Disproportionate Share 55 Pa. Code Chapter 1187	July 2007, as final-omitted	This regulation will extend the county nursing facility transition rates for the period July 1, 2003, through June 30, 2009, and will increase the disproportionate share incentive payments to qualified nursing facilities for the period July 1, 2003 through June 30, 2008. The disproportionate share incentive payment shall be increased to equal two times the disproportionate share per diem incentive calculated in accordance with 55 Pa. Code § 1187.111(c). This regulation will be reviewed by the Medical Assistance Advisory Committee. These changes are made in accordance with the Intergovernmental Transfer Agreements.	Ruth O'Brien (717) 783-2800
Home Health Regulation 55 Pa. Code Chapter 1249	July 2006, as final-form	The proposed regulation: 1. removes the State requirement that clients be homebound to receive home health agency services. Requiring a client to be homebound is in violation of "Olmstead Update No. 3" codified at 42 CFR 440.230(c) and 440.240(b); 2. moves service limitations from the regulations to the fee schedule which will permit program exceptions to the limitations when appropriate.	Ruth O'Brien (717) 783-2800
Changes to Nursing Facility Rate Setting System 55 Pa. Code Chapter 1187	June 2006, as final-omitted	This regulation will support the balancing of long term care by encouraging the continued trend of having nursing facilities serve higher acuity MA recipients, encouraging right sized facilities and decreased reliance on MA payments. Further objectives of this regulation will be to provide greater predictability in rate setting, reduce the number of appeals and incorporate performance standards/incentives to encourage cost effective and high quality care in the most appropriate setting.	Ruth O'Brien (717) 783-2800
Medical Assistance Provider Appeal Procedures 55 Pa. Code Chapter 41	October 2006, as final-form	This regulation implements 67 Pa.C.S. 1106 and establishes rules of procedure governing Medical Assistance Provider appeals.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Third Party Liability Programs 55 Pa. Code Chapter 259	September 2006, as proposed	Section 1902(a)(25) of the Social Security Act (42 U.S.C. § 1396a(a)(25)) requires the Department to develop and implement a TPL program to ensure that Medicaid is the payor of last resort. Section 1906 of the Social Security Act (42 U.S.C. § 1396(e)) authorizes the Department to have a special program to enroll certain MA recipients into group health insurance. Both the general TPL program and the special group health insurance program have been in operation in Pennsylvania for a number of years. During this period of operation, questions have arisen as to interpretation and procedures under the Federal and state's statutes. This proposed regulation is needed to supply guidance with respect to issues not directly addressed by the Federal and state statutes, to resolve ambiguities and to fill gaps in the state statutory language.	Ruth O'Brien (717) 783-2800
Licensure and Approval Appeal Procedures 55 Pa. Code Various Chapters	February 2006, as proposed	This regulation replaces the uncodified regulation at 7 Pa.B. 3266 with the General Rules of Administrative Practice and Procedure (1 Pa. Code Chs. 31-35) for all facilities and agencies certified by the Department.	Ruth O'Brien (717) 783-2800
Psychiatric Outpatient Clinics 55 Pa. Code Chapter 5200	February 2007, as proposed	This proposed regulation revises the current regulations pertaining to organization, staffing, and supervision for licensed psychiatric outpatient services. This regulation will be reviewed by the Mental Health Advisory Council and the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Family-Based Mental Health Service Providers Draft Regulation, 55 Pa. Code Chapter 5260	February 2007, as proposed	This proposed regulation would establish requirements for the delivery of services, and payment of family-based mental health services for children and adolescents.	Ruth O'Brien (717) 783-2800
Child Care Providers 55 Pa. Code Chapters 3270, 3280, 3291, 3300	April 2006 as proposed	The purpose of the proposed rulemaking is to update the minimum standards for child care facilities. The regulations need to be updated to reference the current laws that directly impact on the operation of child care facilities, to incorporate the Department's statements of policy issued since 1992, to implement changes in recommended health and safety practices, to clarify regulations and to reflect best practice in the field of child care.	Ruth O'Brien (717) 783-2800
Child Care Subsidy 55 Pa. Code Chapter 168	April 2006 as proposed	The purpose of the proposed rulemaking is to align the Office of Income Maintenance and Office of Child Development policies regarding subsidized child care and increase child care services to families receiving Temporary Assistance for Needy Families, General Assistance, and Food Stamp benefits. The proposed amendments will simplify policies and create a more user-friendly system for families.	Ruth O'Brien (717) 783-2800
<b>REVENUE</b>			
Construction Contractors 61 Pa. Code, §§ 31.11—31.16 and 46.11—46.17	July 2006, as proposed	The regulation will provide an update to the rules regarding contracts with exempt and nonexempt entities following Act 45 of 1998. Department awaiting decision of the Pennsylvania Supreme Court.	Douglas Berguson 717-346-4633

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Construction Contractors 61 Pa. Code §§ 31.11, 46.2, 46.3, 46.6 and 46.9	December 2005, as proposed.	Administrative Clean Up of Chapter 46 Construction Contractors and Amendment to § 31.11 to avoid duplication of regulations.	Douglas Berguson 717-346-4633
Prebuilt Housing	March 2006, as final.	The regulation codifies legislative changes relating to prebuilt housing that were set forth in Act 23-2000 (72 P. S. §§ 7201(g)(8), (vv)—(zz), 7202(f) and 7204(60)).	Douglas Berguson 717-346-4633
Realty Transfer Tax Amendments 61 Pa. Code, Chapter 91	November 2005, as proposed.	The amendments to Chapter 91. Realty Transfer Tax, are made to address numerous legislative changes and to bring the regulatory provisions into conformity with Departmental policy.	Douglas Berguson 717-346-4633
Small Games of Chance Amendments 61 Pa. Code, Part VII	March 2006, as final.	The regulation contains comprehensive amendments to Part VII to incorporate legislative changes made to the Local Option Small Games of Chance Act (10 P. S. §§ 311—328) in 1990 and 2000 and to codify policy and administrative changes regarding games of chance.	Douglas Berguson 717-346-4633
Support Offset and Other Personal Income Tax Provisions	September 2006, as proposed	This regulatory change will amend certain regulatory provisions to provide for the intercept of income tax refunds from individuals who are delinquent in support payments and redirect the funds accordingly. Other amendments are proposed to update and/or clarify personal income tax provisions.	Douglas Berguson 717-346-4633
Pennsylvania Gaming Cash Flow Management 61 Pa. Code §§ 1001.1—1001.10	March 2006, as temporary	The Department is proposing temporary regulations for Chapter 1001, Pennsylvania Gaming Cash Flow Management in accordance with the Pennsylvania Race Horse Development and Gaming Act 2004 (Act 71).	Douglas Berguson 717-346-4633
Terminal-based Lottery Games 61 Pa. Code §§ 875.1—875.17	March 2006 as final	The regulation establishes and details the procedures that will be followed in operating and administering the Terminal-based Lottery Games.	Douglas Berguson 717-346-4633
Contract Carriers Exemption Certificate-Transfer of Registration § 31.46	July 2006 as proposed	This regulatory change will amend certain regulatory provisions for exemption from sales tax for transfer of registration to conform to Federal legislation.	Douglas Berguson 717-346-4633
Proof Required to Establish Credit § 111.5	January 2006 as final	This regulatory change will eliminate the need for a "signed" copy of an out-of-state tax return for proof required to establish credit.	Douglas Berguson 717-346-4633
<b>SECURITIES COMMISSION</b>			
Accountants 64 Pa. Code § 609.033	Proposed Rulemaking Spring 2006	The Commission plans to amend this regulation to update its provisions.	Michael J. Byrne (717) 783-5130 Stacie D. Gorman (717) 783-5130
<b>STATE</b>			
Bureau of Commissions, Elections and Legislation -Alteration of Local Election Districts- 4 Pa. Code § 184 (16-36)	Spring 2006, as Proposed.	The regulation would address the statutory requirements relating to local redistricting in Article V of the Election Code, 25 P. S. §§ 2701—2750. Statutory Authority: Section 2750 of the Election Code, 25 P. S. § 2570, which authorizes the Secretary of the Commonwealth to promulgate regulations relating to Election District Alteration and Data Reporting.	L. Lawrence Boyle (717) 783-1657

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Accountancy -General Revisions- 49 Pa. Code, Chapter 11. (16A-559)	Spring 2006, as Final.	The regulation would clarify certain issues related to the enforcement of the C.P.A. Law; make requirements consistent with the language of the C.P.A. Law; repeal outdated and unnecessary requirements; and make editorial changes. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.	Linda Dinger (717) 783-1404
State Architects Licensure Board -Architect Registration Examination Requirements - 49 Pa. Code § 9.45(b) (16A-419)  -Schedule of Civil Penalties- 49 Pa. Code § 43b.21. (number not yet assigned)	Spring 2006, as Proposed.  Spring 2006, as Proposed.	This regulation would adopt a 5-year "rolling clock" requirement that applicants pass all divisions of the Architect Registration Examination within a rolling 5-year period. Statutory Authority: Section 6(a) and (d) of the Architects Licensing Law, 63 P. S. § 34.6(a) and (d).  This regulation would amend the schedule of Act 48 civil penalties for violations of the Architects Licensure Law and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Linda Dinger (717) 783-3397
State Board of Auctioneer Examiners -Correction to Fee Schedule - 49 Pa. Code § 1.41 (16A-646)	Spring 2006, as Final (Proposed-Omitted).	This regulation would correct the fee schedule in which a line was inadvertently deleted when the schedule was last amended. Statutory Authority: Section 6(a) of the Auctioneer and Auction Licensing Act, 63 P. S. § 734.6(a).	Linda Dinger (717) 783-3397
State Board of Barber Examiners -Student Records and Student Curriculum- 49 Pa. Code, Chapter 3 (16A-427)  -Schedule of Civil Penalties- 49 Pa. Code § 43b.4 (16-32)	Fall 2006, as Proposed  Spring 2006, as Final.	The regulation would amend the current regulations to allow for part-time attendance at barber schools; to allow for transfer of hours between a barber shop and a barber school or between barber shops, regardless of whether the school or shop is in-state or out-of-state; to require shop owners and schools to submit a quarterly report of student hours to the Board; and to require a shop owner, or a shop owner's designee, to notify the Board of each student to be trained in the shop. Statutory Authority: Section 15-A.4(b) of the Barbers' License Law, 63 P. S. § 566.4(b).  This regulation would amend the schedule of Act 48 civil penalties for violations of the Barbers' Licensing Law and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Hilarene Staller (717) 783-3402
State Board of Certified Real Estate Appraisers -General Revisions- 49 Pa. Code, Chapter 36. (16A-7014)	Spring 2006, as Proposed.	The regulation represents a comprehensive revision of requirements relating to education and experience for initial certification, continuing education for renewal of certification, standards of practice, and supervision of appraisal assistants. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2); and Section 3 of the Assessors Certification Act, 63 P. S. § 458.3.	Michelle Smey (717) 783-4866

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Chiropractic -Chiropractic specialties- 49 Pa. Code Ch. 5 (16A-4312)</p> <p>-Patient records- 49 Pa. Code § 5.51 (16A-4313)</p> <p>-Volunteer license- 49 Pa. Code § 5.20 (number not yet assigned)</p>	<p>Spring 2006, as Proposed.</p> <p>Spring 2006, as Proposed.</p> <p>Summer 2006, as Proposed.</p>	<p>The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. The regulation would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>The regulation would clarify the requirements for patient records. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This regulation is required to conform the regulations to the amendments to the Volunteer Health Services Act under Act 58 of 2002. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302.</p>	Deborah Smith (717) 783-7155
<p>Commissioner, BPOA</p> <p>-Schedule of Civil Penalties- 49 Pa. Code §§ 43b.4, 43b.8 and 43b.9 (16-32)</p>	Spring 2006, as Final.	The regulation would amend the schedules of civil penalties for the State Board of Barber Examiners; State Real Estate Commission and State Board of Vehicle Manufacturers, Dealers and Salespersons that were previously codified as regulations under Act 48 of 1993. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Cynthia K. Montgomery (717) 783-7200
<p>Corporations Bureau</p> <p>-UCC Revised Article 9- (16-35)</p>	Fall 2006, as Proposed.	This regulation would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
<p>State Board of Cosmetology</p> <p>-Accreditation of cosmetology schools- 49 Pa. Code §§ 7.111 and 7.113a (16A-4511)</p> <p>-Removal of term "manager" - 49 Pa. Code, Chapter 7 (16A-4513)</p>	<p>Spring 2006, as Proposed.</p> <p>Spring 2006, as Proposed.</p>	<p>This regulation amends the Board's existing regulations to clarify the accreditation requirements for cosmetology schools. Statutory Authority: Sections 6 and 11 of the Beauty Culture Law, 63 P. S. §§ 512 and 517.</p> <p>This regulation amends Chapter 7 to delete all references to the manager's license, which was eliminated by Act 98 of 2002. Statutory Authority: Section 11 of the Beauty Culture Law, 63 P. S. § 517.</p>	Hilarene Staller (717) 783-7130
<p>State Board of Dentistry</p> <p>-Expanded Function Dental Assistants' Curriculum Requirements- 49 Pa. Code, Chapter 33 (16A-4616)</p> <p>-Administration of Local Anesthesia by Dental Hygienists - 49 Pa. Code, Chapter 33 (16A-4617)</p>	<p>Summer 2006, as Proposed.</p> <p>Spring 2006, as Proposed.</p>	<p>This regulation is intended to establish curriculum requirements for schools offering education programs for expanded function dental assistants. Statutory Authority: Section 3(a) of the Dental Law, 63 P. S. § 122(a).</p> <p>This regulation will establish the requirements under which a dental hygienist may be permitted to administer local anesthesia under the direct supervision of a dentist. Statutory Authority: Section 3(d) of the Dental Law, 63 P. S. § 122(d).</p>	Lisa Burns (717) 783-7162



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Sexual Misconduct - 49 Pa. Code, Chapter 33 (16A-4618)  - Dental Hygiene Scope of Practice - 49 Pa. Code § 33.205. (16A-4619)  -Volunteer license- 49 Pa. Code § 33.110 (number not yet assigned)	Spring 2006, as Proposed.  Spring 2006, as Proposed.  Summer 2006, as Proposed.	This regulation will define sexual misconduct as it pertains to dentists, dental hygienists and expanded function dental assistants. Statutory Authority: Sections 3(c), (d) (d.1) and (o) of the Dental Law, 63 P. S. § 122(c), (d), (d.1) and (o).  This regulation is intended to update and amend the scope of practice of dental hygienists to conform to modern dental practices. Statutory Authority: Section 3(d) of the Dental Law, 63 P. S. § 122(d).  This regulation is required to amend the current regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).	
State Board of Funeral Directors -Professional Misconduct- 49 Pa. Code §§ 13.201, 13.202. (16A-4814)  -General Revisions- 49 Pa. Code, Chap. 13 (number not yet assigned)  -Forms Review- 49 Pa. Code §§ 13.204 and 13.244 (16A-4813)  -Preneed Funeral Arrangements- 49 Pa. Code, Chapter 13 (16A-4815)	Spring 2006, as Final.  Spring 2006, as Proposed.  Spring 2006, as Proposed.  Spring 2006, as Proposed	The amendment would add to the Board's standards of practice and conduct. Statutory Authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).  These amendments would update the Board's regulations related to advertising, application procedures, facility requirements, qualifications for licensure and responsibilities of supervisors. Statutory authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).  This proposed regulation would clarify the criteria by which the Board will review form statements of funeral goods and services and preneed contracts and add grounds for the Board to disapprove forms. Statutory Authority: Section 16(a) of the Funeral Director Law, 63 P. S. § 479.16(a).  This regulation would clarify and add additional requirements for funeral directors who enter into preneed funeral arrangement agreements. Statutory Authority: Sections 13(c) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.13(c) and 479.16(a).	Michelle Smey (717) 783-3397
State Board of Landscape Architects - General Revisions - 49 Pa. Code, Chapter 15. (16A-618)	Spring 2006, as Final.	The regulation would entail general revisions of the Board's current regulations. Statutory Authority: Section 4(9) of the Landscape Architects' Registration Law, 63 P. S. § 904(9).	Terrie Kocher (717) 772-8528
State Board of Medicine -Athletic Trainers- 49 Pa. Code, Chap. 16 (16A-4915)  -Acupuncture Registration - 49 Pa. Code, Chapter 18, §§ 18.11-18.19 (16A-4919)  -Physician Assistants- 49 Pa. Code, Chapter 18, Subchapter D (16A-4916)	Spring 2006, as Proposed  Spring 2006, as Final.  Fall 2006, as Final.	This regulation would implement Act 92 of 2001, which gave the Medical and Osteopathic Boards jurisdiction over athletic trainers (athletic trainers had formerly been overseen by the State Board of Physical Therapy). Statutory Authority: Section 3 of Act 92 of 2001.  This proposed regulation will amend the Board's existing regulations so that they comport with the Act 49 amendments to the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.  This regulation amends the Board's regulations pertaining to physician assistants. Statutory Authority: Section 13 of the Medical Practice Act of 1985, 63 P. S. § 422.1.	Tammy Radel (717) 783-1400

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Respiratory Care Practitioners Continuing Education - 49 Pa. Code, Chapter 18, Subchapter F. (16A-4921)	Fall 2006, as Final.	This regulation is needed to carry out the legislative mandate of Act 55 of 2004 which required certified respiratory care practitioners to complete 20 credits of continuing education each biennium as a condition of certificate renewal. Statutory Authority: Section 1 of Act 55 of 2004 and section 36.1(f) of the Medical Practice Act of 1985, 63 P. S. § 422.36a(f).	
-Volunteer License- 49 Pa. Code § 16.18 (number not yet assigned)	Summer 2006, as Proposed.	This regulation is required to amend the current regulations regarding volunteer licenses to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	
State Board of Nursing -CRNP Program Approval- 49 Pa. Code §§ 21.260—278, 286-289. (16A-5119)	Spring 2006, as Final.	This regulation would establish requirements for CRNP education programs approved by the Board. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	Ann Steffanic (717) 783-7142
-Licensed Dietitian-Nutritionist Regulations- 49 Pa. Code §§ 21.701—21.717 (16A-5120)	Spring 2006, as Final.	Act 99 of 2002 amended the Professional Nursing Law to include the licensure of dietitian-nutritionists. These regulations implement those amendments. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
-Temporary Practice Permits- 49 Pa. Code §§ 21.7 and 21.149 (16A-5121)	Spring 2006, as Final.	The regulation provides for temporary practice permits for graduate professional nurses and graduate practical nurses and for currently-licensed professional nurses and practical nurses practicing in other jurisdictions who apply for licensure in this Commonwealth. Statutory Authority: Sections 2.1(k) and 4.1 of the Professional Nursing Law, 63 P. S. §§ 212.1(k) and 214.1; and sections 3.1 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 653.1 and 667.6.	
-LPN/IV Therapy- 49 Pa. Code § 21.145 (16A-5122)	Spring 2006, as Proposed	This regulation addresses the LPN's role in working with peripherally inserted central catheters (PICC lines). Statutory Authority: Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	
-RN and LPN Program Examination Pass Rates- 49 Pa. Code, Chapter 21 (16A-5123)	Spring 2006, as Proposed.	This regulation will clarify the procedure for removing a nursing education program from the approved list and further establish standards for placing a nursing education program on provisional approval or removing the program from the approved list based on the failure rate for first-time examinees on the licensure examination. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	
-CRNP General Revisions- 49 Pa. Code, Chapter 21, Subchapter C (16A-5124)	Spring 2006, as Proposed.	This regulation is required to implement Act 206 of 2002, which gave exclusive jurisdiction over CRNPs to the State Board of Nursing and to revise the existing regulations to allow the effective use of CRNPs to the full extent of their education and training. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 7(c) of Act 306 of 2002, P. L. 1567, No. 206, December 9, 2002.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Fees for Approval of Nursing Education Programs- 49 Pa. Code, Chapter 21 (16A-5127)	Fall 2006, as Final.	This regulation updates the fees charged by the Board of the approval of nursing education programs at the professional nurse, licensed practical nurse, and certified registered nurse practitioner levels to reflect the current cost of providing these services. Statutory Authority: Section 11.2 of the Professional Nurse Law, 63 P. S. § 221.2, and section 17.5 of the Practical Nurse Law, 63 P. S. § 667.5.	
-Fees for CRNP Continuing Education Course Approval- 49 Pa. Code, Chapter 21	Spring 2006, as Proposed.	This regulation would establish a fee for the approval of CRNP continuing education courses. Statutory Authority: Sections 8.1(c) and 11.2(a) and (d) of the Professional Nursing Law, 63 P. S. §§ 218.1(c), 221.2(a) and (d).	
-Volunteer License- 49 Pa. Code, Chapter 21, Subchapter F, §§ 21.601—21.607. (number not yet assigned)	Summer 2006, as Proposed.	This regulation is required to amend the regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	
State Board of Examiners of Nursing Home Administrators -Requirements for Admission to Examination- 49 Pa. Code § 39.5. (16A-627) -Biennial Renewal Fees- 49 Pa. Code § 39.72 (16A-6210)	Spring 2006, as Proposed.  Fall 2006, as Final.	This regulation would update and revise the requirements for admission to the licensing examination. Statutory Authority: Section 4(c) of the Nursing Home Administrators Licensing Act, 63 P. S. § 1104(c).  The regulation increases the biennial renewal fee for all nursing home administrators from \$108 to \$297. Statutory authority: Section 7.1(a) of the Nursing Home Administrators License Act, 63 P. S. § 1107.1(a).	Christina Stuckey (717) 783-7155
State Board of Occupational Therapy Education and Licensure -Orders- 49 Pa. Code § 42.25 (16A-676)	Spring 2006, as Proposed.	This regulation would permit an occupational therapist to accept an order from a physician, podiatrist, optometrist or other practitioner authorized by law or facility policy to issue orders for medical and therapeutic measures; and to authorize an occupational therapist to receive an oral order when it is impracticable to receive a written order. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).	Christina Stuckey (717) 783-1389
State Board of Optometry -Volunteer License- 49 Pa. Code § 23.26 (number not yet assigned)	Summer 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).	Deborah Smith (717) 783-7155
State Board of Osteopathic Medicine -Athletic Trainers- 49 Pa. Code, Chap. 16 (16A-5314)  -Deletion of Exam Fees- 49 Pa. Code §§ 25.223 and 25.231 (16A-5315)	Spring 2006, as Proposed  Spring 2006, as Final.	This regulation would implement Act 92 of 2001, which gave the Medical and Osteopathic Boards jurisdiction over athletic trainers (athletic trainers had formerly been overseen by the State Board of Physical Therapy). Statutory Authority: Section 3 of Act 92 of 2001.  This regulation deletes references to examination fees from the Board's regulations because the national examiners set the fees rather than the Board. Statutory Authority: Section 13.1 of the Osteopathic Medical Practice Act, 63 P. S. § 271.13a.	Gina Bittner (717) 783-4858

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Respiratory Care Practitioners- 49 Pa. Code, Chapter 25 (16A-5317)	Fall 2006, as Final	This proposed regulation will amend the Board's regulations by including continuing education requirements for respiratory therapists. Statutory Authority: Section 10.2(f) of the Osteopathic Medical Practice Act, 63 P. S. § 271.10b(f).	
-Volunteer License- 49 Pa. Code, Chapter 25, Subchapter L, §§ 25.601-25.607. (number not yet assigned)	Summer 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	
State Board of Pharmacy -Technology and Automation- 49 Pa. Code, Chapter 27. (16A-5410)	Spring 2006, as Final.	The proposal would address issues raised by new technology now available in the field of pharmacy to allow the use of such technology while ensuring consumer safety. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1), (9).	Melanie Zimmerman (717) 783-7156
-Drug Therapy and Administration of Injectable Medications, Biologicals and Immunizations- 49 Pa. Code, Chapter 27 (16A-5412)	Spring 2006, as Final.	Section 2 of Act 102 of 2002 requires the Board to adopt regulations establishing the parameters of written agreements or protocols for drug therapy management in institutional settings and to establish education and training standards and practice guidelines under which pharmacists may be authorized to administer injectable medications, biologicals, and immunizations to persons who are more than eighteen years of age. Statutory Authority: Sections 9.1 and 9.2 of the Pharmacy Act, 63 P. S. §§ 390-9.1 and 390-9.2.	
-Supplies and Equipment- 49 Pa. Code, Chapter 27 (16A-5415)	Spring 2006, as Proposed.	The regulation would amend existing regulations pertaining to supplies and equipment to eliminate a specific list of supplies and allow pharmacies to keep on hand supplies specific to the pharmacy's area of practice. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
-General Revisions- 49 Pa. Code, Chapter 27 (16A-5416)	Spring 2006, as Proposed.	The proposed regulation would update the regulations of the Board to delete outdated portions and amend sections to recognize current pharmacy practice. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
-Continuing Education- 49 Pa. Code § 27.32 (16A-5417)	Spring 2006, as Proposed.	The proposed regulation would clarify the Board's continuing education requirements. Statutory Authority: Section 3.1 of the Pharmacy Act, 63 P. S. § 390-3.1.	
-Syringes and Needles- 49 Pa. Code, Chapter 27 (16A-5418).	Spring 2006, as Proposed.	The regulation would amend existing regulations requiring a prescription for dispensing needles and syringes in a pharmacy. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
State Board of Podiatry -Licensure Applications- 49 Pa. Code, Chapter 29, §§ 29.52—29.54 (16A-447)	Spring 2006, as Final.	This regulation would amend the current regulations to eliminate references to the Health Care Services Act and replaces them with references to the Medical Care Availability and Reduction of Error (Mcare) Act. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	Gina Bittner (717) 783-4858

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Sexual Misconduct- 49 Pa. Code, Chapter 29 (16A-448)	Spring 2006, as Final.	Through the monitoring of its disciplinary process, including consumer complaints and disciplinary actions, the Board believes that enforcement standards are needed to notify licensees of acts of a sexual nature which the Board deems unprofessional when occurring or resulting form a professional relationship. Statutory Authority: Sections 15 and 16(3) of the Podiatry Practice Act, 63 P. S. §§ 42.15 and 42.16(3).	
-Certificate of Authority to Perform Acupuncture- 49 Pa. Code, Chapter 29 (16A-449)	Spring 2006, as Proposed.	This regulation is required to establish the fees and regulate the practice of acupuncturists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.	
-Volunteer License- 49 Pa. Code § 29.55 (number not yet assigned)	Summer 2006, as Proposed.	This regulation is required to amend the Board's regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	
State Board of Psychology -Education Requirements- 49 Pa. Code § 41.31 (16A-6313)	Spring 2006, as Final.	This regulation would require all doctoral degree programs in psychology and fields related to psychology within North American and the U.S. territories to either be accredited by the APA/CPA or designated by ASPPB. Statutory Authority: Sections 3.2(1) and 6(a)(2) of the Professional Psychologists Practice Act, 63 P. S. §§ 1203.2(1) and 1206(a)(2).	Christina Stuckey (717) 783-7155
-Qualifications- 49 Pa. Code, Chapter 41 (16A-6315)	Spring 2006, as Proposed.	This regulation amends education, experience and examination requirements as well as creates new and amends existing supervisor requirements. Statutory Authority: Sections 3.2(1) and (2) of the Professional Psychologists Practice Act, 63 P. S. §§ 1203.2(1) and (2).	
-Electronic Transfer of Continuing Education Rosters- 49 Pa. Code § 41.59 (16A-6317)	Spring 2006, as Proposed.	This regulation would require continuing education sponsors to electronically transfer continuing education rosters to the Board. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.	
-Code of Ethics- 49 Pa. Code § 41.61 (16A-6318)	Spring 2006, as Proposed	The regulation would update the Board's Code of Ethics so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).	
State Real Estate Commission -Seller's Property Disclosure Statement - 49 Pa. Code § 33.335a (16A-5611)	Spring 2006, as Final (with Proposed omitted)	This regulation adopts a form "seller's property disclosure statement" as required by Act 114 of 2000. Statutory Authority: Section 7304(a) of the Residential Real Estate Transfers Law, 63 P. S. § 7304(a).	Deborah Misheck (717) 783-3658
-Education- 49 Pa. Code § 35.384, 35.385. (16A-5613)	Summer 2006, as Proposed.	The Proposed Regulation would require new licensees to complete a mandatory 14-hour post-licensure course in lieu of their continuing education. Statutory Authority: Sections 404 and 404.1 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.404a.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Disclosure Summary (Consumer Notice)- 49 Pa. Code § 35.336 (16A-5614)	Spring 2006, as Proposed.	This regulation would shorten and simplify the Consumer Notice mandated by section 608 of the Real Estate Licensing and Registration Act. Statutory Authority: 63 P. S. § 455.608.	
-Schedule of Civil Penalties- 49 Pa. Code § 43b.8 (16-32)	Spring 2006, as Final.	This regulation would amend the existing Act 48 Schedule of Civil Penalties formerly promulgated by the Real Estate Commission in 1998. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors			Sandra Matter (717) 783-1389
-Continuing Education- 49 Pa. Code, Chapter 47 (16A-6912)	Spring 2006, as Final.	This regulation would require that licensees complete continuing education as a condition of license renewal. Statutory Authority: Sections 18(a) 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. §§ 1918(a) and 1906(2).	
-Sexual Misconduct- 49 Pa. Code §§ 50.20-50.25. (16A-691)	Spring 2006, as Final.	This regulation defines the professional relationship and prohibits sexual intimacies between a client/patient and the social worker, clinical social worker, marriage and family therapist or professional counselor. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	
-Supervised Clinical Experience- 49 Pa. Code, §§ 47.12c, 48.13 and 49.13. (16A-698)	Spring 2006, as Final.	This regulation permits supervised clinical experience to include group supervisory sessions within educational, institutional and agency settings without the requirement that the supervisor supervise no more than six individuals at the same time. Statutory Authority: Sections 6(2) and 7 of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. §§ 1906(2) and 1907.	
-Technical Amendments- 49 Pa. Code §§ 47.1 and 47.1a. (16A-699)	Fall 2006, as Final.	This regulation clarifies the definition of "accredited school" and deletes the requirement that supervisors of clinical social work applicants for licensure hold a license to practice social work in this Commonwealth so long as they are currently licensed to practice social work in any jurisdiction. Statutory Authority: Section 6 of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906.	
-Child Abuse Reporting Requirements- 49 Pa. Code, Chapters 48 and 49 (16A-6910)	Fall 2006, as Final.	This regulation would extend the mandatory reporting requirements of the Child Protective Services Law (CPSL) to marriage and family therapists and professional counselors. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2) and Section 6383 of the CPSL, 23 Pa.C.S. § 6383.	
-Standards of Professional Conduct- 49 Pa. Code, Chapters 47, 48 and 49 (16A-6911)	Spring 2006, as Proposed.	The regulation would establish a code of ethics and standards of professional conduct for social workers, clinical social workers, marriage and family therapists, and professional counselors licensed by the board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Examiners in Speech-Language and Hearing -Continuing Education- 49 Pa. Code, Chapter 45. (16A-6802)</p> <p>-Assistant Regulations- 49 Pa. Code §§ 45.301-308. (16A-6801)</p> <p>-Standards of Practice and Conduct- 49 Pa. Code § 45.103 (number not yet assigned)</p>	<p>Spring 2006, as Final.</p> <p>Spring 2006, as Proposed.</p> <p>Spring 2006, as Proposed.</p>	<p>This regulation would establish continuing education requirements to comply with Act 71 of 2000. Statutory Authority: Section 5(7) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(7).</p> <p>This amendment would update the regulatory provisions pertaining to assistants. Statutory Authority: Section 5(8) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(8).</p> <p>This regulation would provide the Board with an enforcement mechanism to compel a mental or physical exam where there is probable cause to believe a licensee is unable to practice with reasonable skill and safety because of illness, drunkenness, excessive use of controlled substances, chemicals or other materials or as a result of a physical or mental condition. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).</p>	Sandra Matter (717) 783-1389
<p>State Board of Vehicle Manufacturers, Dealers and Salespersons -Act 48 of 1993 Civil Penalties- 49 Pa. Code, Chapter 43b. (16-32)</p>	Spring 2006, as Final.	This regulation would amend the schedule of Act 48 of 1993 civil penalties for violations of the Board of Vehicles Act and the Board's regulations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	Teresa Woodall (717) 783-1697
<p>State Board of Veterinary Medicine -Certified Veterinary Technician Specialties- 49 Pa. Code § 31.38. (16A-5716)</p> <p>-Biennial Renewal Fees- 49 Pa. Code § 31.41 (16A-5717)</p> <p>-Veterinary Dentistry- 49 Pa. Code, Chapter 31 (16A-5718)</p> <p>-Record Keeping- 49 Pa. Code, Chapter 31 (16A-5719)</p> <p>-Facilities- 49 Pa. Code, Chapter 31 (16A-5720)</p>	<p>Spring 2006, as Proposed.</p> <p>Spring 2006, as Proposed</p> <p>Summer 2006, as Proposed.</p> <p>Summer 2006, as Proposed.</p> <p>Fall 2006, as Proposed.</p>	<p>This regulation would provide that only an individual certified by a veterinary technology academy recognized by the National Association of Veterinary Technicians may hold himself or herself out as a specialist. Statutory Authority: Section 11 of the Veterinary Medicine Practice Act, 63 P. S. § 485.11.</p> <p>This Proposed Regulation would increase the biennial license renewal fee for veterinarians from \$225 to \$300, and would increase the biennial renewal fee for certified veterinary technicians from \$60 to \$75. Statutory Authority: Section 13(a) of the Veterinary Medicine Practice Act, 63 P. S. § 485.13(a).</p> <p>This regulation would address issues relating to veterinary dentistry. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would establish standards for veterinary medical records. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would establish standards for veterinary facilities and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.</p>	J. Robert Kline (717) 783-7134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
-Professional Conduct - 49 Pa. Code, Chapter 31 (16A-5721)	Summer 2006, as Proposed	This regulation would clarify the types of conduct that constitutes unprofessional conduct which may lead to disciplinary action under section 21(1) of the Veterinary Medicine Practice Act. Statutory Authority: Sections 5 and 21 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.21.	
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>			
4 Pa. Code § 250.2. Time to appeal. (This proposed regulation will supercede that portion of 1 Pa. Code § 35.35 pertaining to the 10-day period of time to appeal from delegated actions of subordinate officers and substitute a 30-day period of time to file an appeal.)	Spring 2006	Current hearing regulations are inconsistent with operational practice supporting member-friendly service.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code §§ 250.1 and 250.15. Applicability of general rules. (These current regulations will be modified to permit the application of proposed 4 Pa. Code § 250.2.)	Spring 2006	Specific provisions in SERS' regulations should be exceptions to the general rules of administrative practice and procedure.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code § 247.11 Priority of taxation, attachments and assignments of funds. (This proposed regulation will clarify the priority of payments to be made from the members' accounts by SERS pursuant to 71 Pa. C.S. § 5953.)	Summer/Fall 2006	The statute does not set priorities among conflicting demands on members' accounts. A recent court decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Brian McDonough, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310
4 Pa. Code § 247.7(c). Priority of death benefit payment. (This proposed regulation will clarify the priority of death benefit payments to be made by SERS pursuant to the second sentence of 71 Pa.C.S. § 5905(g).)	Summer/Fall 2006	The statute does not set priorities among conflicting demands on members' death benefits. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Paul Stahlnecker, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657 Tom Wanich (717) 783-7310



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 241.1. Preliminary Provisions. (This proposed regulation will delete the definition of the phrase "class of service multiplier" from the definitional section of the regulations.)	Authorized by the State Employees' Retirement Board at their June 1, 2005 meeting. SERS is currently drafting a response to IRRC's comments on the regulation and preparing the regulation for final-form presentation.	The definition to be repealed is outmoded and does not apply to the benefit formula currently in use.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
4 Pa. Code § 243.8. Membership, Credited Service, and Eligibility for Benefits. (This proposed regulation will delete the classes of service which were closed to new members on March 1, 1974)	Authorized by the State Employees' Retirement Board at their June 1, 2005 meeting. SERS is currently drafting a response to IRRC's comments on the regulation and preparing the regulation for final-form presentation.	The regulation has been rendered obsolete by changes to SERS' enabling legislation and benefit formula.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
4 Pa. Code § 249.2 Preliminary Provisions. (This proposed regulation will delete the portion of this regulation dealing with public inspection of certain records of the State Employees' Retirement Board.)	Authorized by the State Employees' Retirement Board at their June 1, 2005 meeting. SERS is currently preparing the regulation for final-form presentation.	The regulation is outmoded, unenforceable and is unnecessary due to the Right-To-Know Law.	Salvatore Darigo, Esq. (717) 787-7317 Robert Gentzel (717) 787-9657
<b>STATE POLICE</b>			
Interception, maintenance, and destruction of Mobile Video Recordings 37 Pa. Code Chapter 50	January 2007, as proposed.	Act 53 of 2002 requires the State Police Commissioner, in consultation with the Attorney General, to promulgate these regulations. 18 Pa.C.S. §§ 5704(16), 5749	Syndi L. Guido Policy Director 717-772-0905
DNA Detection of Sexual and Violent Offenders. 37 Pa. Code Chapter 58	June 2006, as proposed	Act 185 of 2004 repealed Chapter 47 of Title 42 of the Pennsylvania Consolidated Statutes and amended Title 44 to add Chapter 23, DNA Data and Testing. The act requires the State Police to promulgate rules and regulations to carry out its provisions.	Syndi L. Guido Policy Director 717-772-0905

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Administration of Megan's Law—Neighbor Notification 37 Pa. Code Chapter 55	June 2006, as proposed	Act 18 of 2000, known as Megan's Law, provides for the registration of sexual offenders and community notification for sexually violent predators. The act requires the Department to promulgate guidelines for the general administration of the act in consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole, and the chairmen and minority chairmen of the Senate and House Judiciary Committees. The act also requires the Department to write regulations regarding neighbor notification of sexually violent predators' residence, school, or employer. See 42 Pa. C.S. § 9799.1 Although the requisite guidelines and regulations have been promulgated, the Department is in the process of updating them in light of Act 152 of 2004, which made substantive amendments to Megan's Law.	Syndi L. Guido Policy Director 717-772-0905
<b>STATE SYSTEM OF HIGHER EDUCATION</b>			
No regulations being developed or considered at this date.			
<b>TRANSPORTATION</b>			
177 - Emission Inspection 67 Pa. Code, Chapter 177	September 2006	This regulation must be retained to stay in compliance with clean-air goals. Due to various Vehicle Code amendments and other desired changes, amendments to the regulations are required in the areas of: inspection station signage.	John Munafo 717-787-2171
43 - Temporary Registration Cards and Plates 67 Pa. Code, Chapter 43	September 2006	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supercedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations or fines will be removed from the regulation, as these items are now addressed in the required contracts.	Andy Cleaver 717-787-2171
175 - Vehicle Equipment and Inspection 67 Pa. Code, Chapter 175	September 2006	Several changes in law currently supercede some facets of this regulation. Due to various Vehicle Code amendments and other desired changes, amendments to the regulations are required in the areas of: hours of inspection station operation, the coordination of inspection and registration, street rod equipment requirements, refunds for unused stickers and definitions.	John Munafo 717-787-2171
75 - Driver's License Exam 67 Pa. Code, Chapter 75	March 2006	The regulation is being revised to allow chiropractors to complete the learner's permit physical. HB1912, Act 76, passed July 15, 2004, requires us to allow chiropractors to complete this physical.	Anne Titler 717-783-4737
21 - Odometer Read Disclosure Statements 67 Pa. Code, Chapter 21	September 2006	Changes are needed to bring the regulation current with the Vehicle Code, to specify the age at which a vehicle becomes exempt from odometer disclosure.	Andy Cleaver 717-787-2171
23 - Delivery of Certificates of Title 67 Pa. Code, Chapter 23	September 2006	The method of title delivery has changed due to the electronic lien and title program (75 Pa.C.S. Section 1151). This Chapter needs to be updated to reflect the ability to transmit titles with liens electronically, rather than by mail.	Andy Cleaver 717-787-2171
13 - Special Mobile Equipment 67 Pa. Code, Chapter 13	September 2006	Act 211 of 2004, which took affect January 29, 2005, changed the vehicle code definition of special mobile equipment. The regulation needs revised to align with that definition change.	Andy Cleaver 717-787-2171

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
17 - Authorization to Verify ID Numbers 67 Pa. code, Chapter 17	September 2006	Changes needed to document the Vehicle Identification Number (VIN) verification process. The VIN verification process is not currently documented in either the Vehicle Code or in regulations.	Andy Cleaver 717-787-2171
51 - Transfer, Exchange & Reclassification of Registration 67 Pa. Code, Chapter 51	September 2006	An amendment is needed to eliminate the actual transfer fee dollar amount reference in the regulation, and replace with a reference to Section 1927 of the Vehicle Code where the fee is already listed. This will eliminate regulatory changes, if the fee amount changes in the Vehicle Code.	Phil VanBriggle 717-787-2171
71 - School Bus Drivers 67 Pa. Code, Chapter 71	March 2006	The regulation needs to be revised to allow chiropractors to complete the school bus driver physical. HB1912, Act 76, passed July 15, 2004, requires us to allow chiropractors to complete this physical.	Chris Miller 717-346-9479
221 - Obligations of Insurer and Vehicle Owner Pa. Code, Chapter 221	December 2006	This regulation should be updated to reflect the changes being proposed for more use of electronic reporting of insurance cancellation information by insurers.	Phil VanBriggle 717-787-2171
255 - Messenger Services 67 Pa. Code, Chapter 255	September 2006	Act 152 of 2002 enacted legislation (requiring contracts for all messenger and agent services) that supercedes several facets of this regulation. Based on the legislation, any reference to bond, hearings, written warnings, suspensions, revocations, or fines will be removed from the regulation as these items are now addressed in the required contracts.	Andy Cleaver 717-787-2171
471 - Aviation 67 Pa. Code, Chapter 471	August 2006	This regulation is being revised to clarify requirements and to allow for more practical application and enforcement of those requirements.	Brian Gearhart 717-705-1250
102 - Child Passenger Protection 67 Pa. Code, Chapter 102	March 2006	Under Act 229, regulations are needed exempting the use of child passenger restraint systems when impractical for physical reasons, including but not limited to, medical reasons or size of the child.	Louis Radar & Nancy Thomas 717-787-6853
201 - Engineering & Traffic Studies 67 Pa. Code, Chapter 201	January 2006	The Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices as our traffic control standard. The Manual will be incorporated as reference in a new regulation, Chapter 212. Chapter 201 will be deleted and its language will become part of the new regulation.	Ken Williams & Dave Mallin 717-772-5462
203 - Work Zone Traffic Control 67 Pa. Code, Chapter 203	January 2006	The Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices as our traffic control standard. The Manual will be incorporated as reference in a new regulation, Chapter 212. Chapter 203 will be deleted and its language will become part of the new regulation.	Ken Williams & Dave Mallin 717-772-5462
204 - Additional Traffic Control Devices in Highway Work Zones - Statement of Policy 67 Pa. Code, Chapter 204	January 2006	The Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices as our traffic control standard. The Manual will be incorporated as reference in a new regulation, Chapter 212. Chapter 204 will be deleted and its language will become part of the new regulation.	Ken Williams & Dave Mallin 717-772-5462

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
211 - Official Traffic Control Devices 67 Pa. Code, Chapter 211	January 2006	The Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices as our traffic control standard. The Manual will be incorporated as reference in a new regulation, Chapter 212. Chapter 211 will be deleted and its language will become part of the new regulation.	Ken Williams & Dave Mallin 717-772-5462
212 - Official Traffic Control Devices 67 Pa. Code, Chapter 212	January 2006	Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices. Chapter 212 is a new regulation which will be used as the instrument to adopt the Manual.	Ken Williams & Dave Mallin 717-772-5462
217 - Posting of Private Parking Lots 67 Pa. Code, Chapter 217	January 2006	The Federal Highway Administration is requiring us to adopt the new National Manual on Uniform Traffic Control Devices as our traffic control standard. The Manual will be incorporated as reference in a new regulation, Chapter 212. Chapter 217 will be deleted and its language will become part of the new regulation.	Ken Williams & Dave Mallin 717-772-5462
441 - Access to and Occupancy of Highways by Driveways and Local Roads 67 Pa. Code, Chapter 441	March 2006	To be updated to better reflect current requirements.	Dan Smyser 717-787-6227
457 - Prequalification of Bidders 67 Pa. Code, Chapter 457	June 2006	The Bureau of Construction Materials is proposing changes to the Regulations due to policy changes and ECMS bid procedure changes since the last modification which was in 1998.	Joseph Cribben 717-787-3733

[Pa.B. Doc. No. 06-199. Filed for public inspection February 3, 2006, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of the regulation, contact the promulgating agency.

#### *Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
57-229	Pennsylvania Public Utility Commission Permanent Standards of Conduct	1/19/06

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 06-200. Filed for public inspection February 3, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire Control

VO Acquisition, LLC has filed an application to acquire control of Value Behavioral Health of Pennsylvania, Inc., a Commonwealth domiciled preferred provider organization that is not a licensed insurance company. The filing was made under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-201. Filed for public inspection February 3, 2006, 9:00 a.m.]

# PENNSYLVANIA COUNCIL ON AGING

## Meeting Dates for 2006

Under 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act), the Pennsylvania Council on Aging (Council) has established the following dates for the calendar year 2006:

*Wednesday, February 8, 2006	9 a.m.—2:30 p.m.
Wednesday, April 12, 2006	9 a.m.—2:30 p.m.
Wednesday, June 14, 2006	9 a.m.—2:30 p.m.
Wednesday, August 9, 2006	9 a.m.—2:30 p.m.
**October meeting to be announced	
Wednesday, December 6, 2006	9 a.m.—2:30 p.m.

All meetings, with the exception of the February and October meetings, will be held at the Department of Aging, Fifth Floor Conference Room, 555 Walnut Street, Harrisburg, PA.

\*The February 8 meeting will be held at the Radisson Penn Harris Hotel in Camp Hill.

\*\*Contact the Council at (717) 783-1924 for the date and location of the October meeting, which will be determined later.

Persons with a disability who wish to attend the meetings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Darlene Sampson, Executive Director, (717) 783-1924 to discuss how the Council may best accommodate their needs.

DARLENE SAMPSON,  
*Executive Director*

[Pa.B. Doc. No. 06-202. Filed for public inspection February 3, 2006, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 27, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.***

**A-00122383. Racing Limos of York, LLC** (210 Pebble Beach Drive, Mount Wolf, York County, PA 17347)—

persons, in limousine service, from points in the Counties of York and Adams, to points in Pennsylvania, and return. *Attorney: J. Bruce Walter, Esquire, P. O. Box 1146, Harrisburg, PA 17108-1146.*

**A-00122379. Gregory E. Ruffo t/a Ruffo's Auto Repair** (401 North 4th Street, Youngwood, Westmoreland County, PA 15697)—persons, in limousine service, from points in the County of Westmoreland, to points in Pennsylvania, and return.

**A-00122391. Susan R. Wingert** (P. O. Box 694, 410 Maple Street, Terre Hill, Lancaster County, PA 17581)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Roma Torres; Doc. No. A-00120888C0501*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Roman Torres, respondent, maintains his principal place of business at 3601 Conshocken Ave., #501, Philadelphia, Pa. 19131.

2. That respondent was issued a certificate of public convenience by this Commission on September 7, 2004, at Application Docket No. A-00120888.

3. That respondent, by Commission Secretarial Letter dated July 9, 2004, was informed to submit a copy of a current satisfactory safety rating from the U. S. Department of Transportation or another state, within 180 days, or complete a safety fitness review by a Commission enforcement officer. A satisfactory safety rating must be achieved by respondent in order to maintain a certificate of public convenience to operate as a common carrier of property between points in the Commonwealth of Pennsylvania. Beginning in September, 2004, Enforcement Officer Charles F. Myers of the Philadelphia District Office made numerous attempts to contact respondent, but all were unsuccessful. On March 7, 2005, the Philadelphia District Office attempted to contact respondent by first class mail to scheduled a Safety Fitness Review. Respondent failed to respond to the letter. All attempts to reach respondent by the Philadelphia District Office were unsuccessful. On March 24, 2005, the Bureau of Transportation and Safety's safety office reported that respondent had failed to complete a safety fitness review in the allotted time period.

4. That respondent, by failing to submit itself to a safety fitness review from this Commission, violated 66 Pa.C.S. § 501(c) for failure to comply with a Commission order and § 1501 for failure to maintain adequate, efficient and safe service and facilities.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Roman Torres's, certificate of public convenience at A-00120888.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

**VERIFICATION**

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Wendy J. Keezel

**NOTICE**

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue an order imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue an order imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-203. Filed for public inspection February 3, 2006, 9:00 a.m.]

# PHILADELPHIA REGIONAL PORT AUTHORITY

## Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-003.1, Emergency Repairs to Masonry Walls/Weld Shop, Pier 80 S. Annex until 2 p.m. on Thursday, March 9, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available February 14, 2006. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held on February 23, 2006, at 10 a.m. at Pier 80 S. Ax, 2147 S. Columbus Blvd. (S. E. corner Columbus Blvd. and Snyder Ave.), Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 06-204. Filed for public inspection February 3, 2006, 9:00 a.m.]

# STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

**Bureau of Professional and Occupational Affairs v.  
Ronald D. Hall; Doc. No. 1510-70-05**

On October 13, 2005, Ronald D. Hall, license no. RL001917L, of Media, Delaware County was reinstated under the order of the Court of Common Pleas of Philadelphia County, retroactive to September 19, 2005.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Certified Real Estate Appraisers (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition

for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

ROBERT F. MCRAE,  
*Chairperson*

[Pa.B. Doc. No. 06-205. Filed for public inspection February 3, 2006, 9:00 a.m.]

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## STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v. David A. Brown, Malachi A. Carter and Hayden W. Smith t/d/b/a Dejavue Unisex Salon; Doc. No. 1855-45-04**

On December 8, 2005, Hayden W. Smith, Malachi Carter and David R. Brown t/d/b/a Dejavue Unisex Salon, license no. CB103956L, of Philadelphia, Philadelphia County were assessed a civil penalty of \$1,500 based on findings respondents operated a shop on a lapsed license, respondents operated a shop without proper management, respondents did not have equipment required at the time of the shop inspection, respondents did not have the consumer notice posted in the shop and respondents used their shop for purposes other than providing cosmetology services.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Cosmetology (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,  
*Chairperson*

[Pa.B. Doc. No. 06-206. Filed for public inspection February 3, 2006, 9:00 a.m.]

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**Bureau of Professional and Occupational Affairs v. Crystal Lewis a/k/a Crystal Gallagher; Doc. No. 1483-45-03**

On December 7, 2005, Crystal Lewis a/k/a Crystal Gallagher, license no. CO250865, of Northampton, Northampton County was assessed a civil penalty of \$500 in addition to the previous imposed penalty of \$250 for a total of \$750 based on findings she violated a lawful disciplinary order of the State Board of Cosmetology (Board) by failing to pay a civil penalty.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,  
*Chairperson*

[Pa.B. Doc. No. 06-207. Filed for public inspection February 3, 2006, 9:00 a.m.]

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## STATE BOARD OF DENTISTRY

**Bureau of Professional and Occupational Affairs v. Patrick Neill Boyle, D.D.S.; Doc. No. 0074-46-05**

On September 16, 2005, Patrick Neill Boyle, D.D.S., license no. DS-030949-L, of Monaca, Beaver County was suspended from the practice of dentistry for a period of no less than 5 years, based on his violation of the terms of his probation imposed by a previous order of the State Board of Dentistry (Board). Patrick Neill Boyle, D.D.S. last practiced in Mount Lebanon, Allegheny County.

Individuals may obtain a copy of the adjudication by writing to Cynthia K. Montgomery, Board Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the Board's final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by filing a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. CALDERBANK., D.M.D.,  
*Chairperson*

[Pa.B. Doc. No. 06-208. Filed for public inspection February 3, 2006, 9:00 a.m.]

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## 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 individual subjects to the provisions of the act and from other interested parties.

The Commission will conduct a public meeting on February 23, 2006, at 9 a.m. in Room 307, Finance Building, Harrisburg, PA for purposes of receiving said 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 any 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. 06-209. Filed for public inspection February 3, 2006, 9:00 a.m.]

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## STATE REAL ESTATE COMMISSION

**Bureau of Professional and Occupational Affairs v.  
John J. Varrato; Doc. No. 1775-56-05**

On December 1, 2005, John J. Varrato, license no. RS216965L, of Ellwood City, Lawrence County was suspended under the Order of the Court of Common Pleas of Lawrence County dated November 17, 2005, which the court issued under section 4355 of the Domestic Relations Code for failure to pay child support.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Real Estate Commission (Commission) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

BEVERLY R. BROOKES,  
*Chairperson*

[Pa.B. Doc. No. 06-210. Filed for public inspection February 3, 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



### Agricultural Services

**CN00018884** Services of a contractor, at specifically designated locations, to provide uniform ground application of fertilizer to approximately 153 acres in forested areas of the Commonwealth of Pennsylvania (Potter and Tioga Counties). Bid Opening Date/Time: February 14, 2006; 2:00 p.m.

**Department:** Conservation and Natural Resources  
**Location:** Potter and Tioga Counties (Forest Districts 15 and 16)  
**Duration:** Commence upon execution plus receipt of purchase order and terminate May 30, 2006. Contract could be renewed for 4 additional annual terms with final termination date 5/30/2010.

**Contact:** Nancy Weibley, 717-783-4884

**5/4** Provide fish food used in a statewide fish culture program during the period April 1—June 30, 2006. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

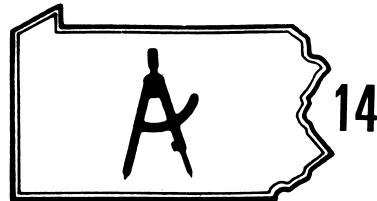
**Department:** Fish and Boat Commission  
**Location:** Statewide to various state fish hatcheries as requested.  
**Duration:** April 1—June 30, 2006  
**Contact:** Debbie Rose, 814-359-5141



### Child Care Services

**CN00018833** Contractor to provide professional services which include family therapist, agency staffing and transportation of children from the Philadelphia area to SCI-Muncy, to visit mothers incarcerated at the Institution. The schedule will be coordinated with SCI-Muncy's personnel.

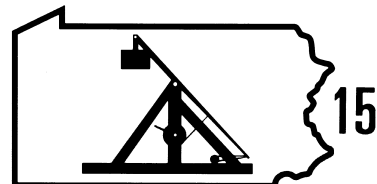
**Department:** Corrections  
**Location:** State Correctional Institution at Muncy, P. O. Box 180, Route 405, Muncy, PA 17756  
**Duration:** 1 to 3 years  
**Contact:** Cindy Lyons, 570-546-3171



### Engineering Services

**CN00018885** Aerial Deer Survey services as per specifications. For a copy of the bid package please fax your request to 717-861-2932 or e-mail to the address below. Bid opening will be Wednesday, February 8, 2006 at 2:00 PM.

**Department:** Military Affairs  
**Location:** Department of Military and Veterans Affairs, Fort Indiantown Gap, Annville, PA.  
**Duration:** To be completed 31 March 06.  
**Contact:** Glenda Nagle, 717-861-2116



### Environmental Maintenance Service

**BOGM 06-2** Cleaning Out and Plugging One Hundred Twenty-One (121) Abandoned Oil and Gas Wells. (Pennsylvania Game Commission and Mr. Donald M. Jack Properties). The principal items of work and approximate quantities include cleaning out and plugging one hundred twenty-one (121) abandoned oil and gas wells, estimated to be between 900-1200 feet in depth, to Department specifications, preparing and restoring well sites, mobilizing and demobilizing plugging equipment, reclamation of tank batteries, removal of tanks, junk and pipelines, waste disposal of tank sludge and removal of buildings. This project issues on February 3, 2006 and bids will be opened on March 7, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid.

**Department:** Environmental Protection  
**Location:** Cranberry Township and the Municipality of Seneca, Venango County  
**Duration:** 360 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

**BOGM 4-101.1R** Cleaning Out and Plugging Nine (9) Orphan Oil and Gas Wells, (C.H. Snyder Company and Mr. Donald Weiland Properties). The principal items of work include cleaning out and plugging nine (9) orphan oil and gas wells, estimated to be between 1,800-3,215+ feet in depth, to Department specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on February 3, 2006 and bids will be opened on March 7, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid.

**Department:** Environmental Protection  
**Location:** Washington and Sugarcreek Townships, Armstrong County  
**Duration:** 160 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

**OSM 43(4284)101.1** Abandoned Mine Land Reclamation Project, Nesbit Corners East. The principal items of work and approximate quantities include 205,000 cubic yards of Grading, 30 pounds of Wetland Seed Mix and 20.5 acres of Seeding. This project issues on February 3, 2006 and bids will be opened on March 7, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

**Department:** Environmental Protection  
**Location:** Worth and Jackson Townships, Mercer County  
**Duration:** 240 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, 717-783-7994

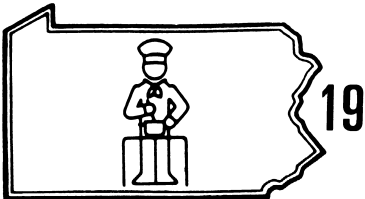


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### Financial and Insurance Consulting

**05-0003** Vendor shall provide auditing services for Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602. Accounting firm shall perform a one-year financial audit for the college. Interested firms may request a bid package by sending an e-mail to froeschle@stevenscollege.edu.

**Department:** State  
**Location:** 750 East King Street, Lancaster, PA  
**Contact:** Nancy Froeschle, 717 299-7787



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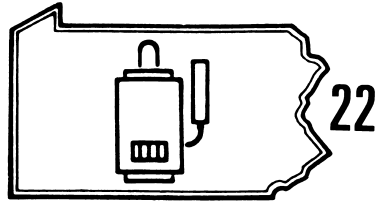
### Food

**cn00018870** TSH - Dry cereal and canned foods for hospital storeroom. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendor-registration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, State Route 1014, Torrance PA 15779  
**Duration:** Single delivery date.  
**Contact:** Kristina Meighan, 724-459-4678

**CN00018821** Non-Perishable Dry and Canned Foods for Inventory.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101  
**Duration:** 1 time delivery  
**Contact:** Kathleen A Zeigler, (724) 656-7308



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### HVAC Services

**38223** Thermal Solutions Model No. EVAM-1500 Natural Gas Fired Hot Water Heater (1 each). Bid is due 1/25/06.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA  
**Contact:** Linda Brunner, 610-436-2602

**CN00018866** Maintenance of Heating, Air Conditioning System, and Electric Hot Water Heater.

**Department:** Transportation  
**Location:** PA Department of Transportation, Quehanna Training Center, 4676 Quehanna Highway, Karthaus, PA 16845  
**Duration:** Five (5) Year Contract  
**Contact:** Sherri Linen, 717-787-3959

**1150-REF-06** The contractor shall provide all labor, equipment, materials, repair parts, and replacement components necessary to maintain, adjust, calibrate, repair, and/or replace components of refrigeration and room air conditioning units as needed and requested by the State Correctional Institution at Greensburg.

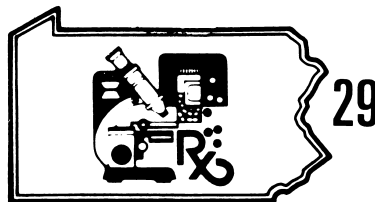
**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, RD 10, BX 10, Route 119 South, Greensburg, PA 15601-8999  
**Duration:** July 1, 2006 to June 30, 2009  
**Contact:** Gena Hainesworth, 724-837-4397

**CN00018809** The Department of Transportation, Engineering District 11, is seeking a qualified contractor to provide plumbing services on an as needed basis at the District Office, Bridgeville, PA. Work includes servicing, maintaining, repairing, upgrading and replacing plumbing items at the District Office.

**Department:** Transportation  
**Location:** The Engineering District Office is located at 45 Thoms Run Road, Bridgeville, 15017  
**Duration:** The contract will be for an original period of one year from the effective date. By mutual consent, this contract can be renewed for one additional one-year period.  
**Contact:** Susie Harris, (412) 429-4828

**CN00018381** The Department of Transportation, District 11-1, is seeking a qualified contractor to provide plumbing services on an as needed basis at various facilities and locations in Allegheny County. Work includes servicing, maintaining, testing, repairing, upgrading, and replacing plumbing items.

**Department:** Transportation  
**Location:** Various facilities located in Allegheny County  
**Duration:** The purchase order will be for an original period of one year from the effective date. The purchase order will be renewable by mutual consent for one additional one-year period.  
**Contact:** Tim Claypoole, (412) 781-3260



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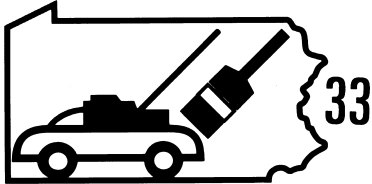
### Medical Services

**CN001889** Contractor to provide a Certified Enterostomal Therapist (CWOCN) that can demonstrate a minimum two years experience as a professional nurse providing wound, ostomy and continence care of the elderly. ADDITIONAL DETAILS AVAILABLE UPON REQUEST

**Department:** Military Affairs  
**Location:** MIL/VET AFF SouthWest Veterans Home, 7060 Highland Drive, Pittsburgh, PA 15206  
**Duration:** 02/25/2006—06/30/2006  
**Contact:** Ken Wilson, 412-665-6727

**CN00018899** The Pennsylvania Fish and Boat Commission, as agency representing the Commonwealth of Pennsylvania, requires the service for complete physical and performance evaluations of candidates for appointment as Waterways Conservation Officer Trainees and fitness for duty examinations. BID OPENING 2/13/2006.

**Department:** Fish and Boat Commission  
**Location:** PA Fish and Boat Commission, 1601 Elmerton Avenue, Harrisburg, PA 17110  
**Duration:** March 1, 2006 through June 30, 2009  
**Contact:** Gay Cartwright, 717-705-7915



### Property Maintenance

**00702-001-05-AS-3** Project Name: Insulate Roof in Charcoal Building. Scope: Install approximately 4000 S.F. of rigid foam insulation and drywall, including painting, to the underside of the roof deck in the Charcoal Building at Cornwall Iron Furnace. A (non-mandatory) Pre-bid meeting will be held on Monday, February 13, 2006 at 10:00 am at Cornwall Iron Furnace, Visitor Center, Cornwall, PA. for all firms interested in submitting bids for the project. For directions contact the Project Manager, Joe Lauver at (717) 787-6242 or the site at (717) 272-9711. All interested bidders should submit a \$25.00 (non-refundable) check made out to PHMC and a request for a bid package in writing to: PA Historical and Museum Commission, Division of Architecture, Room N118, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053. ATTENTION: Judi Yingling, (717) 772-2401 or fax 717-214-2988 or e-mail: jyngling@state.pa.us. All packages are sent out regular US mail. If you would like it sent overnight, please provide your FedEx or UPS number. All proposals are due on Friday, March 3, 2006 at 11:45 am. Bid opening will be held in The Commonwealth Keystone Building, Division of Architecture, Room N118, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053.

**Department:** Historical and Museum Commission  
**Location:** Cornwall Iron Furnace, P. O. Box 251, Cornwall, PA 17016  
**Duration:** March 1, 2006 to December 31, 2006  
**Contact:** Judi Yingling, 717-772-2401

**CN 00018902** This work is for the traffic island mowing for various State Routes in Bucks, Chester, Delaware and Montgomery Counties (Group 6-06-TIM1). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ. Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Sharon Goldberg, Purchaser, (610) 205-6909. Bids are scheduled to be opened on February 22, 2006 at the Pennsylvania Department of Transportation Engineering District 6-0, 7000 Geerdes Blvd., King of Prussia, PA 19406 at 11:00 a.m. Bidding documents can be viewed at [www.dot.state.pa.us](http://www.dot.state.pa.us) by clicking on Local and Regional Offices, PennDOT Districts, District 6, District Bid Page. Then click on the CN No. CN 00018902.

**Department:** Transportation  
**Location:** Bucks, Chester, Delaware, and Montgomery Counties  
**Duration:** Three (3) years with an option to renew.  
**Contact:** Sharon Goldberg, Purchaser, (610) 205-6566

**CN00018842** The Department of Conservation and Natural Resources, Bureau of Forestry, Forest District 1, requires the services of a contractor to release 9,567 crop trees on 249 acres in Adams, Cumberland and Franklin Counties. A breakdown of the projects is as follows: Adams County—Project Number: 01-0519, Project Location: 3,053 crop trees off High Rock Road, Hamiltonban Township (96 acres); Cumberland County—Project Number: 01-0517, Project Location: 2,025 crop trees off Thompson Hollow Road, Southampton Township (44 acres); Franklin County—Project Numbers: 01-0520, 01-0521, 01-0522, Project Location (01-0520): 823 crop trees off Rattlesnake Run Road, Washington Township (24 acres), Project Location (01-0521): 1,273 crop trees off Rattlesnake Run Road, Washington Township (36 acres), Project Location (01-0522): 2,393 crop trees off Rattlesnake Run Road, Washington Township (49 acres). A combined site inspection will be conducted prior to the bid opening. The site inspection will be held on Wednesday, February 8, 2006, at 9:00 AM. Prospective bidders will meet at the Big Flat parking area. Bidders may contact the district office at 717-352-2211 for directions.

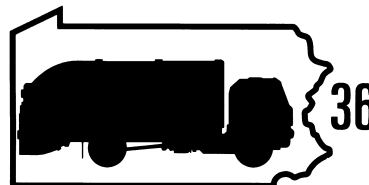
**Department:** Conservation and Natural Resources  
**Location:** DCNR—Bureau of Forestry, Michaux Forest District Office, 10099 Lincoln Way East, Fayetteville PA 17222  
**Duration:** The Contract shall commence upon execution and receipt of Purchase Order, and terminate April 30, 2007.  
**Contact:** Gloria Strawser, 717-783-0733

**CN00018844** Provide all labor, material, supervision, tools and equipment necessary to perform maintenance, inspection, repairs and emergency service to twenty-six (26) rolling steel doors of various size. Bid opening date: 2/8/06, 1:00 P.M.

**Department:** Liquor Control Board  
**Location:** Southeastern Distribution Center, 8201 Enterprise Avenue, Philadelphia, PA 19153-3896  
**Duration:** Upon notification to proceed through February 28, 2007  
**Contact:** Nicole Thomas, 717-783-2647

**CN00018817** Lawn Care Services on the grounds of Eastern Pennsylvania Psychiatric Institute (EPPPI), Philadelphia. This property is being managed by Norristown State Hospital. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Eastern PA Psychiatric Institute (EPPPI), 3200 Henry Avenue, Philadelphia, PA  
**Duration:** Anticipated to begin on 4/1/06 through 12/15/06. Bid opening date is 2/8/06 at 2 p.m. at Norristown State Hospital.  
**Contact:** Debbie Jones, 610-313-1025



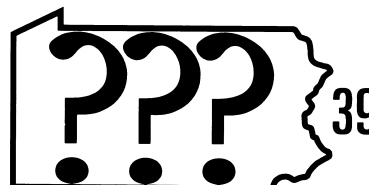
### Sanitation

**CN00018549 Rebid** Trash Removal for PennDOT District 8-0 and Dauphin County Maintenance 8-5 for one year with four one year renewals by mutual consent of both parties.

**Department:** Transportation  
**Location:** Bid opening will be January 31, 2006 at 11:00 am in the Perry Conference Room located at 2140 Herr Street, Harrisburg, PA  
**Contact:** Tim Crider, 717-787-6408

**CN00018382** This service is to provide refuse and trash removal service at various locations for the Department of Transportation's maintenance facilities in Allegheny County.

**Department:** Transportation  
**Location:** Various PennDOT maintenance facilities located throughout Allegheny County.  
**Duration:** This purchase order will be for a period of one year from the effective date. This purchase order will be renewable by mutual consent for two additional one-year periods.  
**Contact:** Tim Claypoole, (412) 781-3260



### Miscellaneous

**62-0121-Goshen Hall Shower Renovations** West Chester University is soliciting sealed bids from separate prime contractors for the following work: General Construction, Demo plaster ceiling, shower membrane, floor tile, CMU infill, doors and hardware. Plumbing Construction: Provide new shower drains, supply piping, shower controls. Electrical Construction Electric lights and wiring. Site Visit scheduled for 2/1/06 at 10:00 a.m. in lobby of Goshen Hall, 125 N. Campus Dr., West Chester, PA 19383. Bid Opening: 2/16/06 at 11:00 a.m.; 10% Bid Bond is required. PA Prevailing Wage Act applies. To obtain plans and specs contact Barb Cooper at 610-436-2706.

**Department:** State System of Higher Education  
**Location:** Goshen Residence Hall, West Chester University, 125 N. Campus Dr., West Chester, PA 19383.  
**Duration:** Project estimated to begin May 2006, completion date is: August 4, 2006  
**Contact:** Barbara A. Cooper, 610-436-2706

**CN30106722** State Awards as per specifications. For a copy of the bid package please fax your request to 717-861-2932 or e-mail to the address below. Bid opening will be Monday, February 06, 2006 at 2:00 PM.

**Department:** Military Affairs  
**Duration:** DOA 06/30/08  
**Contact:** Sharon Wessner, 717-861-8519

**CN00018796** Contractor to provide Protestant chaplaincy services for the residents of the Protestant faith at the Gino J Merli Veterans Center. For complete specifications please e-mail Robert J Casey at rcasey@state.pa.us or fax request to 570-961-4400.

**Department:** Military Affairs  
**Location:** Gino J. Merli Veterans Center, 401 Penn Ave., Scranton, PA 18503  
**Duration:** July 1, 2006 through June 30, 2009  
**Contact:** Robert J Casey, 570-961-4317

**01/19/2006** Allentown State Hospital is interested in acquiring a 12,000 lb. Twin Post Lift. All equipment shall be new and unused. Lift must be the manufacturer's current model and meet all Federal, State and Local regulations. The vendor will also be responsible for the installation. A complete bid package and a list of specifications can be obtained by contacting the Purchasing Department at 610-740-3425 or fax 610-740-3424.

**Department:** Public Welfare  
**Location:** Allentown State Hospital, 1600 Hanover Avenue, Allentown PA 18109-2498  
**Contact:** Robert Mitchell, 610-740-3425

**SU-2004/26.1** INVITATION TO BID - Shippensburg University: Cabinetry for Luhrs Elementary School and Child and Family Center. Shippensburg University of the PA State System of Higher Education invites General Contractors to request bid documents for this project. Work involves removal of existing temporary casework, cabinetry replacement, removal and reinstallation of slate countertops and rubber base, and reinstallation of casework. Bidders may obtain project plans for a non-refundable fee of \$40.00, by contacting Howard Kulp Architects, Attn: Joel Demeter, 1501 Lehigh Parkway North, Allentown, PA 18103, Telephone (610) 434-6200. Pre-Bid Meeting with site visit immediately to follow will be held on February 9, 2006, at 10:00 AM in the Reed Operation Center Conference Room. Bids due: February 28, 2006 at 4:00 P.M. Old Main Room 300. Public Bid Opening: March 01, 2006 at 2:00 P.M., Old Main Room 203A. The system encourages responses from small firms, minority firms, and firms which may have not previously performed work for the System. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Shippensburg, PA 17257  
**Duration:** Completed NLT 8-19-06  
**Contact:** Deborah K. Martin, 717-477-1121

**PAP-Plant Tags** Plant tags 1.875" by 3.25" die cut to shape printed w/pa preferred logo.

**Department:** Agriculture  
**Location:** 2301 North Cameron Street, Harrisburg, PA 17110  
**Duration:** Bid closes on 2/6/06 at 2:00 PM  
**Contact:** Sheila Strubhar, 717-787-1467

**CN00018826** Furnish and Install Bally Walk-in Freezer or approved equal at the State Correctional Institution at Muncy. System must be 9'8" deep by 9'8" wide. Voluntary site visit day: 2/16/06 at 10:00 A.M. Vendor must contact Ed Jakto at 570-546-3171, ext. 355 or 350, by 2/13/06 to ensure proper gate clearances are completed.

**Department:** Corrections  
**Location:** State Correctional Institution, P. O. Box 180, Route 405, Muncy, PA 17756  
**Duration:** 2 weeks after initial start of project.  
**Contact:** Cindy Lyons, 570-546-3171

**RFA # 355R05** The Department of Transportation is issuing a Request for Applications (RFA) to solicit Applicants interested in providing "On-Line Certificate of Salvage Service Center Providers" services. This is an open enrollment RFA. The Department is issuing this Open Enrollment RFA to replace the previous RFA and obtain additional on-line processing of certificates of salvage by adding qualified Pennsylvania salvage auctions and salvage associations. In general, the on-line certificate of salvage service center providers will review and examine any documents/forms presented, perform data entries of the requisite information on a remote terminal, transmit the data to the Department's mainframe in Harrisburg, and issue the credentials to the customer. Interested applicants may request a copy of the RFA by faxing or e-mailing their name, company name, address, telephone number, fax number, and e-mail address to Roberta Cooper, 717-787-7185 (fax) or robcooper@state.pa.us (e-mail). Please reference RFA# 355R05 on your request.

**Department:** Transportation  
**Location:** Throughout the Commonwealth of Pennsylvania  
**Duration:** 60 Months with the possibility of renewal(s).  
**Contact:** Eric R. Felty, 717-705-1363

**PR30107026** Provide and install bituminous paving at Danville Access, Montour County, PA. Bid Due Date: February 13, 2006.

**Department:** Fish and Boat Commission  
**Location:** PA Fish and Boat Commission, Danville Access, 1/2 mile east of Danville on LR 47005, Montour County, PA  
**Duration:** Pavement must be installed PRIOR to 6/30/06.  
**Contact:** Kathi Loewen, 814-359-5130

24/30 Razor Wire, Concertina Wire, Stainless Steel Core with Razor's.

**Department:** Corrections  
**Location:** SCI Camp Hill, 2500 Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** January 1, 2006 June 30, 2006  
**Contact:** Michelle L Ryan, 717-975-5267

**38244** Bid Proposal 38244 Hewlett Packard Storage Products: 42U EVA Cabinet, Storage, Array, Switches, Controllers, Cables, Tier 2 Implementation. Contact buyer for bid documentation.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA  
**Duration:** Bid due on January 27, 2006 at 2:00 PM EST  
**Contact:** Linda Brunner, 610-436-2602

**PGC-2862** Agency seeking a contractor to provide a trailer with the capacity of 24,000 lbs., deck width 8 ft., length 19 ft., height 34 in. Hi tensile V-50 steel Mainframe, pierced crossmembers, cold-formed drawbar and nose plate. Also heavy duty jack, drawbar storage area, 8 degree Beaver Tail, Patented "ROTO Rings" Swivel 360 degrees, and 100% sealed Modular Wiring Harness. Additional specifications are available in the bid package.

**Department:** Game Commission  
**Location:** Pennsylvania Game Commission, Bureau of Administrative Services, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797  
**Duration:** Upon award through May 30, 2006  
**Contact:** Diane Shultz or Barb Kline, 717-787-6594

**RFP#SCIF-1147-12049** Request for Proposal to provide Muslim Chaplain Services to the inmate population at the State Correctional Institution, Frackville, Schuylkill County, PA. Detailed proposal will be available from Mary Lou Neverosky, Purchasing Agent for the institution.

**Department:** Corrections  
**Location:** State Correctional Institution, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** April 1, 2006 to March 31, 2007 with two year optional renewal clause.  
**Contact:** Mary Lou Neverosky, Purchasing Agent, 570/773-2158, Ext. 419

**ITQ #355I02** The Pennsylvania Department of Transportation (PennDOT) is soliciting additional contractors who are interested in providing Road-Killed Deer Removal and Disposal services. The purpose of the Invitation to Qualify (ITQ) #355I02 and resulting multiple award contracts is to enable PennDOT to obtain Road-Killed Deer Removal and Disposal services more efficiently and extend work opportunities to a greater number of contractors. All contractors whose submissions are responsive and meet the requirements as stated in the ITQ will be placed on a list of qualified contractors. All qualified contractors throughout the Commonwealth are urged to respond to this Invitation to Qualify. While qualified contractors are encouraged to apply to remove and dispose of dead deer in all counties, the Department has identified a critical need for contractors in the following counties: Erie, Warren, McKean, Crawford, Mercer, Venango, Forest, Elk, Centre, Huntington, Fulton, York, Carbon, Delaware, and Philadelphia. Interested contractors may request a copy of the ITQ by faxing or e-mailing their name, organization/company name, address, telephone number, fax number, and e-mail address to Shirley Morales at 717-787-7185 (fax) or smorales@state.pa.us (e-mail). Please reference ITQ #355I02 on your request.

**Department:** Transportation  
**Location:** Throughout the Commonwealth of Pennsylvania  
**Duration:** From the date of the Notice to Proceed by the Commonwealth through April 30, 2011  
**Contact:** Kenneth L. Seifert, 717-787-7997

**Building Materials** Vendor to provide, as needed, building materials and/or any other related construction materials to the State Correctional Inst. Graterford. Items will be purchased only as needed.

**Department:** Corrections  
**Location:** State Correctional Inst. Graterford, Box 246, Rt. 29, Graterford, PA 19426  
**Duration:** 1 year (as required)  
**Contact:** Kelly Richardson, 610-489-4151

**SU-05-14** Shippensburg University is seeking vendors who are interested in providing Code 3 Preventive Maintenance of the door automation systems at various locations on campus. Interested bidders may request a bid package by faxing a request to (717) 477-1350 or an e-mail to kmsmit@ship.edu. All responsible bidders are encouraged to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** July 1, 2006—June 30, 2007  
**Contact:** Karen Smith, (717) 477-1386

[Pa.B. Doc. No. 06-211. Filed for public inspection February 3, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*

# Title 58—RECREATION

## PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 440 AND 441]

### Temporary Regulations; Management Companies

The Pennsylvania Gaming Control Board (Board), under authority of 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Subpart B, entitled Licensing, Registering, Certifying and Permitting contains Chapter 440, entitled Management Companies.

Under the Board's Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, and Resolution No. 2005-4, entitled Adopting of Draft Regulations as Temporary Regulations for the General Licensing Standards for Slot Machine License Applicants Temporary Regulations, dated July 21, 2005, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, and July 21, 2005, as it deems necessary in accordance with the purpose of Act 71 and to further the intent of Act 71. Therefore the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005) and at 35 Pa.B. 4828 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4 and 441.3. The amendments are effective as of January 19, 2006.

The temporary regulations of the Board, 58 Pa. Code Chapters 401 and 441, are amended by amending §§ 401.4 and 441.3 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

#### *Purpose and Background*

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment in this Commonwealth and to carry out the policy and purposes of the Board. In adopting these temporary regulations, the Board has considered the public comments submitted to the Board. The Board has also reviewed the regulatory practices of other Commonwealth agencies and other gaming jurisdictions.

To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published its draft regulations on its website at [www.pgcb.state.pa.us](http://www.pgcb.state.pa.us) on December 15, 2005. A 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board shall expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

#### *Comment*

The Board received public comment from approximately three interested parties. The Board thoroughly reviewed and considered all comments submitted. Public comments received by the Board are available for review on the Board's website. These comments and the Board's responses are published on the Board's website.

#### *Paperwork*

The Board will publish management company applications and other necessary forms for the administration of licensing management companies. The Board is developing a docket process to monitor and track submitted applications.

#### *Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering Act 71 will be reimbursed by the licensed gaming entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals and licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

#### *Statutory Authority*

Section 1203 of 4 Pa.C.S. provides the Board authority to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

#### *Regulatory Review*

Under 4 Pa.C.S. § 1203, the Board may adopt temporary regulations that are exempted from the Regulatory Review Act and sections 201—205 of the CDL. Section 1203 of 4 Pa.C.S. provides that the Board's authority to adopt regulations expires 2 years from the effective date of Act 71.

#### *Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 30-day public comment period was held prior to the adoption of the temporary regulations. All comments received by the Board were reviewed and considered.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board acting under the authority of Act 71, adopts as its final form temporary regulations the draft regulations and amendments adopted by resolution at the January 19, 2006, public meeting. The temporary regulations and amendments pertain to the licensing of management companies.

(b) The following temporary regulations of the Board, 58 Pa. Code, are added: §§ 440.1—440.4 to read as set forth in Annex A.

(c) The following temporary regulations of the Board, 58 Pa. Code, are amended: § 401.4 and § 441.3 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(d) The temporary regulations are effective January 19, 2006.

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

(f) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(g) The Chairperson of the Board shall certify the preceding order and deposit the regulations with the Bureau as required by law.

THOMAS A. DECKER,  
Chairperson

**Fiscal Note:** 125-13. 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:

\* \* \* \* \*

*Collateral agreement*—Any contract between a management company or its affiliates, intermediaries, subsidiaries or holding companies and a slot machine licensee or its affiliates, intermediaries, subsidiaries or holding companies that is related either directly or indirectly to a management contract or to any rights, duties, or obligations created between a management company and a slot machine licensee.

\* \* \* \* \*

*Management company*—Any person or legal entity which, through a Board-approved contract with a slot machine licensee, is responsible for the management of all or part of the operation of a licensed facility.

*Management contract*—Any contract, subcontract or collateral agreement between a management company and a slot machine licensee if the contract provides for the management of all or part of a licensed facility.

\* \* \* \* \*

**Subpart B. LICENSING, REGISTERING,  
CERTIFYING AND PERMITTING  
CHAPTER 440. MANAGEMENT COMPANIES**

- Sec.
- 440.1. Management company license.
- 440.2. Management company as agent.
- 440.3. Management contracts generally.
- 440.4. Required provisions in management contract.

**§ 440.1. Management company license.**

(a) Each management company shall be required to obtain a management company license from the Board, and pay the required license fee, prior to providing to a slot machine licensee any service under this chapter.

(b) Each management company license applicant shall complete the appropriate Conditional/Category 1, Category 2 or Category 3 application and disclosure information forms with the applicable appendices as if the management company license applicant were an affiliated entity of the slot machine licensee/applicant.

(c) Neither an applicant for or the holder of a management company license nor any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, are eligible to apply for or hold a supplier license.

(d) Management company license applications shall be submitted by a slot machine licensee or applicant with a nonrefundable application processing fee prescribed by the Board.

**§ 440.2. Management company as agent.**

(a) Notwithstanding any provision to the contrary in the management contract, a management company will be deemed to be an agent of the slot machine licensee for purposes of imposing liability for any act or omission of the management company in violation of the act or this part.

(b) Notwithstanding any provision to the contrary in the management contract, each management company shall be jointly and severally liable for any act or omission by the slot machine licensee in violation of the act or this part, regardless of actual knowledge by the management company of the act or omission.

**§ 440.3. Management contracts generally.**

(a) A management contract between a slot machine licensee and management company licensee may not become effective until the Board has reviewed and approved the terms and conditions of the management contract, and any amendments thereto.

(b) The slot machine licensee shall notify the Board of any change or amendment to the management contract 30 days prior to the effective date of the proposed amendment.

(c) A management contract will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contracts would not create a monopoly on the control of licensed gaming facilities in this Commonwealth. A management company that seeks Board approval of a management contract shall disclose its financial interests in the slot machine licensee or applicant and, if applicable, proposed or contemplated change in ownership or control of a slot machine licensee

(d) Requests for approval of a management contract must include a business plan which sets forth the parties' goals and objectives for the term of the management contract.



(e) Any management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

- (1) Operation of the following departments: information technology, internal audit, slot accounting, slot management, security and surveillance.
- (2) Design, construction, improvement or maintenance, or both, of the licensed facility.
- (3) Provision of operating capital and financing for the development of the licensed facility.
- (4) Payment of the slot machine license fee.
- (5) Purchase or lease of slot machines or associated equipment.
- (6) Design, implementation or amendment, or both, of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.
- (7) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.
- (8) The payment of local, State and Federal taxes and slot machine license deposit required pursuant to the act and this part and any penalties imposed by the Board for violations thereof.
- (9) Advertising, player incentive or marketing programs.
- (10) Compliance with section 1325(b)(1) of the act (relating to license or permit issuance).
- (11) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.
- (12) Procurement of vendors and junkets.
- (13) Selection of the licensed facility's independent auditor.
- (f) Notwithstanding subsections (a)—(e), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

**§ 440.4. Required provisions in management contract.**

Each management contract, submitted to the Board for approval, must contain the following:

- (1) A provision that provides the grounds and mechanisms for modifying or terminating the contract.
- (2) A provision that states that the contract will not be effective unless it is approved by the Board.
- (3) A provision that describes with particularity the method of compensating and reimbursing the management company.
- (4) Provisions that contain a mechanism to resolve patron disputes and disputes between the slot machine licensee and the management company.
- (5) A provision that indicates whether and to what extent contract assignments and subcontracting are permissible.

(6) A provision that specifies the duration of the management contract. A management contract may not contain a provision that provides for the automatic renewal of the management contract.

**Subpart C. SLOT MACHINE LICENSING  
CHAPTER 441. SLOT MACHINE LICENSES**

**§ 441.3. Slot machine license requirements.**

\* \* \* \* \*

(d) Notwithstanding any provision to the contrary in the management contract, each slot machine licensee shall be jointly and severally liable for any act or omission by the management company in violation of the act or this part, regardless of actual knowledge by the slot machine licensee of the act or omission.

[Pa.B. Doc. No. 06-212. Filed for public inspection February 3, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD  
[58 PA. CODE CHS. 423 AND 441]  
Temporary Regulations; Applications and Slot Machine Licenses**

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, and Resolution No. 2005-4, entitled Adopting of Draft Regulations as Temporary Regulations for the General Licensing Standards for Slot Machine License Applicants Temporary Regulations, dated July 21, 2005, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, and July 21, 2005, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Therefore, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005) and at 35 Pa.B. 4828 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to 58 Pa. Code §§ 423.4 and 441.10—441.12. The amendments are effective as of January 19, 2006.

The temporary regulations of the Board, 58 Pa. Code Chapters 423 and 441, are amended by amending §§ 423.4, 441.10—441.12 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

*Order*

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

- (a) The Board acting under the authority of the Act 71, adopts the amendments to the temporary regulations, adopted by resolution at the January 19, 2006, public meeting. The amendments to the temporary regulations pertain to definitions and the bond or letter of credit requirements.
- (b) The following temporary regulations of the Board, 58 Pa. Code, are amended: §§ 423.4 and 441.10—441.12, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) These amendments are effective on January 19, 2006, but apply retroactively to July 21, 2005.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website at [www.pgcb.state.pa.us](http://www.pgcb.state.pa.us) and in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify the preceding order and deposit the regulations with the Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-12. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

##### Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

##### CHAPTER 423. APPLICATIONS

##### § 423.4. Incomplete applications.

\* \* \* \* \*

(c) Refusal to provide information as required in subsection (a)(1) or (2) may result in the immediate denial of the application.

(d) Failure to provide documentation as required by section 1313(c) of the act (relating to slot machine license application financial fitness requirements) will result in the immediate denial of the application.

##### Subpart C. SLOT MACHINE LICENSING

##### CHAPTER 441. SLOT MACHINE LICENSES

##### § 441.10. License fee payment bond or letter of credit requirements.

(a) Except as otherwise provided in § 443.3 (relating to Conditional category 1 licenses), an application for a slot machine license shall at all times throughout the period in which the application is on file with the Board include original payment bonds or original irrevocable letters of credit, or some combination thereof, that include draw instructions guaranteeing the applicant's payment of the slot machine license fee required by section 1209(c) of the act (relating to slot machine license fee) if the license is approved and issued.

(1) All payment bonds or irrevocable letters of credit shall be submitted and approved by the Board before an application may be deemed complete. The Board's review will include an assessment of both the proposed terms of the payment bond or irrevocable letter of credit and of the surety or financial institution that will issue the payment bond or irrevocable letter of credit. An application will be deemed incomplete if at any time during the period the application is on file with the Board payment bonds or letters of credit approved by the Board in the amounts required in paragraph (2) are not in full force and effect.

(2) Payment bonds or irrevocable letters of credit must aggregate to the following amounts:

(i) \$50,000,000 for each application for a Category 1 or Category 2 license.

(ii) \$5,000,000 for each application for a Category 3 license.

(3) It is not necessary for an applicant who has posted original payment bonds or original irrevocable letters of credit, or some combination thereof under § 443.3, to post

additional payment bonds or letters of credit in connection with its application for a Category 1 license if the application involves the same applicant at the same licensed facility.

(b) Unless otherwise required by the Board, a payment bond provided under this section must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(c) Unless otherwise required by the Board, a letter of credit must be issued by a bank, trust company, National banking association or corporation which is both subject to regulation by the Federal Reserve System under the Bank Holding Company Act of 1956 (12 U.S.C.A. §§ 1841—1849) and assigned a credit rating within the three highest rating categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the bank, trust company, National banking association or corporation is subject to regulation by the Federal Reserve System under the Bank Holding Company Act of 1956 (12 U.S.C.A. §§ 1841—1849) and that the issuer has been assigned the required credit rating must accompany any letter of credit submitted under this section.

(d) The payment bond or irrevocable letter of credit provided under this section must state that it is payable to "The Commonwealth of Pennsylvania" as the obligee.

(e) The payment bond or irrevocable letter of credit provided under this section must provide that if the slot machine license has been approved and issued by the Board and the license fee has not been paid in full within 5 business days following the issuance of the license, the Commonwealth will have the right to request immediate payment under the payment bond or irrevocable letter of credit for payment of the slot machine license fee.

(f) The payment bond or irrevocable letter of credit provided under this section must state that it will expire upon the earlier to occur of the following:

(1) A specified expiry date or any automatically extended expiry date.

(2) Receipt by the issuer of the Board's signed statement that:

(i) The application has been denied.

(ii) The slot machine license has been issued and 10 business days have elapsed following the issuance of the license.

(iii) The license fee has been paid.

(iv) The applicant has been permitted by the Board to withdraw its application under § 423.5 (relating to application withdrawal).

(g) Any expiry date applicable to a payment bond or letter of credit provided under this section must be at least 12 months from the date of issuance of the payment bond or letter of credit. Any provision automatically renewing or extending a payment bond or letter of credit must do so at intervals of at least 3 months. Any notice

provisions to the Board in a payment bond or letter of credit applicable to an election by an issuer not to renew or extend a then current expiry date must provide that the Board will receive at least 60 days written notice, by registered mail or overnight courier service, of an election not to renew or extend.

(h) This section does not preclude a slot machine license applicant from substituting or replacing a payment bond or letter of credit during the period the application is on file with the Board provided the replacement payment bond or letter of credit is approved by the Board under to this section.

**§ 441.11. Slot machine license issuance bond requirement.**

(a) Upon the issuance of a slot machine license, a licensed gaming entity shall post an original payment bond in the amount of \$1,000,000.

(b) Unless otherwise required by the Board, the payment bond must comply with the following:

(1) The payment bond must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(2) A licensed gaming entity shall submit its proposed payment bond to the Board prior to the issuance of a slot machine license. The Board will investigate and approve both the proposed terms of the payment bond and the surety that will issue the payment bond.

(3) The payment bond must state that it is payable to "The Commonwealth of Pennsylvania" as the obligee for immediate payment of the licensed gaming entity's financial obligations to the Commonwealth under the act and as security to guarantee that the licensed gaming entity faithfully makes the payments, keeps its books and records, makes reports and conducts its operations in

conformity with the act, this part and the rules and orders promulgated by the Board.

(4) A payment bond issued in accordance with this section will remain in full force and effect throughout the period of time that the slot machine license is in effect. If a bond is canceled and the slot machine licensee fails to file a new bond with the Board in the required amount on or before the effective date of the cancellation, the licensee's license will be revoked or suspended.

(5) Any notice provision to the Board in a payment bond applicable to an election by a surety to cancel a then current payment bond must provide that the Board will receive at least 30 days written notice, by registered mail or overnight courier service, of the surety's election to cancel.

(c) The Board may demand that the licensed gaming entity post a new payment bond upon the occurrence of any of the following:

(1) Liability on the existing payment bond is discharged or reduced by judgment rendered, payment made or similar occurrence.

(2) The Board determines that the surety is no longer satisfactory.

(3) The licensed gaming entity requests the right to post a new payment bond.

(4) The Board receives notice that the payment bond will be cancelled.

**§ 441.12. Public input.**

(a) If the Board determines that there is substantial public interest in a slot machine licensing proceeding, it may conduct a public hearing in the region where the proposed facility is to be located.

(b) The Board will develop and publish a protocol establishing the procedure to be used in the conduct of a public hearing under this section.

[Pa.B. Doc. No. 06-213. Filed for public inspection February 3, 2006, 9:00 a.m.]





