

PENNSYLVANIA BULLETIN

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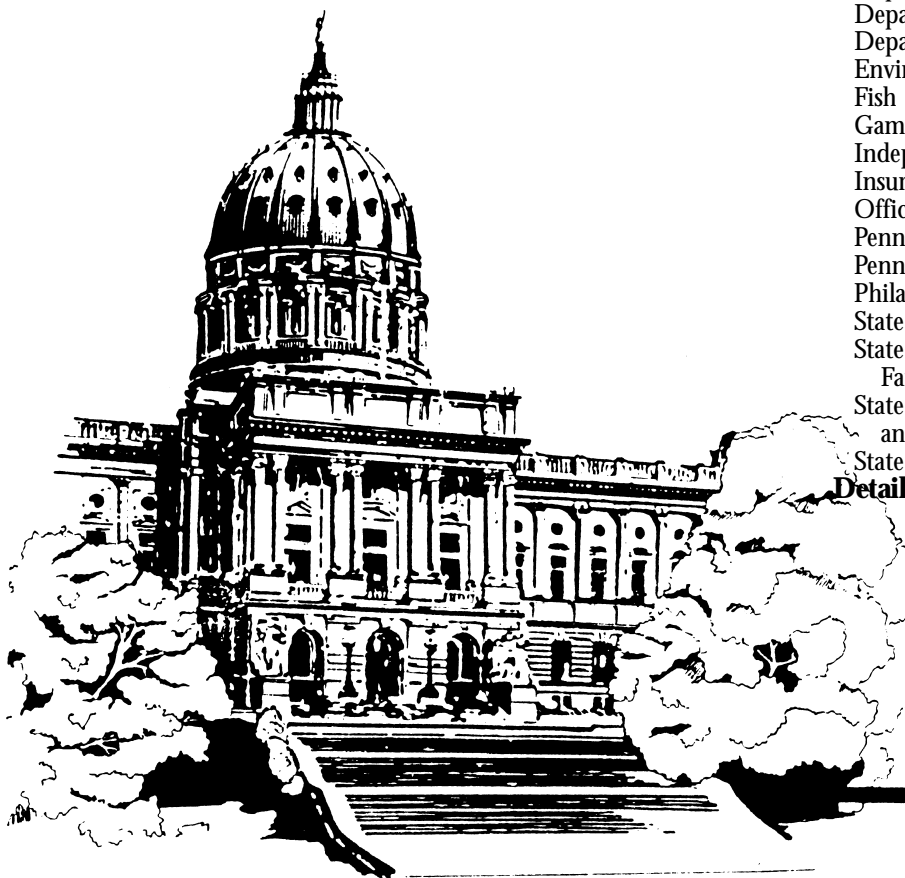
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No. 385, December 2006

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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GENERAL ASSEMBLY COMMISSION ON SENTENCING

Meetings Scheduled

The Commission on Sentencing announces the following public meetings to be held at The Harrisburg Hilton and Towers Hotel, One North Second Street, Harrisburg, PA 17101:

Tuesday, February 6, 2007	6:30/7:30 p.m.	Dinner/Policy Committee Meeting
Wednesday, February 7, 2007	9 a.m.	Quarterly Commission Meeting

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 06-2501. Filed for public inspection December 22, 2006, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rule 217(j) of the Pennsylvania Rules of Disciplinary Enforcement; No. 57 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 11th day of December, 2006, it is ordered, pursuant to Article V, Section 10, of the Constitution of Pennsylvania, that:

1. Rule 217(j) of the Pennsylvania Rules of Disciplinary Enforcement is amended as set forth in Annex A.

2. This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration and these amendments shall take effect upon publication of this Order in the *Pennsylvania Bulletin* and shall apply:

(i) immediately to persons becoming formerly admitted attorneys on or after the date of such publication; and

(ii) within 30 days after the effective date to persons who are formerly admitted attorneys on the date of such publication.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 217. Formerly admitted attorneys.

* * * * *

(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements:

(1) All law-related activities of the formerly admitted attorney shall be conducted under the [**direct**] supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is [**employed**] engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the supervising attorney for purposes of this subdivision.

* * * * *

(3) A formerly admitted attorney may have direct communication with a client or third party regarding a

matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

(4) Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law-related services from an office that is not staffed [, on a full time basis,] by a supervising attorney on a full time basis;

* * * * *

(5) The supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of [**employment**] engagement, identifying the supervising attorney [,] and certifying that the [**formerly admitted attorney has been employed and that the**] formerly admitted attorney's activities will be monitored for compliance with this subdivision (j). The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the [**employment of**] engagement between the formerly admitted attorney and the supervising attorney.

(6) The supervising attorney shall be subject to disciplinary action for any failure by either the formerly admitted attorney or the supervising attorney to comply with the provisions of this subdivision (j).

Official Note: Subdivision (j) was adopted by the Court to limit and regulate the law-related activities performed by formerly admitted attorneys regardless of whether those formerly admitted attorneys are engaged as employees, independent contractors or in any other capacity. Subdivision (j) requires that a notice be filed with the Disciplinary Board when any law-related activities are performed by a formerly admitted attorney and when the engagement is terminated. Subdivision (j) is addressed only to the special circumstance of formerly admitted attorneys engaging in law-related activities and should not be read more broadly to define the permissible activities that may be conducted by a paralegal, law clerk, investigator, etc. who is not a formerly admitted attorney. Subdivision (j) is also not intended to establish a standard for what constitutes the unauthorized practice of law. Finally, subdivision (j) is not intended to prohibit a formerly admitted attorney from performing services that

are not unique to law offices, such as physical plant or equipment maintenance, courier or delivery services, catering, typing or transcription or other similar general office support activities.

[Pa.B. Doc. No. 06-2502. Filed for public inspection December 22, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 2950]

Proposed Amendment of Rule 205.4 Governing Electronic Filing of Legal Papers and Promulgation of New Rule 239.9 Governing Local Rules; Proposed Recommendation No. 219

The Civil Procedural Rules Committee is proposing the amendment of Rule of Civil Procedure 205.4 governing electronic filing and service of legal papers and the promulgation of new Rule 239.9 governing local rules. 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 February 16, 2007 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 200. BUSINESS OF COURTS

Rule 205.4. Electronic Filing and Service of Legal Papers.

(a)(1) A court by local rule may permit or require electronic filing of legal papers with the prothonotary and shall specify the actions and proceedings and the legal papers subject to the rule.

Official Note: This rule does not require the implementation of electronic filing by a local court.

If a court determines that legal papers may be filed electronically with the prothonotary, Rule 239.9(a) requires the court to promulgate Local Rule 205.4 which shall describe the electronic filing system program and set forth the practice and procedure for the matters required by this rule.

If a court provides that electronic filing is mandatory, it must also provide the necessary technical

assistance to those parties who lack the capability to file legal papers electronically.

(2) As used in this rule, the following words shall have the following meanings:

* * * * *

“legal paper,” a pleading or other paper filed in an action, [**but not**] including **exhibits and attachments**

[(1) a writ of summons or a complaint that is original process naming an original defendant or an additional defendant, unless the court by local rule provides otherwise, or

(2) a notice of appeal from an award of a board of arbitrators or a notice of appeal or other legal paper, the filing of which is prescribed by the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges.

(b) A party may file a legal paper with the prothonotary by means of electronic filing if electronic filing is permitted by general rule, rule of court or special order of court. The filing shall be in the format of Adobe PDF, WordPerfect for Windows or Microsoft Word for Windows. Except as otherwise provided by law, a legal paper filed electronically shall be deemed the equivalent of the original document.

(1) The electronic filing of a legal paper constitutes

(i) a certification by the filing party that the original hard copy was properly signed and, where applicable, verified, and

(ii) a certification as provided by the signature to a legal paper under Rule 1023.1(c), the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

(2)(i) The filing party shall maintain the original hard copy of the document filed.

(ii) Any other party at any time may require the filing party to file the original hard copy by filing with the prothonotary and serving upon the filing party a notice to file the original hard copy with the prothonotary within fourteen days of the filing of the notice.]

(b)(1) Legal papers shall be presented for filing in portable document format (Adobe PDF) or any other electronic format, if any, that the court by local rule designates. A paper presented for filing in a format other than portable document format shall be converted to portable document format and maintained by the prothonotary in that format.

Official Note: Rule 239.9(b)(2) requires that subdivision (b)(1) of Local Rule 205.4 specify the electronic format for presenting legal papers for filing.

(2) A legal paper filed electronically shall be deemed the original document.

(3) The electronic filing of a legal paper constitutes a certification

(i) by the filing party that a hard copy of the legal paper was properly signed and, where applicable, verified, and

(ii) as provided by Rule 1023.1(c) governing the signature to a legal paper, the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

(4) Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen days of the service of the notice. The court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

(5) The filing party shall maintain the signed hard copy of the document filed for two years after the later of

- (i) the disposition of the case;
- (ii) the entry of an order resolving the issue raised by the legal paper; or
- (iii) the disposition by an appellate court of the issue raised by the legal paper.

(c)(1) The prothonotary when authorized to accept filings by electronic transmission shall provide electronic access at all times. [The time and date of filing and receipt shall be that registered by the prothonotary's computer system.]

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available by the attorney identification number issued by the Court Administrator of Pennsylvania [or an identification number issued by the website administrator]. The court by local rule shall designate the manner of access to the website for a filing party who is not an attorney.

Official Note: Rule 239.9(b)(3) requires that subdivision (c)(2) of Local Rule 205.4 specify the manner of access to the website by a filing party who is not an attorney.

(3) The time and date of filing submission and receipt of the legal paper to be filed electronically shall be that registered by the prothonotary's computer system. The prothonotary shall provide, through the electronic filing system's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.

(d) A filing party shall pay the cost of the electronic filing of a legal paper by [depositing with the prothonotary, in advance, sufficient funds or by authorizing payment by credit or debit card.]

- (1) approved credit or debit card, or
- (2) advance deposit of sufficient funds with the prothonotary if the court by local rule so provides, or
- (3) cash or check when presenting the paper for filing in person at the office of the prothonotary.

(e)(1) A filing party shall be responsible for

- (i) any delay, disruption, interruption of the electronic signals and [readability] legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website. The court upon motion shall [to] resolve any dispute concerning an alleged failure of the electronic filing system's website, and

(ii) the maintenance of sufficient funds deposited with the prothonotary or of a credit or debit account to cover the cost of electronic filing if pursuant to subdivision (d)(2) a court by local rule has provided for that method of payment.

(2) The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.

(f) When electronic filing is permitted as set forth in subdivision [(b)] (a)(1), the court by local rule shall provide for

* * * * *

(5) such other procedures and matters necessary to the operation of a system of electronic filing.

Official Note: Rule 239.9(b)(6) provides that subdivision (f) of Local Rule 205.4 must set forth the practice and procedure with respect to the matters required by subdivision (f) of this rule.

(g)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served

[(1)] (i) as provided by Rule 440 or

[(2)] (ii) by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action. [Service is complete when the legal paper is sent.] A paper served electronically is subject to the certifications set forth in subdivision (b) [(1)] (3).

(2) Service by electronic transmission is complete when a legal paper is sent

- (i) to the recipient's electronic mail address, or
- (ii) to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

Official Note: Upon the electronic filing of a legal paper other than original process, the electronic filing system may automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose email address is included on an appearance or prior legal paper filed in connection with the action. If the electronic filing system sends notice of such filing, the party filing the legal paper only need serve those parties who are not served by the electronic filing system.

An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

* * * * *

Rule 239.9. Electronic Filing. Local Rule 205.4.

(a) If a court permits or requires the electronic filing of legal papers with the prothonotary, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule.

(b) Local Rule 205.4 shall include the following subdivisions as required by Pa.R.C.P. 205.4:

(1) subdivision (a)(1) stating whether the electronic filing system is permissive or mandatory and specifying the actions and proceedings and the legal papers subject to the rule,

(2) subdivision (b)(1) setting forth one or more formats in which legal papers shall be submitted to the prothonotary for filing. The formats shall include portable document format (Adobe PDF) and such other electronic format, if any, that the court may designate,

(3) subdivision (c)(2) providing a method of access to the electronic filing website for persons who are not attorneys,

(4) subdivision (d)(1) listing the credit and debit cards approved by the court or the prothonotary,

(5) subdivision (d)(2) stating whether, in addition to the payment of the cost of the electronic filing a legal paper by cash, check or credit or debit card, the filing fee also may be paid by depositing, in advance, sufficient funds with the prothonotary, and

(6) subdivision (f) providing the practice and procedure to govern the matters provided for in Rule 205.4(f).

(c) Local Rule 205.4 may contain such additional subdivisions as the court deems necessary to provide a full and complete description of the electronic filing system.

(d) Local Rule 205.4 shall be promulgated in accordance with the provisions of Rule 239.8(b) through (d).

CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2951. Methods of Proceeding.

(a)(1) Upon filing of the documents required by subparagraph (2), the prothonotary shall enter judgment by confession on a note, bond or other instrument confessing judgment or authorizing confession by an attorney at law or other person against the person who executed it in favor of the original holder or, unless expressly forbidden in the instrument, in favor of the assignee or other transferee, without the agency of an attorney and without the filing of a complaint, for the amount which may appear to be due from the instrument. The judgment may include interest computable from the instrument.

(2) The documents to be filed in support of the entry of judgement are

* * * * *

(iii) a certificate of residence of the plaintiff and of the defendant.

Official Note: Section 2737(3) of the Judicial Code provides that the prothonotary shall have the power and the duty to "enter all civil judgments, including judgments by confession."

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For collection of attorneys' fees under such a judgment see Rule 2957. If an instrument authorizes confession for a penal sum judgment may be entered in that amount.

If a judgment by confession on an instrument is to be entered in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be filed in support thereof. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. 205.4(b)(4).

* * * * *

Rule 2952. Complaint. Contents.

(a) The complaint shall contain the following:

* * * * *

(2) the original or a photostatic copy of like reproduction of the instrument showing the defendant's signature; if the original is not attached, an averment that the copy attached is a true and correct reproduction of the original; if neither the original nor a reproduction can be attached, an explanation why they are not available;

Official Note: If the original instrument is not attached to the complaint, a method of securing inspection thereof is provided by Discovery Rule [4009] 4009.1 et. seq.

If the complaint is to be filed in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be attached to the complaint. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. 205.4(b)(4).

* * * * *

Explanatory Comment

The Civil Procedural Rules Committee is proposing that Rule 205.4 governing electronic filing of legal papers be amended to give greater flexibility to the courts of common pleas in creating a program of electronic filing. In addition, proposed new Rule 239.9 mandates that any court which by local rule permits or requires electronic filing adopt Local Rule 205.4 which fully explains the program.

The highlights of Rule 205.4 are as follows:

1. New subdivision (a)(1) provides that a court by local rule "may permit or require electronic filing of legal papers with the prothonotary . . ." The note advises that the rule does not require that the court implement electronic filing; this is left to the discretion of the court.

The court must determine whether electronic filing shall be permissive or mandatory and the scope of electronic filing "with respect to the actions and proceedings and the legal papers subject to the rule." These matters must be set forth in Local Rule 205.4 to be promulgated by the court.

Although the family law actions of protection from abuse, support, custody of children and divorce are currently governed by the rules of civil procedure, it is not the intention of this recommendation that these actions be included within the scope of this rule. This will be a matter for consideration by the Domestic Relations Procedural Rules Committee.

Present subdivision (a) of the rule excludes from electronic filing (1) original process and (2) notices of appeal from awards in compulsory arbitration and judgments of magisterial district courts. There appears to be no reason to retain these exclusions as a matter of statewide practice and they have been deleted from the rule. However, the court is given discretion under new subdivision (a)(1) to determine the scope of the rule with respect to legal papers which may be filed electronically.

2. The definition of "legal papers" is currently the subject of subdivision (a). It is proposed that the current subdivision be designated subdivision (a)(2) and that it be revised in two respects. First, the term specifically includes "exhibits and attachments." Second, with the deletion of the two exceptions noted above, "legal paper"

encompasses all documents to be filed in an action or proceeding. However, the court by local rule may limit what legal papers may be filed electronically.

3. Subdivision (b) is revised as to both substance and structure. Present subdivision (b)(1) has been transferred to subdivision (a) as paragraph (1). As set forth in the recommendation, the remaining text of present subdivision (b) is deleted and replaced.

4. New subdivision (b)(1) mentions only one electronic format by name, Adobe PDF, and allows the court by local rule to specify other formats, whether as alternatives to or in place of Adobe PDF. However, the rule recognizes portable document format as the standard by providing that legal papers presented for filing in other electronic formats must be “converted to portable document format and maintained by the prothonotary in that format.”

5. New subdivision (b)(2) proposes that the electronic copy of a legal paper filed with the prothonotary be deemed the original. The legal paper signed by the party is described as the “hard copy” under subdivision (b)(3) and the “signed hard copy” under subdivision (b)(4).

Usually, the original instrument is filed with the prothonotary when seeking a judgment by confession under Rules 2951 and 2952. The note to both rules is revised to accommodate electronic filing since the “original instrument,” i.e. the signed hard copy, probably will not be filed.

6. Present Rule 205.4(b)(2)(ii) is concerned with those occasions when it is necessary to see the signed hard copy of a document and provides for service upon the filing party of a notice to file the original hard copy with the prothonotary. This subdivision is replaced by new subdivision (b)(4) which provides for service upon the filing party of a motion to produce the signed hard copy for inspection.

7. New subdivision (b)(5) continues the requirement of the present rule that the filing party retain possession of the hard copy of the document filed. The new subdivision is modeled on Supreme Court Orphans’ Court Rule 3.7(c)(3) but adopts a two-year period following specified events for maintaining the legal document rather than the five-year period of the Orphans’ Court rule.

8. Revised subdivision (c)(2) provides that access to a website by an attorney shall be by the attorney’s identification number issued by the Court Administrator of Pennsylvania. However, the local court shall “designate the manner of access to the website for a filing party who is not an attorney.”

9. New subdivision (c)(3) requires the prothonotary to provide an acknowledgement that a legal paper presented for filing has been received. This notice is in addition to the filing status notice under subdivision (f)(1).

10. Subdivision (d) as revised provides for three methods of payment of the filing fee for a legal paper filed electronically. A filing party may pay by an approved debit or credit card or by funds deposited with the prothonotary if the court has authorized that mode of payment. A filing party who appears in person at the prothonotary’s office may pay also by cash or check.

11. Revised subdivision (e) continues to provide that the filing party is responsible for problems encountered with the electronic transmission of a legal paper being presented for filing. However, an exception has been added when the problems are “caused by the failure of the electronic filing system’s website.”

12. Subdivision (g) continues to provide that if a legal paper is sent electronically directly to another party,

service is complete when the paper is sent. However, if the electronic filing system provides notice of the filing to the other party, service is complete when such notice is given by the system. The note advises that if the notice provided by the system advises the other party that the legal paper is available on the website, there is no need for the filing party to send a separate electronic copy to such other party.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-2503. Filed for public inspection December 22, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Rescission of Local Civil Action Rule 39—1012; Miscellaneous Docket 2006-3768

Order of Court

December 6, 2006, Civil Action Rule No. 39—1012, for the Court of Common Pleas of the 39th Judicial District of Pennsylvania is hereby rescinded, effective thirty (30) days after publication of this order in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,
President Judge

[Pa.B. Doc. No. 06-2504. Filed for public inspection December 22, 2006, 9:00 a.m.]

MONTGOMERY COUNTY

Local Rule of Juvenile Procedure—Dependency Matters Rule 1167*—Filings and Service of Court Orders and Notices; No. AD332-06

Order

And Now, this 6th day of December, 2006, the Court approves and adopts the attached Montgomery County Local Rule of Juvenile Procedure—Dependency Matters—Rule 1167*—*Filings and Service of Court Orders and Notices*. The Rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In further conformity with Pa.R.J.C.P. 1121, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Juvenile Court Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administra-

tor of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

S. GERALD CORSO,
President Judge

Rule 1167*. Filings and Service of Court Orders and Notices.

All orders and court notices subject to the Rules of Juvenile Procedure—Dependency Matters—shall be served by the Montgomery County Office of Children and Youth.

[Pa.B. Doc. No. 06-2505. Filed for public inspection December 22, 2006, 9:00 a.m.]

PIKE COUNTY

Promulgation of Local Rule L.Crim.P. 117; No. 1662-2006-Civil

Order

And Now, this 1st day of December, 2006, the Court *Orders* the following:

1. Local Rule of Criminal Procedure 117 is hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*;
2. The Court Administrator of the 60th Judicial District is hereby *Ordered* to do the following:
 - a. File seven (7) certified copies of this *Order* and the pertinent Rules with the Administrative Office of Pennsylvania Courts;
 - b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
 - c. File one (1) certified copy of this *Order* and the pertinent Rule with the Civil Procedural Committee;
 - d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and
 - e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

By the Court

JOSEPH F. KAMEEN,
President Judge

Local Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments; and Setting and Accepting Bail.

(a) Magisterial District Judge Offices shall be open for regular business Monday through Friday, excluding holidays, during such hours as established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court.

(b) Magisterial District Judges shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for the issuance of warrants, the holding of preliminary arraignments, the setting and accepting of bail, and the issuance of emergency orders under the Protection from Abuse Act,

This rule shall be satisfied by the Magisterial District Judge remaining on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator

(c) An on-call Magisterial District Judge, while on-call, and the Clerk of Courts, during business hours, are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 06-2506. Filed for public inspection December 22, 2006, 9:00 a.m.]

SOMERSET COUNTY

Consolidated Rules of Court; No. 55 Miscellaneous 2006

Amended Adopted Order

Now, this 21st day of November, 2006, it is hereby *Ordered*:

1. The following designated Somerset County Rule of Civil Procedure 208.3(a) (Som.R.C.P. 208(3)(a)) Motions. Practice and Procedure, and is amended to read in its entirety, as reflected in revised Som.R.C.P. 208.3(a) is hereby adopted as a Rule of this Court, effective upon publication on the Pennsylvania Judiciary's Web Application.
2. The Somerset County Court Administrator is directed to:
 - A. File seven (7) certified copies of this Order and the attached Rule with the Administrative Office of Pennsylvania Courts.
 - B. Distribute two (2) certified copies of this Order and the attached Rule, along with a diskette or CD, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, if required.
 - C. File one (1) certified copy of this Order and the attached Rules with the Pennsylvania Civil Procedural Rules Committee.
 - D. File proof of compliance with this Order in the docket for this Rule, which shall include a copy of each transmittal letter.

By the Court

JOHN M. CASCIO,
President Judge

Rule of Court

Motions.

Som.R.C.P. 208.3(a) Motions. Practice and Procedure.

A. Motions will be scheduled, argued, and decided:

1. At Motions Court, in accordance with the procedure specified in subparagraph B. of this Rule, if the motion is of the type permitted to be presented at Motions Court, or
2. By the filing of a scheduling praecipe according to the procedure, and in the form specified in subparagraph F. of this Rule, copies of which are available from the Prothonotary or Court Administrator, or
3. In the case of a motion for preliminary injunction or similar motions which require immediate date certain

scheduling, by presentation to a judge in accordance with Motions [Judge] practice specified in subparagraph C. of this Rule, or

4. In the case of motions which are permitted to be presented ex parte, without prior notice of presentation and opportunity to be heard, pursuant to the provisions of subparagraph D. of this Rule, by presentation to **[a judge] the Administrative Judge of the Civil Division or the Administrative Judge of the Family Division** in accordance with Motions **[Judge]** practice specified in subparagraph C. of this Rule, or

5. In the case of motions or petitions which, because of extraordinary and compelling circumstances, cannot be scheduled otherwise, and which must be heard upon short notice, by presentation to **[a judge] the Administrative Judge** in accordance with Motions Judge practice specified in subparagraph C. of this Rule.

B. Motions Court.

1. Civil Motions Court will be held before the designated **[Motions] Administrative Judge of the Civil Division** at 9:00 **[a.m.] A. M.** on **[the first and third] each Wednesday[s]** of every month, holidays excepted. **Family Motions Court will be held before the designated Administrative Judge of the Civil Division at 9:00 A. M. on the first and third Tuesday of every month, holidays excepted.**

2. A motion may be presented at Civil Motions Court when the issue raised, or relief requested, is:

a. To compel, limit or prohibit discovery, or to obtain a protective or confidentiality order with respect to discovery.

b. To permit the amendment of a pleading or joinder of an additional defendant.

c. To make a rule absolute or for similar default order, when, although required, timely answer to a motion or petition has not been filed.

[d. To compel counseling in divorce cases.]

[e.] d. To permit withdrawal as counsel.

[f.] e. Approval of settlement of a minor's claim or approval of settlement of wrongful death and survival actions.

[g.] f. Consolidation.

[h.] g. Objections to a scheduling praecipe.

3. A motion may be presented at Family Motions Court when the issue raised, or relief requested, is:

a. For the appointment of a Special Master;

b. A motion for the appointment of a Custody Investigator;

c. A motion to be excused from the payment of costs or to proceed in forma pauperis;

d. To compel counseling in divorce cases;

e. A motion for special relief;

f. Objections to a scheduling praecipe.

[3.] 4. At least **[ten] five** days before presentation, a copy of the motion shall be served upon all other counsel and unrepresented parties, and upon the **[Court Administrator] Administrative Judge**, together with

a notice specifying the time and date of the Motions Court at which the motion will be presented.

[4.] 5. The **[Court Administration] Administrative Judge** shall maintain a list of motions with date and time of receipt. Only those motions which have been submitted in a timely manner to the **[Court Administrator] Administrative Judge** in accordance with these Rules will be heard. Motions will be heard by the Court in the order of their submission to the **[Court Administrator] Administrative Judge**.

[5.] 6. The moving party shall file and serve an affidavit of service of the motion and notice prior to, or at the time of presentation. The motion will not be heard unless the notice requirements of this rule have been satisfied and an affidavit of service filed.

[6.] 7. Counsel and unrepresented parties are to confer prior to the presentation of any motion and are to attempt, in good faith, to reach amicable resolution of the issues involved. Good faith efforts toward amicable resolution shall be considered as a factor when determining whether or not the requested relief is appropriate, the propriety of sanctions, or in determining the exigency of circumstances, if relevant.

[7.] 8. At the time of presentation, the **[presiding] Administrative Judge** may enter an Order resolving the issues raised by the motion; schedule argument, hearing or other proceeding; issue a briefing schedule; or enter other appropriate Order.

[8.] 9. Presentation of motions at Motions Court is optional, and if the party chooses, the motion may be scheduled by scheduling praecipe for hearing or argument.

C. All unscheduled matters, including applications and requests, formal and informal, which may be presented to the **[Motions] appropriate Administrative Judge** under the provisions of subparagraph A. of this Rule, shall be filed and docketed, and then transmitted to Chambers or presented in open court to the **[Motions] Administrative Judge [on duty at the time,]** except in the following circumstances:

1. Emergency cases may be presented to any judge.

[2. Matters affecting cases formerly assigned to a judge other than the Motions Judge shall be presented to that other judge, but may in emergencies be presented to the Motions Judge when the assigned judge is absent.]

[3. Matters with which a judge other than the Motions Judge has special familiarity by reason of prior judicial acquaintance, significantly relevant to the matter at hand, may be presented to another judge.]

[4] 2. Matters in which **[any judge] the Administrative Judge** has been disqualified or declines to act shall be presented to **[another judge] the President Judge**.

[5] 3. Administrative and policy matters required by law or custom to be acted upon by the President Judge, or appropriate for the attention of the President Judge, shall be presented to the President Judge.

D. Ex parte orders in adversary proceedings.

1. Motions **presented** to the court in an adversary proceeding will not be considered ex parte, without prior notice of presentation and an opportunity to be heard, except in the following cases:

a. Motions for relief which are routinely granted as of course, on a presumption of assent, such as motions for appointment of legal counsel and guardians ad litem, and the like.

b. Motions affecting the issuance or service of initial papers upon another who is not yet subject to the jurisdiction of the court, such as applications for substituted service, extensions of time, and the like.

c. Motions for preliminary orders granting or scheduling a hearing thereon, or directing process or notice to bring the opponent before the court to answer.

d. Motions for stay orders in license suspension appeals.

e. Cases in which the adverse party has waived the opportunity to be heard or has consented to the requested action.

f. Cases in which there are special or compelling circumstances which the court finds justify ex parte action.

2. Prior notice of presentation of a motion to the court shall state the date, time and place of intended presentation and shall be accompanied by a copy of the motion and the proposed order.

3. In cases where an ex parte order is made, a copy of the motion and order shall be served promptly on the opponent and on all other parties, who may file a prompt application for reconsideration of the order.

4. In all cases where prior notice of presentation is required under statute or rule of court, the motion shall state that the requisite prior notice was given; the date, time and manner of giving notice; and the substance thereof. If the right to ex parte relief is based on the existence of special or compelling circumstances, the motion shall state such circumstances.

E. Continuances.

1. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.

2. Absent exceptional circumstances, motions for continuance shall be presented no later than **[ten (10) fifteen (15) days** before the date of the proceedings for which the continuance is requested. Thereafter, no motions for continuance will be granted except for substantial reasons which were not previously known or reasonably ascertainable.

3. The motion shall state whether or not the proceedings previously have been continued, and, if so, the number of prior continuances, with identification of the party upon whose motion each continuance was granted.

4. Absent extraordinary circumstances, a request for a continuance based on proceedings scheduled in another Court of Common Pleas will be granted only if the other court's scheduling order was issued before the order scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another Court of Common Pleas **[e]**, a copy of the scheduling order from the other Court of Common Pleas shall be attached to the motion.

5. Motions for continuance of court cases shall be presented as follows:

a. When at a scheduled call of the list, to the presiding Judge.

b. When a case is on a current trial or argument schedule, to the assigned Judge.

c. In all other cases, **[Motions Judge practice] to the appropriate Administrative Judge.**

6. Continuances shall operate to effect rescheduling:

a. To a date certain or specific trial session if the **[Court] Administrative Judge or Presiding Judge** states a date certain or specific trial session in the continuance order.

b. In all other cases, only upon filing of a scheduling praecipe as provided in subparagraph F. of this Rule.

7. An order continuing a case "sec reg.," until the next available session, or in terms of similar generality, will not result in rescheduling, or placement on a new trial list.

8. Every motion for continuance shall specify the reasons for the request.

9. The moving party shall certify that prior notice of presentation of the motion has been given to opposing counsel and unrepresented parties.

10. Every motion for unopposed continuance, whether written or oral, shall be joined in by all other parties or counsel of record, or shall certify that all other parties or counsel have been notified of the presentation of the motion and join in or do not oppose the motion.

11. When a civil case is scheduled for pretrial conference, the motion for continuance shall clearly state whether it relates to pretrial conference, or to the trial, or both.

12. An approved form of continuance motion is set forth in subparagraph F. 14. of this Rule.

13. This Rule does not apply to continuances of trials before arbitrators which are governed by Som.R.C.P. 1303F.

14. Form of Continuance Motion.

[CIVIL CONTINUANCE REQUEST

) IN THE COURT OF COMMON
Plaintiff) PLEAS OF SOMERSET COUNTY,
) PENNSYLVANIA
v.)
)
) NO. _____ CIVIL 200 ____
)
) Defendant

Scheduled before Judge _____ on _____ at _____.

For (Type of proceeding): _____

REASON FOR REQUEST: (Attach extra sheet, if necessary) _____

NUMBER OF PRIOR CONTINUANCES: _____ by the plaintiff _____ by the defendant

NOTICE OF PRESENTATION OF THE MOTION HAS BEEN GIVEN TO OPPOSING COUNSEL AND UNREPRESENTED PARTIES.

REQUESTING ATTORNEY OR PARTY:

(Print) _____ Counsel for: _____
(Sign) _____

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____
[] Joins In [] Does not object [] Opposes

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____
[] Joins In [] Does not object [] Opposes

ORDER

AND NOW, this ____ day of _____, 200 __,
the above Civil Continuance request if GRANTED/
DENIED and the hearing/argument is continued.
Hearing will be rescheduled upon the filing of a
new scheduling praecipe by a party. Hearing is
rescheduled for _____, __.m., on _____,
200 ____.

BY THE COURT:

_____]

CIVIL HEARING CONTINUANCE REQUEST

_____) IN THE COURT OF COMMON
) PLEAS OF SOMERSET COUNTY,
Plaintiff) PENNSYLVANIA
)
)
v.)
) NO. _____ CIVIL 200 ____
)
)
Defendant)

Scheduled before Judge _____ on _____

For _____

Reason For Request: _____

Number of prior continuances: _____ By Plaintiff
_____ By Defendant _____

NOTICE [] HAS [] HAS NOT BEEN GIVEN TO
OPPOSING COUNSEL OR PARTY

(Sign) _____ Counsel For: _____
Requesting Attorney or Party

(Sign) _____ Counsel For: _____
Responding Attorney or Party

[] Joins In [] Does Not Object [] Opposes

ORDER

AND NOW, this ____ day of _____ 200 __,
the continuance request is [] GRANTED [] DENIED.

[] Hearing to be rescheduled by scheduling
praecipe.

[] Hearing is rescheduled for _____ the __ day
of _____ 200 __, at _____, ____ M. in
Courtroom No. _____, before Judge _____.

BY THE COURT:

J.

F. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe
shall be scheduled only upon filing of a scheduling
praecipe, substantially in the form set forth below in
subparagraph F.6. of this Rule.

2. The praecipe and all issued copies thereof shall by
signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in
the prescribed form of scheduling praecipe, and the
praecipe and copies thereof shall be served promptly on
other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may
object thereto as follows:

a. If the objection is to the assertion in the praecipe of
readiness of the case for disposition by the court, the
objection shall be made promptly to the court in accord-
ance with Motions [Judge] practice on notice to other
parties.

b. If the objection relates to any other assertion in the
praecipe, such as time of scheduling, time required on the
schedule, etc., the objecting party shall promptly file a
counter praecipe stating only the matter corrected or
changed.

5. If a party files a scheduling praecipe, knowing that
the matter is not ready for disposition by the court, or
knowing that the matters certified to in the scheduling
praecipe are not true, the court may impose sanctions on
the offending party. Sanctions may include assessment of
reasonable counsel fees incurred by other parties as the
result of such conduct, prohibition of additional discovery,
or other appropriate order.

[6. Form of Scheduling Praecipe.

_____) IN THE COURT OF COMMON
) PLEAS OF SOMERSET COUNTY,
Plaintiff) PENNSYLVANIA
)
)
v.)
) NO. _____ CIVIL 200 ____
)
)
Defendant)

SCHEDULING PRAECIPE

I. This is a/an—

[] A. ARGUMENT CASE (Complete Part A be-
low):

[] B. CIVIL TRIAL CASE (Complete Part B
below):

[] C. CIVIL ARBITRATION CASE (Complete
Part C below).

PART A (Argument Case):

1. Place the above case on an appropriate Argu-
ment Schedule for

[] Argument on _____ .
Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

-OR-

[] Hearing on _____
Nature of Proceeding

2. Type of scheduling requested:

[] a. Sec reg (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

-OR-

[] b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

-OR-

[] c. Prompt (At a presently fixed date and time on a schedule already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties: _____ Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree: _____ J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge: _____ J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

[] JURY TRIAL [] NONJURY TRIAL

PART C. (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.

2. Estimated total time for presentation by all parties: _____ Minutes/Hours/Days

II. I CERTIFY that:

1. This case is ready for disposition by the Court.

2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.

3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.

4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.

5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III. REMARKS:

Signature

Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

Note—Effect of Continuance: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.]

6. Form of Scheduling Praecipis

ARGUMENT/HEARING SCHEDULING PRAECIPE AND ORDER

_____) Place this case on an Argument
Plaintiff) schedule for Hearing Argument
) on _____
) (Nature of Proceeding or Pleading)
)
vs.)
) NO. _____ CIVIL 200 ____
)
)
_____)
Defendant)

Type of scheduling requested:

Sec. Reg. (On the next available Argument Schedule).

Prompt (At a presently fixed date and time on an Argument Schedule already issued). State reason for Prompt scheduling (Granted only for cause)

Estimated hearing time for all parties: _____

Judge _____ has previously heard a matter in this case.

I am the moving party and my brief has been filed and served pursuant to SOM.R.C.P. 210.

A copy of this praecipe has been served on opposing counsel and any unrepresented party.

Signature Type Name and Party Represented

ORDER

AND NOW, this ___ day of ___, 20 ___,
Argument Hearing is scheduled on ___
the ___ day of ___, 20 ___, in Court
Room ___, at ___ . M. before Judge _____.

BY THE COURT

J.

Distribution:

TRIAL SCHEDULING PRAECIPE

IN THE COURT OF COMMON
PLEAS OF SOMERSET COUNTY,
PENNSYLVANIA
Plaintiff
v.
Defendant
NO. ___ CIVIL 200 ___

ARBITRATION/TRIAL SCHEDULING PRAECIPE
AND ORDER

CIVIL ARBITRATION CASE

1. Schedule this case for Arbitration Hearing sec.
reg.

2. Estimated total time for presentation by all
parties: ___ Minutes/Hours/Days

CIVIL TRIAL CASE

Place this case on the next issued Civil Trial List
for:

___ JURY TRIAL ___ NONJURY TRIAL.

Signature

Type Name and Party Represented

ORDER

AND NOW, this ___ day of ___, 20 ___,
Arbitration Hearing Non Jury Trial is sched-
uled for ___ the ___ day of ___, 20 ___,
at ___ o'clock ___ . M. in Courtroom ___ before
Judge _____.

This case will be scheduled for trial at the next
call of the Civil and Family Trial List to be held on
___ the ___ day of ___, 20 ___ at
___ o'clock ___ . M. in Courtroom No. ___, be-
fore Judge _____.

BY THE COURT

J.

II. I CERTIFY that:

1. This case is ready for disposition by the Court.

2. The signed original of this praecipe and one
signed copy thereof (for transmission to the admin-
istrator) have been or will be promptly filed to the
case in the office of the court clerk; and a signed
copy has been or will be promptly served upon

each other counsel and upon each unrepresented
party who has been served with initial process or
pleading.

3. All prescheduling and pretrial procedures,
including pleading and discovery, have been com-
pleted.

4. All parties, witnesses and counsel for the un-
dersigned are expected to be available and present
when the case is scheduled, barring unforeseeable
events hereafter occurring. If any event hereafter
occurs requiring continuance, a motion therefor
will be promptly presented to the Court.

5. I have read and am acquainted with the local
rules governing scheduling and court procedures.

III. REMARKS:

Signature

Type or print name of signer
and party represented:

List of All Counsel and Unrepresented Parties
(State party represented by each, e.g., for plaintiff
Jones, for defendant Smith, etc.):

Note—Effect of Continuance: If any of the above
mentioned cases is scheduled and thereafter con-
tinued, a new scheduling praecipe will be required
in order to schedule the case again, unless the
continuance order fixes a date certain or otherwise
provides.

G. Preparation and Form of Orders and Decrees.
Copies for Distribution.

1. Unless otherwise directed by the court, decrees and
orders requested by a party shall be drafted by the
attorney at whose instance they are to be made, and shall
be submitted to the court for approval.

2. All proposed orders presented to the court, whether
by an attorney, court staff or department, or other person,
shall list thereon the names of all counsel in the case (of
record and known, including counsel for applicant), and
shall indicate the party represented by each (e.g., for
plaintiff, for defendant, for petitioner, for respondent,
etc.).

Note: Nothing herein is intended to alter the present
practice of the court reporters in preparing court orders.

3. Counsel preparing the order shall be responsible for
copying, and shall provide sufficient copies to the Protho-
notary for distribution to all other counsel and parties. If
the order continues a case or fixes a date for hearing or
argument, counsel shall ensure that the order and its
accompanying documents are transmitted to the Court
Administrator for notation of the matter for scheduling
purposes. The order and documents shall then be filed in
the proper office.

4. All documents prepared in and issued from cham-
bers shall be transmitted to the Court Administrator for
copying and distribution sec reg, and for scheduling if
necessary, then filed in the proper office.

[Pa.B. Doc. No. 06-2507. Filed for public inspection December 22, 2006, 9:00 a.m.]

SOMERSET COUNTY**Consolidated Rules of Court; No. 64 Miscellaneous
2006****Adopting Order**

Now, this 21st day of November, 2006, it is hereby Ordered:

1. The following designated Somerset County Rule of Criminal Procedure 575 (Som.R.Crim.P. 575) Motions, Practice and Procedure is hereby adopted as a Rule of this Court, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Somerset County Court Administrator is directed to:

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

B. Distribute two (2) certified copies of this Order and the attached Rule, along with a diskette or CD, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the attached Rule with the Pennsylvania Criminal Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for this Rule, which shall include a copy of each transmittal letter.

By the Court

JOHN M. CASCIO,
President Judge

Rules of Court**Som.R.Crim. P. 575 Motions Practice and Procedure****A. Filing and Service of Motions:**

1. All motions shall be filed and served in accordance with the provisions of Part F(1) of the Pennsylvania Rules of Criminal Procedure, Pa.R.Crim.P. 575, et seq.

2. Motions shall be presented:

a. At Motions Court, in accordance with the procedure specified in subparagraph B. of this Rule, if the motion is of the type permitted to be presented at Motions Court, or

b. In all matters in which a hearing or argument before the Court is required and for which presentation at Motions Court is not appropriate, by the filing of a scheduling praecipe according to the procedure, and in the form specified in subparagraph F. of this Rule, copies of which are available from the Clerk of Courts or Court Administrator, or

c. In the case of motions which are permitted to be presented ex parte, without prior notice of presentation and opportunity to be heard, pursuant to the provisions of subparagraph D. of this Rule, by presentation to the Administrative Judge of the Criminal Division in accordance with Motions practice specified in subparagraph C. of this Rule, or

d. In the case of motions or petitions which, because of extraordinary and compelling circumstances, cannot be scheduled otherwise, and which must be heard upon short notice, by presentation to the Administrative Judge in accordance with Motions Judge practice specified in subparagraph C. of this Rule.

B. Motions Court.

1. Criminal Motions Court will be held before the designated Administrative Judge of the Criminal Division at 9:00 A.M. on each Monday and Thursday of every month, holidays excepted.

2. A matter may be presented at Criminal Motions Court when the issue raised, or relief requested, is:

- a. Detention.
- b. Establishment or revocation of bail.
- c. Waiver of extradition.
- d. To permit withdrawal as counsel.
- e. Approval of nol pros or settlement
- f. Joinder or severance.
- g. Entry or vacation of a bench warrant or process.
- h. Plea, with prior approval of the Administrative Judge.
- i. Contested motions for continuance.
- j. Such other matters as ordered by the Administrative Judge.

3. At least three days before presentation, a copy of the motion shall be served upon all other counsel and unrepresented parties, and upon the Court Administrator, together with a notice specifying the time and date of the Motions Court at which the motion will be presented.

4. The Court Administrator shall maintain a list of motions with date and time of receipt. Only those motions which have been submitted in a timely manner to the Court Administrator in accordance with these Rules or which have been scheduled by the Administrative Judge will be heard. Motions will be heard by the Court in the order of their submission to the Court Administrator.

5. The moving party shall file and serve an affidavit of service of the motion and notice prior to, or at the time of presentation. The motion will not be heard unless the notice requirements of this rule have been satisfied and an affidavit of service filed.

6. Counsel and unrepresented parties are to confer prior to the presentation of any motion and are to attempt, in good faith, to reach amicable resolution of the issues involved.

7. At the time of presentation, the Administrative Judge may enter an Order resolving the issues raised by the motion; schedule argument, hearing or other proceeding; issue a briefing schedule; or enter other appropriate Order.

C. Presentation to the Court.

All uncontested matters, including applications and requests, formal and informal, which may be presented to the Administrative Judge, shall be signed by the moving party, signed by the responding party signifying agreement, filed and docketed in the office of the Clerk of Courts, and then transmitted to Chambers or presented in open court to the Administrative Judge except in the following circumstances:

1. Emergency cases may be presented to any judge.
2. Matters in which the Administrative Judge has been disqualified or declines to act shall be presented to another judge.
3. Administrative and policy matters required by law, will or custom to be acted upon by the President Judge,

or appropriate for the attention of the President Judge, shall be presented to the President Judge.

D. Ex parte orders.

1. Motions presented to the court will not be considered ex parte, without prior notice of presentation and an opportunity to be heard, except in the following cases:

a. Cases in which the adverse party has, in writing, waived the opportunity to be heard or has consented to the requested action.

b. Cases in which there are special or compelling circumstances which the court finds justify ex parte action.

2. Prior notice of presentation of a motion to the court shall state the date, time and place of intended presentation and shall be accompanied by a copy of the motion and the proposed order.

3. In cases where an ex parte order is made, a copy of the motion and order shall be served promptly on the opponent, who may file a prompt application for reconsideration of the order.

4. In all cases where prior notice of presentation is required under statute or rule of court, the motion shall state that the requisite prior notice was given; the date, time and manner of giving notice; and the substance thereof. If the right to ex parte relief is based on the existence of special or compelling circumstances, the motion shall state such circumstances.

E. Continuances.

1. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.

2. Absent exceptional circumstances, motions for continuance of hearings and arguments shall be presented no later than ten (10) days after the date of the order scheduling the matter for hearing or argument. Thereafter, no motions for continuance will be granted except for substantial reasons which were not previously known or reasonably ascertainable.

3. The motion shall state whether or not the proceedings previously have been continued, and, if so, the number of prior continuances, with identification of the party upon whose motion each continuance was granted.

4. Absent extraordinary circumstances, a request for a continuance based on proceedings scheduled in another Court of Common Pleas will be granted only if the other court's scheduling order was issued before the order scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another Court of Common Pleas a copy of the scheduling order from the other Court of Common Pleas shall be attached to the motion.

5. Motions for continuance of court cases shall be presented as follows:

a. When at a scheduled call of the list, to the presiding Judge.

b. When a case is on a current trial or argument schedule, to the assigned Judge.

c. In all other cases, to the Administrative Judge.

6. Continuances shall operate to effect rescheduling:

a. To a date certain or specific trial session if the Administrative Judge or Presiding Judge states a date certain or specific trial session in the continuance order.

b. In all other cases, only upon filing of a scheduling praecipe as provided in subparagraph F. of this Rule.

7. An order continuing a case "sec reg.," until the next available session, or in terms of similar generality, will not result in rescheduling, or placement on a new trial or argument list.

8. Every motion for continuance shall specify the reasons for the request.

9. The moving party shall certify that prior notice of presentation of the motion has been given to opposing counsel and unrepresented parties.

10. Every motion for unopposed continuance, whether written or oral, shall be joined in by the responding party or counsel of record.

11. An approved form of continuance motion for all matters other than trials is set forth in subparagraph F. 12. of this Rule. Trials may be continued only by filing of a Rule 600 Motion available from the Clerk of Courts.

12. Form of Continuance Motion.

CRIMINAL HEARING CONTINUANCE REQUEST

COMMONWEALTH)	IN THE COURT OF COMMON
)	PLEAS OF SOMERSET COUNTY,
)	PENNSYLVANIA
v.)	
)	NO. _____ CRIMINAL 200 ____
)	
)	
_____)	
Defendant)	

Scheduled before Judge _____, on _____

For _____

Reason For Request:

Number of prior continuances:
By Commonwealth _____ By Defendant _____

NOTICE HAS HAS NOT BEEN GIVEN TO OPPOSING COUNSEL OR PARTY

(Sign) _____ Counsel For: _____
Requesting Attorney or Party

(Sign) _____ Counsel For: _____
Responding Attorney or Party

Joins In Does Not Object Opposes

ORDER

AND NOW, this _____ day of _____ 200 _____, the continuance request is GRANTED DENIED.

Hearing to be rescheduled by scheduling praecipe.

Hearing is rescheduled for _____ the _____ day of _____ 200 _____, at _____ M. in Courtroom No. _____, before Judge _____.

BY THE COURT:

_____ J

F. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph F.6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct or other appropriate order.

6. Form of Scheduling Praecipe.

COMMONWEALTH)	Place this case on an
)	Argument schedule for
)	<input type="checkbox"/> Hearing <input type="checkbox"/> Argument on
)	_____
)	(Nature of Proceeding or Pleading)
vs.)	
)	
)	No. _____ CRIMINAL 20 ____
)	
)	
_____)	
Defendant)	

Type of scheduling requested:

- Sec. Reg.** (On the next available Argument Schedule).
 - Prompt** (At a presently fixed date and time on an Argument Schedule already issued).
- State reason for Prompt scheduling (Granted only for cause) _____
- _____
- Estimated hearing time for all parties: _____
- Judge _____ has previously heard a matter in this case.

A copy of this praecipe has been served on opposing counsel and any unrepresented party.

Signature

Type Name and Party Represented

ORDER

AND NOW, this _____ day of _____ 20 _____ ,
 Argument Hearing is scheduled on _____
the _____ day of _____ , 20 _____ , in Court
Room _____ , at _____ . M. before Judge in Court-
room No. _____ .

BY THE COURT

_____ J

Distribution:

G. Preparation and Form of Orders. Copies for Distribution.

1. Unless otherwise directed by the court, orders requested by a party shall be drafted by the attorney at whose instance they are to be made, and shall be submitted to the court for approval.
2. All proposed orders presented to the court, whether by an attorney, court staff or department, or other person, shall list thereon the names of all counsel in the case (of record and known, including counsel for applicant), and shall indicate the party represented by each.
Note: Nothing herein is intended to alter the present practice of the court reporters in preparing court orders.

3. Counsel preparing the order shall be responsible for copying, and shall provide sufficient copies to the Clerk of Courts for distribution to all other counsel and parties. If the order continues a case or fixes a date for hearing or argument, counsel shall ensure that the order and its accompanying documents are transmitted to the Court Administrator for notation of the matter for scheduling purposes. The order and documents shall then be filed in the proper office.

4. All documents prepared in and issued from chambers shall be transmitted to the Court Administrator for copying and distribution sec reg, and for scheduling if necessary, then filed in the proper office.

[Pa.B. Doc. No. 06-2508. Filed for public inspection December 22, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 37—LAW

COMMISSION ON CRIME AND DELINQUENCY

[37 PA. CODE CHS. 191 AND 411]

Crime Victims Compensation

The Commission on Crime and Delinquency (Commission) deletes Chapter 191 (relating to general provisions) and adopts Chapter 411 (relating to crime victims compensation) to read as set forth in Annex A.

Purpose and Authority

This final-form rulemaking deletes Chapter 191 and replaces it with regulations specific to the Office of Victims' Services (OVS). The new regulations will be adjoining other regulations pertaining to the Commission or its other offices. The final-form rulemaking reflects the substantial statutory changes that have occurred since 1989 when regulations affecting the Crime Victims Compensation Program were most recently amended. New regulations are needed to conform to the new requirements of the section 312(13) of the Crime Victims Act (act) (18 P. S. § 11.312(13)). The final-form rulemaking will simplify or clarify many of the OVS's claims processing and determination and appeal procedures. In addition, this rulemaking incorporates the Schedule of Compensation Limits and Reimbursement Rates (Schedule) for the Crime Victims Compensation Program (Program) published as a statement of policy at 32 Pa.B. 4489 (September 14, 2002).

This final-form rulemaking is adopted under the authority of the act (18 P. S. §§ 11.101—11.5102). Section 312(3) of the act, empowers the OVS to "adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of Chapter 7." Section 312(13) of the act also empowers the OVS to "establish compensation limits and reimbursement rates for the purpose of carrying out the provisions of Chapter 7."

Comments and Response

Notice of proposed rulemaking was published at 34 Pa.B. 5032 (September 11, 2004) with a 30-day comment period. During the 30-day comment period, comments were received from the Crime Victim Center of Erie County, Inc; Victim Witness Services of South Philadelphia; Victim Services Division of the Cumberland County District Attorney's Office; Network of Victim Assistance (Bucks County); Lancaster County Victim/Witness Services; Pennsylvania Coalition Against Domestic Violence; House Judiciary Committee (Committee); and the Independent Regulatory Review Commission (IRRC).

The Crime Victim Center of Erie County, Inc., wrote in support of the proposed regulations in particular a definition of "immediate need" relative to relocation.

The Pennsylvania Coalition Against Domestic Violence wrote in support of the proposed rulemaking highlighting the following areas of 37 Pa. Code:

Section 411.11(g). Filing procedures. When a Protection From Abuse (PFA) is withdrawn or denied—"Although victims of domestic violence file approximately 50,000 Protection From Abuse cases annually, we recognize that many victims choose to withdraw their orders in order to secure safety. Studies show that victims are most at risk

for retaliation or abuse when they separate from the perpetrator of abuse. The Commission's decision to include specific guidelines for justification of this safety choice will help many survivors of domestic violence."

Section 411.15(h). Determining Primary Aggressor. "Unfortunately many victims of domestic violence are forced to use physical means to protect themselves when a perpetrator attacks them. These situations sometimes result in a confusing situation for law enforcement to assess. The aforementioned provision allowing for a determination of primary aggressor permits OVS to consider factors that are relevant to many victims of domestic violence. We applaud the inclusion of this section in the proposed regulations."

Section 411.15(g). Failure to Cooperate. "Many victims of domestic violence are forced to choose between their future safety and cooperation with law enforcement when a charge or complaint is filed. While this failure to cooperate may seem arbitrary to law enforcement, it is clear that these proposed regulations grant credibility to victims who make the choice to protect themselves rather than cooperate."

Section 411.42(f). Reimbursement for Relocation Expenses. "There is a cost to safety. The cost of safety includes relocation or acquiring temporary housing. The meaningful and substantial resource that the proposed regulations permit will save lives, encourage victims of domestic violence to seek help and move our culture closer to the goal of ending domestic violence. We are grateful that the relocation expenses include both temporary and permanent relocation. This allows flexibility for victims."

The Coalition supports this priority and general tone in the proposed regulations that accepts the complex choices and options victims of domestic violence face everyday.

Following is a summary of the comments and the Commissions response to those comments:

§ 411.2 (relating to definitions)

Comment: IRRC recommended that the definition of "dependent child" be clarified by replacing "Eighteen years of age or younger" with "Under 18 years of age" to remain consistent with the act.

Response: The Commission concurs and revised the definition. In addition, to remain consistent with the act, "19" was deleted and replaced with "18."

Comment: The Committee and IRRC expressed concerns about the clarity of the proposed amendment regarding the definitions of "loss of earnings," "stolen benefit cash" and "cash equivalent."

Response: The Commission concurs and deleted the definition of "loss of earnings," as it was already defined in the act. The Commission deleted the definition and any reference to "stolen benefit cash," as it is an internal processing term used to describe a specific type of claim. The Commission also deleted the definition for "cash equivalent," as it was clarified in § 411.43 of this final-rulemaking.

The statute references the ability to consider an award when a victim of crime is unable to work as a result of the injury versus a victim of crime who has had money stolen or defrauded and whose primary source of income is derived from a fixed source such as social security,

pension, etc. This is delineated in the act under the definition of loss of earning as well as section 707 of the act (18 P. S. § 11.707). Since there are two different ways for a crime victim to be compensated for lost income with specific monetary limits for each, the Commission opined it was important to delineate the different eligibility requirements as well as the required documentation.

Under § 411.43(a) (relating to loss of earnings), the Commission replaced the term "direct victim" with "victim" to be consistent with the statutory definition.

In addition, to provide clarity on the allowable reimbursement limit, the Commission added, "in no instance would payment exceed the amount stolen."

Comment: Lancaster County Victim/Witness Services and Victim Witness Services of South Philadelphia expressed concern that the definition of "immediate need" be changed to provide a longer period than 30 days from the date of the crime or change in circumstance or indicator of danger. It was suggested that this 30 day time frame was not an adequate amount of time to provide for the complications victims incur in those 30 days, which inhibit them from moving. These complications may include: the need to find a new place to live, relocation of children who may be subject to custody orders or school changes, pending legal proceedings, or raising sufficient moneys to make the initial move. Many victims can find a temporary hiding place with family or friends, but when they find a place to seek a permanent refuge, it may be too late to apply.

Response: The term "immediate need" is included under the definition of "out-of-pocket loss" in the act. It states, in part: "(4) expenses resulting from the temporary or permanent relocation of a direct victim and individuals residing in the household of the direct victim due to the incident forming the basis of the victim's claim when there is an immediate need to protect the safety and health of the victim and individuals residing in the household, as verified by a medical provider, human services provider or law enforcement."

The intent focused on victims whose lives were in danger because of the crime, and had the desired result of meeting the victim's immediate needs to protect their safety and health. Adding this benefit by statute was never intended to cover or address all aspects of the need for victims to relocate. OVS is cognizant of the unique circumstances that victims face and has the authority to consider delays past the 30-day time period. Specifically, § 411.42(f)(3) states that "OVS may consider a delay past the prescribed immediate need time period to be justified when the direct victim, intervenor or claimant is mentally or physically incapacitated, there is a fear of retaliation, or other circumstances where good cause is shown by the claimant."

§ 411.11 (relating to filing procedures)

Comment: IRRC commented that this section does not include time frames for filing claims for compensation with OVS or time frames for reporting the crime to proper authorities.

Response: The Commission concurs and included a reference to the act that outlines requirements for timely filing and reporting. See sections 702(b) and 707(a)(3) of the act (18 P. S. §§ 11.702(b) and 11.707(a)(3)).

Comment: IRRC recommended that § 411.11(a) (relating to filing procedures) also reference § 411.3(a) (relating to persons eligible for compensation)

Response: The Commission has revised this section to add the suggested reference.

Comment: The Committee expressed concern that the list contained in subsection (f)(1) may deter a direct victim or intervenor with a legitimate claim from filing an application for compensation. The Committee suggests that this paragraph be amended to clearly indicate that this list is not exclusive and that OVS retains the authority to determine on a case-by-case basis, whether a direct victim or intervenor reported the occurrence of the crime to a "proper authority."

Response: The Commission reviewed this list and determined that the Commission does not require further discretion in this area. However, the Commission has included United States Postal Inspection Service, which is the law enforcement arm of the postal service. As is with the FBI, they investigate and refer cases to the United States Attorney's Office for possible prosecution.

Comment: The Committee suggested that a definition of "the occurrence of the crime" be included in the final-form rulemaking so that the time period for filing does not begin to run until the crime is actually discovered. The Committee believes that a definition would be consistent with the intent of the act, that is the restoration of crime victims to their precrime status and a definition would treat all eligible claimants in a uniform manner.

Response: On November 19, 2004, Governor Rendell signed legislation H.B. 2396. This legislation became effective on January 19, 2005, and amended the filing time for a compensation claim. The amendment states in part, "A claim must be filed no later than two years after the discovery of the occurrence of the crime upon which the claim is based." OVS has incorporated this amendment into § 411.11 (g) of the final rulemaking.

Comment: The Committee was concerned that the three requirements for not utilizing an insurance plan for medical or counseling may not suffice in all cases. The Committee recommends that OVS retain the authority to decide on a case-by-case basis whether a victim or intervenor had legitimate justification for not utilizing their insurance plan.

Response: The Commission concurs and has revised § 411.11(k)(1) and (5).

Comment: IRRC and the Committee suggest the Commission add requirements that would justify a victim not utilizing their homeowner's or renter's insurance.

Response: Claimants have a choice whether to access their insurance. They do not have to provide written justification to OVS as to why they did not access their insurance. § 411.16(i) (relating to reductions, offsets and limitations) states, "In claims involving stolen benefit cash or crime scene clean-up, if a claimant chooses not to access any of his homeowner's or renter's insurance, OVS will apply as an offset any amount that the claimant would have been paid by the insurance company."

Exceptions to insurance usage for financial decisions are not supported by the OVS.

Comment: IRRC recommended that the Commission clarify what information is required for a claimant who witnesses the crime for the purpose of seeking reimbursement for counseling expenses.

Response: The Commission has clarified the requirements under § 411.11(k)(5).

Under § 411.11(h) OVS has replaced "OVS will ask the claimant to submit confirmation of the issuance of a final

PFA order” with “OVS will confirm the disposition of a final PFA order.” In some instances, the Commission has the ability to access this information directly and would not need to require this information from the claimant.

§ 411.12 (relating to review)

Comment: The Pennsylvania Coalition Against Domestic Violence requested that § 411.12(d) be amended to ensure that OVS will not request or review records or files of domestic violence counselor/advocates. The term “domestic violence counsel/advocate” is limited to the definition provided in 23 Pa.C.S. (relating to domestic relations). As such, no subpoena or subpoena duces tecum should be issued to any domestic violence counselor or advocate.

Response: The Commission did not amend this section. The Commission’s intent is to uphold any statutory provisions that protect privileged and confidential information for victims of crime. Section 709 of the act states in part, “All reports, records or other information obtained or produced by the bureau during the processing or investigation of a claim shall be confidential and privileged, shall not be subject to subpoena or discovery, shall be used for no purpose other than the processing of a claim.” In addition, domestic violence programs have their own statutory privilege as outlined in 23 Pa.C.S. § 6116 (relating to confidentiality).

It is also important to note that OVS may not request or review counseling notes of mental health service providers. OVS will request an assessment from the mental health service provider as to the extent the service provided is needed as a direct result of the crime. Counseling may only be considered as a reimbursable expense when the service is provided by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker. OVS could not provide reimbursement to domestic violence counselor/advocates, therefore OVS would have no statutory authority to request counseling records from them.

Comment: The Committee is of the opinion that the intent of the statutory provision upon which § 411.12(a) (relating to review) is based is to ensure that the OVS conducts an examination of each claim and any supporting documentation to prevent fraud. The proposed regulation and statute both state in relevant part that the OVS investigation shall include “an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based.” The Committee is of the opinion that it is not the legislative intent of the statutory provision to require that an investigation into every claim require that each of the referenced items be examined, but rather that OVS examine such records and reports as necessary in order to ensure that a claim is legitimate. For example, it is the opinion of the Committee that a claim based upon the abuse of a child according to the official records of a county child protective services agency as reported to police should not be denied because the police department who received the complaint has not provided OVS with a copy of the police record or report further confirming the complaint. The Committee suggests that this section clarifies this point.

Response: The Commission has added language to address this concern. It is the Commission’s intent, in the case of a child or a vulnerable adult, to accept a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter.

§ 411.13 (relating to closing of claims)

Comment: Bucks County indicated that the closing of claims is confusing. Specifically, they asked if subsection (e) overrides subsections (c) and (d)? In addition, they indicated that the 5 year case closure for cases with no out-of-pocket expenses is unrealistic for child sexual assault and other PTSD cases, all of which may result in counseling needs several years beyond the crime or reporting of the crime.

Response: Section 411.13(e) does not override the deadline established in subsections (c) and (d). Rather, it provides OVS with a mechanism to reopen claims when additional information is received that would contradict a prior decision.

The Commission concurs that eligible claims where no verifiable out-of-pocket expense or loss has been received by OVS within 5 years from the date of the filing of the claim with no further right of appeal, is not appropriate where the direct victim is a minor. Section 411.13(e) has been added for clarification.

§ 411.14 (relating to determinations)

Comment: Bucks County, members of the Committee and IRRC commented on the clarity and reasonableness of subsection (a). This subsection states “a claimant may provide additional information or clarification on the claim post-marked no later than 30 days from the date of OVS’s initial determination . . .” Does this mean the date on which the claimant receives notice of the initial determination?

Response: It has been a long standing practice (for more than 15 years) to use 30 days from the date of the determination. It is fairly rare for a claimant to not be able to file a request for reconsideration or a request for a hearing within 30 days. However OVS did add justification to accept a delay past the prescribed time frame under §§ 411.31(b) and 411.32(d) (relating to reconsideration; and hearing).

Comment: Members of the Committee and IRRC commented on subsection (c) which outlines a list of individuals that may receive a copy of OVS’s final determination. It was suggested that the district attorney having jurisdiction where the crime occurred be added to this list. Section 1106(c)(4) of the act (18 P. S. § 11.1106(c)(4)) requires district attorneys to make recommendations to the sentencing court for the amount of restitution. Notice from OVS regarding a claim determination will assist the district attorney in meeting this requirement.

Response: The Commission has revised § 411.14(c) to indicate that the prosecutor of the county where the crime occurred may be copied on the final decision.

§ 411.15 (relating to actions affecting awards)

Comment: Bucks County and IRRC recommended that this section be amended to more closely relate to the conduct of the direct victim or intervenor. Both commentors expressed concern with the standard that the direct victim or intervenor used poor judgment resulting in the placement of a situation likely to result in injury. It was relayed that the term “poor judgment” is subjective and open to broad interpretation.

Response: The Commission has deleted the term “poor judgment” and revised § 411.15(a) and (f) providing clarification in determining whether the conduct of a direct victim or intervenor contributed to the injury.

Comment: IRRC recommended that the proposed language of § 411.15(c) be revised to clarify intent.

Response: The Commission has revised the language to clarify the intent.

In addition, the Commission has revised the language of § 411.15(f) to clarify the circumstances of OVS's denial of a claim for failure to fully cooperate with law enforcement agencies. The claimant is required to cooperate with law enforcement agencies throughout the entire proceeding. OVS has discovered that in some instances, once a claimant receives a payment from OVS they refuse to assist the prosecution further in the case. In these instances, OVS has a policy to deny future awards as well as require repayment of a prior award. Accordingly, the following language "will require repayment of a prior award," has been added in order to put all claimants on notice of this practice and to codify existing practice.

Comment: IRRC requested clarification in that subsection (g) states OVS may consider a failure to cooperate with law enforcement and OVS justified when a number of situations occur. IRRC questioned if minors are able to cooperate with OVS?

Response: The Commission has included language under § 411.15(g) that "OVS may consider failure to cooperate with law enforcement and OVS . . . when the victim is a minor." This type of decision would be made on a case-by-case basis taking into consideration the circumstances of the crime and the age of the victim.

§ 411.16 (relating to reductions, offsets and limitations)

Comment: The Committee commented on § 411.16(a) that any decision by OVS to reduce, offset or limit an award to a claimant should only be made after first considering the ability of the Board to exercise its right to subrogation and restitution. IRRC agreed.

Response: The Commission concurs and has revised this section.

Comment: IRRC recommends for clarity that the Commission reference the sections that deal specifically with Medicare reimbursement allowances as a result of a motor vehicle incident under § 411.16(e).

Response: The Commission included the appropriate cite.

Comment: The Victim Services Division, Cumberland Co. District Attorney's Office recommended that in the cases of homicide, the survivors should not have to use life insurance coverage before they can apply for compensation.

Response: This would require an amendment to section 707(e) of the act.

Comment: Lancaster County Victim/Witness Services requested that § 411.16(e) be clarified to consider the payment to have the notice of the time and place of the funeral listed in the paper.

Response: The Commission concurs and clarified this subsection.

Comment: Lancaster County Victim/Witness Services requested consideration to lower the amount of \$10,000 to \$5,000 in the cases where the direct victim or intervenor has no financial means to order needed services or equipment. In these cases, OVS will assist the claimant by evaluating the claim prior to purchase and make information available to the potential providers.

Response: The Commission concurs and has revised § 411.16(h) to reduce the amount from \$10,000 to \$5,000.

§ 411.31 (relating to reconsideration)

Comment: IRRC expressed several concerns with subsection (a) which allows a claimant to contest OVS's determination "by submitting a written request for reconsideration postmarked no later than thirty (30) days from the date of determination."

First, how will the claimant know when the 30 day period began? Section 704(d) of the act requires OVS to promptly notify the claimant of its final decision. IRRC also noted that the 30 day period for judicial review under section 705 of the act begins 30 days after the claimant receives a copy. The regulation should specify that the claimant has 30 days from receipt of OVS' determination.

Second, the requirement of a postmark would limit the method of filing. This subsection should be amended to be similar to § 411.11(c), which allows several methods of filing, including electronic means.

Response: It has been a long standing practice (more than 15 years) to use 30 days from the date of the determination. It is fairly rare for a claimant not to file a request for reconsideration or a request for a hearing within 30 days. However, OVS did add justification to accept a delay past the prescribed time frame.

For clarification, the 30 day period for judicial review under section 705 of the act refers to the final decision prior to appealing to Commonwealth Court. The Commission inadvertently included a reference to the Commonwealth Court under § 411.32(b) and has removed this reference.

Also, the Commission has removed the reference to a "postmark" in §§ 411.14(a), 411.31(a) and 411.32(c), allowing for several methods of filing, including electronic means.

§ 411.32 (relating to hearings)

Comment: IRRC and the Committee suggested that § 411.32(h) be amended to clarify whether the submission of a list of documentary exhibits will satisfy the requirements imposed, or if the actual documentary exhibits must be provided. This section also requires that the claimant must provide a list of witnesses and documentary exhibits to OVS counsel and the hearing examiner. The Committee suggests that this duplication of effort not be required.

Response: The Commission has revised this section to clarify the requirements of the claimant and also who the claimant must respond to. The claimant will not need to provide required information to OVS counsel and the hearing examiner.

Comment: IRRC expressed concern that a hearing will not be rescheduled more than once. IRRC questioned the hearing examiners flexibility to review the reason the claimant did not attend and, based on that information, make a determination on whether another hearing should be scheduled.

Response: The Commission has revised this section to provide OVS with discretion to allow a hearing to be rescheduled if there is a showing of good cause.

Comment: The Committee and IRRC recommended that if it is the intent that a claimant may subpoena for the attendance of witnesses or for the production of documentary evidence, this subsection should clarify intent and procedures for requesting and obtaining these subpoenas.

Response: The Commission has revised this section to clarify the claimants ability to subpoena for attendance of witness or for the production of documentary evidence.

§ 411.33 (relating to final decision after hearing)

Comment: IRRC expressed concern that this section does not contain any time frame for the hearing officer to deliver the report or for OVS action on the report.

Response: Consistent with 1 Pa. Code § 35.202 (relating to proceedings in which proposed reports are prepared) and other Commonwealth agency regulations, OVS does not see the need to add a time frame within which the hearing officer must deliver the hearing report. While we recognize there are at least three other agencies' regulations requiring a time frame, we are not inclined at this time to add this requirement.

§ 411.41 (relating to amount)

Under § 411.41(2), OVS inadvertently revised what the \$1,000 limit includes. This section was revised to remain consistent with the act and statement of policy.

Comment: Bucks County expressed a concern that the limit on crime scene clean up is low for its geographical area.

Response: The Commission conducted a comparison of the amount of bills submitted for crime scene cleanup versus the amount the OVS has paid. The analysis was completed in the fall of 2004. OVS paid 13 claims since the inception of this benefit. Of those claims, eight were paid at 100%, three were paid at 75% or higher, one paid between 25% and 49%, and one paid between 0% and 24%.

Also, of the 13 claims, only 5 requested more than \$500. Based on the review, OVS, at this time, cannot justify increasing the cap for crime scene cleanup.

Comment: Victim Services Division of the Cumberland County District Attorney's Office expressed a concern that the \$200 amount for the loss of eyeglasses in § 411.42(d)(1) is too low. Crime victims should be able to replace their exact glasses that they had at the time of the crime and this might (in many cases) exceed the \$200.

Response: This limit applies to the replacement of personal health-related items damaged or stolen as a result of a crime. The \$200 applies only to the frames. Lenses are not a part of the \$200 limit.

Comment: Bucks County expressed a concern that the \$35,000 limit is not realistic when medical bills and loss of support or earnings are involved. Although the reimbursement reduction to 70% of medical costs certainly helps, several Bucks County victims have lost work time or support and had surgical procedures that have easily totaled more than \$35,000. This has become even more prevalent with the astonishing increases in health care costs in the past few years. IRRC noted that several commentators have indicated that current monetary limits, such as funeral expenses and the overall \$35,000 cap are not sufficient and that OVS should explain how the dollar amounts were derived, and why they are reasonable.

Response: There are several methods that may be utilized to determine a monetary limit. The National Association of Crime Victim Compensation Boards (NACVCB) is a national repository for data provided by the 50 member states, the District of Columbia, Puerto Rico and the Virgin Islands. Through the NACVCB, statistics such as funding sources, eligibility require-

ments, procedures, benefits and compensable costs are available. Prior to considering a change, the NACVCB data is factored into the equation to see how Pennsylvania compares to other states. OVS has found this data method to be reasonable and an accurate outlet for comparison purposes. Also, OVS staff query data sets from our existing DAVE System database to see, for example, what the actual payouts for a particular benefit type are during a set time period. Depending on the situation, VCAP staff may also contact providers in predetermined geographic areas of this Commonwealth to determine what the "going rate" is for a particular service to see if our method and amount of compensation is high, low, or proper for the service rendered. In addition, the solvency of the fund is always taken into consideration when adding or amending a monetary limit.

Comment: Bucks County requested that this regulation include preapproval of dental care, plastic surgery, vision or eye care, prosthetics and pharmacy costs because victims are denied nonemergency care when they cannot guarantee payment. In addition, IRRC inquired whether there was a way for a victim to demonstrate need for nonemergency medical care before the procedure is done and can a provider be paid directly?

Response: Section 411.16(g) allows OVS to assist the claimant by evaluating the claim prior to purchase and make information available to the potential providers when a victim does not have the financial means to order needed services or equipment that exceeds \$5,000. In addition, OVS must pay providers directly for services rendered when the bill has not been paid by the claimant.

Comment: Bucks County expressed a concern that dentists, orthodontists, optometrists and doctors of physical medicine rely on outside vendors to make glasses, crowns and prosthetic devices, and the 70% reimbursement is not acceptable to them. Therefore, in its experience, many victims go without this care.

Response: Section 708(b) of the act states in part, "Medical expenses, except as otherwise provided, shall be paid to a hospital or other licensed health care provider on behalf of the victim at a rate set by the Office of Victims' Services."

This final-form rulemaking defines "licensed health care provider" to include any individual authorized by a licensing board or agency of the Commonwealth or equivalent governmental entity to practice the science and skill of diagnosis and treatment of ailments of the human body. The term includes "medical doctor," "osteopathic physician," "chiropractor," "dentist," "registered nurse," "optometrist," "pharmacist," "physical therapist," "podiatrist," "psychologist," "licensed professional counselor" and "licensed social worker."

If a provider of service was to be granted an exemption to the 70% reduction, it would require an amendment to the act.

Comment: The Committee commented that travel expenses for funeral arrangements should be allowed as an out-of-pocket loss, but should also be required to be "reasonable and necessary." IRRC agreed with this comment.

Response: The Commission concurs and has revised § 411.42(g).

Comment: Bucks County expressed concern that the definitions on what constitutes crime scene clean up are too restrictive. In a recent case, a bloody mattress was covered for cleaning, but not for replacement. It would

have been less expensive to replace the mattress and, as the victim said, "who would want to keep the mattress where someone had been stabbed?" In another case, a wounded victim left his house and escaped in his car. Though both needed cleaning, only the house was covered; this was hard to explain to the victim.

Response: Currently, the act does not allow for reimbursement of out-of-pocket losses for property damage, except as otherwise provided within the law. Replacing property that has been stained as a result of the crime injury would require an amendment to act.

It is also important to note that the OVS receives 60% reimbursement from the Federal government for each State dollar spent for eligible reimbursements to victims of crime. The Federal guidelines state that states may not include property replacement or repair cost, except for replacement of locks and windows, and replacement of bedding and clothing held as evidence, in their annual certification of payments. If a statutory change occurred and OVS were to pay for replacement costs, the Crime Victim's Compensation Fund would bear 100% of cost.

In addition, the regulations could not include the clean up of a car. Section 103 of the act (18 P.S. § 11.103) under the definition of "out-of-pocket loss" specifically states, "costs of cleaning the crime scene of a private residence." The cleaning of a car that has been stained as a result of the crime injury would also require amendment to the act.

Comment: The Committee and IRRC suggested that the statutory definition of "cleaning" be included in the regulations and that language be included in the regulatory definition to clarify for claimants the types of stains for which compensation will be made to cover the cost of their cleaning. The Committee believes that the intent of the General Assembly in enacting the statutory authorization to pay claims to cover the cost of crime scene clean up was to ensure that payment may be made to cover the cost associated with the clean up of blood and stains caused by other bodily fluids as a direct result of the crime, or other dirt and debris caused by the processing of the crime scene. Stains deliberately caused by acts of vandalism and other intentional acts are property damage and are expressly excluded from the definition of "out of pocket loss" contained in the act.

Response: The Commission has added language to § 411.42(h) specifically adding subparagraphs (iii) and (iv) to clarify these concerns.

§ 411.43 (relating to loss of earnings)

Comment: Victim Witness Services of South Philadelphia acknowledged that the funeral expenses section is wonderful and helps a number of families pay for a funeral. However, this agency suggests that more can be done for loss of earnings in the case of a homicide. At this time, OVS only covers up to 1 week of loss of earnings per claim. This Program has worked with a number of parents whose children have been murdered, and they are unable to return to work right away because of the trauma. It is understood that there need to be limits, but 1 week is inadequate. If the claimants are able to show documentation from a doctor that they are unable to work, this should allow for additional time, with perhaps a cap of up to 3 months. This would give parents, and other family members, a chance to get back on their feet without their finances being totally depleted. Loss of earnings should also be made available to both parents. In many cases, the parents of the slain child are not living in the same household and may be supporting two

separate families. Loss of earnings should not be awarded to one parent just because they filed their claim quicker than the other. Both parents should be entitled to the same funds.

Response: OVS recognized the inequity in allowing only one individual to file for loss of earnings in homicide cases. The final rule allows for each eligible claimant to file for up to 2 weeks net loss of earnings in connection with the death, not to exceed the average weekly wage, if the claimant was not otherwise reimbursed for the loss.

Under § 411.43(c)(1) OVS inadvertently added "as certified by a physician or psychologist." This reference is misplaced. Section 411.11(f)(3) sufficiently delineates the requirements to process a claim for loss of earnings.

Comment: Bucks County expressed concern with the fact that the use of sick, vacation and personal time, often occurs in the early aftermath of the crime when victims are unaware of the availability of compensation. They are then left with little or no paid time for an unrelated illness or vacation. If they had taken the initial time to deal with crime related matters as unpaid, they would have been eligible for compensation. Many victims feel this is unfair.

Response: In the calculation of loss of earnings, the final rule requires OVS to offset the award by "other benefits received" which include employer-paid-leave.

This requirement is mandated under section 707(b)(2) of the act. It states in part, "an award made for loss of earnings or support shall, unless reduced under other provisions of this chapter, be in an amount equal to the actual loss sustained." If the victim utilizes another source to compensate his time off from work, there would be no actual loss that OVS could reimburse.

To clarify § 411.43(e)(3), OVS replaced "bereavement pay" with "employer-paid-leave," which is a more accurate term when describing sources of leave available from an employer.

Comment: Lancaster County Victim/Witness Services expressed concern with § 411.43(a), specifically, the rationale to include any language concerning the average weekly wage when there seems to be no correlation between stolen benefit cash and the average weekly wage. Since this provision is already limited by a 1 month entitlement, regardless of the amount of the loss, it should not further be limited by the average weekly wage.

Response: This section has been reviewed and deleted as a provision for further limiting the amount a crime victim may be eligible to receive when the victim is on a fixed income. A determination has been made that the reference to the average weekly wage, as determined annually by the Department of Labor and Industry through its Unemployment Compensation Law (73 P.S. §§ 751—914), is clearly referencing income or wages earned by active employment for all persons covered by this act. This reference should not be applied to victims who are on a fixed income.

§ 411.44 (relating to loss of support)

Section 411.44(k) has been amended to correct a typographical error. The proposed rule making referenced a 3-year or 5-year payment plan for the disbursement of loss support payments. The final rulemaking states a 3-year to 5-year payment plan.

§ 411.51 (relating to subrogation)

Section 411.51(c) has been amended to charge OVS with the discretion of removing the sole responsibility from the Director.

In addition, in reviewing the areas of discretion afforded, OVS inadvertently omitted a long-standing practice wherein, in certain circumstances, it is fiscally prudent to compromise a lien amount. There are circumstances where victims suffer major traumatic injuries and their expenses far exceed the amount that can be reimbursed by the Program; when their expenses will continue into the future and exceed the amount of the civil settlement; and when an attorney will decline to pursue civil remedies on behalf of a claimant unless OVS is able to reduce its lien amount. An attorney may decline to pursue a civil remedy because the settlement amount offered would not sufficiently cover the attorney fees, OVS awards, or future expenses incurred by the victim. It is important for OVS to have discretion to negotiate a settlement that is acceptable to all parties involved.

§ 411.53 (relating to prohibitions)

Under § 411.53(a), OVS inadvertently omitted the term "claimant." The subsection should read: "Providers who write off bills to a direct victim or intervenor may not at any point following the write off seek reimbursement from OVS, direct victim, claimant or intervenor."

Comment: IRRC has noted that there are several sections in the proposed rulemaking that provide discretion to allow OVS to consider other circumstances deemed appropriate or other factors that OVS deems relevant. What other circumstances or factors will OVS consider?

Response: The act is clear in its intent to allow for discretion. Where the act implies this discretion, OVS attempted to articulate the exceptions for why a claimant may not be able to meet a specific requirement.

For example: Section 411.11(f) requires that the direct victim or intervenor report the crime to proper authorities within a prescribed time period. This section also provides that OVS may consider a delay to be justified when one of the following circumstances exist: 1) the direct victim, intervenor or the claimant is mentally or physically incapacitated; 2) the victim is a minor; 3) there is a fear of retaliation; 4) the occurrence of the crime is not readily apparent; or 5) other circumstances where good cause is shown by the claimant.

These exceptions represent 98% of the reasons why a direct victim or intervenor may not have reported within the prescribed time frame. However, OVS didn't want to write it in a manner that would disallow an otherwise eligible victim to be provided compensation. Discretion is required for unusual circumstances which may include: a direct victim whose child was hospitalized for an unrelated event and needed constant attention or a language barrier that may exist with a tourist or possibly a crime victim who is on a visa and is detained and unable to meet the reporting requirement. Since victimization and the circumstances surrounding the crime are unique to each crime victim, OVS requires this discretion to ensure that fairness and equity are part of the decision process in easing the financial hardship imposed upon them.

*Final Proposed Rulemaking**Affected Parties*

Victims of crimes, as defined in the act, benefit by having clear and up-to-date regulations regarding eligibility, compensation, and procedures. Additionally, the pro-

posed rulemaking is intended to provide further guidance and direction to healthcare providers and hospitals in regard to their eligibility and reimbursement under the act.

Under the authority of act of June 28, 2002 (P. L. 496, No. 85) (Act 85), there is now a 70% reimbursement rate for medical expenses set by the OVS which may adversely affect a variety of providers, because they will not receive as much reimbursement as previously received, when they were paid in full to the extent of the maximum of \$35,000 under the act. However, paying at 100% was the exception to the rule, and the setting of a percentage reimbursement rate has conformed to the practice of other third-party payors.

Fiscal Impact and Paperwork Estimates

The final-form rulemaking provides guidance in implementing a program that is already in effect, for which funding has been appropriated. Therefore, there is no new significant fiscal impact.

The fiscal impact to the Commission from all reimbursement rates set by the OVS under Act 85 will consist of an estimated annual net savings of \$664,888. This calculation takes into account the savings to the Commission resulting from the Office's setting of a 70% reimbursement rate to providers (\$1,453,052) and the estimated costs to the Commission from new or increased benefits (\$788,164).

The final-form rulemaking does not affect existing reporting, recordkeeping or other paperwork requirements.

Effective Date

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

Sunset Date

No sunset date has been assigned.

Contact Person

The official responsible for information on the final form rulemaking is Lynn Shiner, Manager of the Victims Compensation Assistance Program, Office of Victims' Services, PCCD, P. O. Box 1167, Harrisburg, PA 17108, (717) 783-0551, Ext. 3210.

Regulatory Review

On August 26, 2004, copies of the proposed rulemaking were delivered to IRRC and the Majority and Minority Chairpersons of the House and Senate Judiciary Committees. Notice of the proposed rulemaking was published at 34 Pa.B. 5032 (September 11, 2004) It provided for a 30-day public comment period. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), OVS provided IRRC and the Committees with copies of all comments received during the public comment period, as well as other documents if requested. In preparing the final-form rulemaking, OVS considered all comments received from IRRC, the House Judiciary Committee and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. 745.5a(j.2)), this final-form rulemaking was deemed approved by the House and Senate Judiciary Committees on November 15, 2006. Under section 5.1a(e) of the

Regulatory Review Act, IRRC approved the final-form rulemaking on November 16, 2006. The Attorney General approved the final form Rulemaking on December 4, 2006.

Findings

The Commission finds that:

(1) Public notice of the intention to adopt these regulations 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 and forwarded to IRRC and the Senate and House Committees.

(3) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Commission, 37 Pa. Code Chapter 411 are amended, by deleting §§ 191.1—191.15 and adding §§ 411.1—411.3, 411.11—411.18, 411.31—411.33, 411.41—411.44 and 411.51—411.53 to read as set forth in Annex A.

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

(c) The Commission shall submit this order, Annex A and a Regulatory Analysis Form to IRRC and the House and the Senate Committees for their review and action as required by law.

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

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

MICHAEL J. KANE,
Executive Director

(Editor's Note: For the text of the order of the Regulatory Review Commission relating to this document see 36 Pa.B. 7353 (December 2, 2006).)

Fiscal Note: 35-29. (1) Crime Victims Reimbursements restricted revenue account within the General Fund; (2) Implementing Year 2006-07 is \$1,446,000; (3) 1st Succeeding Year 2007-08 is \$1,590,000; 2nd Succeeding Year 2008-09 is \$1,590,000; 3rd Succeeding Year 2009-10 is \$1,590,000; 4th Succeeding Year 2010-11 is \$1,590,000; 5th Succeeding Year 2011-12 is \$1,590,000; (4) 2005-06 Program—\$12,464,000; 2004-05 Program—\$9,711,000; 2003-04 Program—\$10,030,000; (7) Crime Victims Reimbursements; (8) recommends adoption. Federal reimbursements are expected to cover a portion of the costs of these services (approximately 60%). Savings generated from the decrease in the medical reimbursement rate offset a portion of the additional payments to crime victims.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart J. [Reserved]

CHAPTER 191. [Reserved]

§§ 191.1—191.15. [Reserved].

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 411. CRIME VICTIMS COMPENSATION GENERAL PROVISIONS

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CLAIMS

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SCHEDULE OF REIMBURSEMENT RATES AND COMPENSATION LIMITS

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GENERAL PROVISIONS

§ 411.1. Scope.

Except as otherwise provided, this chapter applies to claims for compensation relating to crimes occurring on or after August 27, 2002.

§ 411.2. Definitions.

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

Act—The Crime Victims Act (18 P. S. §§ 11.101—11.5102).

Average weekly wage—The amount designated for persons covered by Articles I and II of the Unemployment Compensation Law (43 P. S. §§ 751—771) in this Commonwealth as determined periodically by the Department of Labor and Industry.

Dependent child—The child of a direct victim or intervenor on whose behalf regular payments are received for the purpose of whole or partial support and who is one of the following:

(i) Under 18 years of age, including an unborn child for the purposes of this chapter only as defined by 18 Pa.C.S. § 3203 (relating to definitions).

(ii) Eighteen years of age or older but under 23 years of age and currently attending secondary school or is a full-time student in a postsecondary educational institution.

(iii) Eighteen years of age or older but unable to provide for his own support due to a physical or mental disability.

Final decision—An OVS determination of a claim that may be appealed by the claimant as provided in 2 Pa.C.S. Chapter 7, Subchapter A (relating to judicial review of Commonwealth agency action).

Guardian—A person appointed by a court for the care and management of a person or estate of a minor or incapacitated person, or designated by a parent of a minor to perform that role.

Health care provider—

(i) An individual authorized by a licensing board or agency of the Commonwealth or equivalent governmental entity to practice the science and skill of diagnosis and treatment of ailments of the human body.

(ii) The term includes medical doctor, osteopathic physician, chiropractor, dentist, registered nurse, optometrist, pharmacist, physical therapist, podiatrist, psychologist, licensed professional counselor and licensed social worker.

Human services provider—Social workers, children and youth caseworkers, Area Agency on Aging, victim service providers (system and community based advocates) and other social service professionals, including mental health, substance abuse and medical social work.

Immediate need—Thirty days from the date of the crime or 30 days from the date the victim is threatened by any change of circumstance or indicator of danger and a move or relocation is necessary to become or remain safe.

Medical care—Diagnostic, treatment or rehabilitative services performed in a health care facility regulated by the Commonwealth or equivalent governmental entity or performed by a health care provider or person under the direct supervision of a health care provider.

OVS—The Office of Victims' Services in the Pennsylvania Commission on Crime and Delinquency.

PFA—Protection From Abuse Order issued under 23 Pa.C.S. Chapter 61 (relating to protection from abuse).

Pigeon drop—The act of approaching a person and asking that person if he would like to share an amount of found money. In order to share the money, the person shows a good faith effort by willingly providing a specified amount of money with the expectation of receiving part of the "found" money.

Primary source of income—Fifty percent or more of the direct victim's gross annual income.

Principal support—Fifty percent or more of a claimant's living expenses.

Private residence—Includes a house, apartment, condominium, mobile home or other personal living space.

(b) The definitions in section 103 of the act (18 P. S. § 11.103) are incorporated by reference.

§ 411.3. Persons eligible for compensation.

(a) *General rule.* Except as otherwise provided in the act, the following persons are eligible for compensation:

- (1) A direct victim.
- (2) An intervenor.
- (3) A surviving spouse, parent or child of a deceased direct victim or intervenor.

(4) Other persons dependent for principal support upon a deceased direct victim or intervenor.

(5) A person who assumes the obligation or who pays for the crime scene cleanup, funeral or burial expenses incurred as a direct result of the crime.

(6) Hospitals or other licensed health care providers.

(7) Persons eligible for counseling.

(b) *Exception.* A person who is criminally responsible for the crime upon which a claim is based or an accomplice of the person is not eligible to receive compensation with respect to the claim. A member of the family of the individual who committed the crime is not eligible if the offender is living in the same household as the direct victim and will substantially benefit from the award. The Attorney General may at any time sue the offender or the direct victim, or both, to recover the award if the offender benefits from the award.

CLAIMS

§ 411.11. Filing procedures.

(a) A claim may be filed by a person eligible under the act and § 411.3(a) (relating to persons eligible for compensation).

(b) A claim shall be filed within the prescribed time frame under section 702(b) of the act (18 P. S. § 11.702(b)).

(c) A claimant may request compensation by completing and submitting OVS's official claim forms to OVS.

(d) A claim may be filed by mail, in person or electronically. If filed by mail, a claim is deemed filed on the date it is postmarked. If filed by electronic means or in person, it is deemed filed on the date received by OVS.

(e) When OVS receives a claim, a claim number is assigned and the data is entered into OVS's records.

(f) In determining whether the direct victim or intervenor complied with the act's requirement of reporting the crime to proper authorities within the prescribed time period after the occurrence of the crime, the following apply:

(1) Proper authorities may include a law enforcement officer; district attorney or other applicable prosecutorial authority; district justice; military police; campus police; United States Postal Inspection Service; appropriate hospital security; probation and parole officer; child protective services; adult protective services or, in the case of a PFA order, the prothonotary or equivalent authority. If the crime occurs in a foreign country, a proper authority includes the United States consulate.

(2) OVS may consider a delay past the prescribed time period to be justified when one of the following circumstances exist:

- (i) The direct victim, intervenor or claimant is mentally or physically incapacitated.
- (ii) The victim is a minor.
- (iii) There is a fear of retaliation.
- (iv) The occurrence of the crime is not readily apparent.
- (v) Other circumstances when good cause is shown by the claimant.

(g) In making the determinations discussed in subsections (b) and (f) for claims where the occurrence of the crime is not readily apparent, OVS may deem the prescribed time periods to begin to run on the date and time

that the person with the obligation to report the crime or file the claim has knowledge that a crime occurred.

(h) Claimants do not have to wait until a PFA becomes final to file a claim. In the process of verifying a claim, OVS will confirm the disposition of a final PFA order.

(i) If a temporary PFA order is issued and the claimant chooses not to pursue a final order, OVS will consider the PFA order withdrawn and deny the claim unless OVS determines the withdrawal to be justified. OVS may consider the withdrawal of a PFA justified when one of the following circumstances exist:

(1) The direct victim, intervenor or the claimant is mentally or physically incapacitated.

(2) There is a fear of retaliation.

(3) Other circumstances when good cause is shown by the claimant.

(j) Subsections (h) and (i) only cover the filing of an initial PFA. If there is a violation of a PFA involving an otherwise eligible crime, the crime shall be reported within the prescribed time frame shall set forth under section 707(a)(3) of the act (18 P. S. § 11.707(a)(3)) in a timely manner to the proper authorities, which may include filing of a private criminal complaint, to be considered for compensation payments.

(k) When requested by OVS, the claimant shall submit copies of documents that are needed to process the particular type of claim, which include the following:

(1) *Medical treatment expenses.*

(i) Itemized bills in the name of the claimant showing the name, address and telephone number of the provider, dates of service, type of service performed and the amount charged for each service.

(ii) Insurance benefit statements indicating payments or rejection.

(iii) Canceled checks, verification from a medical provider or receipts for any medical bills related to the injury that were paid by the direct victim, intervenor or claimant.

(iv) Written justification if the direct victim or intervenor is covered by an insurance plan or Medical Assistance, but did not utilize the prescribed coverage, such as that the direct victim or intervenor could not obtain the required care, could not maintain ongoing care from a previous provider, travel considerations or other circumstances when good cause is shown by the claimant.

(2) *Funeral expenses.*

(i) Certified death certificate.

(ii) Itemized funeral bills in the name of the claimant for which the claimant is responsible.

(iii) Canceled checks, receipts or verification from a provider for funeral bills relating to the death that were paid by claimant.

(iv) Statements for benefits or payments received by the claimant as a result of the death of the direct victim or intervenor, such as life insurance or Social Security death benefits.

(3) *Loss of earnings.*

(i) *Stolen money.*

(A) Statements for the month of the crime of payments such as Social Security, retirement, pension, disability, court-ordered child support or court-ordered spousal support.

(B) Federal tax returns as filed, including all schedules if applicable, for the years requested or a signed statement that the claimant is not required to file a tax return.

(C) Documentation of the homeowner's or renter's insurance coverage.

(ii) *Loss of wages.*

(A) Pay stubs or other earnings records for periods immediately prior to the loss. If not obtainable, withholding statements and Federal tax returns as filed, including schedules, if applicable, for the years requested, or a written statement that Federal tax returns were not filed.

(B) Full name and complete address of claimant's employer.

(C) Full name and complete address of a physician or psychologist who will certify the existence, duration and cause of the disability.

(4) *Loss of support.*

(i) Certified death certificate.

(ii) Full name and complete address of employer of the deceased.

(iii) Federal tax returns as filed, including schedules, if applicable, for the years requested, or a written statement that Federal tax returns were not filed. If unavailable, pay stubs, withholding statements or other earnings records for periods immediately prior to the injury.

(iv) Statements for benefits received as a result of the death of the direct victim or intervenor, such as life insurance, Social Security, veterans' benefits or survivor benefits.

(v) Documents that demonstrate financial dependency, including birth certificates, support orders or Federal tax returns as filed.

(vi) Guardianship papers, when applicable.

(5) *Counseling expenses.*

(i) Itemized bills in the name of the claimant showing the name, address and telephone number of the provider, dates of service and the amount charged.

(ii) Insurance benefit statements indicating payments or rejection.

(iii) Canceled checks, verification from a provider or receipts for any counseling bills related to the injury that were paid by the direct victim, intervenor or claimant.

(iv) Written justification if the direct victim or intervenor is covered by an insurance plan or Medical Assistance, but did not utilize the prescribed coverage, such as that the direct victim or intervenor could not obtain the required care, could not maintain ongoing care from a previous provider, travel considerations or other circumstances where good cause is shown by the claimant.

(v) The following information establishing the claimant's relationship to the direct victim, the claimant witnessing the crime or the claimant's discovery of the homicide victim:

(A) *Witness.* If the witness is not listed in the police report obtained by OVS, a written statement provided by someone who could substantiate that the witness was at the scene, preferably written by someone named in the police report.

(B) *Relative of direct victim.* A copy of a birth certificate, if applicable, or other identifiable information acknowledging the relationship to the direct victim.

(C) *Individual engaged to the direct victim.* An engagement announcement or a copy of the application for a marriage license. If either is unavailable, a written statement from the engaged individual plus a written statement from a family member acknowledging the intent of the union.

(D) *Shared household.* A copy of a document, such as a bill or lease or mortgage agreement that indicates the same address for the direct victim and the victim or claimant filing for counseling expenses.

(E) *Individual who discovers homicide body.* A police report.

(F) *Individual responsible for the direct victim's welfare.* Foster parent documentation, guardianship papers or other documentation showing that the claimant filing for counseling is an individual responsible for the direct victim's welfare.

(6) *Crime-scene cleanup expenses.*

(i) Itemized bills and receipts in the name of the claimant related to the crime scene cleanup for which the claimant is responsible.

(ii) Cancelled checks, receipts or verification from a provider for bills related to the crime scene cleanup.

(iii) Documentation of homeowner's or renter's insurance coverage.

(7) *Relocation expenses.*

(i) Itemized bills and receipts related to the relocation for which the claimant is responsible.

(ii) Cancelled checks, receipts or verification from a provider for bills related to the relocation.

(iii) A verification letter from a human service agency, law enforcement or medical provider explaining the immediate need for relocation.

(8) *Miscellaneous expenses.*

(i) Itemized bills and receipts in the name of the claimant for which the claimant is responsible related to the miscellaneous expense.

(ii) Cancelled checks, receipts or verification from a provider for bills related to the injury.

(l) The claimant shall provide OVS with information pertaining to payments received or to be received by another source as a result of the injury, including restitution payments, workers compensation, insurance benefits or awards or settlements in a civil action.

(m) If a minor or incapacitated person has more than one guardian, OVS will determine the appropriate party for filing a claim on behalf of the minor or incapacitated person.

(n) If the direct victim or intervenor dies while a nonhomicide claim relating to that direct victim or intervenor is being processed, OVS may substitute the executor or administrator of the direct victim or intervenor and complete the processing of the claim. A claim may not be filed by the estate of a direct victim or intervenor.

(o) The claimant may request a supplemental award by submitting additional out-of-pocket expenses or losses at any time after the initial claim, provided that the claimant has not received the maximum award payable by law. OVS will verify out-of-pocket expenses and losses submitted for a supplemental award to determine that they directly relate to the original crime.

§ 411.12. Review.

(a) OVS will review the claim and supporting documents and investigate the validity of the claim. OVS will conduct a comprehensive investigation of the claim including, as necessary, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based.

(b) If additional information is needed to determine the eligibility or validity of a claim, or to substantiate the degree of loss, OVS may ask the claimant for that information or request it directly from outside entities to the extent permitted by law.

(c) OVS may issue subpoenas and subpoenas duces tecum, either on its own instance or upon written application of a party. Subpoenas and subpoenas duces tecum must comply with 231 Pa. Code (relating to rules of civil procedure). Their issuance must depend upon a showing of necessity. OVS, on its own motion or on the application of the claimant, will, whenever necessary, and upon the terms and conditions as OVS may determine, take or cause to be taken affidavits and depositions of witnesses residing within or outside this Commonwealth.

(d) OVS may not request or review counseling notes of mental health service providers. OVS will request an assessment from the mental health service provider as to the extent the service provided is needed as a direct result of the crime.

(e) OVS, at its expense, may direct an examination of the direct victim or intervenor by a health care provider designated by OVS. The direct victim or intervenor's failure to appear for the examination may result in OVS's denial of the applicable portion of the claimant's request for reimbursement.

(f) OVS will investigate and determine claims regardless of whether the alleged criminal has been apprehended, prosecuted or adjudicated for the criminal incident which is the basis for the claim.

§ 411.13. Closing of claims.

(a) OVS will close a claim when a determination has been made and written notification has been given to the claimant.

(b) When OVS has requested additional information under § 411.12(b) (relating to review) and the information is not provided within 60 days of the request, OVS will close the claim file until the requested information is received.

(c) If sufficient information is not provided to OVS to determine eligibility within 2 years from the date of the filing of the claim, the claim will be closed with no further right of appeal. OVS will attempt to notify the claimant in writing 6 months prior to the closing of the claim.

(d) Eligible claims in which no verifiable out-of-pocket expense or loss has been received by OVS within 5 years from the date of the filing of the claim will be closed with no further right of appeal. OVS will attempt to notify the claimant in writing 6 months prior to the closing of the claim.

(e) Subsection (d) does not apply when the direct victim was a minor at the time the crime was committed.

(f) OVS may reopen a claim at any time for further investigation.

§ 411.14. Determinations.

(a) If OVS is able to make a determination that the claim does not meet the basic eligibility requirements or

the action of the direct victim, intervenor or claimant affects the award, the claim will be denied in writing as a statutory denial or denial for cause.

(b) OVS will determine whether to grant an award, increase or decrease an award or deny the claim based on the supporting documents, the report of the investigation and staff recommendations.

(c) OVS will promptly notify the claimant of its determination in writing. OVS may also send a copy of the determination to all appropriate individuals, including the State Treasurer, court personnel, the prosecutor of the county where the crime occurred, victim advocate or the claimant's attorney of record.

§ 411.15. Actions affecting awards.

(a) Except as provided in the act, OVS may deny a claim or reduce the amount awarded if it finds that the conduct of the direct victim or intervenor contributed to the injury. The conduct of the direct victim or intervenor will be deemed to have contributed to the injury if the direct victim or intervenor did one of the following:

(1) Initiated, provoked or prolonged a verbal or physical confrontation with the offender.

(2) Participated in an illegal act that was causally related to the injuries sustained.

(3) Acted in a manner that placed the direct victim or intervenor into a situation likely to result in injury.

(4) Entered, knowingly and willingly, into a vehicle driven by someone under the influence.

(5) Sought retaliation against the offender.

(6) Entered into a physical altercation by mutual consent.

(7) Was charged by law enforcement with criminal conduct as a result of the crime.

(b) In determining whether the conduct of a direct victim or intervenor warrants a denial or reduction of the award, OVS may consider evidence indicating that the direct victim or intervenor was acting with legal justification as defined in 18 Pa.C.S. (relating to the Crimes Code) or other evidence of mitigation that the claimant asks OVS to consider.

(c) OVS may assess a contribution amount or deny in auto-related crimes when the victim is the driver of the vehicle and the victim does not have a valid license or the victim's driver's license has been revoked or was under suspension at the time of the crime.

(d) OVS will assess a \$5,000 contribution for an award for medical expenses, or the current amount of medical benefits coverage required under Pennsylvania law, if a direct victim or intervenor was injured while driving his own car without insurance.

(e) Stolen cash claims that are received and are eligible for an award will have a minimum 10% contribution assessed if they fall under the definition of "pigeon drop."

(f) OVS may deny a claim or reduce the amount awarded or require repayment of a prior award if it finds that a direct victim, intervenor or claimant has not cooperated fully with law enforcement agencies or OVS. Failure to cooperate includes one or more of the following:

(1) Failure to cooperate fully with a law enforcement agency in the investigation of the crime on which the claim is based.

(2) Failure to cooperate fully in the prosecution of the alleged offender of the crime on which the claim is based.

(3) Failure to provide truthful, complete and accurate information for OVS to determine the eligibility or validity of a claim or amount of an award.

(4) In crimes involving stolen or defrauded money, failure to implement personal crime prevention techniques recommended by the local police department, victim service programs or crime prevention programs at OVS's request when crimes are similar in nature and repeated.

(g) OVS may consider a failure to cooperate with law enforcement and OVS to be justified when one of the following circumstances exist:

(1) The direct victim, intervenor or the claimant is mentally or physically incapacitated.

(2) There is a fear of retaliation.

(3) The victim is a minor.

(4) Other circumstances when good cause is shown by the claimant.

(h) If the crime involved is related to domestic violence, the conduct of the direct victim will not be considered unless the direct victim was the primary aggressor. In determining which party was the primary aggressor, OVS will consider the following:

(1) Prior acts of domestic violence.

(2) The relative severity of the injuries inflicted upon the persons involved in those prior acts of domestic violence.

(3) The likelihood of future injury.

(4) Whether, during the prior acts, one of the parties acted in self-defense.

(5) The totality of the circumstances surrounding the crime.

§ 411.16. Reductions, offsets and limitations.

(a) Except as otherwise provided in the act, an award made under the act and this chapter shall be reduced by the amount of any payments received or to be received as follows by the claimant as a result of the injury:

(1) From or on behalf of the individual who committed the crime.

(2) Under insurance or health and welfare programs, including those mandated by law.

(3) Under a contract of insurance wherein the claimant is the beneficiary.

(4) From public funds.

(5) As an emergency award under section 706 of the act (18 P. S. § 11.706).

(6) Under pension programs, including those providing for disability or survivor's benefits.

(7) Under a settlement or award made by or on behalf of a party alleged to be responsible in whole or in part for the injury, without regard to the party's criminal culpability.

(b) Any decision by OVS to reduce, offset or limit an award to a claimant will only be made after first considering the ability of OVS to exercise its right to subrogation and restitution.

(c) Charitable donations specifically designated for a funeral expense or which appear on a funeral bill as a

direct payment and charitable donations specifically designated for an eligible expense or which appear on any bill as a direct payment will be used as an offset.

(d) In claims involving death or burial, OVS will reimburse travel expenses for the transport of a body or making funeral arrangements for no more than two persons, including a person designated by the family or person who pays for the funeral.

(e) In claims involving death or burial, reimbursement will not be made for alcoholic beverages, postage, thank you gifts and newspaper articles or paid advertisements relating to the death or burial, other than the obituary and notice of the time and place of the funeral or burial services.

(f) When an injury is the result of a motor vehicle incident and the injury is covered by liability or first party benefits, including under/insured and uninsured motorist coverages, a provider may not request payment in excess of reimbursement allowances applicable in this Commonwealth under the Medicare Program (see 75 Pa.C.S. § 1797(a) (relating to customary charges for treatment)) or their usual and customary charge, whichever is less.

(g) Medical, rehabilitation or other devices, including wheel chairs, chair lifts, ramps, van conversion equipment, therapy spas or special needs home remodeling that exceeds \$5,000 will need to have two bids unless good cause is shown. OVS will pay the lowest amount unless good cause is shown justifying the higher amount.

(h) If the direct victim or intervenor has no financial means to order the needed services or equipment that exceed \$5,000 listed in subsection (g), OVS will assist the claimant by evaluating the claim prior to purchase and make information available to the potential providers.

(i) In claims involving stolen money or crime scene clean-up, if a claimant chooses not to access any of his homeowner's or renter's insurance, OVS will apply as an offset any amount that the claimant would have been paid by the insurance company.

§ 411.17. Emergency awards.

(a) If it appears to OVS that the claimant has an urgent financial need, OVS may make an emergency award to the claimant as a determination on the claim.

(b) An emergency award is solely for a claimant who incurs an undue hardship by paying medical expenses or funeral expenses out of his own pocket, or who incurred loss of earnings or support as a result of the crime incident.

(c) The total amount of an emergency award will not exceed \$1,500 per claim.

(d) OVS will expeditiously determine that the eligibility requirements have been met, review submitted documentation and process the request.

(e) OVS may reconsider an emergency award as a determination and may increase previous awards for emergency compensation up to \$1,500 per claim.

§ 411.18. Awards.

(a) If the losses payable by OVS for out-of-pocket loss and loss of support or loss of earnings exceed the overall monetary limitation in the act, or the overall limitation as reduced by a contribution assessed by OVS under § 411.15 (relating to actions affecting awards), OVS will allocate the award as follows:

(1) Out-of-pocket losses will be paid in full, followed by as much of the loss of support or loss of earnings as resources allow.

(2) If the total out-of-pocket losses exceed the overall limitation in the act, OVS will attempt to pay unpaid providers in full, followed by reimbursements to claimants for expenses already paid. OVS will attempt to satisfy the expenses of as many unpaid providers as feasible, to minimize the number of creditors seeking payment from the claimant.

(3) If more than one claimant files a claim for allowable expenses relating to the death of the victim or the intervenor, the award will be divided proportionately among the claimants when filed within the same time frame. In all other cases, awards are considered in the order that they are received.

(b) A claimant may not accept a portion of OVS's determination and reject another portion of the same determination. If a claimant desires to contest a portion of OVS's determination, the claimant shall contest the entire determination.

(c) OVS will reduce an award of compensation by the amount of any other payments received or to be received by the claimant as a result of the injury, as set forth in the act and under § 411.16 (relating to reductions, offsets and limitations).

(d) After OVS has made an award relating to an injury, a person who receives any amounts paid by another source as a result of the injury shall notify OVS about the payments.

(e) If a court has ordered an offender to pay restitution for the injury, but the order is not specific as to which components of the claimant's loss are to be reimbursed by the restitution payments, OVS will deem the restitution payments as being applied first to property losses incident to the crime that cannot be compensated under the act. Only after the property losses are fully paid will OVS use the restitution payments to offset for losses for which OVS has awarded or may award compensation.

(f) OVS may make a supplemental award to a claimant who previously received an award from OVS and who subsequently incurs an additional loss that is attributable to the original injury when the maximum award under the law has not been exceeded.

(g) If a claimant is liable for a bill incurred for out-of-pocket losses as a result of the crime injury but has not paid the balance, OVS will order payment to be made directly to the provider of the service.

(h) OVS may reimburse all medical copays and deductibles.

(i) If OVS makes an error in the amount of an award, OVS may seek repayment of the award.

(j) OVS retains the discretion to determine the priority of awards.

(k) In determining whether an injury is a direct result of a crime, OVS may consider a certification by a service provider.

APPEALS

§ 411.31. Reconsideration

(a) A claimant may contest OVS's determination by submitting a written request for reconsideration no later than 30 days from the date of the determination. If a

request for reconsideration is not filed within the time required, the determination becomes a final decision of OVS.

(b) OVS may consider a delay past the prescribed time period to be justified when one of the following circumstances exist:

(1) The direct victim, intervenor or the claimant is mentally or physically incapacitated.

(2) Other circumstances when good cause is shown by the claimant.

(c) If requesting reconsideration, the claimant shall provide any additional information or clarification that would assist OVS in conducting its reconsideration.

(d) Based on further review and additional information or clarification that OVS receives, OVS will issue a reconsidered determination that either reaffirms or modifies the determination.

(e) OVS may issue the reconsidered determination as a final decision of the agency if it determines that the facts developed in the claims determination process establish that a particular determination is warranted as a matter of law.

§ 411.32. Hearing.

(a) If OVS is unable to determine if a claim is justified based upon supporting documents, it may direct a hearing before a hearing examiner designated by the OVS.

(b) Except for request for reconsideration falling under § 411.31(e) (relating to reconsideration), a claimant may appeal the reconsidered determination by OVS by requesting a hearing.

(c) A claimant may submit a written request for a hearing no later than 30 days after OVS issues its reconsidered determination. If a claimant fails to file the request for hearing within this time, the reconsideration determination becomes a final decision of OVS.

(d) OVS may consider a delay past the prescribed time period to be justified when one of the following circumstances exist:

(1) The direct victim, intervenor or the claimant is mentally or physically incapacitated.

(2) Other circumstances when good cause is shown by the claimant.

(e) If requesting a hearing, the claimant shall provide a specific reason why the claimant asserts that OVS's determination is not correct.

(f) A hearing officer who has no previous involvement in any aspect of the claim will be assigned by OVS.

(g) Title 1 of the *Pennsylvania Code*, Part II (relating to the General Rules of Administrative Practice and Procedures) governs a hearing to the extent that its provisions are not inconsistent with this chapter.

(h) At least 30 days before the date of hearing, the claimant, the claimant's attorney and the victim's advocate will be provided written notice of the time, place and purpose of the hearing.

(i) The claimant shall provide written confirmation to OVS of the claimant's intent to attend the hearing, including documentary exhibits to be presented and a list of witnesses which must be received by OVS at least 10 days prior to the hearing date.

(j) Failure to comply with the confirmation requirements in subsection (i) may result in cancellation of the hearing.

(k) A cancelled hearing may be rescheduled if the claimant shows good cause for failure to comply with subsection (i). A hearing will not be rescheduled more than once, unless OVS deems it necessary.

(l) The attorney representing OVS may submit a prehearing memorandum to the hearing officer, with a copy to the claimant, outlining the legal and factual positions of OVS with respect to the claim and listing witnesses and documentary exhibits to be presented at the hearing. The attorney representing OVS may subpoena for attendance of witnesses or for production of documentary evidence.

(m) The claimant may subpoena for attendance of witnesses or for production of documentary evidence.

(n) Upon a showing of relevancy and materiality, the hearing officer may issue subpoenas for both the OVS and the claimant for attendance of witnesses or for the production of documentary evidence.

(o) In conducting the hearing, the hearing officer will liberally allow the admission of evidence that may not conform to the strict rules of evidence under common law or court rules. A stenographer or court reporter shall record the proceedings. Witnesses shall testify under oath.

(p) The claimant shall have the burden of proving entitlement to compensation by a preponderance of the evidence.

(q) Both OVS and the claimant may present testimony in support of their respective positions and cross-examine the opposing party's witnesses.

(r) Hearings generally will be open to the public except that the hearing may be held in camera in any of the following instances:

(1) Prosecution against the alleged perpetrator of the crime is pending.

(2) The welfare and safety of the direct victim, intervenor or his family or community may be adversely affected by a public hearing.

(3) To protect the rights and interests of a minor.

(s) A claimant may have support persons or victim advocates, or both, accompany him. The number of advocates and support persons may be limited by the hearing officer.

(t) Upon adjourning the hearing, the hearing officer will offer the claimant and OVS's attorney an opportunity to file posthearing briefs, to be filed after the transcript is issued, on a schedule to be determined by the hearing officer.

(u) Upon receipt of the transcript from the stenographer, notification will be sent by certified mail to the claimant that the transcript is available and can be purchased at the claimant's own expense.

(v) OVS will reimburse claimants \$20 per day for attendance at a hearing directed by OVS in connection with the claim. Additional expenses will be reimbursed as follows:

(1) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.

(2) Common carrier fares when preapproved by OVS.

(3) Lodging the night before or the night after a hearing session, to a daily maximum of \$75, if the claimant must travel at least 50 miles from home for the hearing.

§ 411.33. Final decision after hearing.

(a) The hearing officer will issue a report and recommendation which will be delivered to a designated Commission official acting on behalf of OVS who has no previous involvement in the claim.

(b) The designated Commission official will review the report and recommendation, the hearing transcript and the documentary exhibits. The designated Commission official may not have access to information not in the hearing record.

(c) The designated Commission official may not be advised in the hearing process by an attorney or any OVS staff member who has previous involvement with any aspect of the claim that is being heard. The designated Commission official may request the General Counsel of the Commonwealth to appoint an attorney who has no prior involvement to provide advice on the matter.

(d) Upon completing the review of the hearing officer's report and recommendation, the designated Commission official will do one of the following on behalf of OVS:

- (1) Adopt the hearing officer's report and recommendation as written as a final decision.
- (2) Modify the report and recommendation and issue the modified document as the final decision.
- (3) Reject the report and recommendation in its entirety and prepare and issue a final decision for OVS.
- (e) The designated Commission official will distribute the final decision to the claimant, the claimant's attorney, the victim's advocate and to OVS.
- (f) The claimant shall have the right of further appeal as set forth in the act or other applicable law.

SCHEDULE OF REIMBURSEMENT RATES AND COMPENSATION LIMITS

§ 411.41. Amount.

An award made under the act and this chapter will be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from the injury. The total amount of an award may not exceed \$35,000 except for payment of the following:

- (1) Counseling, the maximum amount of which must be in accordance with section 707(b)(4.1) of the act. (18 P. S. § 11.707(b) (4.1))
- (2) Forensic rape examination and medications directly related to the sexual offense, the amount of which may not exceed \$1,000.
- (3) Reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which may not exceed \$500.

§ 411.42. Out-of-pocket loss.

(a) *General.* The following general provisions apply to reimbursement for out-of-pocket loss.

- (1) OVS may make a monetary award for an out-of-pocket loss as it is defined in the act.
- (2) OVS may pay the service provider directly or reimburse the claimant for amounts paid, as applicable.

(b) *Medical expenses.* The following provisions for payment of medical expenses apply:

- (1) OVS will pay a hospital or other licensed health care provider at the rate of 70% of the usual and customary charge for the service rendered.
- (2) Forensic rape examinations.
 - (i) OVS will reimburse a maximum of \$1,000 to a hospital or other licensed health care provider, or both, for a forensic rape examination and medications directly related to the sexual offense.
 - (ii) The reimbursement will not include expenses for analyzing collected evidence for DNA or presence of Rohypnol or other similar drugs.
 - (iii) Claims shall be filed with OVS no later than 1 year after the date of the crime.

(c) *Funeral expenses.* Except as otherwise set forth in this subsection, OVS will reimburse for expenses relating to a funeral of a direct victim or intervenor. The total reimbursement amount for funeral expenses will not exceed \$5,000. Additionally, within that \$5,000 monetary limitation, reimbursement will be subject to the following limitations:

- (1) Four thousand eight hundred dollars for funeral services, including the following:
 - (i) Cremation.
 - (ii) Interment.
 - (iii) Body preparation including embalming.
 - (iv) Grave opening and closing.
 - (v) Cemetery plot, tent and chairs.
 - (vi) Mausoleum.
 - (vii) Viewing services and facilities.
 - (viii) Automotive equipment, such as the hearse, limousine and flower car.
 - (ix) Death announcements, prayer cards, register book and thank you cards.
 - (x) Casket.
 - (xi) Minister, pastor, rabbi or other member of the clergy.

(xii) Other miscellaneous expenses, including organist, programs, death certificates, obituary notice and notice of the time and place of the funeral or burial services.

- (2) Nine hundred dollars for a monument.
- (3) Three hundred dollars for floral arrangements.
- (4) Three hundred dollars for funeral or memorial meal.
- (5) One hundred and seventy-five dollars for clothing purchased for the deceased for the funeral or interment.

(d) *Replacement of personal health-related items damaged or stolen as a result of a crime.* Except as otherwise set forth in this subsection, OVS will reimburse a claimant for costs for the replacement of each prosthetic device, wheelchair, cane, walker, hearing aid, eyeglasses or other corrective lenses, dental device or prescription medications. Reimbursement will not exceed \$1,000 and will be subject to the following limitations:

- (1) Two hundred dollars for eyeglass frames.
- (2) One thousand dollars for replacement of all combined prescription medications stolen or damaged in a single crime incident.

- (3) One hundred dollars for replacement of canes.
- (4) Two hundred fifty dollars for replacement for walkers.

(e) *Counseling.* OVS will pay expenses of counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker to claimants as follows:

(1) A maximum of \$10,000 in total expenses of a direct victim who was under 18 years of age upon the occurrence of the crime.

(2) A maximum of \$5,000 in total expenses of a direct victim who was 18 years of age or older upon the occurrence of the crime.

(3) A maximum of \$5,000 in total expenses of any of the following individuals affected by the homicide of a direct victim:

(i) An individual responsible for the welfare of the direct victim, which includes legal guardians and foster parents.

(ii) An individual related in the second degree of consanguinity or affinity to the direct victim.

(iii) An individual residing in the same household with the direct victim.

(iv) An individual engaged to be married to the direct victim.

(4) A maximum of \$2,500 in total expenses of any of the individuals described in paragraph (3) affected by a crime against a direct victim that is not a homicide.

(5) A maximum of \$1,500 in total expenses of an individual who:

(i) Is physically present at a crime scene and witnesses a violent crime.

(ii) Discovers the body in a homicide.

(6) For counseling expenses relating to a homicide, OVS may not reduce the amount of the award or deny the reimbursement due to the conduct of the direct victim.

(f) *Relocation expenses.* OVS will reimburse for expenses incurred by the temporary or permanent relocation of a direct victim and individuals residing in the direct victim's household when immediate relocation is necessary to protect their health and safety. This reimbursement will not exceed \$1,000 per household for each crime incident for the following:

(1) Relocation expenses to be reimbursed are as follows:

- (i) Lodging to a daily maximum of \$75.
- (ii) Rental of substitute living quarters.
- (iii) Utility connection fees, which do not include cable.
- (iv) Rental of a passenger vehicle for a total daily maximum of \$30.
- (v) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.
- (vi) Common carrier fares.
- (vii) Moving company charges or van rental.
- (viii) Tolls and parking expenses.
- (ix) Rental of post office box.
- (x) Charges for storage of personal belongings.
- (xi) Child care expenses.

(2) Reimbursement will be made only when a medical provider, human services provider or law enforcement representative, which may include a district attorney or other prosecutorial agency, verifies the immediate need for relocation.

(3) OVS may consider a delay past the prescribed immediate need time period to be justified when the direct victim, intervenor or claimant is mentally or physically incapacitated, there is a fear of retaliation or other circumstances when good cause is shown by the claimant.

(g) *Travel expenses.* OVS will reimburse expenses associated with travel necessary and reasonable as determined by OVS to obtain medical care or counseling and, in the case of an injury that results in death, for travel in connection with making the funeral arrangements and transport of the body as follows:

(1) Meals totaling no more than \$28 per day, with no more than \$6 for breakfast, \$6 for lunch and \$16 for dinner.

(2) Lodging to a daily maximum of \$75.

(3) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees.

(4) Vehicle rental to a daily maximum of \$30.

(5) Payment of a driver other than common carriers needed as result of a crime at maximum hourly rate of \$8.

(6) Common carrier fares in full.

(7) Tolls and parking expenses.

(8) Meals and lodging reimbursement, limited to trips of 50 miles or more from the eligible person's home.

(9) Containers or other necessary requirements to transport the body.

(10) In the case of an injury that results in death, for travel in connection with the transport of the body and making funeral arrangements not to exceed 5 days.

(h) *Crime scene clean up.* The cost of cleaning the crime scene of a private residence up to a maximum of \$500.

(1) Reimbursement will be limited to the cost of cleaning supplies purchased for the purpose of cleaning the scene, the cost of any necessary equipment purchased or rented and the cost of professional labor for the purpose of cleaning the crime scene.

(2) Multiple private residences may each be considered for crime scene cleanup if the sites are identified in the police report. The maximum award amount for each crime scene cleanup is \$500.

(3) Cleaning means to remove or attempt to remove blood and stains caused by other bodily fluids as a direct result of the crime or other dirt or debris caused by the processing of the crime scene.

(4) Stains deliberately caused by acts of vandalism and other intentional acts are property damage which is expressly excluded from the definition of "out of pocket loss" contained in the act.

(i) *Miscellaneous expenses.* OVS may reimburse a claimant for other services reasonably necessary, including the following:

(1) The purchase or rental of nonmedical remedial care or products that are needed to assist in normal, daily life functions and are prescribed or recommended by a health care provider, such as a wheel chair ramp, lifts or other

special accommodations, including equipment or robotic devices needed to assist in normal, daily life functions.

(2) The cost of obtaining services needed as a result of the crime such as laundering, cleaning, child care, administration of medication, food shopping and meal preparation.

(i) Members of the family of the direct victim or intervenor engaged to perform the services will be paid their net loss of earnings not to exceed the average weekly wage and if not otherwise reimbursed for the loss of earnings.

(ii) Individuals engaged to perform services who are not family members will be paid a maximum hourly rate of \$8.

(3) At the discretion of OVS, telephone and television expenses incurred in connection with inpatient care of the direct victim or intervenor due to the injury.

(4) At the discretion of OVS, charges incurred for records, products or services including those for rehabilitation, rehabilitative occupational training, other remedial treatment and care, tutors and interpreters.

§ 411.43. Loss of earnings.

(a) OVS may make an award for the loss of cash equal to one month's net worth of Social Security, railroad retirement, pension plan, retirement plan, disability, veteran's retirement, court-ordered child support or court-ordered spousal support payments if the payments are the primary source of the victims income and the victim is deprived of the money as a direct result of a crime. The actual amount stolen must be indicated in the police report. In no instance may payment exceed the amount stolen. Changes or amendments to the amount stolen must be made to the police within 2 weeks of the crime and subsequently documented by the police.

(b) OVS may make an award within the monetary limitations of the act to compensate a direct victim, intervenor or claimant for loss of earnings attributable to the injury not to exceed the average weekly wage if the claimant was not otherwise reimbursed for the loss. A loss of earnings must be definitely ascertainable at the time of the injury and may not include a loss that is conditioned upon future events.

(c) In claims involving the death of a direct victim or intervenor, OVS may pay up to 2 week's net loss of earnings in connection with the death not to exceed the average weekly wage if the claimant was not otherwise reimbursed for the loss. The loss is limited to that suffered by a claimant who incurred a loss of earnings as a result of one of the following:

- (1) Trauma.
- (2) Making funeral arrangements.
- (3) Accompanying the deceased to the place of interment.
- (d) The following formula will be used to calculate loss-of-earnings for wage earners:

$$\text{Loss of Earnings} = \text{Gross Earnings} - \text{Estimated Tax Obligations} - \text{Other Benefits Received}$$

(e) For purposes of the formula in subsection (d), the following apply:

(1) "Gross earnings" include taxable and nontaxable income that was terminated or reduced as a result of injury. Overtime may be included if the claimant demon-

strates a history of regular overtime pay or provides verification that overtime is a condition of employment.

(2) Estimated tax obligations include Federal, State and local taxes.

(3) "Other benefits received" include disability payments, employer paid leave, cash assistance, food stamps, workers' compensation, restitution or awards or settlements from a civil action or insurance payment.

(f) In calculating gross earnings, OVS may use either a time period immediately preceding the crime, the tax year in which the crime occurred or the most recent tax year that ended prior to the year of the crime.

(g) As a condition for continuing receipt of loss of earnings benefits, OVS may require the claimant to file a claim for and pursue other benefits to which the claimant may be entitled and which could be an offset to the loss of earnings award.

(h) For a claimant who is self-employed and who continues to operate his business during the period of disability, OVS may compensate the claimant for the amount paid to other persons hired to perform the services usually performed by the claimant.

(i) For a claimant whose unemployment compensation benefits are suspended as a result of the injury, OVS may make an award to replace the suspended benefits.

(j) If the claimant was unemployed at the time of the injury and provides OVS with an affidavit from the employer on company letterhead stating the beginning date of employment, the hours per week to be worked, and the pay rate along with the employer's Federal Identification Number (FID#) certifying that the claimant was unable to begin because of the injury, OVS may measure loss of earnings based on anticipated earnings that would have been received in the new position.

(k) If the claimant was self-employed for less than a year prior to the injury and the tax records consequently provide a questionable measure of the claimant's earning potential, OVS may measure gross earnings by using the claimant's earnings as an employee for the period immediately prior to the start of the claimant's business.

(l) If a claimant is self-employed and is unable to fulfill a contract negotiated and signed prior to the crime due to the injury, OVS may consider the lost net income.

§ 411.44. Loss of support.

(a) OVS may make an award within the monetary limitations of the act to compensate an eligible person or persons who, as a consequence of the injury causing the death of a direct victim or intervenor, is deprived of the financial support that the direct victim or intervenor had been required by court order to provide or had actually been providing at the time of the injury that caused the death. When a court-ordered support obligation is in effect at the time of an injury causing the death, the following formula will be used to calculate loss of support:

$$\text{Loss of Support} = \text{Support} - \text{Other Benefits Received}$$

(b) For purposes of the formula in subsection (a), the following apply:

(1) "Support" includes annual support based on obligation specified in the order plus any amount in arrears due to the claimant at time of death.

(2) "Other benefits received" include restitution, insurance benefits, Social Security or pension benefits and awards from civil actions.

(c) When no court-ordered support obligation is in effect at the time of an injury causing the death of a direct victim or intervenor, the following formula will be used to calculate loss of support:

Loss of Support = Support – Other Benefits Received

(d) For purposes of the formula in subsection (c), the following apply:

(1) "Support" includes the gross earnings less estimated tax obligations multiplied by 80%. Gross earnings include all taxable and nontaxable income that terminated at time of death such as wages, business income, retirement payments, Social Security payments and other benefits.

(2) "Other benefits received" include restitution, insurance benefits, Social Security or pension benefits and awards from civil actions.

(3) Loss of support must be definitely ascertainable at the time of the injury that caused the death and may not include a loss that is conditioned upon future events.

(e) In applying the formula in subsection(c), the following conditions apply:

(1) A surviving spouse or dependent child will be allocated up to 80% of the net annual earnings of the victim or intervenor.

(2) A surviving parent will be allocated the actual amount of support provided by the direct victim or intervenor, not to exceed 80% of the net annual earnings.

(3) Any other person dependent upon the direct victim or intervenor for principal support will be allocated the actual amount of support provided by the direct victim or intervenor, not to exceed 80% of the net annual earnings.

(f) When calculating loss of support, OVS may consider as applicable, the life expectancy or labor force participation expectancy of the direct victim or intervenor, or the age of the dependent.

(g) In calculating gross earnings, OVS may use either a time period immediately preceding the crime, the tax year in which the crime occurred or the most recent tax year that ended prior to the year of the crime.

(h) If the direct victim or intervenor was not employed at the time of the crime, OVS may use employment history up to the 3 years immediately preceding the crime to estimate potential support that would have been provided to an eligible person.

(i) If more than one person is eligible for a loss of support award, OVS will allocate each a share of the total annual amount based on OVS's determination of fairness and equity under the circumstances of the claim.

(j) If the total uncompensated loss of support for two or more eligible persons exceeds the monetary limitations in the act, the limited resources will be distributed at the discretion of OVS proportionately among the eligible persons.

(k) OVS may provide a lump sum or accelerated payments for loss of support. The calculated maximum can be dispersed in one lump sum if extenuating circumstances necessitate, or under lesser conditions, paid out in a 3-year to 5-year payment plan. Also, if the total projected award is of a lesser amount, and extended yearly payments are impractical, the award will be paid in total in a single sum. In claims in which OVS make protracted payments into the future, the claimant is subject to a continuing obligation to provide information that OVS requests. Failure to provide this information

when requested may result in the suspension of future, payments or may require repayment of prior accelerated payments.

(l) The claimant or the recipient of a loss of support award has a continuing obligation to report to OVS any change in circumstances, such as if the recipient obtains a new source of support. In these circumstances, OVS may terminate or reduce protracted payments made under the original award.

(m) When an award for loss of support is paid to a person for the benefit of another person, OVS may require the payee to file a periodic accounting of OVS's payments or take other action as OVS may determine necessary and appropriate for the benefit of the beneficiary.

(n) As a condition for continuing receipt of loss of support benefits, OVS may require the claimant to file a claim for and pursue other benefits to which the claimant may be entitled to offset the loss of support benefits.

(o) At any time, OVS may reconsider and modify a future loss of support award previously issued or a protracted payment if another eligible person qualifies for a loss of support award.

(p) Gifts of property or money bestowed upon the dependent on special occasions may not be considered in making a determination of dependency.

MISCELLANEOUS

§ 411.51. Subrogation.

(a) Payment of an award made under the act shall subrogate the Commonwealth, to the extent of any payment, to any right of action against any person accruing to the claimant, the direct victim or the intervenor to recover losses resulting from the crime with respect to which the award is made. In such a case, the Commonwealth will be entitled to bring an action against the person causing or otherwise liable for the personal injuries or death for which the payment was made. Money recovered under this section shall be deposited in the Crime Victim's Compensation Fund established under the act.

(b) If an amount greater than that paid under the act is recovered and collected in such an action, the Commonwealth will pay the balance to the claimant. The Attorney General shall enforce any subrogation. A claimant who fails to notify OVS of the receipt of funds from another claim or award arising out of the crime shall forfeit and pay to the Commonwealth an amount equal to all awards paid by OVS to the claimant or on the claimant's behalf.

(c) The OVS has the discretion to settle subrogation claims for an amount less than the award. Unless good cause is shown by the claimant or claimant's attorney, under no circumstances will OVS settle subrogation claims for an amount that is less than 75% of the original award to the claimant. OVS reserves the right to assert further subrogation on additional recovery by the claimant. If the direct victim or intervenor incurs additional expenses related to the injury, the claimant must exhaust the actual insurance or civil recovery as well as the amount OVS reduced prior to receiving further payments from OVS.

§ 411.52. Representation by attorney.

(a) Title 1 of the *Pennsylvania Code*, Part II (relating to General Rules of Administrative Practice and Proce-

dures) applies to the representation of a claimant by an attorney before OVS or in a hearing related to a claim submitted to OVS.

(b) If an attorney has filed a notice of appearance on behalf of the claimant, the notice shall remain in effect until one of the following occurs:

(1) The claimant files with OVS a written revocation of the authority of the attorney.

(2) The attorney files with OVS a written statement of withdrawal from the case.

(3) The attorney makes a statement of withdrawal from the case on the record at a hearing.

(4) OVS receives notice of the license suspension or revocation or the death of the attorney.

(c) During the period in which a notice of appearance filed under this section remains in effect, OVS may communicate with the attorney instead of the claimant. Service upon the attorney shall be deemed effective service upon the claimant.

(d) An attorney who represents a claimant before OVS may receive a fee for that representation only under the act. After OVS makes an award, the attorney may request that OVS pay attorney's fees and costs by filing with OVS an affidavit of services, listing the nature of each service rendered and the amount of time spent in rendering the service, plus an itemized list of costs incurred in the preparation, procuring and filing of record papers regarding the claim.

(e) In evaluating applications for attorney's fees, OVS will consider the following factors:

- (1) The time and labor required.
- (2) The novelty and difficulty of the questions.
- (3) The skill needed to perform the legal service properly.
- (4) Awards in similar claims.

(f) A payment for attorney's fees shall be in addition to the award made to the direct victim, claimant or intervenor, but may not exceed 15% of that award. OVS may not reduce an award to a direct victim on account of payment of attorney's fees.

(g) OVS may award no more than \$75 per hour to an attorney in the preparation and presentation of a claim that is awarded.

(h) It is unlawful for an attorney to contract for or receive a sum larger than the amount allowed.

(i) OVS may deny or reduce an award for attorney's fees if an attorney asserts a false claim as to the time spent on a matter concerning OVS or asserts a false claim as to the services rendered to a claimant. OVS may refer the matter to the Disciplinary Board of the Pennsylvania Supreme Court, the Attorney General or other appropriate authorities.

§ 411.53. Prohibitions.

(a) Providers who write off bills to a direct victim or intervenor may not at any point following the write off seek reimbursement from OVS, direct victim, claimant or intervenor.

(b) A funeral director who assumes the obligation to pay for funeral expenses may not seek reimbursement from the direct victim or intervenor's family.

(c) A person who assumes the obligation for crime scene clean up may not seek reimbursement from the direct victim or intervenor's family.

[Pa.B. Doc. No. 06-2509. Filed for public inspection December 22, 2006, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties

The Commissioner of Professional and Occupational Affairs (Commissioner) amends Chapter 43b (relating to Commissioner of Professional and Occupational Affairs) 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 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate regulations setting forth a schedule of civil penalties, guidelines for their imposition and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission regarding the conduct or operation of a business or facility licensed by a board or commission.

C. Background and Purpose

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's boards and commissions. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented. Act 48 citations have become an important part of the Bureau's enforcement efforts, with approximately 30% of the sanctions imposed by boards and commissions being accomplished through the Act 48 citation process.

The final-form rulemaking sets forth amendments to the civil penalty schedules of the State Board of Barber Examiners (Barber Board), the State Real Estate Commission (Commission), the State Board of Vehicle Manufacturers, Dealers and Salespersons and the State Architects Licensure Board (Architects Board).

D. Summary of Comments to Proposed Rulemaking and the Commissioner's Responses

Notice of proposed rulemaking was published at 34 Pa.B. 5552 (October 9, 2004). There was a 30-day public

comment period, during which time the Commissioner received comments from the Pennsylvania Association of Realtors (PAR), the American Institute of Architects Pennsylvania Chapter (AIAPA) and a licensee of the Architects Board. Following the close of the public comment period, the boards received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The following summarizes the comments received and provides the boards' responses.

No comments were received with respect to the schedule of civil penalties for the Barber Board.

With respect to the schedule of civil penalties for the Commission, the HPLC asked for the rationale behind lowering the civil penalty for the offense of failing to include the business name and phone number in at least equal size on an advertisement. The Commission determined that the offense was a relatively minor one and that the existing civil penalty was excessive when compared with other offenses on the schedule. The HPLC and IRRC also asked for a clarification as to what "in at least equal size" means. Prior to amendments to § 35.305 (relating to business name on advertisements) in 2000, the requirement was that the name and telephone number of the advertising licensee's broker be given greater prominence than the name of the advertising licensee in the advertising. In 2000, this requirement was altered to require the broker's name and phone number to be at least equal in size as the name and phone number of the advertising licensee. See 30 Pa.B. 5954 (November 18, 2000). Therefore, this final-form rulemaking has been amended to clarify this intent.

PAR commented that after careful review of the proposed amendments to the schedule of civil penalties regarding the Commission, PAR had no suggested modifications to the schedule of civil penalties, but encouraged the Commission to continue employing due diligence when preparing citations and levying penalties.

With respect to the schedule of civil penalties for the State Board of Vehicle Manufacturers, Dealers and Salespersons, the HPLC and IRRC asked for an explanation regarding the difference in the severity of the penalty for an auction permitting an unlicensed, revoked or suspended dealer to buy, sell or represent a vehicle at an auction, and a dealer permitting a revoked or suspended salesperson to buy, sell or represent a vehicle at an auction. Although similarly worded, these are two different violations. A dealer is subject to discipline for permitting a revoked or suspended salesperson to represent the dealership at an auto auction. Salespersons are licensed to work for one, and only one, dealership. It is the dealer's responsibility to verify the licensure status of salespersons representing the dealership at an auction. On the other hand, an auction is subject to discipline for permitting a revoked or suspended dealer to buy or sell at the auction. The dealers are entirely independent from the auctions. Due to the large number of dealerships represented at any given auction, the State Board of Vehicle Manufacturers, Dealers and Salespersons and the Commissioner determined that the civil penalty schedules should reflect this difference. Essentially, the schedules give the auction one violation with a lesser civil penalty before following the same schedule as that applied to dealers.

With regard to the civil penalty schedules for the Architects Board, the AIAPA raised several objections to the civil penalty schedules. First, the AIAPA objected to the imposition of a civil penalty against a firm for

untimely payment of the annual registration renewal fee. The AIAPA pointed out that a disciplinary action, whether it be through a civil penalty under Act 48 or through formal disciplinary action, causes a "black mark" on a firm's record that can severely affect a firm's ability to compete for public contracts. In response to this comment, the Architects Board and the Commissioner agreed to remove the proposed civil penalty from the schedule.

The AIAPA also commented regarding the civil penalty schedules regarding the unauthorized practice of architecture. The AIAPA asked the Architects Board and the Commissioner to consider whether the existing schedules and the proposed rulemaking account for the critical difference between untrained and unlicensed individuals practicing architecture and architects who are practicing on an expired license. The AIAPA pointed out that the civil penalty schedules apply the same penalty to these two vastly differing situations. In response to these comments, the Architects Board and the Commissioner have agreed to revise the civil penalty schedules to provide for the maximum \$1,000 civil penalty for practice by wholly unlicensed individuals, while adopting a schedule for practicing on an expired license based on the length of the lapse. In addition, the schedules have been revised to reflect the difference between an architect practicing on a revoked or suspended license, as compared to one practicing on an expired license. The Architects Board and the Commissioner agree that practicing in the face of a lawful order of the Architects Board suspending or revoking an architect's license is a more egregious violation than practicing after one's license has expired and the amended civil penalty schedules now reflect that fact.

Throughout the months since the proposed rulemaking was published, the Architects Board has spent a considerable amount of time working to develop schedules that fairly reflect the severity of each infraction. The AIAPA has provided welcomed input throughout this process. With regard to the civil penalties regarding expired licenses, it is the Board's intent that these schedules represent the exclusive action taken against an individual for practicing architecture or impressing an architect's seal on documents during a lapse in license. However, this does not prevent the Board from instituting disciplinary action for any other violation of the act or regulations of the Board that may occur during the period of lapse.

Robert J. Shusterman, a licensee of the Architects Board, objected to imposing a penalty on a firm for failing to submit its registration fee noting that it would place firms in this Commonwealth at a disadvantage to out-of-State individuals and firms. He also objected to the imposition of a penalty for failing to obtain prior Architects Board approval for a firm name. The amendments made to the final-form rulemaking should alleviate these concerns. Mr. Shusterman also suggested that the Architects Board should defer consideration of these civil penalty schedules and direct its attention to more pressing concerns of the profession including "electronic file transfer versus plan stamping, multi-state practice, mandatory continuing education and clarification of the scope of the profession of architecture." However, the Architects Board believes that its disciplinary function and regulatory functions are equally important in protecting consumers of architecture services in this Commonwealth. These civil penalty schedules are a part of that effort.

E. Description of Amendments

State Board of Barber Examiners

The final-form rulemaking amends the schedule of civil penalties of the Barber Board in § 43b.4 (relating to schedule of civil penalties—barbers and barber shops) by increasing amount of the civil penalties across the board. The Barber Board has participated in the Act 48 citation program from its inception in 1996 and the civil penalties have not increased since they were originally promulgated. The Barber Board has historically had the most lenient civil penalty schedule and the Barber Board and the Commissioner have determined that it is necessary to increase the civil penalties to improve their deterrent effects. In addition, the final-form rulemaking increases the civil penalties for continuing violations based on the length of the violation. For example, the penalty for practicing on a lapsed or expired license would increase depending on the length of the lapse. The final-form rulemaking also amends the description of the violation under section 562 of the Barber Law (63 P. S. § 562) to track recent amendments made by the act of December 22, 2005 (P. L. 446, No. 84), which now require that a barber shop must be supervised by a designated manager-barber or other licensee in charge. In addition, technical corrections have been made to the sections of the law cited as authority for two of the violations.

State Real Estate Commission

The civil penalty schedule for the Commission in § 43b.8 (relating to schedule of civil penalties—real estate and cemetery brokers, real estate schools) is amended to add increased penalties for second offenses and continuing violations. These amendments also add civil penalties for violations of §§ 35.286(a), 35.292(a)(6), 35.305(b) and 35.334. Also, the amendments increase certain existing civil penalties to enhance their deterrent effect. The final-form rulemaking includes amendments required to make the civil penalty schedules consistent with recent amendments the Commission made to §§ 35.245, 35.304 and 35.305 (relating to display of licenses in office; and disclosure of licensure when advertising own real estate).

State Board of Vehicle Manufacturers, Dealers and Salespersons

The final-form rulemaking amends the civil penalty schedule in § 43b.9 (relating to schedule of civil penalties—vehicle manufacturers, dealers and salespersons) to add civil penalties for additional violations of the Board of Vehicles Act (act) (63 P. S. § 818.1—818.37). Specifically, the final-form rulemaking adds civil penalties to its schedule for unlicensed practice violations by dealers, auctions, manufacturers, distributors, factory representatives and distributor representatives under section 5 of the act (63 P. S. § 818.5). Additionally, owing to an increasing number of complaints involving activities at vehicle auctions within this Commonwealth, the final-form rulemaking seeks to take advantage of the efficiencies of the citation process for violations of sections 19(29), (30) and (38) of the act (63 P. S. § 818.19 (29), (30) and (38)), regarding vehicle auctions.

State Architects Licensure Board

The civil penalty schedule for the Architects Board in § 43b.11a (relating to schedule of civil penalties—architects) is amended to delete the existing civil penalty for an architect impressing a seal or knowingly permitting it to be impressed on drawings, specifications or other design documents which were not prepared by the architect or under the architect's personal supervision. This violation does not lend itself to the Act 48 process and, to the Board's knowledge, has not served as the

basis of the issuance of any citations since its adoption. As previously noted, the final-form rulemaking also deletes the violation for delinquent payment of annual renewal fees by architecture firms. In addition, in the final-form rulemaking a distinction has been made between improper use of an architect's seal while the architect's license is expired, as compared to when the license is suspended or revoked. The Board believes that any type of practice on an expired license is a less egregious violation than practicing while one's license is suspended or has been revoked by the Board. For that reason, the civil penalty schedule for improper use of an architect's seal while the architect's license is expired has been adjusted to impose civil penalties that increase with the length of the lapse. Similarly, a distinction has been made in the final-form rulemaking between the civil penalty to be imposed for practicing without ever having received a license, and that for practicing on an expired or lapsed license. Again, with regard to expired licenses, the civil penalty has been adjusted to increase based on the length of the lapse.

F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for violations subject to the Act 48 citation process.

G. Sunset Date

Professional licensure statutes require each board and commission to be self-supporting. Therefore, boards and commission continually monitor the effectiveness of regulations affecting their operations. As a result, 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 September 29, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5552, 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 November 21, 2006, this final-form rulemaking was approved by the HPLC. On November 29, 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 November 30, 2006, and approved the final-form rulemaking.

I. Contact Person

Further information may be obtained by contacting Cynthia K. Montgomery, Regulatory Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649.

J. Findings

The Commissioner 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 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) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 5552.

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

K. Order

The Commissioner, acting under section 5(a) of Act 48, orders that:

(a) The civil penalty schedules promulgated by the Commissioner, 49 Pa. Code Chapter 43b, are amended by amending §§ 43b.3, 43b.4, 43b.8, 43b.9 and 43b.11a to read as set forth in Annex A.

(b) The Commissioner 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 Commissioner 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*.

BASIL L. MERENDA,
Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7777 (December 16, 2006).)

Fiscal Note: Fiscal Note 16-32 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.3. Procedures.

(a) *Inspections/investigations.* Authorized agents may conduct inspections and investigations for the purpose of ascertaining compliance with statutory provisions and

regulations of licensing boards and commissions relating to required licensure and the conduct or operation of a business or facility.

(b) Citations.

(1) If an inspection reveals a violation of a statute or a regulation for which a civil penalty has been established under the schedules in this chapter, the authorized agent may prepare a citation indicating the violations found and the penalties imposed. A copy of the citation will be provided to the respondent.

(2) The citation shall be made on a form approved by the Bureau.

(3) Within 10 days of the date of the issuance of the citation, the respondent shall enter one of the following:

(i) A plea to admit to the violation and remit payment of the civil penalty to the Bureau.

(ii) A plea to deny the violation and request a hearing to contest the imposition of a civil penalty.

(4) Failure to respond to the citation in the manner specified in paragraph (3) within 10 days will result in the entry of a default judgment against the respondent for the full amount of the civil penalty and may result in additional disciplinary action.

(5) The civil penalties shall be paid by certified check or cashier's check or money order and made payable to the "Commonwealth of Pennsylvania," and mailed to: Commonwealth of Pennsylvania, Department of State, Complaints Office—Citations, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

(c) Citation hearings.

(1) Citation hearings shall be conducted by a hearing examiner in compliance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

(2) If a violation is found, the hearing examiner shall impose the full amount of the civil penalty as charged in the citation and as authorized by the schedules in this chapter.

(d) *Appeals.* A decision by a hearing examiner may be appealed by any party by filing an application for review with the appropriate licensing Board within 20 days of the mailing date of the order. An application for review shall set forth with specificity the grounds for appeal. The Board will review the record established before the hearing examiner and in its discretion receive additional evidence.

(e) *Miscellaneous.* This section supplements 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedures).

§ 43b.4. Schedule of civil penalties—barbers and barber shops.

STATE BOARD OF BARBER EXAMINERS

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 551	Practicing without a license	1st offense—\$500 2nd offense—Formal action
Section 558	Availability of current license on premises	1st offense—\$150 2nd offense—\$500

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 558	Practicing on a lapsed or expired license	1st offense—Up to 90 days—Warning; 90 days to 1 year—\$250; 1 year to 2 years—\$500; over 2 years—\$1,000 2nd offense—Formal action
Section 562(a)(2)	Operating a business or facility on a lapsed or expired permit or license	1st offense—Up to 90 days—Warning; 90 days to 1 year—\$250; from 1 year to 2 years—\$500; over 2 years—\$1,000 2nd offense—Formal action
Section 559	Failure to employ licensed persons	1st offense—\$500 for each individual unlicensed barber 2nd offense—Formal action
Section 560	Opening shop for business before shop inspected and approved	1st offense—\$200 2nd offense—Formal action
Section 560	Failure to file application when taking over as owner of existing shop	1st offense—\$500 2nd offense—Formal action
Section 562	Operating an establishment without supervision of designated manager barber or other designated licensee	1st offense—\$250 2nd offense—Formal action
Section 560	Operating a business or facility without a permit or license	1st offense—\$500 2nd offense—Formal action
Section 563(a)	Licensee practicing in place other than licensed shop	1st offense—\$500 2nd offense—Formal action

**Violation Under
49 Pa. Code
Chapter 3**

	Title/Description	Civil Penalty
Section 3.51(a)	Failure to obtain new shop license when shop moves	1st offense—\$500 2nd offense—Formal action
Section 3.51(b)	Failure to register trade name	1st offense—\$100 2nd offense—Formal action
Section 3.54	Failure to meet minimum equipment requirements	1st offense—\$100 2nd offense—Formal action
Section 3.55	Failure to meet minimum maintenance and sanitation requirements	1st offense—\$100 2nd offense—Formal action
Section 3.85	School equipment does not meet requirements	1st offense—\$100 2nd offense—Formal action
Section 3.86	School maintenance and sanitation requirements not met	1st offense—\$250 2nd offense—Formal action
Section 3.89	School advertising requirements not met	1st offense—\$250 2nd offense—Formal action

§ 43b.8. Schedule of civil penalties—real estate and cemetery brokers, real estate schools.

STATE REAL ESTATE COMMISSION

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 455.301	Acting in capacity of cemetery broker or cemetery salesperson without a license	1st offense—\$250 per violation 2nd offense—\$500 per violation
Section 455.601(a)	Failure of licensee to notify Commission of change of location of office of broker or cemetery broker within 10 days	1st offense—\$125 2nd offense—\$250
Section 455.601(a)	Failure of broker or cemetery broker to maintain sign with licensed name outside office	1st offense—\$250 2nd offense—\$500
Section 455.603	Failure of licensee to notify Commission of change of employing broker within 10 days	1st offense—\$125 2nd offense—\$250
Section 455.604(a)(4)	Use of any trade name or insignia or membership in any real estate association or organization of which the licensee is not a member	1st offense—\$250 2nd offense—\$500
Section 455.604(a)(8)	Placing a “for sale” or “for rent” sign or advertising property without the written consent of the owner	1st offense—\$250 2nd offense—\$500

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 455.604(a)(16)	Failure to exercise adequate supervision of licensed salesperson or associate broker (when subordinate violates § 455.601(a), 455.603 or 455.604(a)(21))	Same as penalty for underlying offense by subordinate
Section 455.604(a)(21)	Failure of licensee to have current license when performing licensed activity	1st offense—\$250 per month up to \$1,000 2nd offense—Formal action
Section 455.604(a)(26)	Failure to include right-of-cancellation information in a time share or campground membership	1st offense—\$500 2nd offense—\$1,000
Section 2205(b)(2)	Aiding and abetting cemetery or real estate sales activities by unlicensed individuals	1st offense—\$250 per individual 2nd offense—\$500 per individual

Violation Under 49 Pa. Code Chapter 35	Title/Description	Civil Penalty
Section 35.242(a)	Failure of broker or cemetery broker to devote office to transaction of real estate business in privacy	1st offense—\$125 2nd offense—\$250
Section 35.242(b)	Failure of broker or cemetery broker to maintain separate entrance to office located in private residence	1st offense—\$125 2nd offense—\$250
Section 35.242(c)	Failure of broker or cemetery broker to display business name prominently and in permanent fashion outside office	1st offense—\$250 2nd offense—\$500
Section 35.243(a)	Failure of broker or cemetery broker to obtain license before opening branch office	1st offense—\$250 2nd offense—\$500
Section 35.245(a)	Failure of broker, cemetery broker or rental listing referral agent to maintain the current license of employed or affiliated licensees at main office	1st offense—\$125 2nd offense—\$250
Section 35.245(b)	Failure of associate broker, salesperson, associate cemetery broker or cemetery salesperson to conspicuously display current license at office out of which licensee works	1st offense—\$100 2nd offense—\$250
Section 35.245(c)	Failure of broker or cemetery broker to maintain a list of licensees employed or affiliated with the broker or cemetery broker at the branch office out of which each licensee works	1st offense—\$125 2nd offense—\$250
Section 35.285	Failure to provide Commission or its representative with information regarding a franchisor, network or other parent real estate company with which the licensee is or may become affiliated	1st offense—\$250 2nd offense—\$500
Section 35.286(a)	Failure of broker to retain a copy of the written estimate of reasonably foreseeable expenses required under 49 Pa. Code § 35.334 (relating to statements of estimated cost and return)	1st offense—\$250 2nd offense—\$500
Section 35.286(a)(1)	Failure of broker, associate broker or salesperson to retain a copy of the acknowledgement portion of the Consumer Notice	1st offense—\$250 2nd offense—\$500
Section 35.286(b)	Failure of a licensed entity other than an individual to produce its corporate, partnership or association records for examination by the Commission or its authorized representative	1st offense—\$250 2nd offense—\$500
Section 35.290(b)	Failure of a licensee to notify the Commission of disciplinary action taken against the licensee by the real estate licensing authority of another jurisdiction within 30 days of receiving notice of the disciplinary action	1st offense—\$500 2nd offense—\$1,000
Section 35.292(a)(6)	Failure of broker, associate broker or salesperson to provide a copy of the Consumer Notice as required under 63 P. S. § 455.608 (relating to information to be given at initial interview)	1st offense—\$250 2nd offense—\$500
Section 35.301(a)	Advertising the sale or lease of real estate without the authority of the seller or lessor or its agent	1st offense—\$250 2nd offense—\$500
Section 35.301(b)	Publishing information about a rental property if the lessor or property manager expressly stated that the property was not to be included in lists prepared by rental listing referral agents	1st offense—\$250 2nd offense—\$500
Section 35.304	Failure of a licensee who sells or leases his own real estate to disclose in ads for the property that he is a licensee	1st offense—\$250 2nd offense—\$500

Violation Under 49 Pa. Code Chapter 35	Title/Description	Civil Penalty
Section 35.305(a)	Failure of broker, cemetery broker or rental listing referral agent to advertise or hold himself out to public under business name designated on license	1st offense—\$250 2nd offense—\$500
Section 35.305(b)	Advertising or using a nickname that has not been registered with the Commission	1st offense—\$250 2nd offense—\$500
Section 35.305(c)	Failure of salesperson or associate broker to include the business name and telephone number of the broker in at least equal size as the salesperson's or associate broker's name and telephone number on an advertisement	1st offense—\$250 2nd offense—\$500
Section 35.334	Failure of broker to provide a written estimate of reasonably foreseeable expenses	1st offense—\$250 2nd offense—\$500
Section 35.361(a)	Failure of real estate school to prominently display certificate of approval at main location and copy at satellite location	1st offense—\$125 2nd offense—\$250
Section 35.361(b)	Failure of real estate school to prominently display school's approved name outside each school location	1st offense—\$250 2nd offense—\$500
Section 35.361(c)	Failure of real estate school to prominently display school director's letter of approval at main location and copy at each satellite location	1st offense—\$125 2nd offense—\$250
Section 35.361(d)	Failure of real estate school to prominently display alphabetical list of courses and instructors at each school location	1st offense—\$125 2nd offense—\$250

§ 43b.9. Schedule of civil penalties—vehicle manufacturers, dealers and salespersons.

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 818.5(a)	Person or entity engaging in business of vehicle dealer, auction, manufacturer or distributor without license or acting as broker	Each offense—\$1,000
Section 818.5(a)	Person engaging in business as a factory representative or distributor representative without a license	1st offense—\$100 2nd offense—\$500 3rd offense—\$1,000
Section 818.5(a)	Individual working as unlicensed salesperson for dealership	1st offense—\$100 2nd offense—\$500 3rd offense—Formal action
Section 818.5(c)	Licensed salesperson working as salesperson for dealership other than for whom salesperson is licensed	1st offense—\$100 2nd offense—\$500 3rd offense—Formal action
Section 818.5(d)	Failure to display license in principal office	1st offense—\$100 2nd offense—\$500 3rd offense—Formal action
Section 818.5(h)	Vehicle auction not posting list of revoked/suspended licensees	1st offense—\$250 2nd offense—\$500 3rd offense—Formal action
Section 818.19(15)	Licensed dealer employing unlicensed salesperson	1st offense—\$500 2nd offense—\$1,000 3rd offense—Formal action
Section 818.19(29)	Wholesale auction permitting unlicensed or revoked or currently suspended dealer or vehicle business to buy, sell or represent vehicle at auction	1st offense—\$250 2nd offense—\$500 3rd offense—\$1,000 Subsequent offense—Formal action
Section 818.19(30)	Dealer permitting revoked or currently suspended salesperson to sell, represent or purchase vehicle at auction	1st offense—\$500 2nd offense—\$1000 3rd offense—Formal action
Sections 818.5(a) and 818.19(27)	Licensed dealer operating an unlicensed branch lot	1st offense—\$1,000 2nd offense—Formal action
Sections 818.5(f)(5), (g)(1) and 818.19(38)	Person with revoked or currently suspended dealer or salesperson license physically present during auctioning of vehicles	Each offense \$1,000

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 818.19(34)	Licensed dealer conducting its business under any name other than its licensed name	1st offense—\$250 2nd offense—\$500 3rd offense—Formal action
Section 818.19(37)	Licensed dealer failing to produce records to an authorized agent of the Board	1st offense—\$500 2nd offense—\$1,000 3rd offense—Formal action

Violations under 40 Pa. Code Chapter 19	Title/Description	Civil Penalty
Section 19.17	Broker or dealer business identity combined with other businesses	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(1)	Dealer does not have permanent enclosed building	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(2)	Dealership does not have private office	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(3)(i)	Dealer display area for five vehicles or 5,000 square feet	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(3)(ii)	Display lot not graded and surfaced with required material	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(3)(iii)	Display area separated from adjacent parking area	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(3)(iv)	Display area lighted if open evenings	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(5)	Dealer fails to maintain separate telephone line	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(6)	Business sign not permanent or visible to the public	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(7)	Dealership in violation of land use ordinances	1st offense—\$100 2nd offense—\$500
Section 19.18(a)(9)	Failure to post business hours	1st offense—\$100 2nd offense—\$500

§ 43b.11a. Schedule of civil penalties—architects.

STATE ARCHITECTS LICENSURE BOARD

Violation under 63 P. S.	Violation under 49 Pa. Code Chapter 9	Title/Description	Civil Penalty
Section 34.12	N/A	Anyone impressing an architect's seal or knowingly permitting it to be impressed on drawings, specifications or other design documents after the architect's license has been revoked, annulled or suspended.	1st offense—\$1,000 2nd offense—Formal action
Section 34.12	§ 9.142(a)	An architect whose license has expired impressing the architect's seal or knowingly permitting the architect's seal to be impressed on drawings, specifications or other design documents after lapse or expiration of the license.	0 to 6 months' lapse—Warning 6 to 12 months' lapse—\$500 12 to 24 months' lapse—\$1,000 24 months' or greater lapse—Formal action
Section 34.13(j)	§ 9.163	Engaging in the practice of architecture as a professional association, partnership, professional corporation, limited liability company, limited liability partnership or business corporation without first receiving the written approval of the Board.	0 to 6 months—Warning 6 to 12 months—\$500 12 to 24 months—\$1,000 Over 24 months—Formal action

Violation under 63 P. S.	Violation under 49 Pa. Code Chapter 9	Title/Description	Civil Penalty
Section 34.18(a)	§ 9.171	An individual engaging in the practice of architecture or offering to engage in the practice of architecture in this Commonwealth, or using any title, sign, card or device implying that the individual is competent to engage in the practice of architecture without ever having obtained a license to practice architecture in this Commonwealth.	1st offense—\$1,000 2nd offense—Formal action
Section 34.18(a)	§ 9.103	An individual engaging in the practice of architecture or offering to engage in the practice of architecture in this Commonwealth, or using any title, sign, card or device implying that the individual is competent to engage in the practice of architecture during a period when the individual's license issued by the Board is lapsed or expired.	0 to 6 months' lapse—Warning 6 to 12 months' lapse—\$500 12 to 48 months' lapse—\$1,000 48 months' or greater lapse—Formal action

[Pa.B. Doc. No. 06-2510. Filed for public inspection December 22, 2006, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

**[49 PA. CODE 47—49]
Continuing Education**

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends §§ 47.32—47.37, 47.39 and 47.41 and adds §§ 47.36a, 48.31—48.42 and 49.31—49.42 to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Under section 18(a) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1918(a)), the Board is permitted to require evidence of continuing education as a condition of license renewal.

Background and Purpose

With the enactment of the act of December 21, 1998 (P. L. 1017, No. 136), the Board now licenses marriage and family therapists, clinical social workers and professional counselors along with social workers. The Board's current regulations provide for continuing education as a condition of biennial renewal of social workers and clinical social workers. This final-form rulemaking amends the provisions pertaining to continuing education for social workers in Chapter 47 to recognize the two classes of social work licenses, social worker and clinical social worker, and adds similar provisions in Chapters 48 and 49 to include continuing education requirements for marriage and family therapists and professional counselors, respectively. The amendments to Chapters 48 and 49 require licensed marriage and family therapists and professional counselors to complete 30 clock hours during the preceding biennial period to renew a license. The continuing education requirement will apply to renew a license with the renewal period beginning March 1, 2009.

Summary of Comments and Responses on Proposed Rule-making

Notice of the proposed rulemaking was published at 35 Pa.B. 2640 (April 30, 2005). The Board received comments from the Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC), Fresenius Medical Care, Pennsylvania Society for Clinical Social Work (PSCSW), Pennsylvania Alliance of Counseling Professionals and the Pennsylvania Chapter of the National Association of Social Workers (NASW). The Board also received comments from 15 individuals. The comments and the Board's responses are as follows.

§§ 48.32 and 49.32. Requirement for biennial renewal.

IRRC and the HPLC expressed concern that licensees who currently do not have a continuing education requirement may not have received adequate notice of the new requirement and may have difficulty obtaining the requirements for the 2007-09 renewal period. The Board has revised the language to require that the continuing education must be completed during the biennial renewal period beginning March 1, 2007, to renew a license for the March 1, 2009, renewal period.

§§ 47.33, 48.33 and 49.33. Acceptable continuing education courses and programs.

The HPLC and the PSCSW commented that proposed subsection (d) which would allow licensees to receive credit for up to 20 of the 30 required hours by home study, or 2/3 of the required hours, was too large. The Board considered this concern but believes that home study courses are as valuable as classroom courses. The Board recognizes that home study is critical to licensees in rural areas. The Board, therefore, has decided not to decrease the number of allowable credits of home study.

The HPLC and IRRC noted an inconsistency in proposed language in §§ 47.33(a), 48.33(a) and 49.33(a) in that § 48.33(a) allowed a licensee to accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Sections 47.33(a) and

49.33(a) did not include the work "course." The Board noted the error and added the word "course" in both subsections.

The HPLC noted that proposed §§ 47.33(a), 48.33(a) and 49.33(a) stated "only courses or programs offered by Board approved providers will be accepted for continuing education credit" whereas §§ 47.36a, 48.37 and 49.37 (relating to other sources of continuing education) stated that credit will be given on a case-by-case basis for other experiences. The HPLC recommended that these provisions be reconciled by adding the phrase "except as otherwise provided" to §§ 47.33(a), 48.33(a) and 49.33(a). The Board agreed and amended the language accordingly.

The HPLC and IRRC also recommended replacing the phrase "practice building" with the phrase "marketing the practice" in subsection (c). The Board agrees and has changed the language accordingly.

Also, these proposed provisions allow licensees to accrue credits using home study courses if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. The HPLC and IRRC asked how evaluations of home study courses would be implemented and asked the Board to provide examples. The Board, in response, notes that many home study courses require the successful completion of an examination after the completion of the course. The provider requires a particular percentage of correct answers for the student to receive credit for completing the course.

§ 47.36. Preapproved providers of continuing education courses and programs for social workers and clinical social workers.

§ 48.36. Preapproved providers of continuing education courses and programs for marriage and family therapists.

§ 49.36. Preapproved providers of continuing education courses and programs for professional counselors.

Several individual commentators offered several additions or corrections to the lists of preapproved providers in §§ 47.36(a), 48.36(a) and 49.36(a). The Board reviewed these lists and made appropriate corrections and additions.

Many commentators also raised the concern that the Board was deleting § 47.36(c), which allowed the Board to approve participation in other continuing education courses so long as the licensee submits, prior to attendance, an application. The Board agreed that this provision should be retained. Accordingly, § 47.36(c) has been retained in final-form rulemaking and similar provisions have been added to Chapters 48 and 49. Many commentators also asked the Board to allow individuals to apply for continuing education credit after attending a program. The Board considered this comment but decided against implementing this change because it would render prior approval meaningless. In addition, allowing individuals to apply for approval after already taking the course would be inordinately time consuming and costly to the administration of the Board and of little value to licensees who, having paid for and taken a course in reliance on the supposition that it would be approved, would have to find a replacement once the course was disapproved. Also, the Board notes that under subsection (c), a licensee will be able to take a course not previously approved so long as the licensee applies at least 1 day prior to taking the course.

§§ 47.37, 48.38 and 49.38. Reporting by licensee of hours spent in continuing education.

The HPLC and IRRC expressed confusion with the proposed amendment to subsection (a) pertaining to "certified statement" which would delete the requirement that an applicant use "forms approved by the Board." The Board agrees that the amendment could be confusing and has added a sentence clarifying that the certification statement will be provided on the Board's application form for renewal of licensure.

IRRC also noted that proposed subsection (b)(7) required the licensee to provide "the Board approval number assigned to the course or program" and asked whether all preapproved organizations have an approval number for each course or program. The Board recognizes that not all preapproved organizations have an approval number. Accordingly the Board has amended this subsection to require a Board approval number unless the provider is preapproved.

§§ 47.36a, 48.37 and 49.37. Other sources of continuing education.

IRRC noted that proposed subsection (a)(3) allowed consideration of clock hours for publications of articles, books and research regarding the practice of social work or clinical social work and that the clock hours should be related to the practice of marriage and family therapy and professional counseling respectively. The Board agrees and has made the appropriate changes to these sections.

The HPLC noted a drafting error with respect to the phrase "services as a teacher (first-time experience only)" in §§ 47.36a(a)(2), 48.37a(a)(2) and 49.37(a)(2) and recommended that the phrases be rewritten to remove the parentheses. The Board agreed and made the changes in final-form rulemaking.

§§ 47.39, 48.40 and 49.40. Exemption and waiver.

The HPLC noted that §§ 47.39, 48.40 and 49.40 provide for waiver of continuing education for individuals applying for licensure for the first time. The HPLC did not object to these provisions, noting that there are sound reasons to have these policies. However, the HPLC noted that section 18 of the act does not expressly authorize the Board to grant waivers or to exempt first time licensees from the continuing education requirements. To resolve this conundrum, the HPLC suggested that the Board recommend to the Legislature that the act be amended to authorize the Board to grant waivers and an exemption. The Board will look into this suggestion.

The Pennsylvania Alliance of Counseling Professionals asked that, in addition to granting a waiver of all or part of a continuing education requirement, the Board allow for the granting of time extensions for completing continuing education for good cause. The Board agrees with this request and has amended §§ 47.39, 48.40 and 49.40 accordingly.

Miscellaneous issues

One commentator asked the Board to reduce the deadline for a sponsor to submit an application for approval as provider of a course or program in § 47.34 (relating to registration of continuing education providers who offer one course or program) from 90 days to 60 days. However, the Board and Board staff need 90 days to review applications and request additional information if necessary. Accordingly, the Board has determined that the 90-day deadline is necessary.

A member of the Philadelphia Center for Psychoanalytic Education questioned whether it could become a preapproved provider. The Board notes that under § 47.36(a)(6)(ix) (relating to preapproved providers of continuing education courses and programs for social workers and clinical social workers), it would be approved under The American Psychological Association. The commentator also asked if sponsors and participants could apply for course approval on the Internet. The Board decided against this suggestion because necessary supporting documents could not be submitted on the Internet.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will require the Board to alter its license renewal forms to include data regarding the licensee's compliance with the continuing education requirements and will also require licensees to maintain their own records of continuing education credits. The final-form rulemaking will not have additional adverse fiscal impact on the Commonwealth or its political subdivisions. There will be a fiscal impact upon licensees who will be required to pay for and complete continuing education hours.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2640, 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 and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 21, 2006, the final-form rulemaking was approved by the HPLC. On November 29, 2006, the final-form rulemaking was deemed approved by SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 30, 2006, and approved the final-form rulemaking.

Contact Person

Interested persons may obtain information regarding the final-form rulemaking by contacting Beth Sender Michlovitz, Board Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2659, Harrisburg, PA 17105-2649, bmichlovit@state.pa.us.

Findings

The Board finds that:

(1) Public notice of the 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 promulgated there under, 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 the proposed rulemaking published at 35 Pa.B. 2640.

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

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapters 47—49, are amended by amending §§ 47.32—47.37, 47.39 and 47.41 and adding §§ 47.36a, 48.31—48.42 and 49.31—49.42 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to 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*.

RONALD HAYS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7777 (December 16, 2006).)

Fiscal Note: Fiscal Note 16A-6912 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 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

CONTINUING EDUCATION

§ 47.32. Requirement for biennial renewal.

(a) The Board requires, as a condition of biennial renewal of a social worker's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs in social work offered by approved providers. Excess clock hours may not be carried over to the next biennium. Effective with the 2009 renewals and thereafter, at least 3 of the required 30 clock hours must be related to ethical issues.

(b) The Board requires, as a condition of biennial renewal of a clinical social worker's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs in social work offered by approved providers. Effective with the 2009 renewals and thereafter, at least 3 of the required 30 clock hours must be in ethical issues. Excess clock hours may not be carried over to the next biennium.

§ 47.33. Acceptable continuing education courses and programs.

(a) Only courses or programs offered by Board approved providers will be accepted for continuing education credit, except as provided in § 47.36a (relating to other sources of continuing education).

(b) Continuing education courses and programs must be appropriate for the master's level practitioner and

pertain to the practice of social work or clinical social work as defined in section 3 of the act (63 P. S. § 1903).

(c) The Board will not approve courses or programs in office management or in practice building.

(d) A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Home study courses must be indicated as such on the certificates of attendance.

§ 47.34. Registration of continuing education providers who offer one course or program.

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a provider.

(b) An applicant for Board approval as a provider of a course or program shall submit an application, along with a fee of \$45, at least 90 days before the date the course or program commences.

(c) The application must include the following information:

- (1) The full name and address of the applicant.
- (2) The title of the course or program and core subjects covered.
- (3) The dates and location of the course or program.
- (4) The instructors' names, titles, affiliations and degrees.
- (5) The schedule of the course or program-syllabus, lecturer, time allocated and the like.
- (6) The total number of clock hours requested.
- (7) The method of certifying attendance.
- (8) The objectives.
- (9) The course or program coordinator.
- (10) The instruction and evaluation methods.
- (11) Evidence of meeting the standards in § 47.35 (relating to standards for courses and programs).

(d) Statements made in the application shall be sworn to be true and correct to the best of the applicant's information, knowledge and belief.

(e) Upon approval as a qualified provider of a course or program, a Board approval number will be assigned and must be listed on the certificate of attendance. Approval is limited to the biennial period in which the course is given.

(f) The Board reserves the right to reject a submitted course or program which is outside the scope of practice of social work or clinical social work or is otherwise unacceptable because of presentation, content or failure to meet the criteria in § 47.35.

(g) Disapproval of a course or program will include a statement setting forth reasons. Applicants may submit a revised application within 10 days after receipt of disapproval. Revised applications must document alterations made to meet Board requirements. Notification on revised applications will occur as soon as possible within the Board's capability.

(h) The Board may withdraw approval of a course or program for cause. The provider will be notified in writing of the reasons for withdrawal of approval. With-

drawal of approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 47.35. Standards for courses and programs.

(a) A provider or licensee seeking Board approval of a course or program shall present evidence that the course or program is geared toward the master's level practitioner and has the following:

(1) Subject matter pertaining to the enhancement of the social worker's or clinical social worker's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.

(2) An established mechanism measuring the quality of the course or program being offered.

(3) Established criteria for selecting and evaluating faculty or source material.

(4) Established criteria for the evaluation of each course or program upon completion.

(5) A minimum total duration of at least 2 clock hours; however, the hours need not be contiguous.

(b) Providers shall comply with relevant Federal, State and local laws related to serving people with disabilities and shall provide adequate facilities and appropriate instructional materials to carry out the continuing education course or program.

(c) Providers shall insure that instructors have suitable qualifications and are of good reputation and character.

§ 47.36. Preapproved providers of continuing education courses and programs for social workers and clinical social workers.

(a) In addition to providers approved under § 47.34 (relating to registration of continuing education providers who offer one course or program), the Board finds the following entities have currently met the standards in § 47.35 (relating to standards for courses and programs). Accordingly, the following are approved providers:

(1) Graduate and undergraduate programs accredited by the Council on Social Work Education.

(2) The Association of Social Work Boards.

(3) Accredited colleges and universities (graduate level and continuing education programs).

(4) Graduate and postgraduate training programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

(5) Graduate programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

(6) The following groups and the providers, courses or workshops approved by them:

(i) The National Association of Social Workers (NASW) and its state and local affiliates.

(ii) The Clinical Social Work Association (CSWA) and its state and local affiliates.

(iii) The National Board for Certified Counselors, Inc. (NBCC).

(iv) The Commission on Rehabilitation Counselor Certification (CRCC).

(v) The Certification Board for Music Therapists (CBMT).

- (vi) The American Art Therapy Association (AATA).
 - (vii) The American Dance Therapy Association (ADTA).
 - (viii) The National Association for Drama Therapy (NADT).
 - (ix) The American Psychological Association (APA).
 - (x) The Approved Continuing Education (ACE) Program developed by the Association of Social Work Boards.
 - (xi) The American Nurses Credentialing Center (ANCC).
- (7) The following groups and their regional, state and local affiliates:
- (i) The Child Welfare League of America.
 - (ii) The National Association of Black Social Workers.
 - (iii) The Family Service Association of America.
 - (iv) The Clinical Social Work Association (CSWA).
 - (v) The American Association for Marriage and Family Therapy (AAMFT).
 - (vi) The American Family Therapy Association (AFTA).
 - (vii) The National Council on Family Relations (NCFR).
 - (viii) The Council of Nephrology Social Workers.
 - (ix) The American Association of Sex Educators, Counselors and Therapists (AASECT).
 - (x) The American Association of Pastoral Counselors (AAPC).
 - (xi) The American School Counselor Association (ASCA).
 - (xii) The American Counseling Association (ACA).
 - (xiii) The American Mental Health Counselors Association (AMHCA).
 - (xiv) The National Rehabilitation Counseling Association (NRCA).

(b) The Board will consider for approval, as preapproved providers, other organizations who offer multiple courses and programs for social workers and clinical social workers. The request for approval shall be submitted to the Board in writing along with a rationale as to why the organization should be included as a preapproved provider.

(c) The approval given to providers is subject to reevaluation; however, a rescission of approval will be made only in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(d) The Board may approve participation in other continuing education courses or programs for credit so long as the licensee submits, prior to attendance, an application for program approval and supporting documentation provided in § 47.35, and upon completion of the course or program submits verification of attendance.

§ 47.36a. Other sources of continuing education.

- (a) Clock hours may be granted on a case-by-case basis for the following:
 - (1) Participation in clinical conferences, clinical rounds or training under a preceptor provided through hospitals, medical centers, schools and universities.
 - (2) First-time experience as a teacher.
 - (3) Publications of articles, books and research relating to the practice of social work or clinical social work.

(4) Services as a preceptor, lecturer or speaker.

(b) A licensee who wishes to obtain clock hours for credit under subsection (a)(1), (2) or (4) shall submit, prior to participating in the event, an application for approval along with a fee as provided by § 47.34(b) (relating to registration of continuing education providers who offer one course or program). A licensee seeking to obtain clock hours for a publication under subsection (a)(3), shall submit, after the publication of the article, book or research, an application for approval along with a fee as provided by § 47.34(b).

§ 47.37. Reporting by licensee of hours spent in continuing education.

(a) Applicants for license renewal shall provide a signed statement certifying that the continuing education requirements have been met. The certification statement will be included on the application form for renewal of licensure.

(b) A licensee selected for audit shall provide information to document the licensee's certification, which information shall include the following:

- (1) The date attended.
- (2) The clock hours claimed.
- (3) The title of course or program and description of content.
- (4) The school, hospital, medical center or organization which sponsored the course or program.
- (5) The instructor.
- (6) The location of course or program.
- (7) The Board approval number assigned to the course or program unless the provider is preapproved under § 47.36(a) (relating to preapproved providers of continuing education courses and programs for social workers and clinical social workers).

§ 47.39. Exemption and waiver.

(a) An individual applying for licensure in this Commonwealth for the first time shall be exempted from the continuing education requirement for the biennial renewal period following initial licensure.

(b) The Board may waive or grant an extension of all or a portion of the continuing education requirement for biennial renewal upon request of a licensee. The request must be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. The request for waiver or extension will be evaluated by the Board on a case-by-case basis. Requests for waivers and extensions may be granted for serious illness, military service or other demonstrated hardship. The Board will send written notification of its approval or denial of a waiver or extension request.

§ 47.41. Disciplinary action authorized.

(a) A licensed social worker or clinical social worker who submits fraudulent clock hour reports will be subject to disciplinary action under section 11(a)(5) of the act (63 P. S. § 1911(a)(5)).

(b) The falsification of a clock hour report by a program provider will result in revocation of approval by the Board for further program offerings of that provider.

**CHAPTER 48. STATE BOARD OF SOCIAL
WORKERS, MARRIAGE AND FAMILY THERAPISTS
AND PROFESSIONAL COUNSELORS—LICENSURE
OF MARRIAGE AND FAMILY THERAPISTS
CONTINUING EDUCATION**

§ 48.31. Definitions.

The following words and terms, when used in §§ 48.32—48.42, have the following meanings, unless the context clearly indicates otherwise:

Biennium—The period from March 1 of an odd-numbered year to February 28 of the next odd-numbered year.

Certification—A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour—50 to 60 minutes of instruction or participation in an approved course or program.

Provider—An agency, organization, institution, association, center or individual approved by the Board to offer an organized course or program.

§ 48.32. Requirement for biennial renewal.

For 2009 renewals and thereafter, the Board will require, as a condition of biennial renewal of a marriage and family therapist's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers which shall include at least 3 clock hours in ethical issues. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium.

§ 48.33. Acceptable continuing education courses and programs.

(a) Only courses or programs offered by Board approved providers will be accepted for continuing education credit, except as provided in § 48.37 (relating to other sources of continuing education).

(b) Continuing education courses and programs must be appropriate for the master's level practitioner and pertain to the practice of marriage and family therapy as defined in section 3 of the act (63 P. S. § 1903).

(c) The Board will not approve courses or programs in office management or in practice building.

(d) A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Home study courses must be indicated as such on the certificates of attendance.

§ 48.34. Registration of continuing education providers who offer one course or program.

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a provider by filing an application, along with a fee of \$45, at least 90 days before the date the course or program commences.

(b) The application must include the following information:

- (1) The full name and address of the applicant.
- (2) The title of the course or program and core subjects covered.
- (3) The dates and location of the course or program.

(4) The instructors' names, titles, affiliations and degrees.

(5) The schedule of the course or program—syllabus, lecturer, time allocated, and the like.

(6) The total number of clock hours requested.

(7) The method of certifying attendance.

(8) The objectives.

(9) The course or program coordinator.

(10) The instruction and evaluation methods.

(11) Evidence of meeting the standards in § 48.35 (relating to standards for courses and programs).

(c) Statements made in the application must be sworn to be true and correct to the best of the applicant's information, knowledge and belief.

(d) Upon approval as a qualified provider of a course or program, a Board approval number will be assigned and will be listed on the certificate of attendance. Approval is limited to the biennial period in which the course is given.

(e) The Board reserves the right to reject a submitted course or program which is outside the scope of practice of marriage and family therapy or is otherwise unacceptable because of presentation, content or failure to meet the criteria in § 48.35.

(f) Disapproval of a course or program will include a statement setting forth reasons. Applicants may submit a revised application within 10 days after receipt of disapproval. Revised applications must document alterations made to meet Board requirements. Notification on revised applications will occur as soon as possible within the Board's capability.

(g) The Board may withdraw approval of a course or program for cause. The provider will be notified in writing of the reasons for withdrawal of approval. Withdrawal of approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 48.35. Standards for courses and programs.

(a) A provider or licensee seeking Board approval of a course or program shall present evidence that the course or program is appropriate for the master's level practitioner and has the following:

(1) Subject matter pertaining to the enhancement of the marriage and family therapist's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.

(2) An established mechanism measuring the quality of the course or program being offered.

(3) Established criteria for selecting and evaluating faculty or source material.

(4) Established criteria for the evaluation of each course or program upon completion.

(5) A minimum total duration of at least 2 clock hours; however, the hours need not be contiguous.

(b) Providers shall comply with relevant Federal, State and local laws related to serving people with disabilities and provide adequate facilities and appropriate instructional materials to carry out the continuing education course or program.

(c) Providers shall insure that instructors have suitable qualifications and are of good reputation and character.

§ 48.36. Preapproved providers of continuing education courses and programs for marriage and family therapists.

(a) In addition to providers approved under § 48.34 (relating to registration of continuing education providers who offer one course or program), the Board finds the following entities have currently met the standards in § 48.35 (relating to standards for courses and programs). Accordingly, the following are approved providers:

(1) Graduate and undergraduate programs accredited by the Council on Social Work Education.

(2) The Association of Social Work Boards.

(3) Accredited colleges and universities (graduate level courses and continuing education programs).

(4) Graduate and postgraduate training programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

(5) Graduate programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

(6) The following groups and the providers, courses or workshops approved by them:

(i) The National Association of Social Workers (NASW) and its state and local affiliates.

(ii) The Clinical Social Work Association (CSWA) and its state and local affiliates.

(iii) The National Board for Certified Counselors, Inc. (NBCC).

(iv) The Commission on Rehabilitation Counselor Certification (CRCC).

(v) The Certification Board for Music Therapists (CBMT).

(vi) The American Art Therapy Association (AATA).

(vii) The American Dance Therapy Association (ADTA).

(viii) The National Association for Drama Therapy (NADT).

(ix) The American Psychological Association (APA).

(x) The Approved Continuing Education (ACE) Program developed by the Association of Social Work Boards.

(xi) The American Nurses Credentialing Center (ANCC).

(7) The following groups and their regional, state and local affiliates:

(i) The Child Welfare League of America.

(ii) The National Association of Black Social Workers.

(iii) The Family Service Association of America.

(iv) The Clinical Social Work Association (CSWA).

(v) The American Association for Marriage and Family Therapy (AAMFT).

(vi) The American Family Therapy Association (AFTA).

(vii) The National Council on Family Relations (NCFR).

(viii) The Council of Nephrology Social Workers.

(ix) The American Association of Sex Educators, Counselors and Therapists (AASECT).

(x) The American Association of Pastoral Counselors (AAPC).

(xi) The American School Counselor Association (ASCA).

(xii) The American Counseling Association (ACA).

(xiii) The American Mental Health Counselors Association (AMHCA).

(xiv) The National Rehabilitation Counseling Association (NRCA).

(b) The Board will consider for approval, as preapproved providers, other organizations who offer multiple courses and programs for marriage and family therapists. The request for approval shall be submitted to the Board in writing along with a rationale as to why the organization should be included as a preapproved provider.

(c) The approval given to providers is subject to reevaluation; however, a rescission of approval will be made only in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(d) The Board may approve participation in other continuing education courses or programs for credit so long as the licensee submits, prior to attendance, an application for program approval and supporting documentation provided in § 48.35, and upon completion of the course or program submits verification of attendance.

§ 48.37. Other sources of continuing education.

(a) Clock hours may be granted on a case-by-case basis for the following:

(1) Participation in clinical conferences, clinical rounds or training under a preceptor provided through hospitals, medical centers, schools and universities.

(2) First-time experience as a teacher.

(3) Publications of articles, books and research relating to the practice of marriage and family therapy.

(4) Services as a preceptor, lecturer or speaker.

(b) A licensee who wishes to obtain clock hours for credit under subsection (a)(1), (2) or (4) shall submit, prior to participating in the event, an application for approval along with a fee of \$45 as provided by § 48.34(a) (relating to registration of continuing education providers who offer one course or program). A licensee seeking to obtain clock hours for a publication under subsection (a)(3) shall submit, after the publication of the article, book or research, an application for approval along with a fee of \$45 as provided by § 48.34(a).

§ 48.38. Reporting by licensee of hours spent in continuing education.

(a) Applicants for license renewal shall provide a signed statement certifying that the continuing education requirements have been met. The certification statement will be included on the application form for renewal of licensure.

(b) A licensee selected for audit shall provide information to document the licensee's certification. The information must include the following:

(1) The date attended.

(2) The clock hours claimed.

(3) The title of course or program and description of content.

(4) The school, hospital, medical center or organization which sponsored the course or program.

- (5) The instructor.
- (6) The location of course or program.
- (7) The Board approval number assigned to the course or program unless the provider is preapproved under § 48.36(a) (relating to preapproved providers of continuing education courses and programs for marriage and family therapists).

§ 48.39. Retention of records.

The licensee shall retain documentation of completion of the prescribed number of clock hours for 4 years following the certification which shall be produced upon request by the Board or its auditing agents. The Board will utilize a random audit of renewals to determine compliance with the continuing education requirement.

§ 48.40. Exemption and waiver.

(a) An individual applying for licensure in this Commonwealth for the first time shall be exempted from the continuing education requirement for the biennial renewal period following initial licensure.

(b) The Board may grant an extension or waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee. The request must be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver or extension request will be evaluated by the Board on a case-by-case basis. Waivers and extensions may be granted for serious illness, military service or other demonstrated hardship. The Board will send written notification of its approval or denial of a waiver or extension request.

§ 48.41. Continuing education requirement for biennial renewal of inactive and lapsed licenses.

A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

§ 48.42. Disciplinary action authorized.

(a) A licensed marriage and family therapist who submits fraudulent clock hour reports will be subject to disciplinary action under section 11(a)(5) of the act (63 P. S. § 1911(a)(5)).

(b) The falsification of a clock hour report by a program provider will result in revocation of approval by the Board for further program offerings of that provider.

CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS

CONTINUING EDUCATION

§ 49.31. Definitions.

The following words and terms, when used in §§ 49.32—49.42, have the following meanings, unless the context clearly indicates otherwise:

Biennium—The period from March 1 of an odd-numbered year to February 28 of the next odd-numbered year.

Certification—A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour—50 to 60 minutes of instruction or participation in an approved course or program.

Provider—An agency, organization, institution, association, center or individual approved by the Board to offer an organized course or program.

§ 49.32. Requirement for biennial renewal.

For 2009 renewals and thereafter, the Board will require, as a condition of biennial renewal of a professional counselor's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers which shall include at least 3 clock hours in ethical issues. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium.

§ 49.33. Acceptable continuing education courses and programs.

(a) Only courses or programs offered by Board approved providers will be accepted for continuing education credit except as provided in § 49.37 (relating to other sources of continuing education).

(b) Continuing education courses and programs must be appropriate for the master's level practitioner and pertain to the practice of professional counseling as defined in section 3 of the act (63 P. S. § 1903).

(c) The Board will not approve courses or programs in office management or in practice building.

(d) A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Home study courses must be indicated as such on the certificates of attendance.

§ 49.34. Registration of continuing education providers who offer one course or program.

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a provider by filing an application, along with a fee of \$45, at least 90 days before the date the course or program commences.

(b) The application must include the following information:

- (1) The full name and address of the applicant.
- (2) The title of the course or program and core subjects covered.
- (3) The dates and location of the course or program.
- (4) The instructors' names, titles, affiliations and degrees.
- (5) The schedule of the course or program—syllabus, lecturer, time allocated and the like.
- (6) The total number of clock hours requested.
- (7) The method of certifying attendance.
- (8) The objectives.
- (9) The course or program coordinator.
- (10) The instruction and evaluation methods.
- (11) Evidence of meeting the standards in § 49.35 (relating to standards for courses and programs).

(c) Statements made in the application must be sworn to be true and correct to the best of the applicant's information, knowledge and belief.

(d) Upon approval as a qualified provider of a course or program, a Board approval number will be assigned and

will be listed on the certificate of attendance. Approval is limited to the biennial period in which the course is given.

(e) The Board reserves the right to reject a submitted course or program which is outside the scope of practice of professional counseling or is otherwise unacceptable because of presentation, content or failure to meet the criteria in § 49.35.

(f) Disapproval of a course or program will include a statement setting forth reasons. Applicants may submit a revised application within 10 days after receipt of disapproval. Revised applications must document alterations made to meet Board requirements. Notification on revised applications will occur as soon as possible within the Board's capability.

(g) The Board may withdraw approval of a course or program for cause. The provider will be notified in writing of the reasons for withdrawal of approval. Withdrawal of approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 49.35. Standards for courses and programs.

(a) A provider or licensee seeking Board approval of a course or program shall present evidence that the course or program is geared toward the master's level practitioner and has the following:

(1) Subject matter pertaining to the enhancement of the professional counselor's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.

(2) An established mechanism measuring the quality of the course or program being offered.

(3) Established criteria for selecting and evaluating faculty or source material.

(4) Established criteria for the evaluation of each course or program upon completion.

(5) A minimum total duration of at least 2 clock hours; however, the hours need not be contiguous.

(b) Providers shall comply with relevant Federal, State and local laws related to serving people with disabilities and provide adequate facilities and appropriate instructional materials to carry out the continuing education course or program.

(c) Providers shall insure that instructors have suitable qualifications and are of good reputation and character.

§ 49.36. Preapproved providers of continuing education courses and programs for professional counselors.

(a) In addition to providers approved under § 49.34 (relating to registration of continuing education providers who offer one course or program), the Board finds the following entities have currently met the standards in § 49.35 (relating to standards for courses and programs). Accordingly, the following are approved providers:

(1) Graduate and undergraduate programs accredited by the Council on Social Work Education.

(2) The Association of Social Work Boards.

(3) Accredited colleges and universities (graduate level courses and continuing education programs).

(4) Graduate and postgraduate training programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

(5) Graduate programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

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(iii) The National Board for Certified Counselors, Inc. (NBCC).

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(2) First-time experience as a teacher.

(3) Publications of articles, books and research relating to the practice of professional counseling.

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(b) A licensee who wishes to obtain clock hours for credit under subsection (a)(1), (2) or (4) shall submit, prior to participating in the event, an application for approval along with a fee of \$45 as provided by § 49.34(a) (relating to registration of continuing education providers who offer one course or program). A licensee seeking to obtain clock hours for a publication under subsection (a)(3), shall submit, after the publication of the article, book or research, an application for approval along with a fee of \$45 as provided by § 49.34(a).

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(b) The falsification of a clock hour report by a program provider will result in revocation of approval by the Board for further program offerings of that provider.

[Pa.B. Doc. No. 06-2511. Filed for public inspection December 22, 2006, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 53, 63, 77 AND 79]

General Provisions; Fishing

The Fish and Boat Commission (Commission) amends Chapters 53 and 63 (relating to Commission property; and general fishing regulations), deletes Chapter 77 and adds Chapter 79 (relating to reptiles and amphibians). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking updates and improves the regulation of reptiles and amphibians to provide greater protection of these resources.

A. *Effective Date*

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

B. *Contact Person*

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

C. *Statutory Authority*

The amendments to §§ 53.7 and 63.7 (relating to use of firearms; and exceptions to limitations on devices) and §§ 79.1—79.3 and 79.8—79.13 are published under the statutory authority of section 2102 of the code (relating to rules and regulations). Sections 79.4—79.7 are published under the statutory authority of section 2102 of the code

and section 2904 of the code (relating to permits for protection and management of particular fish).

D. Purpose and Background

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

The Commission published proposed rulemakings soliciting public comments regarding its proposed reptile and amphibian regulations on three occasions. At its April 2005 meeting, the Commission approved the publication of the first proposed rulemaking containing extensive amendments to the regulations. The Commission also directed staff to solicit public comments for a period of at least 90 days and to assemble a workgroup of interested parties and stakeholders. A proposed rulemaking was published at 35 Pa.B. 5683 (October 15, 2005). As directed by the Commission, the staff assembled a diverse workgroup comprised of captive breeders, hobbyists, snake hunters, snake hunt sponsors, conservationists and academics. The workgroup met on three occasions, in August 2005, November 2005 and May 2006, and provided tremendous input on a variety of issues.

As a result of the August and November 2005 meetings of the workgroup, the Commission made numerous revisions and additions to the original proposed rulemaking published at 35 Pa.B. 5683. The Commission, at its January 2006 meeting, approved the publication of a second proposed rulemaking containing those changes and directed staff to solicit public comments for a period of 60 days. The second proposed rulemaking was published at 36 Pa.B. 1220 (March 18, 2006).

Upon closer review of the proposed rulemaking, the Commission determined that several issues required additional clarification. Those issues were artificial propagation and dealers of live reptiles and amphibians, introduction of native species and color morphs. At its April 2006 meeting, the Commission approved the publication of a third proposed rulemaking that contained provisions pertaining to those issues. The third proposed rulemaking was published at 36 Pa.B. 2724 (June 3, 2006).

E. Summary of Changes

The final-form rulemaking deletes Chapter 77 and adds Chapter 79 in its place. It also amends § 63.7 to change a reference from Chapter 77 to Chapter 79. Chapter 79 contains the following provisions:

(1) *Section 79.1.* Among the organizational changes is the inclusion § 79.1 (relating to definitions). The Commission adopted a more explicit definition of "hunt" and added definitions for "hunt," "native species," "snake hooks or tongs," "subcaudal scale" and "turtle hooks." The definitions in § 77.2 for "organized reptile and amphibian hunt" and "sacking contest," for the most part, were not changed and are included in § 79.1.

On final-form rulemaking, the Commission adopted § 79.1 to read as set forth in Annex A. A minor modification was made to the second proposed rulemaking to the definition of "organized reptile and amphibian hunt" so that it says "When one or more of the following factors are present, an event will be considered an organized reptile and amphibian hunt as the term is used in this chapter" instead of "may be considered."

(2) *Section 79.2.* The Commission combined various provisions pertaining to the taking of reptiles and amphibians that were found throughout Chapter 77 and

placed them in § 79.2 (relating to taking reptiles or amphibians). This section describes the means and the devices by which reptiles and amphibians may be lawfully taken and enumerates unlawful practices. It also makes it unlawful to take, catch or kill a reptile or amphibian through use of a firearm. For consistency, the Commission amended § 53.7 to remove the provision allowing the use of .22 caliber rimfire weapons with shotshell to take frogs during the open season unless otherwise posted on Commission owned or controlled property.

On final-form rulemaking, the Commission adopted § 79.2 to read as set forth in Annex A. An additional provision was added to the second proposed rulemaking making it unlawful, while hunting reptiles and amphibians, to possess chemicals, explosives, winches, jacks or other devices or materials that may disrupt, damage or destroy dens and their immediate surroundings.

(3) *Section 79.3.* This section pertains to season and daily possession limits addressed in § 77.6. Under Chapter 77, a sponsor of an organized reptile/amphibian hunt was permitted to possess more than the daily limit of timber rattlesnakes if the total number of timber rattlesnakes held in possession during each hunt and for not more than 48 hours thereafter did not exceed the daily limit for timber rattlesnakes times twice the number of persons engaged in the hunt. The final-form rulemaking reduces the number from two times the number of persons engaged in the hunt to one.

In addition, the final-form rulemaking reduces the daily and possession limits in § 77.6 for both bullfrogs and green frogs from 15 and 30 to 10 and 20, respectively. The new section also includes a prohibition against the taking of 23 species of reptiles and amphibians that are considered to be rare, declining or "at risk" by the Commission's Amphibian and Reptile Technical/Advisory Committee. These species have limited ranges in this Commonwealth, are threatened by development and collection pressure and are currently being studied by the Commission. Until these species are considered for formal listing as threatened or endangered species, the Commission has adopted a "no collection" approach (that is, no open season and daily and possession limits of 0) as a means of protecting them. Status assessment studies are underway for these species, which could lead to future management decisions.

The Commission adopted additional restrictions with regard to timber rattlesnakes. Under Chapter 77, a person was permitted to take, catch or kill one timber rattlesnake per calendar year and to possess one timber rattlesnake at a time. Under § 79.3 (relating to season and daily possession limits), it is unlawful for a person to take, catch, kill or possess a timber rattlesnake that is less than 42 inches in length, measured lengthwise along the dorsal surface from the snout to the tail, excluding the rattle, and that possesses less than 21 subcaudal scales. This section further prohibits a person to hunt timber rattlesnakes from the South Mountain population (west of Route 15 and south of Interstate 81 to the Maryland line), where there is no open season.

The timber rattlesnake is currently listed as a candidate species in this Commonwealth and it is listed as a protected species (threatened or endangered) or species of concern in neighboring states. Unlike most amphibians and reptiles in this Commonwealth, the timber rattlesnake is sought by hunters as a game species. Reptile collectors collect them for their variable coloration, large size and unique nature. People have been known to wantonly kill timber rattlesnakes due to their perceived threat to humankind. Despite former tightening of the

regulations on the collection of this animal (reduced to one possession limit in 1993, and one annual limit in 1996), preliminary results of the Commission's timber rattlesnake population study (2003—present) suggest that the timber rattlesnake is declining in the peripheral parts of its range in this Commonwealth due to development pressure, wanton killing and collecting. Adult female timber rattlesnakes need 8—10 years to reach reproductive maturity. Therefore, taking females out of the population is a threat to local populations and the larger Statewide population. A minimum length limit and minimum number of subcaudal scales were adopted to limit timber rattlesnake hunters interested in take/collection to favor collection of mature adult male snakes. This new regulation will help to protect adult and gravid (pregnant) females and enable their progeny to reach reproductive maturity. In addition, the Commission made the South Mountain population (portions of Adams, Cumberland, Franklin and York Counties) of timber rattlesnakes off-limits to hunting due to the documented decline in numbers in this specific area from hunting and human encroachment pressure and apparent isolation with the North Mountain and Maryland timber rattlesnake populations.

The final-form rulemaking further places a season and catch and possession limits on the northern copperhead. These regulations are needed because the status of the northern copperhead is uncertain. Although no comprehensive population studies have been conducted on this species, there is a consensus among herpetologists that the northern copperhead is declining across its range and in this Commonwealth. The Commission also adopted a permit requirement for northern copperheads similar to the timber rattlesnake permit requirement. The specifics of this permit requirement is discussed in paragraph (6). The permit requirement will enable the Commission to collect locational and harvest information to be used to assess the possible decline of northern copperheads in this Commonwealth. Ultimately, this information will be used for future management of the northern copperhead.

Finally, the final-form rulemaking reduces the daily and possession limits in § 77.6 for native species not listed in the regulation from two to one.

On final-form rulemaking, the Commission adopted § 79.3 to read as set forth in Annex A. The following changes were made to the second proposed rulemaking. Subsection (e) was added to clarify that the possession limits do not apply to animals that are artificially propagated in accordance with the Commission's regulations and are in the possession of registered artificial propagators and dealers. Instead of the minimum size limit of 38 inches for timber rattlesnakes that was in the second proposed rulemaking, the Commission adopted a minimum size limit of 42 inches. The Commission further clarified that the daily and possession limits of one snake do not apply to holders of provisional permits issued under § 79.7(f) and made minor housekeeping revisions to change the words "amphibians and reptiles" to "reptiles and amphibians" so that the language is consistent throughout § 79.3.

(4) *Section 79.4.* The Commission adopted § 79.4 (relating to possession permits for native species) as a result of the reductions in the daily and possession limits of some species. This section provides a "grandfathering" mechanism for persons possessing herptiles where daily and possession limits have been reduced. Specifically, this section creates a new possession permit that will "grandfather" animals possessed as of January 1, 2007, that meet possession limits in effect on December 31, 2006.

The permit will be required for the continued possession of the animal and will be required for the possession of native species regardless of origin. It will be a one-time permit and will cost \$10. Individuals must apply by June 30, 2007. If the permit holder gives the animal to another person, the permit may be transferred to the new owner upon completion of an application, surrender of the original permit and payment of a \$10 fee. There are exceptions to the permit requirement. Possession permits will not be required for animals that are covered by other permissions (such as the written permission of the Executive Director for zoos, educational institutions, rehabilitators, and the like) and that are covered by other permits (such as snake permits or scientific collector's permits).

On final-form rulemaking, the Commission adopted § 79.4 to read as set forth in Annex A. Subsection (e) of the second proposed rulemaking was changed so that a possession permit is not required for animals covered by permissions and other permits issued under Subpart B (relating to fishing). The second proposed rulemaking was limited to permissions and other permits issued under Chapter 79, which would not have included, for example, scientific collector's permits and special permits for the collection of threatened and endangered species.

(5) *Section 79.5.* In this section, the Commission adopted a new permit requirement for the taking of common snapping turtles by persons who intend to sell, barter or trade them. In many states across its range, the common snapping turtle is declining. The new permit will facilitate a better understanding of the numbers of turtles that are being taken for commercial use, where the hunting pressure exists and who is engaged in the activity. Information gleaned from the permit system will enable the Commission to make well-informed decisions about the future management of the snapping turtle.

On final-form rulemaking, the Commission adopted § 79.5 (relating to snapping turtle permits) to read as set forth in Annex A.

(6) *Section 79.6.* Section 79.6 (relating to venomous snake permits) addresses permit requirements for both the timber rattlesnake and the northern copperhead, making it unlawful to hunt, take, catch, kill or possess them without first procuring the necessary permit. The cost of the timber rattlesnake permit has remained at \$5 for the past 14 years. In the final-form rulemaking, the Commission increased the permit fee to \$25 for residents and \$50 for nonresidents to offset costs due to inflation and the costs of permit issuance, processing and data compilation. Fees collected from this permit can also be used as matching funds to obtain grants to perform additional management activities.

In this section, the Commission also included new tagging requirements for persons who hunt, take, catch, kill or possess timber rattlesnakes. Currently, the Commission issues well over 1,000 individual timber rattlesnake permits per year (1,181 permits issued in 2004 and 1,080 in 2005) and permit requests have increased approximately 200—300 each year since 1998. Approximately 15% of the hunters are reporting "take" (for harvest or as pets) of snakes. There is evidence to suggest that even more snakes are being taken than are being reported. The Commission adopted a tagging system to provide better accountability of hunters that decide to take timber rattlesnakes alive or dead. The information collected in this program will assist the Commission in the development of management units and associated bag limits for timber rattlesnakes.

On final-form rulemaking, the Commission adopted § 79.6 to read as set forth in Annex A. A clarification was made to the second proposed rulemaking so that the prohibition against hunting timber rattlesnakes after the possession tag has been detached from this permit does not apply to holders of provisional snake permits issued under § 79.7(f) (relating to organized reptile and amphibian hunt permits).

(7) *Section 79.7.* This section pertains to organized reptile and amphibian hunt permits previously addressed in § 77.2. Among the changes is an increase in the fee from \$25 to \$100. This increase was adopted to offset the changes in inflation, including the permit review and processing costs, and monitoring/permit compliance of hunts. Also adopted were reporting requirements and a provisional hunting permit. The provisional permit will allow permit holders to take, catch or possess one timber rattlesnake without tagging the snake during an organized snake hunt so long as the snake is returned unharmed to the point of capture following the event. The Commission will continue with its current practice of banning sacking contests utilizing native species and of allowing the use of nonnative species lawfully imported from other jurisdictions.

On final-form rulemaking, the Commission adopted § 79.7 to read as set forth in Annex A. No changes were made to the second proposed rulemaking with the exception of subsection (f) that deals with provisional hunt permits and allows permit holders to take, catch or possess one timber rattlesnake without tagging the snake during an organized snake hunt so long as the snake is returned unharmed to the point of capture following the event. The subsection, as proposed, placed the onus for returning the snake to the point of capture on the hunt sponsor. On final-form rulemaking, the Commission modified this subsection to place the burden on the individual hunter. The workgroup strongly endorsed this change. The Commission also modified the section to clarify that a snake entered into a hunt is the responsibility of the hunt sponsor until the snake is returned to the individual hunter; to clarify that a snake must be returned by the provisional permit holder to the point of capture by no later than sunset of the last day of the hunt, and to clarify that a provisional permit holder who wishes to retain possession of a snake caught under a provisional permit must tag the snake.

(8) *Section 79.8.* When 3 Pa.C.S. Chapter 42 (relating to the Aquaculture Development Law) (act) was enacted in 1998, responsibility for registering artificial propagators and dealers of live bait fish, fish bait and other live fish was transferred from the Commission to the Department of Agriculture (Department). The Department has been registering artificial propagators and dealers of several fish species and two frog species for several years. Propagation is limited to species of fish that have been approved for propagation by the Commission and each year the Commission provides the Department with an updated list.

Despite the fact that the definition of "fish" in the act mirrors the definition in the code and specifically includes "reptiles and amphibians," artificial propagators (except those raising Northern green frogs and bullfrogs) have not been registering with the Department. Commission staff met with Department staff and the agencies agree that the act covers reptiles and amphibians. They also agree that artificial propagators of reptiles and amphibians (except hobby breeders and pet stores) must register with the Department and propagation is limited to those species approved for propagation by the Commission.

Section 79.8 (relating to artificial propagation and dealers of live reptiles and amphibians) provides that except for hobby breeders and pet stores, it is unlawful to artificially propagate reptiles and amphibians without being registered with the Department. It further provides that the Commission will maintain two lists of species of reptiles and amphibians that are approved for artificial propagation: one containing species approved for open systems and another containing species approved for closed systems. Currently, bullfrogs and green frogs are on the list of species approved for open system propagation under Chapter 71 (relating to propagation and introduction of fish into Commonwealth waters) and will be approved for open system propagation under Chapter 79. Commission staff do not intend to recommend other native species of reptiles and amphibians for open system propagation. A list of species approved for closed system propagation will include all nonnative species except those specifically prohibited by the Commission and color morphs of certain native species. The list of color morphs will be developed with input from commercial propagators and hobby breeders.

On final-form rulemaking, the Commission adopted § 79.8 to read as set forth in Annex A. This final-form rulemaking adopts the third proposed rulemaking with changes to the subsection dealing with closed systems. The Commission modified this subsection to address the concerns of the workgroup that the definition of a closed system is inappropriate for certain reptiles and that the restrictions on waters discharged from closed systems are not reasonable for "nonfish." The workgroup commented that the provisions in the third proposed rulemaking appeared to have been written for fish and could conflict with accepted husbandry practices for reptiles and amphibians.

(9) *Section 79.9.* Section 79.9 (relating to sale of native species) addresses the sale of reptiles and amphibians previously in § 77.3. The Commission clarified this section to reflect the intent of the Commission to protect the native herptiles of this Commonwealth and their progeny. The demand for both wild caught and captive bred reptiles and amphibians, including several native to this Commonwealth, has increased considerably over the past several years. While the Commission's waterways conservation officers go through intense training on the identification of this Commonwealth's native species, it can be almost impossible to tell whether an individual animal is captive bred or wild caught. This is especially true for hatchling or juvenile animals, the preferred product for reptile and amphibian dealers. This section helps to eliminate the profit motive for both collection and sale of native species in this Commonwealth and the collection of animals in this Commonwealth for breeding stock for commercial propagation programs.

On final-form rulemaking, the Commission adopted § 79.9 to read as set forth in Annex A.

(10) *Section 79.10.* Section 79.10 (relating to transportation and importation of native species) makes it illegal to transport or import into or within this Commonwealth a native species as defined in Chapter 79 from another jurisdiction. It also makes it unlawful to receive a native species that was transported or imported into or within this Commonwealth from another jurisdiction. The section, however, does not apply to zoos or other accredited institutions that transport and import native species for scientific, educational or research purposes and Commission-recognized rehabilitators provided that they have received the written permission of the Executive Director or a designee under § 79.3(c).

On final-form rulemaking, the Commission adopted § 79.10 to read as set forth in Annex A.

(11) *Section 79.11.* Section 79.11 (relating to introduction) restates the provisions of § 77.7 and addresses the introduction of native species. Like propagation, introduction of native species is already addressed in the broad context of Chapter 71. However, for purposes of completeness, the Commission included provisions dealing with the introduction of native species of reptiles and amphibians in Chapter 79. This section provides that as a general rule, it is unlawful to reintroduce a native species taken from the wild into the natural environment of this Commonwealth except when certain enumerated conditions are met. The section further provides that it is unlawful to introduce or facilitate the introduction of a native species that has been artificially propagated except when certain enumerated conditions are met.

On final-form rulemaking, the Commission adopted § 79.11 to read as set forth in Annex A. The Commission revised this section to simplify the provisions dealing with the introduction of nonnative species and to clarify the provisions dealing with the introduction of native species. As a result of the workgroup's recommendations, the Commission modified the subsection regarding native species to extend the time period for acceptable release from May 1 to Labor Day to May 1 to September 30 and to prohibit the release of reptiles and amphibians that have been in physical contact with other reptiles or amphibians while in captivity. In addition, the Commission removed the provisions allowing Commission-recognized rehabilitators to release animals to a location other than the point of capture or to release them more than 30 days after capture. Both of these changes are the result of the workgroup's recommendations.

(12) *Section 79.12.* Section 79.12 (relating to color morphs of native species) addresses color morphs that are defined in § 79.1 as being "a distinct color variant form of a reptile or amphibian." For purposes of this section, the Commission has presumed that color morphs of certain native species that are held in captivity were not taken from the wild. The new section provides that the Commission will designate these color morphs by publishing a notice in the *Pennsylvania Bulletin* and certain provisions will apply to color morphs on the list provided they are not taken from the wild. Color morphs on the list will not be subject to possession limits, may be artificially propagated as long as they are propagated in a closed system meeting the requirements of § 79.8 and may be sold by registered artificial propagators and dealers. Commission staff intend to develop a list of color morphs with input from the workgroup.

On final-form rulemaking, the Commission adopted § 79.12 to read as set forth in Annex A. The third proposed rulemaking was modified to recognize that the captive breeding of color morphs approved for propagation may result in animals that have a normal color appearance (typical phenotype). The amended language allows for the sale of typical phenotype progeny of color morphs to be sold when certain conditions are met. These provisions were added largely to address the concerns of captive breeders.

(13) *Section 79.13.* Section 79.13 (relating to natural areas) restates the provisions in § 77.1. On final-form rulemaking, the Commission adopted § 79.13 to read as set forth in Annex A.

F. Paperwork

The final-form rulemaking increases paperwork and creates new paperwork requirements in that persons who

possess a live reptile or amphibian as of January 1, 2007, in compliance with the possession limits in effect on December 31, 2006, but not in compliance with the possession limits in effect on January 1, 2007, will be required to have a permit for the continued possession of the animal for the remainder of its life. Those persons will have to complete an application, and, if approved, the Commission will issue a possession permit. If a permit holder subsequently gives the animal to another person, the permit may be transferred to the new owner upon completion of an application, surrender of the original permit and issuance of a new permit by the Commission.

The final-form rulemaking also increases paperwork and creates new paperwork requirements in that persons who wish to hunt, take, catch or kill snapping turtles for the purpose of sale, barter or trade will be required to complete an application. If approved, the Commission will issue a permit to those persons. Holders of snapping turtle permits also will be required to furnish annual reports on a form prescribed by the Commission.

The final-form rulemaking may increase paperwork by requiring individuals who wish to hunt, take, catch or kill northern copperheads as well as timber rattlesnakes to apply for a permit. The Commission's prior permit covered timber rattlesnakes only and the Commission may receive additional applications from those individuals wishing to hunt northern copperheads. However, the Commission believes that the number of venomous snake permits that it will issue may actually decrease because of the increased fee. In addition, the final-form rulemaking may slightly increase paperwork in that timber rattlesnake and northern copperhead permittees will be required to meet annual reporting requirements by completing a form prescribed by the Commission. Timber rattlesnake permittees previously had to file catch reports each year. The final-form rulemaking also requires persons who take, catch, kill or possess a timber rattlesnake to complete a possession tag that is attached to the permit. This is a new requirement.

With regard to the organized reptile and amphibian hunt permit, the Commission does not expect an increase in paperwork or new paperwork requirements in that the Commission already requires a permit for organized hunts. Holders of these permits will continue to be required to furnish reports. These reports must be submitted on the form prescribed by the Commission.

The final-form rulemaking increases paperwork slightly in that the Commission will maintain two separate lists of species of reptiles and amphibians that are approved for artificial propagation: one containing species approved for open systems and another containing species approved for closed systems. The Commission already maintains a list of species approved for open system propagation under Chapter 71, which contains two frog species. The Commission may maintain separate lists for reptiles and amphibians.

The final-form rulemaking creates no new paperwork requirements for artificial propagators or dealers of live reptiles and amphibians in that the requirement for registration with the Department as an artificial propagator or as a dealer of live aquatic animals is contained in the act, not the Commission's regulations. Under section 4220 of the act (relating to registration for artificial propagation), the Department may register applicants for artificial propagation upon receipt of a written application and payment of a registration fee of \$150. Section 4222 of the act (relating to registration for dealers of live aquatic

animals) provides that the Department may register applicants wishing to become dealers of live aquatic animals upon receipt of a written application and payment of a registration fee of \$50.

The final-form rulemaking, however, increases paperwork and creates new paperwork requirements for registered propagators and dealers that wish to sell typical phenotype progeny of color morphs. Under the final-form rulemaking, artificial propagators and dealers that intend to sell them must file an initial inventory on the form prescribed by the Commission that contains the numbers in possession as of December 31, 2006, and other information that the Commission requires. Artificial propagators and dealers selling them also must maintain a current inventory on the form prescribed by the Commission, showing their origin, numbers and other information that the Commission requires. Last, these artificial propagators and dealers must submit an annual report on the form prescribed by the Commission that includes changes in the numbers possessed (for example, gains and losses to the inventory) and other information that the Commission requires.

G. Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. Some of the costs to the Commission that are associated with the new or revised permit programs will be offset by the fees. The costs to the Commission that are associated with developing the forms for the initial inventory, current inventory and annual report for artificial propagators and dealers that sell typical phenotype progeny of color morphs are nominal. Similarly, the costs associated with the reviewing and compiling initial inventories and annual reports will be nominal.

The final-form rulemaking imposes new costs on the private sector and the general public in that the new possession permit fee is \$10. This is a one-time fee only and the final-form rulemaking requires affected persons to apply by June 30, 2007. The Commission estimates that it will issue approximately 2,500 possession permits during 2007, the first year that the permit is available. After the first year, the Commission expects that applications will level off and, for the most part, the persons who will apply will be new owners seeking to have a permit transferred to them. The fee to transfer a permit is also \$10.

The final-form rulemaking imposes new costs on the private sector and the general public in that the new snapping turtle permit has a fee of \$50 for residents and \$100 for nonresidents. The Commission estimates that it will issue approximately 200 snapping turtle permits during the first year that the permit requirement is in effect with the expectation that the number will increase each year thereafter.

The final-form rulemaking also imposes new costs in that the venomous snake permit will cost residents \$25 and nonresidents \$50. The cost of a timber rattlesnake permit has remained at \$5 for the past 14 years. The Commission issues well over 1,000 individual timber rattlesnake permits per year (1,181 permits issued in 2004 and 1,080 in 2005), and permit requests have increased approximately 200-300 each year since 1998. The Commission believes that it may issue fewer venomous snake permits annually because of the increase in the price of the permit.

In addition, the final-form rulemaking imposes additional costs on individuals wishing to obtain an organized

reptile and amphibian hunt permit. The Commission increased the fee associated with this permit from \$25 to \$100. The Commission issues approximately 10 organized hunt permits each year. The Commission estimates that it will continue to issue a similar number of organized hunt permits in the future.

With regard to the four permit types, the Commission will utilize the fees to offset the costs associated with permit issuance and processing and data compilation. The Commission hopes that in some instances it will be able to utilize fees that are collected as matching funds to obtain grants to perform additional management activities.

H. Public Involvement

As previously noted, the Commission published three separate proposed rulemaking regarding its revisions to its reptile and amphibian regulations. As a result of the proposed rulemakings, the Commission received over 1,300 public comments. The Commission prepared a summary of those public comments and a copy of the summary is available upon request. Copies of the public comments were provided to the Commissioners.

Also, as previously noted, the Commission convened a workgroup of interested parties and stakeholders to offer recommendations regarding the Commission's proposed rulemakings. That workgroup met on three occasions.

Findings

The Commission finds that:

- (1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided and the comments that were received were considered.
- (3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

- (a) The regulations of the Commission, 58 Pa. Code Chapters 53, 63, 77 and 79, are amended by amending §§ 53.7 and 63.7, deleting §§ 77.1—77.8 and adding §§ 79.1—79.13 to read as set forth in Annex A.
- (b) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality as required by law.
- (c) The Executive Director shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order takes effect on January 1, 2007.

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

Fiscal Note: 48A-179. (1) Fish Fund; (2) Implementing Year 2006-07 is \$76,580; (3) 1st Succeeding Year 2007-08 is \$10,250; 2nd Succeeding Year 2008-09 is \$10,250; 3rd Succeeding Year 2009-10 is \$11,500; 4th Succeeding Year 2010-11 is \$12,750; 5th Succeeding Year 2011-12 is \$12,750; (4) 2005-06 Program—\$27,000*; 2004-05 Program—\$29,525*; 2003-04 Program—\$25,000*; (7) General Government Operations; (8) recommends adoption. It is

anticipated that a portion of the increased administrative costs to the Fish Fund would be offset by the fees collected.

*Timber rattlesnake permit.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 53. COMMISSION PROPERTY

§ 53.7. Use of firearms.

It is unlawful for any person to carry or use firearms on Commission owned or controlled properties except for persons:

(1) Engaged in lawful hunting and trapping under § 53.5 (relating to hunting and trapping).

(2) Licensed to carry firearms under 18 Pa.C.S. § 6109 (relating to licenses) or authorized to do so in conformance with 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license).

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.7. Exceptions to limitations on devices.

The limitations on fishing devices contained in this chapter do not:

(1) Prohibit the use of a gaff or landing net to assist in landing fish caught by a lawful device.

(2) Limit devices by which holders of artificial propagation licenses may remove artificially propagated fish at the licensed premises.

(3) Limit the means or devices by which fish may be taken under special permits issued under Chapter 29 of the code (relating to special licenses and permits), except trout/salmon permits.

(4) Apply to the taking, catching or killing of amphibians and reptiles—See Chapter 79 (relating to reptiles and amphibians).

(5) Apply to taking, catching or killing of blue crabs—See § 63.18 (relating to blue crabs—prohibited acts).

CHAPTER 77. (Reserved)

§§ 77.1—77.8. (Reserved).

CHAPTER 79. REPTILES AND AMPHIBIANS

Sec.	
79.1.	Definitions.
79.2.	Taking reptiles or amphibians.
79.3.	Season and daily possession limits.
79.4.	Possession permits for native species.
79.5.	Snapping turtle permits.
79.6.	Venomous snake permits.
79.7.	Organized reptile and amphibian hunt permits.
79.8.	Artificial propagation and dealers of live reptiles and amphibians.
79.9.	Sale of native species.
79.10.	Transportation and importation of native species.
79.11.	Introduction.
79.12.	Color morphs of native species.
79.13.	Natural areas.

§ 79.1. Definitions.

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

Color morph—A distinct color variant form of a reptile or amphibian.

Hunt—The act of pursuing reptiles or amphibians in an attempt to catch, take, kill or remove them, or to catch, take, kill or remove any reptile or amphibian from any waters of this Commonwealth or other areas within this Commonwealth by any means or method for any purpose whatsoever.

Native species—A reptile or amphibian species or subspecies, where applicable, that has not been introduced into this Commonwealth and occurs historically within the boundaries of this Commonwealth. The Commission will from time to time publish in the *Pennsylvania Bulletin* a list of reptile and amphibian species and subspecies, where applicable, that it has determined are native species.

Organized reptile and amphibian hunt—A hunt for reptiles or amphibians involving two or more persons acting in concert to seek, pursue, catch, take, kill or remove native species of reptiles or amphibians at an event where the reptiles or amphibians are hunted on a competitive basis. When one or more of the following factors are present, an event will be considered an organized reptile and amphibian hunt as the term is used in this chapter:

(i) The event is sponsored or promoted by a person or organization.

(ii) The event involves the award of trophies, prizes or other recognition to persons or groups for catching reptiles or amphibians.

(iii) The sponsors of the events or others publicize the event to encourage attendance of spectators.

(iv) The sponsors or organizers of the event have their own rules for the conduct of the hunt.

Sacking contest—A competition where participants place reptiles or amphibians in a sack, bag or similar container in a timed event.

Snake hooks or tongs—Implements used to grasp or lift snakes with minimal risk of injury to the animal.

Subcaudal scale—Large flat scales that are located on the rear ventral portion (underside) of a timber rattlesnake between the vent (anal scale) and the base of the rattle.

Turtle hooks—Hooks used for taking turtles that are at least 3 1/2 inches in total length with at least a 1 inch space between the point and the shank.

§ 79.2. Taking reptiles or amphibians.

(a) General.

(1) Except as otherwise provided in this section, reptiles and amphibians may only be taken by hand, hook and line, snake hooks or tongs, turtle hooks, traps and nets less than 4 feet square or 4 feet in diameter.

(2) It is unlawful to take, catch or kill a reptile or amphibian through use of a firearm.

(3) It is unlawful to take, catch or kill a reptile or amphibian through the use of chemicals, smoke, explosives, winches, jacks or other devices or materials or manually in a manner that may disrupt, damage or destroy dens or the immediate surroundings thereof. While hunting reptiles and amphibians, it is unlawful to possess chemicals, explosives, winches, jacks or other devices or materials that may disrupt, damage or destroy dens and their immediate surroundings. It is unlawful to alter or destroy habitat in the pursuit of a reptile or amphibian.

(4) It is unlawful to damage or disrupt the nest or eggs of a reptile or to gather, take or possess the eggs of any reptile.

(b) *Turtles.*

(1) It is unlawful to take, catch or kill a turtle by means of a hook other than a turtle hook as defined in § 79.1 (relating to definitions).

(2) It is unlawful for a person to leave a set line, turtle trap or other device for catching turtles unattended unless the device has attached a tag or other means of identification containing the name, address and telephone number of the owner or user of the device. Traps, nets or devices used for catching turtles must be of a floating or partially submerged design so as to allow for the release of untargeted turtles unharmed.

(c) *Frogs.*

(1) Frogs may be taken with long bows and arrow, including compound bows, crossbows, spears or gigs. Spears or gigs may not be mechanically propelled, may not have more than five barbed points and may not be used in approved trout waters.

(2) It is unlawful to take, catch or kill a frog by use of artificial light at night.

§ 79.3. Season and daily possession limits.

(a) Except as otherwise provided in subsections (b)—(e), it is unlawful for a person to take, catch or kill more than the daily limit specified in subsection (h) in 1 calendar day or to have in possession more than the possession limit, dead or alive, in whole or in parts, specified in subsection (g) or to hunt, take, catch or kill reptiles or amphibians during the closed season. A reptile or amphibian will not be considered to be in the possession of a person if, after it is taken or caught, it is immediately released unharmed to the exact location from which it was taken and is not confined to a sack, bag or other container.

(b) This section does not prohibit the sponsors of an organized reptile/amphibian hunt conducted under a permit issued under § 79.7 (relating to organized reptile and amphibian hunt permits) from possessing more than the daily limit of the species of reptiles or amphibians hunted if the total number of reptiles and amphibians held in possession during each hunt does not exceed the daily limit for the species hunted times the number of registered participants in the organized hunt. This subsection applies to possession limits only. It does not permit the sponsors of a hunt or individual hunters to take, catch or kill any number of reptiles and amphibians in excess of the daily limits.

(c) This section does not prohibit possession of numbers of reptiles and amphibians in excess of possession limits by zoos and other accredited institutions for scientific, educational or research purposes or licensed taxidermists for the purpose of mounting for properly permitted customers, Commission-recognized rehabilitators or licensed pest control agents with the written permission of the Executive Director or a designee. These persons and institutions shall maintain a current open inventory of and report annually changes in the number of reptiles and amphibians possessed. The Executive Director may limit the number of reptiles and amphibians that a person or institution may possess when the Executive Director or a designee issues permission under this subsection.

(d) This section does not prohibit possession of numbers of reptiles and amphibians in excess of possession limits by persons who have obtained a permit under § 79.4 (relating to possession permits for native species).

(e) This section does not prohibit possession of numbers of reptiles and amphibians artificially propagated in accordance with this chapter in excess of the possession limits by artificial propagators and dealers of live reptiles and amphibians registered with the Department of Agriculture in accordance with 3 Pa.C.S. Chapter 42 (relating to aquaculture development).

(f) In prosecutions for violations of the possession limits, when venomous reptiles have been killed in apparent violation of the limits, it shall be a defense that the person who killed the venomous reptiles acted under a reasonable apprehension of immediate death or bodily harm to himself or other persons in his immediate vicinity, if no more venomous reptiles are killed than necessary to protect life and limb and if the person reported the kills in writing to the Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616, within 5 business days after the kill. It is unlawful for a person to possess a venomous reptile, in whole or in parts, that was killed under this subsection.

(g) When season or annual limits apply, a season or annual limit has been reached once a reptile or amphibian, dead or alive, in whole or in parts, has not been immediately released to the exact location from which taken and is in the possession of a person.

(h) The following seasons, sizes, catch and possession limits apply to reptiles and amphibians except endangered and threatened species:

<i>SPECIES</i>	<i>SEASON</i>	<i>DAILY LIMIT</i>	<i>POSSESSION LIMIT</i>
Bullfrog (<i>Rana catesbeiana</i>)	July 1 to October 31	10 (combined species)	20 (combined species)
Green frog (<i>Rana clamitans</i>)	July 1 to October 31	10 (combined species)	20 (combined species)
Common snapping turtle (<i>Chelydra serpentina</i>)	July 1 to October 31	15	30
Blanding's turtle (<i>Emys blandingii</i>)	No open season	0	0
Spotted turtle (<i>Clemmys guttata</i>)	No open season	0	0
Wood turtle (<i>Glyptemys insculpta</i>)	No open season	0	0
Eastern box turtle (<i>Terrapene carolina carolina</i>)	No open season	0	0
Broadhead skink (<i>Eumeces laticeps</i>)	No open season	0	0
Northern coal skink (<i>Eumeces anthracinus</i>)	No open season	0	0

<i>SPECIES</i>	<i>SEASON</i>	<i>DAILY LIMIT</i>	<i>POSSESSION LIMIT</i>
Mudpuppy (<i>Necturus maculosus</i>)	No open season	0	0
Eastern hellbender (<i>Cryptobranchus alleganiensis alleganiensis</i>)	No open season	0	0
Marbled salamander (<i>Ambystoma opacum</i>)	No open season	0	0
Jefferson salamander (<i>Ambystoma jeffersonianum</i>)	No open season	0	0
Four-toed salamander (<i>Hemidactylium scutatum</i>)	No open season	0	0
Ravine salamander (<i>Plethodon richmondi</i>)	No open season	0	0
Northern cricket frog (<i>Acris crepitans crepitans</i>)	No open season	0	0
Mountain chorus frog (<i>Pseudacris brachyphona</i>)	No open season	0	0
Striped chorus frog complex (<i>Pseudacris feriarum feriarum</i> , <i>P. feriarum triseriata</i>)	No open season	0	0
Northern fence lizard (<i>Sceloporus undulatus</i>)	No open season	0	0
Queen snake (<i>Regina septemvittata</i>)	No open season	0	0
Shorthead garter snake (<i>Thamnophis brachystoma</i>)	No open season	0	0
Eastern ribbon snake (<i>Thamnophis sauritus</i>)	No open season	0	0
Mountain earth snake (<i>Virginia pulchra</i>)	No open season	0	0
Smooth earth snake (<i>Virginia valeriae</i>)	No open season	0	0
Smooth green snake (<i>Liochlorophis vernalis</i>)	No open season	0	0
Eastern hognose snake (<i>Heterodon platirhinos</i>)	No open season	0	0
Eastern worm snake (<i>Carphophis amoenus</i>)	No open season	0	0
Amphibian eggs and tadpoles	No closed season	15 (combined species)	15 (combined species)
Timber rattlesnake (<i>Crotalus horridus</i>)	Second Saturday in June to July 31*	1 annual limit** (must be at least 42 inches in length, measured lengthwise along the dorsal surface from the snout to the tail, excluding the rattle, and must possess 21 or more subcaudal scales.)	
Northern copperhead (<i>Agkistrodon contortrix</i>)	Second Saturday in June to July 31		1 annual limit**
Native species not listed in this subsection	No closed season	1	1

*It is unlawful for a person to hunt, take, catch or kill timber rattlesnakes west of Route 15 and south of Interstate 81 to the Maryland line where there is no open season.

**It is unlawful for a person to take, catch or kill more than one timber rattlesnake or northern copperhead per calendar year except as provided in § 79.7(f) (relating to organized reptile and amphibian hunt permits). It is unlawful for a person to possess more than one timber rattlesnake or northern copperhead at any time except as provided in § 79.7(f).

§ 79.4. Possession permits for native species.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for the protection and management of particular fish), that it is necessary for persons who possess a live reptile or amphibian as of January 1, 2007, in compliance with the possession limits in effect on December 31, 2006, but not in compliance with the possession limits in effect on January 1, 2007, to have a permit for the continued possession of the reptile or amphibian for the remainder of the animal's life. Application for a one-time permit under this section must be made on a form prescribed by the Commission, must be accompanied by the appropriate fee and must be made by no later than June 30, 2007. Permits may be obtained by applying to: Bureau of Law Enforcement, 1601 Elmerton Avenue, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. The fee is \$10.

(b) *Transfer.* If a permittee gives a reptile or amphibian covered by a permit under this section to another person, the permit may be transferred to the new owner upon

completion of an application on the form provided by the Commission, surrender of the original permit and payment of the appropriate fee. The new owner shall apply for transfer of the permit prior to taking possession of the animal. The fee to transfer a permit under this section is \$10.

(c) *Denial.* The denial of a permit under this section is appealable in the manner provided by §§ 51.41—51.46 (relating to permit procedures). A person who is denied a permit under this section shall surrender the reptile or amphibian to an officer authorized to enforce the code or provide proof that the animal was humanely euthanized or given to a person or organization that can lawfully possess it. Under no circumstances may a person who is denied a permit under this section release the animal into the wild.

(d) *Required permit.* It is unlawful to retain possession of a live reptile or amphibian possessed as of January 1, 2007, that is in compliance with the possession limits in effect on December 31, 2006, but not in compliance with

the possession limits in effect on January 1, 2007, without the required permit from the Commission. A permit is required for continued possession regardless of the animal's origin. A separate permit shall be obtained for each reptile or amphibian and shall be kept at the location where the animal is held. Upon request, the permit shall be presented to an officer authorized to enforce the code. Permittees shall comply with the terms and conditions of the permit. It is unlawful to alter, borrow or lend a permit under this section.

(e) *Exceptions.* This section does not apply to the possession of reptiles and amphibians that are covered by permissions and other permits issued under this subpart.

§ 79.5. Snapping turtle permits.

(a) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the common snapping turtle (*Chelydra serpentina*) that persons who hunt, take, catch or kill this species for the purpose of sale, barter or trade have an annual permit for the activity. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$50 per year; the fee for nonresidents is \$100 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) It is unlawful to hunt, take, catch, kill or possess the common snapping turtle for purposes of sale, barter or trade without first procuring the required permit. The required permit shall be in possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

(c) It is unlawful to sell, barter, trade or offer for sale a common snapping turtle, dead or alive, in whole or in parts, taken from lands or waters of this Commonwealth without first procuring the permit required under this section.

§ 79.6. Venomous snake permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the timber rattlesnake (*Crotalus horridus*) and northern copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit must be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$25 per year; the fee for nonresidents is \$50 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or northern copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all

times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

(c) *Reporting.* Within 10 business days following the capture or kill, or if no snake is captured or killed, within 10 days of the conclusion of the season, the permittee shall complete a report on the form prescribed by the Commission and shall mail the report to the Commission's Natural Diversity Section, 450 Robinson Lane, Bellefonte, Pennsylvania 16823.

(d) *Tagging of timber rattlesnakes.*

(1) A person who takes, catches, kills or possesses a timber rattlesnake shall immediately complete the possession tag that is attached to his permit and detach the tag from the permit in the field. The possession tag shall be completed in accordance with the instructions printed on the tag, and the information to be provided includes, but is not limited to, the municipality and county where the snake was captured or killed, the date of capture or kill and a description of the snake, including color phase, sex, number of subcaudal scales and length in inches. The possession tag shall be kept in a safe location so that it can be presented along with the timber rattlesnake to which it pertains upon the request of an officer authorized to enforce the code.

(2) After the possession tag is detached from the permit, it is unlawful to take, catch, kill or possess another timber rattlesnake except as otherwise provided in this chapter.

(3) It is unlawful to alter, borrow, lend or transfer possession tags under this section.

(4) When presenting a timber rattlesnake to a taxidermist for mounting, the tag must remain with the rattlesnake while in the possession of the taxidermist.

(e) *Field dressing of timber rattlesnakes.* A permittee may field dress a timber rattlesnake so long as the head and tail remain intact.

(f) *Measurement of timber rattlesnakes.* Upon the request of an officer authorized to enforce the code, a permittee shall measure a timber rattlesnake to determine its length. If the permittee is unable to measure the timber rattlesnake, the officer may seize the snake so that a measurement may be taken at another location.

§ 79.7. Organized reptile and amphibian hunt permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of fish), that it is necessary for the proper protection and management of reptiles and amphibians in this Commonwealth that organized reptile and amphibian hunts be conducted under permits issued under this section. The sponsor of an organized reptile and amphibian hunt shall apply for a permit by no earlier than January 1 and no later than March 1 of the year for which the hunt is proposed. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for the permit is \$100. The denial of a permit under this section is appealable in a manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Permit issuance.*

(1) The Executive Director will issue permits to applicants who demonstrate that they are responsible and qualified to conduct an organized reptile and amphibian hunt. In determining the qualifications of an applicant, the Executive Director, or a designee, may consider factors as deemed appropriate, including, but not limited to, the experience of the applicant in conducting the events, the responsiveness of the applicant to reporting requirements, the safety record of the applicant, the ability of the applicant to conduct educational programs, the context of the event and competing applications.

(2) The Executive Director may limit the number of organized reptile and amphibian hunt permits to be issued for a particular vicinity and time proximity. In general, permits will be issued to qualified applicants no earlier than March 15 of the year in which the application is submitted. If the Commission is aware of events scheduled in the vicinity of one another within 4 weeks, and the Executive Director determines that all events cannot be permitted consistent with resource management and protection, the Executive Director may designate the applicants as competing applications. If competing applications are designated, the Executive Director may, if the parties cannot agree on the withdrawal of one or more applications, award a permit on a random basis, an alternate year basis or some other rational basis as the interests of fairness may dictate.

(c) *Required permit.* It is unlawful to engage in organized reptile and amphibian hunts unless the sponsors of the hunts have first procured the required permit for each hunt. The required permits shall be held in possession of the sponsor at all times during each hunt. Permittees shall comply with the terms and conditions of each permit and furnish reports required thereby.

(d) *Reporting.* At the location of the hunt, the permittee shall complete a report on the form prescribed by the Commission that will include, at a minimum, the location of the hunt; the names of the registered participants; the species name of the reptile or amphibian that was captured or killed; a description of the reptile or amphibian that was captured or killed; the date and time the reptile or amphibian was brought to the hunt and the permit number of the person who captured or killed the reptile or amphibian. The permittee shall complete the form as registered participants deliver their reptiles or amphibians for entry into the competition. This form shall be presented upon the request of an officer authorized to enforce the code. Within 10 days following the conclusion of the event, the permittee shall submit the form to the Commission.

(e) *Season.* It is unlawful to conduct an organized reptile or amphibian hunt for any species of reptile or amphibian except during the open season for the reptile or amphibian as specified in § 79.3 (relating to season and daily possession limits).

(f) *Provisional timber rattlesnake permits.*

(1) *Conditions.* A permitted sponsor of an organized hunt may issue provisional permits on the form prescribed by the Commission subject to the following conditions:

(i) A provisional permit allows the holder thereof to take, catch or possess one timber rattlesnake without tagging the snake as required by § 79.6(d) (relating to venomous snake permits).

(ii) Provisional permits will be issued only in connection with an organized hunt and will be valid only during the period of the organized hunt as stated in the permit.

(iii) Provisional permits will only be issued to holders of permits under § 79.6 who are registered participants in the organized hunt.

(iv) A snake caught under a provisional permit shall be entered into the hunt and shall become the possession of the permitted sponsor of the organized hunt until the permitted sponsor returns the snake to the holder of the provisional permit.

(v) The holder of a provisional permit shall be responsible for returning a snake caught under a provisional permit unharmed to the site from which it was taken by sunset of the last day of the organized hunt.

(vi) Provisional permits in no way allow the holders thereof to possess a snake beyond the period of the organized hunt. The holder of a provisional permit who wishes to retain possession of a snake caught under a provisional permit shall tag the snake in accordance with § 79.6(d).

(2) *Prohibited acts.* The following acts are unlawful:

(i) A permitted sponsor of an organized hunt issues a provisional permit in violation of this subsection.

(ii) The holder of a provisional permit violates the terms and conditions of the provisional permit.

(iii) The holder of the provisional permit possesses a snake beyond the period of the organized hunt.

(iv) The holder of a provisional permit releases the snake to a site other than the site from which it was taken.

(g) *Sacking contests.* Sacking contests of native species regardless of origin are prohibited. It is unlawful to import timber rattlesnakes or any subspecies, hybrid or variety of *Crotalus horridus*, into this Commonwealth for use in connection with a sacking contest.

(h) *Treatment of reptiles and amphibians.* Reptiles and amphibians held in connection with an organized hunt may not be confined without water or shade or otherwise physically abused or handled roughly. Free-handling of native, venomous reptiles in an organized hunt is prohibited. At the conclusion of the organized hunt, the sponsor shall return the snakes to the registered participants who entered the snakes in the event.

§ 79.8. Artificial propagation and dealers of live reptiles and amphibians.

(a) *General.* Except for hobby breeders and pet stores as defined in 3 Pa.C.S. Chapter 42 (relating to aquaculture development), it is unlawful to artificially propagate or deal in live reptiles and amphibians without being registered with the Department of Agriculture (Department) under 3 Pa.C.S. Chapter 42. It is unlawful for anyone, regardless of whether or not registered, to artificially propagate reptiles and amphibians except those species, subspecies and color morphs that the Commission has approved for artificial propagation in this Commonwealth in accordance with this section.

(b) *Approved lists.* The Bureau of Fisheries will maintain lists of species, subspecies and color morphs for which the Department may issue registrations for artificial propagation and registrations for dealers of live reptiles and amphibians. The Bureau of Fisheries will maintain two separate lists—one that the Commission

has approved for artificial propagation in an open system and one that the Commission has approved for artificial propagation in a closed system. The Director of the Bureau of Fisheries may update or modify the lists of approved species, subspecies and color morphs by adding species, subspecies or color morphs to or deleting species, subspecies or color morphs from the lists as necessary for the protection and management of reptiles and amphibians in this Commonwealth. The Commission will provide the lists to the Department on or before January 31 each year and whenever the Commission updates or modifies the lists. Copies of the lists of approved species, subspecies and color morphs are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, Pennsylvania 16823.

(c) *Open systems.* Reptiles and amphibians may be artificially propagated or held by dealers in an open system only when the Commission has approved the species, subspecies or color morphs for artificial propagation in an open system.

(d) *Closed systems.*

(1) Reptiles and amphibians may be artificially propagated or held by dealers in a closed system that meets the requirements of this subsection only when the Commission has approved the species, subspecies or color morphs for artificial propagation in a closed system.

(2) To artificially propagate or deal in live reptiles and amphibians in a closed system, an applicant for registration shall certify that the following conditions are met:

(i) The closed system will be constructed and operated in a manner that prevents the escape or liberation of live animals. Typically, a closed system will be housed indoors in a structure enclosed by solid walls, floor and roof. For purposes of this paragraph, a wall, floor or roof will be considered "solid" if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of live reptiles or amphibians from the closed system. Other types of housing structures will be considered closed if they are appropriate for the species being held and prevent their escape or liberation onto the lands or into the waters of this Commonwealth.

(ii) If water will be used in the propagator's or dealer's normal operations, discharge or disposal of the water will be in a manner that prevents the escape or liberation of live animals onto the lands or into the waters of this Commonwealth.

(iii) No live reptiles or amphibians or live reptile or amphibian eggs will be permitted to escape. Accidental escape, spillage or loss of live reptiles or amphibians including their eggs will be contained within the facility in a manner that prevents the reptiles and amphibians or their eggs from escaping onto the lands or into the waters of this Commonwealth.

(3) The Commission may request from the Department a list of registered propagators and dealers that hold reptiles and amphibians in closed systems. The Commission, in its discretion, may inspect the closed systems to ensure that they are designed and constructed in a manner to prevent escape of live reptiles or amphibians or their live eggs onto lands or into the waters of this Commonwealth. In addition, the Commission, in its discretion, may inspect the closed systems at any time to ensure compliance with this subsection, and the Commission may issue an order to suspend operations of any of

these systems when an inspection discloses that it is not in compliance with this subsection.

(4) The Commission will invite the Department's Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators and dealers to help them ensure closed systems prevent escape of reptiles and amphibians onto the lands or into the waters of this Commonwealth. These guidelines will assist registered propagators and dealers in the design, construction and maintenance of closed systems and will assist the Commission in inspecting these systems.

(5) It is unlawful for an operator of a closed system to liberate or allow live reptiles or amphibians to escape onto lands or into the waters of this Commonwealth.

(6) A registered operator of a closed system shall develop, maintain and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or recovering escaped or liberated live reptiles and amphibians in the event of a closed system failure.

(7) A registered operator of a closed system shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of an escape or liberation of live reptiles and amphibians.

§ 79.9. Sale of native species.

Except as otherwise provided in the code or this chapter, it is unlawful to take, catch, kill or possess for purposes of selling or offering for sale or to sell, offer for sale, import or export for consideration, trade or barter, or purchase an amphibian or reptile that was taken from lands or waters wholly within this Commonwealth, and its progeny, whether dead or alive, in whole or in parts, including eggs or any life stage.

§ 79.10. Transportation and importation of native species.

(a) It is unlawful to transport or import into or within this Commonwealth a native species from another jurisdiction.

(b) It is unlawful to receive a native species that was transported or imported into or within this Commonwealth from another jurisdiction.

(c) This section does not apply to zoos or other accredited institutions that transport and import native species for scientific, educational or research purposes and Commission-recognized rehabilitators provided that they have received the written permission of the Executive Director or a designee under § 79.3(c) (relating to season and daily possession limits).

§ 79.11. Introduction.

(a) *Nonnative species.* It is unlawful to introduce a nonnative species into the natural environment of this Commonwealth. Persons who import nonnative reptiles or amphibians into this Commonwealth shall institute appropriate safeguards to prevent their introduction into the natural environment of this Commonwealth.

(b) *Native species.*

(1) *General rule.* It is unlawful to reintroduce a native species taken from the wild into the natural environment of this Commonwealth except when the following conditions are met:

(i) The reptile or amphibian is released to the point of capture.

(ii) The reptile or amphibian is released within 30 days of capture.

(iii) The reptile or amphibian is released during the period, May 1 through September 31.

(iv) The reptile or amphibian is in good health.

(v) The reptile or amphibian has not been in physical contact with another reptile or amphibian while in captivity.

(2) *Artificially propagated animals.* It is unlawful to introduce or facilitate the introduction of a native species that has been artificially propagated except when the following conditions are met:

(i) The Commission has approved the native species for artificial propagation in an open system in accordance with § 79.8 (relating to artificial propagation and dealers of live reptiles and amphibians).

(ii) The native species has been propagated by a propagator registered by the Department of Agriculture in accordance with 3 Pa.C.S. Chapter 42 (relating to aquaculture development).

§ 79.12. Color morphs of native species.

(a) For purposes of this chapter, it is presumed that color morphs of certain native species that are held in captivity were not taken from the wild. Therefore, the Commission has determined that color morphs of certain native species are exempt from the requirements of this chapter as provided in this section. The Commission will publish in the *Pennsylvania Bulletin* a list of color morphs of native species to which the following provisions apply:

(1) Color morphs of native species designated by the Commission are not subject to the possession limits of § 79.3 (relating to season and daily possession limits) provided they are not taken from the wild.

(2) Color morphs of native species designated by the Commission may be artificially propagated provided they are not taken from the wild and they are propagated in a closed system meeting the requirements of § 79.8 (relating to artificial propagation and dealers of live reptiles and amphibians).

(3) Color morphs of native species designated by the Commission may be sold by artificial propagators and dealers registered in accordance with 3 Pa.C.S. Chapter 42 (relating to aquaculture development) provided they are not taken from the wild.

(b) The Commission recognizes that the captive breeding of color morphs approved for propagation by the Commission in this section may result in animals that have a normal color appearance (typical phenotype). The typical phenotype progeny of these color morphs may be sold provided that the following conditions are met:

(1) They are sold by an artificial propagator or dealer registered in accordance with 3 Pa.C.S. Chapter 42.

(2) They were propagated in a closed system meeting the requirements of § 79.8 by a registered propagator.

(3) The artificial propagator or dealer that intends to sell them shall file an initial inventory on the form prescribed by the Commission that contains the numbers in possession as of December 31, 2006, and other information that the Commission requires. The artificial propagator or dealer shall submit the inventory to the Commission's Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823 by no later than January 31, 2007.

(4) The artificial propagator or dealer selling them shall maintain a current inventory on a form prescribed by the Commission, showing their origin, numbers and other information that the Commission requires. Artificial propagators or dealers shall maintain the inventory at their place of business and shall have the inventory in their possession when selling them. The inventory shall be presented upon the request of an officer authorized to enforce the code.

(5) The artificial propagator or dealer selling them shall submit an annual report on the form prescribed by the Commission that includes changes in the numbers possessed (for example, gains and losses to the inventory) and other information that the Commission requires. The artificial propagator or dealer shall submit the report to the Commission's Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823 by no later than January 31 of the following year.

§ 79.13. Natural areas.

(a) This chapter applies to all native species occurring naturally within the boundaries of selected Natural Areas of the Department of Conservation and Natural Resources.

(b) The taking, catching, killing or possession of individuals of any native species occurring naturally within the boundaries of designated natural areas by persons other than those possessing a valid scientific collector's permit is prohibited.

(c) Notice of this section will be posted at parking lots or access areas on the fringe of each designated natural area.

(d) Subsections (a) and (b) apply to natural areas within State Forests posted in accordance with subsection (c).

[Pa.B. Doc. No. 06-2512. Filed for public inspection December 22, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 492]

Hearings and Appeals

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on March 16, 2006, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) (Act 71) and to further the intent of Act 71. The Board has decided to make changes to the temporary regulations, dated March 16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board has deposited with the Bureau amendment to Chapter 492. The amendment is effective as of December 4, 2006.

The temporary regulation of the Board in Chapter 492 are amended by amending § 492.6(a) and (j) (relating to hearings generally) to read as set forth in Annex A.

Order

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

(a) Acting under the authority of the Act 71, the amendment to the temporary regulations adopted by resolution at the December 4, 2006, public meeting are adopted. The amendment to the temporary regulations pertains to hearings and appeals.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 492, are amended by amending § 492.6 to read as set forth in Annex A, with ellipses referring to the existing regulation.

(c) The amendment is effective December 4, 2006.

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

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-55. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART VII. GAMING CONTROL BOARD
Subpart H. PRACTICE AND PROCEDURE
CHAPTER 492. HEARINGS AND APPEALS

§ 492.6. Hearings generally.

(a) Unless the Board elects to hear a matter directly, all matters, except for hearings under § 441.19 (relating to licensing hearings for slot machine licenses), shall be assigned to the OHA. The Board may, in its discretion, designate a member of the Board, or other qualified person to serve as presiding officer in a particular matter.

* * * * *

(j) Hearings will be scheduled by the OHA, except for hearings under § 441.19 (relating to licensing hearings for slot machine licenses) which will be scheduled as the Board may direct. Hearings for violations of the act will be scheduled within 90 days of the initiation of action by the Bureau.

* * * * *

[Pa.B. Doc. No. 06-2513. Filed for public inspection December 22, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 503]
Self Exclusion

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2006-8-REG, the Board has the authority to amend the temporary regulations adopted on May 19, 2006, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) (Act 71) and to further the intent of Act 71. To respond to changes in the Board's self-exclusion program, the Board has decided to make changes to the temporary regulations, dated May 19, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 36 Pa.B. 2902 (June 10, 2006).

Therefore, the Board has deposited amendments to Chapter 503 (relating to self exclusion) with the Bureau. The amendments are effective as of December 4, 2006.

The temporary regulations of the Board in Chapter 503 are amended by amending Chapter 503 to read as set forth in Annex A.

Order

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

(a) Acting under the authority of Act 71, the amendments to the temporary regulations adopted by resolution at the December 4, 2006, public meeting are adopted. The amendments to the temporary regulations pertain to self exclusion.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 503, are amended by amending §§ 503.1 and 503.3—503.6; by deleting § 503.2 and by adding § 503.7 to read as set forth in Annex A.

(c) The amendments are effective December 4, 2006.

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

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-52. (1) State Gaming Fund; (2) Implementing Year 2006-07 is \$188,000; (3) 1st Succeeding Year 2007-08 is \$108,000; 2nd Succeeding Year 2008-09 is \$112,000; 3rd Succeeding Year 2009-10 is \$116,000; 4th Succeeding Year 2010-11 is \$121,000; 5th Succeeding Year 2011-12 is \$126,000; (4) 2005-06 Program—\$26,400,000; 2004-05 Program—\$13,200,000; 2003-04 Program—\$2,900,000; (7) Board Budget; (8) recommends adoption. Funds from the administrative accounts within the State Gaming Fund will be used to cover the costs of these regulations.

Annex A
TITLE 58. RECREATION
PART VII. GAMING CONTROL BOARD
Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 503. SELF EXCLUSION

§ 503.1. Definitions.

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

Fully executed gaming transaction—An activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

Self-excluded person—A person whose name is included, at the person's own request, on the self-exclusion list maintained by the Board.

Self-exclusion list—A list of names of persons who, under this chapter, have voluntarily agreed to be excluded from the gaming floor and all gaming activities at a licensed facility and to be prohibited from collecting any

winnings, recovering any losses or accepting complimentary gifts or services or any other thing of value at a licensed facility.

Winnings—Any money or thing of value received from, or being owed by a slot machine licensee as a result of a fully executed gaming transaction.

§ 503.2. (Reserved).

§ 503.3. Request for self exclusion.

(a) A person may have the person's name placed on the self-exclusion list by submitting a request for self exclusion in the form and manner required by the Board.

(b) A person requesting placement on the self-exclusion list shall submit, in person, a completed request for self exclusion to the Board. The Board will designate locations for submission of completed requests for self exclusion in accordance with this chapter.

(c) A request for self exclusion must include the following identifying information:

- (1) Name, including any aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number of current residence.
- (5) Social Security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) Government issued photo identification such as driver's license or passport.

(d) The information provided in subsection (c) shall be updated by the self-excluded person within 30 days of a change.

(e) The length of self exclusion requested by the person may be one of the following:

- (1) One year (12 months).
- (2) Five years.
- (3) Lifetime.

(f) A request for self exclusion must include a signed release which:

- (1) Acknowledges that the request for self exclusion has been made voluntarily.
- (2) Certifies that the information provided in the request for self exclusion is true and accurate.
- (3) Acknowledges that the individual requesting self exclusion is a problem gambler.

(4) Acknowledges that if the individual is found on the gaming floor or engaging in gaming activities at any licensed facility, that the individual will be subject to removal and may be subject to arrest for criminal trespass under 18 Pa.C.S. § 3503 (relating to criminal trespass).

(5) Releases, indemnifies, holds harmless and forever discharges the Commonwealth, the Board, and all slot machine licensees from any claims, damages, losses, expenses or liability arising out of, by reason of or relating to the self-excluded person or to any other party for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(i) The failure of a slot machine licensee to withhold gaming privileges from or restore gaming privileges to a self-excluded person.

(ii) Otherwise permitting or not permitting a self-excluded person to engage in gaming activity in a licensed facility while on the list of self-excluded persons.

(iii) Disclosure by a slot machine licensee of information regarding a self-excluded person to any person or group who is not affiliated with the slot machine licensee.

(iv) Disclosure of information regarding a self-excluded person by the Board.

(g) Self exclusions for 1 or 5 years remain in effect until the self-excluded person requests removal from the Board's self-exclusion list under § 503.6 (relating to removal from self-exclusion list).

(h) A person submitting a self-exclusion request shall be required to present a government-issued photo identification containing the person's signature and photograph when the person submits the request.

(i) A person requesting self exclusion under this chapter shall be required to have a photograph taken by the Board, or agent thereof, upon the Board's acceptance of the request to be on the list.

§ 503.4. Self-exclusion list.

(a) The Board will maintain the official self-exclusion list and notify each slot machine licensee of any additions to or deletions from the list by first class mail or by transmitting a notice by electronic means directly to each slot machine licensee.

(b) The notice provided to slot machine licensees by the Board will include the following information concerning a person who has been added to the self-exclusion list:

- (1) Name, including any aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number of current residence.

(5) Social Security number, when voluntarily provided by the person requesting self exclusion under section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) A copy of the photograph taken by the Board under § 503.3(i) (relating to request for self exclusion).

(c) The notice provided to slot machine licensees by the Board concerning a person whose name has been removed from the self-exclusion list will include the name and date of birth of the person.

(d) A slot machine licensee shall maintain a copy of the self-exclusion list and establish procedures to ensure that the copy of the self-exclusion list is updated and that all appropriate employees and agents of the slot machine licensee are notified of any addition to or deletion from the list within 5 business days after the day notice is mailed to each slot machine licensee or transmitted electronically under subsection (a).

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter.

(f) Slot machine licensees, employees or agents thereof may not disclose the name of, or any information about, a

person who has requested self exclusion to anyone other than employees and agents of the slot machine licensee whose duties and functions require access to the information. Notwithstanding the foregoing, a slot machine licensee may disclose the identity of a self-excluded person to appropriate employees of other slot machine licensees in this Commonwealth or affiliated gaming entities in other jurisdictions from disclosing the identity of persons self excluded to other affiliated gaming entities in this Commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated licensed gaming entities.

(g) A self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's self-exclusion list.

(h) Any winnings incurred by a self-excluded person shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(i) For the purposes of this section, any winnings issued to, found on or about, or redeemed by a self-excluded person shall be presumed to constitute winnings subject to remittance to the Board.

§ 503.5. Duties of slot machine licensees.

(a) A slot machine licensee shall train its employees and establish procedures that are designed to:

(1) Identify a self-excluded person when present in a licensed facility and, upon identification, notify the following persons:

(i) Employees of the slot machine licensee whose duties include the identification and removal of self-excluded persons.

(ii) Designated representatives of the Board.

(2) Notify the Pennsylvania State Police when a self-excluded person is found on the gaming floor or engaging in gaming activities.

(3) Refuse wagers from and deny gaming privileges to a self-excluded person.

(4) Deny check cashing privileges, player club membership, complimentary goods and services, junket participation and other similar privileges and benefits to any self-excluded person.

(5) Ensure that self-excluded persons do not receive, either from the slot machine licensee or any agent thereof, junket solicitations, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to gaming activities at its licensed facility.

(6) Comply with § 503.4(d) (relating to self-exclusion list).

(7) Disseminate written materials to patrons explaining the self-exclusion program.

(b) A slot machine licensee shall submit a copy of its procedures and training materials established under subsection (a) to the Board 30 days prior to initiation of gaming activities at the licensed facility. Amendments to these procedures shall be submitted to the Board at least 10 business days prior to their implementation. If the Board does not object to the procedures or amendments thereto, the procedures or amendments shall be deemed to be approved.

(c) A slot machine licensee shall post signs at all entrances to a licensed facility indicating that a person who is on the self-exclusion list may be subject to arrest for trespassing under 18 Pa.C.S. § 3503 if the person is on the gaming floor or engaging in gaming activities.

(d) The list of self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of the act and subjects the disclosing party to sanctions the Board deems appropriate.

(e) Under section 1516 of the act (relating to list of persons self excluded from gaming activities), slot machine licensees and employees thereof may not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gaming privileges from or restore gaming privileges to a self-excluded person.

(2) Permitting or not permitting a self-excluded person to gamble.

(3) Good faith disclosure of the identity of a self-excluded person to someone, other than those authorized by this chapter, for the purpose of complying with this chapter.

(f) A slot machine licensee shall report the discovery of a self-excluded person on the gaming floor or engaging in gaming activities to the Board within 3 days in a form and manner prescribed by the Board.

§ 503.6. Removal from self-exclusion list.

(a) A self-excluded person may, upon the expiration of the period of self exclusion, request removal of the person's name from the self-exclusion list by submitting a completed request for removal as required by subsections (b) and (c).

(b) A request for removal from the self-exclusion list must be in a form prescribed by the Board. The form must include:

(1) The identifying information specified in § 503.3(c) (1)–(7) (relating to request for self exclusion).

(2) The signature of the person requesting removal from the self-exclusion list indicating acknowledgment of the following statement:

“I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self exclusion, and I authorize the Board to permit all slot machine licensees of the Commonwealth of Pennsylvania to reinstate my gaming privileges at licensed facilities.”

(c) The request shall be submitted to a location designated by the Board. A person submitting a request for removal from the self-exclusion list shall be required to present a valid government-issued photo identification containing the person's signature when the request is submitted. No sooner than 5 business days after the request is submitted, the person submitting the request shall:

(1) Return to the Board office where the request was filed.

(2) Present a valid government-issued photo identification containing the person's signature.

(3) Sign the request a second time.

(d) Within 5 business days after the request is signed for a second time, the Board will delete the name of the person requesting removal from the self-exclusion list and notify each slot machine licensee of the removal.

§ 503.7. Exceptions to the prohibition from being on the gaming floor for individuals on the self-exclusion list.

The prohibition against allowing self-excluded persons to be on the gaming floor does not apply to an individual who is on the self-exclusion list if all of the following apply:

(1) The individual is carrying out the duties of employment or incidental activities related to employment.

(2) The slot machine licensee's security department and the Board's office located at the licensed facility have received prior notice.

(3) Access to the gaming floor is limited to the time necessary to complete the individual's assigned duties.

(4) The individual does not otherwise engage in any gaming activities.

[Pa.B. Doc. No. 06-2514. Filed for public inspection December 22, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 271, 279, 287 AND 293]

Notification of Proximity to Airports

The Environmental Quality Board (Board) proposes to amend Chapters 271, 279, 287 and 293. The amendments are based on a petition by the United States Department of Defense (DOD) requesting that the Department of Environmental Protection (Department) address the potential hazards posed to military aircraft from bird strikes near waste landfill and transfer facilities. The proposed rulemaking would broaden the definition of "airport" to include military airports, extend existing airport notification requirements for waste landfills to military airports and impose an airport notification requirement on waste transfer facilities.

This proposed rulemaking was adopted by the Board at its meeting of October 17, 2006.

A. Effective Date

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

B. Contact Persons

For further information, contact Stephen Socash, Chief, Division of Municipal and Residual Waste, P. O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-7381; or Susan Seighman, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section I of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department's website: www.depweb.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under the authority of the following:

The Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101—6018.1003), which in section 105(a) of the SWMA (35 P. S. § 6018.105(a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to accomplish the purposes and carry out the provisions of the SWMA. Sections 102(4) and 104(6) of the SWMA (35 P. S. §§ 6018.102(4) and 6018.104(6)) provide the Department with the power and duty to regulate the storage, collection, transportation, processing, treatment and disposal of solid waste to protect the public health, safety and welfare.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101—4000.1904), which in section 302 (53 P. S. § 4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of Act 101. Sections 102(b)(3) and 301(6) of Act 101 (53 P. S. §§ 102(b)(3) and 301(6)) state the intent of protecting the public health, safety and welfare from the dangers associated with transportation, processing, treatment, storage and disposal of municipal

waste and provide the Department with the power and duty to abate public nuisances.

Section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17) authorizes and requires the Department to protect the citizens of this Commonwealth from unsanitary conditions and other nuisances, including a condition that is declared to be a nuisance by any law administered by the Department. Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) grants the Board the power and the duty to formulate, adopt and promulgate rules and regulations as determined by the Board for the proper performance of the work of the Department.

D. Background and Purpose

Current municipal and residual waste regulations require applicants for municipal and residual waste landfills, construction and demolition waste landfills and residual waste disposal impoundments to notify public airports if a new or expanded facility is proposed within 6 miles of an airport runway. There is no similar notification requirement for municipal or residual waste transfer facilities because these operations are primarily conducted in enclosed structures. The DOD maintains, and the Department concurs, that there is a concern that waste transfer activities, such as waste loading, unloading and storage, may still occur outside of an enclosed building and pose a risk to aircraft approaching or departing from nearby airports. This is a risk to public health and safety and includes military personnel and people living in the area. The risk of bird strikes to aircraft becomes negligible when the airport runway is greater than 6 miles from the waste transfer facility. Accordingly, the DOD petitioned the Department on July 28, 2004, to require an airport notification from waste transfer facilities. Furthermore, since the current definition of "airport" in §§ 271.1 and 287.1 (relating to definitions) does not include the term "military airports," the petition also requests that the Department include this term in the definition.

The Board accepted the petition for further study on October 19, 2004. The Department agreed with the petition and submitted a Petition Report to the Board on April 19, 2005, recommending that the municipal and residual waste regulations be amended as requested by the DOD.

Adding the term "military airport" to the definition of "airport" in §§ 271.1 and 287.1 will broaden the definition to address DOD airfields as well as public airports. With the exception of two strictly military airports in this Commonwealth, many public airports also serve as military airports. New §§ 279.112 and 293.112 (relating to notification of proximity to airport) will require a new or expanding waste transfer facility to provide notification to airports, including military airports, if the facility is within 6 miles of the airport runway. By including military airports in the definition of "airport," the notification requirements are also being extended to military airports for new or expanded landfills.

The proposed rulemaking was presented to the Solid Waste Advisory Committee (SWAC) on July 14, 2005. Some members of the SWAC, representing the interests of the waste industry, opposed this proposed rulemaking. These members asserted that, unlike landfills, waste transfer facilities do not attract birds as the activities are primarily conducted in enclosed structures. Another industry concern was the potential lack of a timely response

to the notice from the airport, which might delay permit issuance. Other concerns expressed included: the intent of the petition; the additional notification burden imposed on the waste industry; the airport not responding in a timely fashion or commenting on nontechnical issues; and this requirement applying to a large number of facilities.

The Department, in agreement with the petition filed by the DOD, maintains that this proposed rulemaking will provide for increased safety for both military and nonmilitary personnel operating aircraft from airports in the vicinity of waste transfer facilities and landfills. The Department further discussed its position with the SWAC on May 11, 2006, but the SWAC voted against the proposed rulemaking.

E. Summary of Regulatory Requirements

A description of the proposed regulations is as follows:

§§ 271.1 and 287.1. Definitions.

The term "airport" is proposed to be amended in these sections by adding "military airport" to the definition. By including "military airport" in the definition of "airport," regulatory requirements that relate to airports, current and proposed, will apply to military airports.

§§ 279.112 and 293.112. Notification of proximity to airport.

These new sections would require applicants to notify the Bureau of Aviation (Bureau) of the Department of Transportation, the Federal Aviation Agency (FAA) and the applicable airport if the proposed new or expanding municipal waste transfer facility will be within 6 miles of the airport runway. The proposed sections would also require the applicant to include copies of these notifications in the permit application. The proposed sections would not affect most existing transfer facilities; they would apply only to new facilities and expansions of existing facilities.

Since there are no comparable Federal regulations that address waste transfer facilities, these regulations are considered to be more stringent than Federal requirements.

The proposed rulemaking will have a minimal economic impact on the regulated community. Waste landfill and transfer facility applicants will incur the costs associated with notifying the Bureau, the FAA and the airport. It is anticipated that the cost of each notification will not exceed \$50, with the total cost therefore not exceeding \$150 per application. These costs represent estimated charges for certified mail to these three entities. No additional Department permit fees are being imposed on the applicant through the proposed rulemaking.

The proposed rulemaking will be available for public review and comment following publication in the *Pennsylvania Bulletin*, as provided under the public participation provisions required by regulation and as described in Section I of this preamble. The public comment period will extend for 30 days. Public comments will be addressed in a comment and response document prepared by the Department after the comment period has expired.

F. Benefits, Costs and Compliance

Benefits

The proposed rulemaking will benefit both military and nonmilitary personnel operating and traveling in aircraft near waste landfill and transfer facilities, as they either approach or depart the airport runway, by reducing the potential risk of bird strikes to their aircraft, which can cause hazards to surrounding communities, as well.

Compliance costs

The proposed rulemaking will minimally increase the application cost, by means of the proposed notification requirement, only for a new or expanding waste landfill or transfer facility and in these cases, only for those facilities that are proposed within 6 miles of an airport runway. As applications for new or expanding landfills are estimated at less than ten, and new and expanding transfer facilities at a frequency of two or three per year, this minimal application cost increase will not affect the several hundred municipal and residual waste transfer facilities that are currently permitted in this Commonwealth. The applicant will be required to notify the relevant airport, the Bureau and the FAA. The cost of each notice, sent by certified mail including a request for a return receipt, is estimated to be no more than \$50 current value, with the total cost of notification for each applicant estimated at \$150. The total cost per year, therefore, for up to 12 applicants sending notification to the two agencies and the airport is estimated at \$1,800.

There are no additional permit fees associated with the proposed rulemaking and no indirect cost to the regulated community or the Department.

Compliance assistance plan

Since the proposed rulemaking would impose notification requirements only, a compliance assistance plan is not required.

Paperwork requirements

As part of its permit application, an applicant for a new or expanding waste landfill or transfer facility will be required to send to the Department copies of responses received from the two agencies and airport in response to the notices. This is not expected to increase compliance costs.

G. Sunset Review

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

H. Regulatory Review

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the Department submitted a copy of the proposed amendments, on December 6, 2006, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (Commission). In accordance with section 5(f) of the act (71 P. S. § 745.5(f)), the Department will submit the proposed regulations and the required material to the Chairpersons of the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee (Committees) no later than the second Monday after the date by which both Committees designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the proposed amendments, the Department has provided the Commission and will provide the Committees with a copy of a detailed Regulatory Analysis Form. 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.

I. Public Comments

Written comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be postmarked by January 22, 2007. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be postmarked by January 22, 2007. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us and must be received by the Board by January 22, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-406. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VIII. MUNICIPAL WASTE

CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter A. GENERAL

§ 271.1. Definitions.

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

* * * * *

Airport—"Public airport," as defined in 67 Pa. Code § 471.2 (relating to definitions). [The term does not include heliports.]

- (i) The term includes military airports.
(ii) The term does not include heliports.

* * * * *

CHAPTER 279. TRANSFER FACILITIES

Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES

GENERAL

§ 279.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6

miles of an airport runway. The application must include a copy of each notification and each response to each notification received by the applicant.

ARTICLE IX. RESIDUAL WASTE MANAGEMENT

CHAPTER 287. RESIDUAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter A. GENERAL

§ 287.1. Definitions.

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

* * * * *

Airport—A public airport, as defined in 67 Pa. Code § 471.2 (relating to definitions). [The term does not include heliports.]

- (i) The term includes military airports.
(ii) The term does not include heliports.

* * * * *

CHAPTER 293. TRANSFER FACILITIES FOR RESIDUAL WASTE

Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES

§ 293.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6 miles of an airport runway. The application must include a copy of each notification and each response to each notification received by the applicant.

[Pa.B. Doc. No. 06-2515. Filed for public inspection December 22, 2006, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to amend §§ 135.41 and 135.181 (relating to State game lands; and rifle and handgun ranges).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (Code).

The proposed rulemaking was made public at the October 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Current regulations do not either explicitly permit or prohibit persons from engaging in clay bird shooting activities on most areas of Commission owned lands.

Despite the lack of regulatory clarity on this issue, the Commission has widely accepted the occurrence of clay bird shooting activities on its lands. While the Commission intends to continue the promotion of recreational shooting activities on its lands, it has determined that due to lead management and recovery concerns, clay bird shooting activities must be limited to designated locations only. Therefore, the Commission is proposing to amend §§ 135.41 and 135.181 to specifically authorize clay bird shooting activities on Commission owned lands, but only in those areas designated by the Director.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 135.41 and 135.181 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 135.41 and 135.181 to specifically authorize clay bird shooting activities on Commission owned lands, but only in areas designated by the Director.

3. Persons Affected

Persons wishing to engage in clay bird shooting activities on Commission owned lands will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

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

6. Contact Person

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

CARL G. ROE,
Executive Director

Fiscal Note: 48-242. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

* * * * *

(22) Shoot clay birds anywhere except areas designated by the Director by signs stating that clay bird shooting is permitted.

Subchapter J. SHOOTING RANGES

§ 135.181. Rifle and handgun ranges.

* * * * *

(b) *Prohibited acts.* At a rifle and handgun range located on land under Commission ownership, lease or jurisdiction, except when authorized by the appropriate regional director or a designee for military or law enforcement training, it is unlawful to:

* * * * *

(7) Shoot clay birds anywhere except areas designated by the Director by signs stating that clay bird shooting is permitted.

* * * * *

[Pa.B. Doc. No. 06-2516. Filed for public inspection December 22, 2006, 9:00 a.m.]

**[58 PA. CODE CHS. 137 AND 147]
Wildlife; Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to amend §§ 137.1 and 147.203 (relating to importation, sale and release of certain wildlife; and pens, shelters and enclosures).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (Code).

The proposed rulemaking was made public at the October 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

On June 29, 2006, the Governor signed into law the act of June 29, 2006 (P. L. 206, No. 51), which effectively transferred regulatory authority over cervidae propagation activities from the Commission to the Department of Agriculture as of June 29, 2006. To complete this transition, the Commission must amend §§ 137.1 and 147.203 to delete the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission. Therefore, the Commission is proposing to amend §§ 137.1 and 147.203 to eliminate the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any

permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 137.1 and 147.203 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend §§ 137.1 and 147.203 to eliminate the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission.

3. *Persons Affected*

Persons wishing to engage in cervidae livestock activities within this Commonwealth will be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

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

6. *Contact Person*

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

CARL G. ROE,
Executive Director

Fiscal Note: 48-239. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.1. Importation, sale and release of certain wildlife.

* * * * *

[(g) Except as provided in subsection (h), a person wishing to import any members of the family cervidae shall first obtain an importation permit from the Commission subject to the following:

(1) An application for an importation permit shall state the name and address of the applicant, name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, the purpose for which the cervids are being imported, the qualifications of the applicant to use the cervids for the stated purpose and the location where the cervids will be housed or retained. The application shall be received by the Commission at least 10 days prior

to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where Chronic Wasting Disease (CWD) was ever diagnosed. If the cervids are to be purchased at auction the name and address of the person supplying the cervids and number of cervids purchased shall be reported to the Commission by telephone or fax on the date of purchase. An applicant must receive a confirmation number before the animals are imported. A copy of the completed permit will be forwarded to the applicant.

(2) The shipment shall be accompanied at all times by a certificate of veterinary inspection completed by an accredited veterinarian in compliance with the Department of Agriculture health requirements. The certificate shall remain with the permittee's records for 5 years. The applicant shall identify the herd of origin and the herd of destination on both the permit application and the certificate of veterinary inspection. The cervids to be imported shall be identified to the herd they are being transferred or sold from by at least one permanent unique identifier to include, legible tattoo, United States Department of Agriculture (USDA) approved eartag, breed registration or other state approved permanent identification methods and one temporary identifier. If a microchip is used for identification, the owner shall provide the necessary reader.

(3) In states or provinces where CWD has been detected, herds of origin shall be able to demonstrate a minimum of 5 years in a CWD monitoring program. In states or provinces where CWD has not been detected, herds of origin shall be able to demonstrate a minimum of 3 years in a CWD monitoring program. CWD monitoring programs shall meet the following minimum standards or adopted National standards acceptable to the Commission.

(i) In states where CWD has been found in free-ranging wildlife, the state program shall have perimeter fencing requirements adequate to prevent ingress, egress or contact with cervids.

(ii) Surveillance based on testing of all cervid deaths over 16 months of age.

(iii) Physical herd inventory with annual verification reconciling animals with records by an accredited veterinarian or state or Federal personnel is required. Inventory is to include a cross-check of all available animal identifications with the herd inventory and specific information on the disposition of all animals not present.

(iv) Herd additions are allowed from herds with equal or greater time in an approved state CWD monitoring program with no negative impact on the certification status of the receiving herd. If herd additions are acquired from a herd with a later date of enrollment, the receiving herd reverts to the enrollment date of the sending herd. If a herd participating in the monitoring program acquires animals from a nonparticipating herd, the

receiving herd shall start over with a new enrollment date based upon the date of acquisition of the animals. If a new herd begins with animals of a given status, that status will be retained by the new herd, based upon the lowest status of animals received. Animals of different status which are commingled during marketing or transport will revert to the lowest status.

(v) The state or province of origin shall list CWD as a reportable disease and impose an immediate quarantine on a herd or premise, or both, when a CWD animal is found.

(vi) Animal health officials in the state or province of origin shall have access to herd records from the time the herd is enrolled in the CWD monitoring program or for 5 years, whichever is less, including records of deaths and causes of death.

(h) A person wishing to import any members of the family cervidae for slaughter within 72 hours at a USDA inspected facility and in accordance with the Department of Agriculture requirements shall first obtain an importation permit from the Commission subject to the following:

(1) An application for importation permit shall state the name and address of the applicant, name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, that the cervids are being imported for immediate slaughter, and the location where the cervids will be slaughtered. The application must be received by the Commission at least 10 days prior to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where CWD was ever diagnosed.

(2) Cervids from herds that are known to have been infected with CWD within the last 5 years may not be imported.

(3) If cervids are from states or provinces where CWD has been detected herds of origin shall be able to demonstrate a minimum of 5 years in a CWD monitoring program as described in subsection (g)(3).

(4) Cervids shall be individually identified as to the herd of origin by legible tattoo, ear tag or other method approved by the Commission.

(5) Cervids may not have contact with any other animals not for immediate slaughter.

(i) A person violating this section is subject to the penalties provided in the act.]

CHAPTER 147. SPECIAL PERMITS

Subchapter K. PROPAGATING

§ 147.203. Pens, shelters and enclosures.

(a) Pens, shelters and enclosures [shall] must be:

* * * * *

(2) Covered and completely surrounded by appropriate materials to confine the species being propagated and exclude surrounding wildlife. [Areas for hooved animals which are surrounded by a fence at least 10 feet in height need not be covered.]

* * * * *

[Pa.B. Doc. No. 06-2517. Filed for public inspection December 22, 2006, 9:00 a.m.]

[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to amend §§ 141.41, 141.43 and 141.47 (relating to general; deer; and elk).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (Code).

The proposed rulemaking was made public at the October 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has received a number of requests from hunters to permit the lawful use of muzzleloading handguns to hunt various big game animals. Currently, muzzleloading handguns are prohibited from use while hunting big game animals. Commission staff has determined that use of muzzleloading handguns would be reasonable so long as their use is limited to deer, bear and elk and to .50 caliber or larger muzzleloading handguns only. Therefore, the Commission is proposing to amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.41, 141.43 and 141.47 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk.

3. Persons Affected

Persons wishing to hunt deer, bear or elk in this Commonwealth with a muzzleloading handgun will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

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

6. Contact Person

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

CARL G. ROE, Executive Director

Fiscal Note: 48-238. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 141. HUNTING AND TRAPPING
Subchapter C. BIG GAME

§ 141.41. General.

* * * * *

(b) It is unlawful to:

* * * * *

(2) Hunt for deer or bear through the use of [any one or more of the following:] a muzzleloading long gun that is not .44 caliber or larger or a muzzleloading handgun that is not .50 caliber or larger.

[(i) A muzzleloading handgun.

(ii) A muzzleloading firearm that is not .44 caliber or larger.]

* * * * *

§ 141.43. Deer.

* * * * *

(b) Flintlock muzzleloading season. Firearms lawful for use are original muzzleloading single-barrel [long guns] firearms manufactured prior to 1800, or [a similar reproduction] similar reproductions of an original muzzleloading single-barrel [long gun] firearm which:

(1) [Is .44 caliber or larger and has open sights] Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

(3) Have open sights.

* * * * *

(e) Muzzleloading season. Firearms lawful for use are muzzleloading single-barrel [long guns] firearms which:

(1) Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

§ 141.47. Elk.

It is unlawful while hunting elk to:

(1) Use any [rifle or handgun which is not centerfire and at least .27 caliber] centerfire firearm less than .27 caliber or that propels a single-projectile less than 130 grains.

(2) Use any [projectile which is not all lead or designed to expand on impact and at least 130 grains] muzzleloading firearm less than .50 caliber or that propels a single-projectile less than 210 grains.

(3) [Use muzzleloading firearms other than long guns which are at least .50 caliber and propels a single-projectile that weighs at least 210 grains.

(4)] Use any shotgun less than 12 gauge.

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

[(12)] (11) * * *

[(13)] (12) * * *

[Pa.B. Doc. No. 06-2518. Filed for public inspection December 22, 2006, 9:00 a.m.]

[58 PA. CODE CHS. 141, 143 AND 147]
Hunting and Trapping; Hunting and Furtaker Licenses; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed amendments to Chapters 141, 143 and 147 (relating to hunting and trapping; hunting and furtaker licenses; and special permits).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has been working in joint partnership with the Fish and Boat Commission (FBC) to create and implement this Commonwealth's first Point-of-Sale (POS) licensing system. The Commission and the FBC intend to replace their own individual paper-based licensing systems with a common computer-based automated licensing system. Implementing this computerized POS licensing system within this Commonwealth will significantly streamline the application and purchase process for customers, virtually eliminate manual auditing and reporting for agents, and provide tremendous new electronic functionality to assist the Commission and the FBC support staff in monitoring license administration. In addition, the data from the POS licensing system will enable the Commission and the FBC to monitor license sales, create strategic business plans based on trend analysis and, most importantly, create marketing plans based on more accurate customer demographics. Therefore, in an effort to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth, the Commission is proposing to amend Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S (relating to deer control; and bobcat hunting-trapping permit).

The Commission recently redesignated the "elk management areas/units" in this Commonwealth's north central region as "elk hunt zones." This redesignation is reflected in the Commission's elk management plan as well as the 2006/2007 "Hunting and Trapping Digest." However, this change is not properly reflected in current regulations. Therefore, in an effort to correct this lack of consistency, the Commission is proposing to amend §§ 141.48, 143.206 and 143.207 (relating to elk management units; validity of license; and unlawful acts) by redesignating "elk management areas/units" as "elk hunt zones."

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) provides that the Commission shall adopt regulations for "The administration, control and performance of activities conducted pursuant to the provisions of this chapter." Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S were proposed under this authority.

Section 322(c)(4) of the code (relating to powers and duties of commission) specifically authorizes the Commission to "define geographic limitations or restrictions." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting

or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.48, 143.206 and 143.207 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth. The proposed rulemaking will also amend §§ 141.48, 143.206 and 143.207 to redesignate "elk management areas/units" as "elk hunt zones."

3. Persons Affected

Persons wishing to hunt and trap in this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The adoption of this proposed rulemaking may result in some additional cost and paperwork associated with the implementation of the Commission's new POS licensing system within this Commonwealth. However, the Commission has determined that if there is an additional expense associated with this effort, it will not be substantial and would be absorbed by the current budget. The proposed rulemaking should not result in any other additional cost or paperwork.

5. Effective Date

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

6. Contact Person

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

CARL G. ROE,
Executive Director

Fiscal Note: 48-236. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.48. Elk [management units] hunt zones.

(a) The divisional line between two or more elk [**management units**] **hunt zones** shall be the center of the highway, natural water course [**or**], other natural boundary **or marked boundary**.

(b) The elk [**management units**] **hunt zones** [**shall**] **will** be established by the Director prior to the opening of elk season.

CHAPTER 143. HUNTING AND FURTKER LICENSES

Subchapter A. GENERAL

§ 143.1. Definitions.

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

* * * * *

Customer ID number—The unique customer identifier permanently assigned to each customer of the Commission's Point-of-Sale automated licensing system.

Point-of-Sale—The Commission's computer-based automated licensing system that facilitates the purchase and creation of license products at the agent location.

§ 143.11. Internet license sales.

[To fulfill Internet orders for general hunting licenses, the Commission may print specific license privileges directly on the hunting license back tag. For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader, migratory game bird or bear license using the Commission's website, the Commission may assign a web order number to issue these additional license privileges. To validate these additional privileges, the license holder shall enter his web order number on the general hunting license back tag and sign in the spaces provided.] For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader or migratory game bird license online, the license holder shall print the receipt, sign in the space provided and carry while afield.

Subchapter B. APPOINTMENT OF AGENTS

§ 143.26. Time for rebate.

Rebate to the agent will be [drawn from the Game Fund and returned to the agent in lump sum as soon as practicable after the agent's yearly sales are audited] credited to his account at the beginning of the license year following his first year as an agent.

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.41. Purpose and scope.

* * * * *

(b) The Commission, after reviewing reproductive data, will establish the number of antlerless deer licenses allocated to each wildlife management unit. [Licenses will be distributed among county treasurers for issuance on the basis of percentage of land each county represents in the unit.]

(c) An application shall be accepted without restriction or regard to the applicant's county of residence. The following procedure shall be adhered to when determining successful applicants for licenses:

* * * * *

(2) [The Commission in Harrisburg will serve as the central receiver for all mail-in applications in all wildlife management units.] Envelopes received by first class mail delivered through and by the

United States Postal Service will be processed and licenses issued as soon as practicable.

(3) [Envelopes received by first class mail delivered through and by the United States Postal Service will be examined as soon as practicable, unopened, to determine the number of applications received as well as to verify delivery to the intended wildlife management unit.] This process of license issuance will continue until the available supply of licenses for that wildlife management unit is exhausted.

(4) This process of [application distribution] license issuance will continue until the available supply of licenses for that wildlife management unit is exhausted.

(d) The Commission may act in the capacity of a county treasurer for issuing antlerless licenses [in a wildlife management unit] if authority to issue licenses has been removed from any or all county treasurers [in the wildlife management unit].

(e) Notwithstanding the provisions of this chapter limiting the number of licenses available, the Commission will authorize antlerless deer licenses to be issued regardless of an established quota to:

(1) A resident of this Commonwealth within 60 days of discharge from active duty under honorable conditions from the United States Armed Forces or United States Coast Guard. [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit's alphanumeric designation on the face of the license.]

(2) A disabled veteran as defined in 34 Pa.C.S. § 2706(b)(1) (relating to resident license and fee exemptions). [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit's alphanumeric designation on the face of the license.]

* * * * *

§ 143.42. Definitions.

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

Application—[The form issued with a regular hunting license used in applying for an antlerless license.] The universal form contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof used in applying for an antlerless license or an unsold tag.

[County allocation—The number of licenses allocated by the Commission to an individual county.]

* * * * *

Date issued—The date [placed on the license by a county treasurer or the Commission] printed on the license at the time of issuance indicating when the license was mailed or given to the person named on the license.

Envelope—The official envelope issued with a regular hunting license which shall be used by the applicant to mail completed applications to [the Commission] a county treasurer.

* * * * *

License—The numbered [**back tag**] license which is issued by the county treasurer or the Commission authorizing the holder thereof to hunt antlerless deer in a specific wildlife management unit.

* * * * *

[*Unsold tag application*—The form contained in the "Hunting and Trapping Digest" used in applying for an unsold tag.]

* * * * *

§ 143.43. Preamble.

(a) An application shall be submitted to [**the Commission wildlife management unit address in Harrisburg**] a county treasurer and a license shall be issued only in accordance with the act and this subchapter.

* * * * *

§ 143.44. Application.

[(a) Only the original current application is valid for making application.

(b) It is unlawful to apply for more than one license.

(c) The application is not transferable by the person receiving it. The application may not be used by another person to apply for a license.]

It is unlawful to apply for more than one license before the unsold tag and unlimited antlerless license application periods as set forth in this chapter.

§ 143.45. Completing and submitting applications.

(a) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application other than [**from the Commission**] by regular first class mail delivered through and by the United States Postal Service. [**County treasurers with unsold antlerless deer licenses shall accept applications over the counter and may immediately issue licenses beginning on the first Monday in November.**] Applications for unsold antlerless deer licenses shall be accepted by county treasurers over the counter and may immediately be processed if licenses are available beginning on the first Monday in November.

(b) [**The Commission will not accept antlerless deer license applications other than by regular first class mail delivered through and by the United States Postal Service.**] Applications will not be accepted by county treasurers prior to the start of the normal business day on the third Monday in July.

(c) [**Applications will not be accepted by the Commission prior to the start of the normal business day on the first Monday in August.**

(d)] The application shall be legibly completed, in its entirety, in accordance with instructions on the application. **An applicant may enter up to three units, in order of preference, on the application.**

[(e)] (d) * * *

[(f)] (e) * * *

[(g)] (f) The envelope [**shall**] **must** contain return first class postage and a return address. If requirements of this subsection are not met, applications will be placed in a dead letter file and may be reclaimed by the applicant upon contacting the [**Commission's Hunting License Division in Harrisburg**] county treasurer's office. Postage, both forward and return, is the responsibility of the applicant.

[(h)] (g) * * *

§ 143.48. First-come-first-served license issuance.

(a) Envelopes containing applications will be accepted on a first-come-first-served basis. [**Envelopes will be inspected by the Commission in Harrisburg, unopened, to determine if they comply with § 143.45(b), (c), (e) and (g) (relating to completing and submitting applications).**]

(b) [**If the conditions in § 143.45(b), (c) and (e) are met, it constitutes initial acceptance, and the applications will be forwarded to a county treasurer within the wildlife management unit for issuance of the appropriate number of licenses. If the conditions are not met, the enclosed applications will be rejected and returned to the sender as soon as possible.**] If there are more than three applications in one envelope, the enclosed applications will be rejected and returned to the sender as soon as possible.

* * * * *

(e) [**Envelopes containing applications initially accepted for the issuance of a license shall be opened and inspected by the county treasurer at his earliest convenience. If an application in an accepted envelope fails to comply with § 143.45 (relating to completing and submitting applications), applications enclosed in the accepted envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable. The back tags initially assigned to the envelope shall be marked VOID across the face in ink.**] If an application fails to be in compliance with § 143.45 (relating to completing and submitting applications), applications enclosed in the envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable.

§ 143.49. Issuing licenses.

(a) Licenses may be issued by county treasurers immediately following receipt of applications [**from the Commission**].

(b) Licenses shall be [**validated by the addition of the county treasurer's or the Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag. The county treasurer shall write in ink the assigned antlerless license number on the face of the check or money order**] issued through the Commission's Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants' customer ID numbers on the

face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available, the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to successful applicants in the envelope by first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no later than the [third] second Monday in September, except for licenses issued under § 143.51(f) (relating to application and issuance of unsold tags) which shall be placed with the United States Postal Service no later than [October 1] the fourth Monday in September. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

§ 143.50. Procedure for nonresidents of this Commonwealth.

[The Commission having unsold licenses on the third Monday in August and thereafter will accept applications for those units in compliance with § 143.45 (relating to completing and submitting applications) from nonresidents of this Commonwealth.] Nonresidents may apply for unsold licenses on the last Monday in July and thereafter in compliance with § 143.45 (relating to completing and submitting applications).

§ 143.51. Application and issuance of unsold tags.

(a) Except as provided in § 143.52 (relating to procedures for unlimited antlerless licenses), beginning on the [fourth] first Monday in August, residents and nonresidents of this Commonwealth are eligible to receive an unsold tag.

(b) [An applicant for this tag may not use the regular antlerless deer license application.] An applicant shall only use the [unsold] application contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof.

* * * * *

(e) Unsold tags shall be [validated by the addition of the county treasurer's or Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag] issued through the Commission's Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants' customer ID numbers on the face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available,

the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(f) Beginning on the [second Monday in September, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to the appropriate Commission wildlife management unit address in Harrisburg.] third Monday in August, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to a county treasurer.

§ 143.52. Procedure for unlimited antlerless licenses.

* * * * *

(b) Beginning on the [fourth Monday in August, residents and nonresidents of this Commonwealth shall be eligible to apply to designated wildlife management units for an unlimited number of antlerless deer licenses by mailing the application to the appropriate Commission wildlife management unit address in Harrisburg.] first Monday in August residents and nonresidents of this Commonwealth shall be eligible to apply by mail to a county treasurer for an unlimited number of antlerless deer licenses for designated units.

(c) Beginning on the [third Monday in September, county treasurers within the designated wildlife management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.] fourth Monday in August, county treasurers shall accept antlerless applications over the counter for designated units from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

§ 143.53. Reapplication.

(a) A person whose application has been rejected and returned may secure a new official envelope from a hunting license issuing agent and reapply for a license by:

(1) If applicable, correcting the errors which caused the original application to be rejected and returning it to [the Commission wildlife management unit address in Harrisburg] a county treasurer.

(2) Changing on the application the designated wildlife management [unit] units in which the applicant desires to hunt and forwarding it to [another Commission wildlife management unit address in Harrisburg] a county treasurer.

(b) A person who was issued a license that was subsequently lost in the United States mail and never received by the licensee may, upon submitting an affidavit stating this fact, receive a replacement license from any county treasurer. There will be no additional cost for this license. Prior to issuing a replacement license, county treasurers shall first verify through [their records or through communication with another county treasurer] the Commission's Point-of-Sale automated licensing system that the applicant was issued the original license.

Subchapter D. BEAR LICENSES

§ 143.68. Carry the license.

[The] For a bear license issued subsequent to the owner's general hunting license, the bear license shall be signed by the owner in the space provided and shall be carried on the person at all times when the owner is hunting for bear. The bear license does not need to be displayed but shall be produced for inspection upon demand of any officer authorized to enforce this title.

Subchapter E. [FLINTLOCK (MUZZLELOADER) DEER LICENSES] (Reserved)

§ 143.81. [Purpose and scope] (Reserved).

[This subchapter establishes methods for application and issuance of a license.]

§ 143.82. [Definitions] (Reserved).

[The following words or terms, when used in this subchapter, have the following meaning, unless the context clearly indicates otherwise:

License—The special stamp issued by a license issuing agent authorizing the holder thereof to hunt deer with a muzzleloading firearm during the special season.]

§ 143.83. [Preamble] (Reserved).

[Applications shall be submitted to authorized issuing agents and licenses issued by them under the act and this subchapter.]

§ 143.84. [Application] (Reserved).

[(a) Applications for flintlock (muzzleloader) deer licenses shall be submitted to authorized issuing agents for licenses issued by them under the act and this subchapter.

(b) Applications for flintlock (muzzleloader) deer licenses may be made when purchasing a regular hunting license, or any time thereafter, upon presentation of the regular hunting license.]

§ 143.85. [Issuance of licenses] (Reserved).

[When the conditions in § 143.84 (relating to application) have been met, the agent may issue the appropriate license.]

§ 143.86. [Unlawful acts] (Reserved).

[It shall be unlawful to:

(1) Accept an application or issue a license contrary to the act or this chapter.

(2) Apply for or receive a license contrary to the act or this chapter.

(3) Aid another person in applying for or receiving a license contrary to the act or this subchapter.

(4) Transfer a license to another individual.]

§ 143.87. [Penalties] (Reserved).

[A person violating this subchapter shall, upon conviction, be sentenced as prescribed by the act.]

Subchapter J. MIGRATORY GAME BIRD LICENSE

§ 143.181. Purpose and scope.

This subchapter establishes rules for application and issuance of Migratory Game Bird License and [survey cards] HIP surveys.

§ 143.182. Definitions.

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

HIP survey—The Migratory Game Bird Harvest Information Program (HIP) survey that will be completed at the time the license is issued.

Migratory Game Bird License—The [numbered, wallet size card] license authorizing the holder thereof to hunt for migratory game birds. The license is not valid unless used in conjunction with a regular resident or nonresident hunting license.

[Survey card—The matching, numbered Migratory Game Bird Harvest Information Program card that is attached to the Migratory Game Bird License. The survey card will be completed at the time the license is issued.]

§ 143.183. Application.

Application may be made when purchasing a hunting license, or at any time thereafter upon completion of the HIP survey. [In addition to filling out the application for a hunting license, the applicant shall complete the matching numbered Migratory Game Bird Harvest Information Program survey card.]

§ 143.184. Issuance of license.

After confirming that the HIP survey [card] has been completed in its entirety, the issuing agent shall [enter the date of issuance in ink on the license and the matching numbered survey card in the space provided and issue the license] issue the license.

§ 143.186. Processing [survey cards] HIP surveys.

[Issuing agents shall forward survey cards completed each month directly to the United States Fish and Wildlife Service, Office of Migratory Bird Management, no later than the 5th day of the following month. Issuing agents shall forward the survey cards in the postage-paid envelopes provided by the Commission, as per the instructions set forth in the current issuing agents instruction manual.] HIP survey data shall be forwarded electronically to the United States Fish and Wildlife Service, Office of Migratory Bird Management, through the Commission's Point-of-Sale automated licensing system no later than 30 days after license issuance.

§ 143.187. Unlawful acts.

It is unlawful to:

* * * * *

(2) [Process survey cards contrary to § 143.186 (relating to processing survey cards).

(3) Apply for or receive a Migratory Game Bird License contrary to the act or this subchapter.

[(4) (3) * * *

Subchapter K. ELK LICENSES

§ 143.203. Drawing.

* * * * *

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting license and complete an orientation program as prescribed by the Director. [Persons who are eligible for license and fee exemptions and meet the requirements prescribed in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.]

* * * * *

§ 143.206. Validity of license.

An elk license is valid for taking elk only in the elk [management area] hunt zones designated on the elk license and is valid for an antlerless [or], antlered or either sex elk as designated on the elk license.

§ 143.207. Unlawful acts.

It is unlawful for a person to:

* * * * *

(3) Hunt for elk in an elk [management area] hunt zone other than the elk [management area] hunt zone designated on the elk license.

* * * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.672. Definitions.

The following words and terms, when used in this section and §§ 147.671 and 147.673—147.676, have the following meanings unless the context clearly indicates otherwise:

* * * * *

DMAP harvest permit—The numbered permit which is issued [by the Commission] through the Commission's Point-of-Sale automated licensing system, authorizing the holder thereof to hunt antlerless deer in a specific DMAP area in accordance with provisions in the act and this part as they pertain to lawfully hunting deer. Each DMAP harvest permit has its own antlerless deer ear tag [and antlerless deer harvest report card] attached to be used only for tagging [and reporting] an antlerless deer harvested.

* * * * *

§ 147.673. Eligibility and application for DMAP.

* * * * *

(d) Approved applicants will receive one coupon for each DMAP permit the DMAP area is entitled to. In DMAP areas designated by the Director, DMAP harvest permits may be made available directly through authorized issuing agents without coupons being issued.

§ 147.674. Issuance of DMAP harvest permits.

(a) DMAP harvest permits will be made available without regard to quota limitations and will be issued [by the Commission] through the Commission's Point-of-Sale automated licensing system.

(b) Two harvest permits for the DMAP area may be issued each license year to persons who possess a valid Pennsylvania hunting license [or qualify for license

and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions)].

* * * * *

(e) In DMAP areas designated by the Director, applicants may apply for DMAP harvest permits without possessing a coupon as long as harvest permits remain available for that area.

§ 147.675. Validity of permit.

* * * * *

(b) DMAP harvest permits are valid only on the DMAP area indicated on the [license] permit.

§ 147.676. Unlawful acts.

It is unlawful to:

* * * * *

(6) Fail to [complete] submit harvest report and survey information in accordance with instructions provided [on the report card or the survey, or both].

* * * * *

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

(1) A permit will only be issued to residents of this Commonwealth who possess a valid resident furtakers license, junior combination license[,] or senior combination license [or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) or to persons who qualify under section 2363 of the act (relating to trapping exception for certain persons)].

* * * * *

[Pa.B. Doc. No. 06-2519. Filed for public inspection December 22, 2006, 9:00 a.m.]

[58 PA. CODE CH. 147] Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to rescind Chapter 147, Subchapter G (relating to taxidermy) and amend § 147.146 (relating to sale of inedible wildlife parts).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (Code).

The proposed rulemaking was made public at the October 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

On July 7, 2006, the Governor signed into law the act of July 7, 2006 (P.L. 358, No. 77), which effectively transferred regulatory authority over taxidermy activities from the Commission to the Department of Agriculture as

of October 5, 2006. The statutory amendments made to the code were limited to a minor amendment to section 2904 of the code (relating to permit fees) and the rescission of section 2926 of the code. To complete this transition, the Commission must eliminate the majority of the remaining taxidermy regulations in §§ 147.121—147.129. However, in an intentional effort to continue certain accommodations made for taxidermists respecting the sale of unclaimed specimens, the Commission must relocate and incorporate the provisions currently in § 147.126 (relating to unclaimed specimen procedure) to § 147.146 (relating to sale of inedible wildlife parts). Therefore, the Commission is proposing to rescind Chapter 147, Subchapter G to eliminate the remaining regulatory language concerning taxidermy activities no longer regulated by the Commission and amend § 147.146 to relocate provisions permitting the sale of unclaimed specimens by taxidermists.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” Section 2312(c)(2) of the code (relating to buying and selling game) specifically states “The commission may, by regulation, authorize the buying and selling of inedible parts of game and wildlife as it deems appropriate.” Section 2102(a) of the code (relating to regulations) provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The rescission of Chapter 147, Subchapter G and amendment of § 147.146 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will rescind Subchapter G to eliminate the remaining regulatory language concerning taxidermy activities no longer regulated by the Commission and amend § 147.146 to relocate provisions permitting the sale of unclaimed specimens by taxidermists.

3. Persons Affected

Persons wishing to engage in taxidermy related activities or sell unclaimed specimens, or both, within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

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

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Acting Director, Bu-

reau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-240. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter G. [TAXIDERMY] (Reserved)

(Editor’s Note: As part of this proposed rulemaking, the Commission is proposing to delete the text of Subchapter G, which appears in 58 Pa. Code pages 147-16—147-18.4, serial pages (230320), (315261), (315262), (306267), (306268), (292857) and (292858).)

§§ 147.121.—147.129. (Reserved).

Subchapter H. PROTECTED SPECIMEN

§ 147.146. Sale of inedible wildlife parts.

(a) Wildlife lawfully taken within this Commonwealth that has been mounted, tanned or completely prepared for study or display in accordance with generally accepted taxidermy procedures may be sold if one of the following conditions is met:

* * * * *

(3) The original owner’s specimen is determined to be unclaimed as provided for in subsection (b).

(b) A specimen will be considered unclaimed when the following conditions are met:

(1) The specimen was lawfully possessed when originally deposited with the taxidermist.

(2) The specimen was mounted, tanned or completely prepared for study or display in accordance with generally accepted taxidermy procedures.

(3) The taxidermist has made a reasonable effort to contact the original owner or depositor through any means generally available to inform the owner or depositor that the specimen is complete and should be picked up within a certain time period.

(4) The owner, or the original depositor of the specimen, has been notified by certified, first-class mail and has failed to contact the taxidermist within 30 days of receipt of the notice; or the taxidermist is notified by the postal authorities the certified mail is unclaimed or undeliverable. The specimen will be considered unclaimed after 30 days from the date the taxidermist was notified.

(c) Before selling a specimen, a permit shall be obtained from a Commission officer.

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) * * *

[(f)] (g) * * *

[(g)] (h) * * *

[(h)] (i) * * *

[Pa.B. Doc. No. 06-2520. Filed for public inspection December 22, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Pennsylvania Potato Research Program; Referendum Order

A referendum will be held to vote on a recommended increase to the Pennsylvania Potato Research Program (Program) assessment fee from \$4 to \$5 per acre, effective in State fiscal year 2007. No hearing is scheduled for this referendum unless a producer member requests one in writing. To request a hearing, notify Ron Walker, in writing, at the Department of Agriculture, Bureau of Market Development, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110 within 7 days of the signed date of this referendum.

(I) The Program was established under the provisions of the act of March 24, 1998 (P. L. 217, No. 39) known as the Agricultural Commodities Marketing Act (act). The act requires that the Secretary of Agriculture (Secretary) call a referendum of affected producers any time there is a proposed change to the Program order. The referendum to be held for the Program will determine whether a majority of those voting and majority of production volume of those voting want the requested assessment increase.

(II) *Referendum Period:* The referendum period shall be January 3, 2007, until 4 p.m. on January 22, 2007. Completed ballots must be mailed or hand-delivered to the Department of Agriculture, Bureau of Market Development, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110. Hand-delivered ballots must be received by 4 p.m. on January 22, 2007. Ballots that are mailed must be postmarked no later than January 22, 2007, and received no later than January 29, 2007.

(III) *Notice of Referendum:* This referendum order and an official ballot shall be mailed no later than January 1, 2007, to all affected producers whose names appear on the list of potato growers in this Commonwealth maintained in the Office of the Secretary. Additional copies of the same materials shall be made available at the Office of the Secretary.

(IV) *Eligible Voters:* The rules governing the eligibility of a producer for voting are as follows: The record date for determination of whether a producer is eligible to vote is January 1, 2007. All potato producers who grow 5 or more acres of potatoes for sale are eligible to vote on the referendum.

(V) *Counting of Ballots:* The ballots will be canvassed and counted by a Teller Committee appointed by the Secretary. The counting of the ballots will begin at 10 a.m., Thursday, February 1, 2007, at the Department of Agriculture Building, Harrisburg, PA. The Secretary will announce the results of the referendum within 30 days following the completion of the referendum. The results will be published in the *Pennsylvania Bulletin* and Harrisburg *Patriot-News*, and disseminated to the news media.

(VI) *Reporting Irregularities:* Any irregularities or disputes concerning the referendum procedures must be reported in writing to the Secretary not later than 7 calendar days from the end of the referendum.

(VII) *Publication:* This referendum order shall be published in the *Pennsylvania Bulletin* and the Harrisburg *Patriot-News*.

(VIII) *Effective Date:* The foregoing order is effective immediately.

DENNIS C WOLFF,
Department of Agriculture

[Pa.B. Doc. No. 06-2521. Filed for public inspection December 22, 2006, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, (Department) under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending December 12, 2006.

BANKING INSTITUTIONS

Conversions

Date	Name of Bank	Location	Action
12-12-06	Community Bank, National Association Carmichaels Green County To: Community Bank Carmichaels Green County	Carmichaels	Approved
Represents conversion from a National banking association to a State-chartered commercial bank.			

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-9-06	Fulton Bank Lancaster Lancaster County	Lancaster	Effective
	Purchase of essentially all of the assets and assumption of essentially all of the liabilities of Premier Bank, Doylestown, Bucks County, PA. Both institutions are wholly owned subsidiaries of Fulton Financial Corporation, Lancaster, PA. As of the effective date of the transaction, all the branch offices of Premier Bank became branches of Fulton Bank, including the former main office of Premier Bank.		
12-11-06	CommunityBanks, Millersburg, and East Prospect State Bank, East Pros- pect Surviving institution— CommunityBanks, Millersburg	Millersburg	Filed
11-30-06	Northwest Savings Bank Warren Warren County	1055 Union Road West Seneca Buffalo Erie County, NY	Opened
11-30-06	Bank of Hanover and Trust Company Hanover York County	1120 Fairfield Road Gettysburg Adams County	Opened
12-4-06	Wayne Bank Honesdale Wayne County	Fourtain Springs East II Route 611 Tannersville Pocono Township Monroe County	Opened
12-4-06	Graystone Bank Lancaster Lancaster County	Chateau Place, Lot 1 Linglestown Road Harrisburg Dauphin County	Opened
12-5-06	PeoplesBank, a Codorus Valley Company York York County	Shrewsburg Lutheran Retirement Village 800 Bollinger Drive Shrewsbury Shrewsbury Township York County (Limited Service Facility)	Opened
12-7-06	CommunityBanks Millersburg Dauphin County	700 Norland Avenue Chambersburg Franklin County	Filed
12-8-06	CommunityBanks Millersburg Dauphin County	2100 Utz Terrace Hanover West Manheim Township York County (Limited Service Facility)	Filed
12-12-06	First Commonwealth Bank Indiana Indiana County	5167 William Flynn Highway Gibsonia Allegheny County	Approved
12-12-06	Prudential Savings Bank Philadelphia Philadelphia County	23 North 3rd Street Philadelphia Philadelphia County	Approved
12-12-06	Harleysville Savings Bank Harleysville Montgomery County	Arbour Square 695 Main Street Harleysville Montgomery County (Limited Service Facility)	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-12-06	Atlantic Central Bankers Bank Camp Hill Cumberland County	To: 550 Broad Street Newark Essex County, NJ	Approved

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<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> One Gateway Center Newark Essex County, NJ	

SAVINGS INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
12-8-06	ESSA Bank & Trust Stroudsburg Monroe County	Stroudsburg	Filed

Represents conversion from a mutual savings association to a stock savings association and concurrent formation of a holding company, ESSA Bancorp, Inc. that will own 100% of the common stock of the association.

CREDIT UNIONS

Branch Relocations

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-12-06	White Rose Credit Union York York County	<i>To:</i> 1 Dairyland Square Red Lion York Township York County <i>From:</i> 200 East High Street Red Lion York Township York County	Approved

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

VICTORIA A. REIDER,
Acting Secretary

[Pa.B. Doc. No. 06-2522. Filed for public inspection December 22, 2006, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of January 2007

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of January 2007 is 7 1/4%.

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

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.69 to which was added 2.50 percentage points for a total of 7.19 that by law is rounded off to the nearest quarter at 7 1/4%.

VICTORIA A. REIDER,
Acting Secretary

[Pa.B. Doc. No. 06-2523. Filed for public inspection December 22, 2006, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Marywood University for Approval of Amendment and Restatement of its Articles of Incorporation

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6504(a) (relating to fundamental changes), the Department of Education (Department) will consider the application of the Congregation of the Sisters, Servants of the Immaculate Heart of Mary of Scranton, PA, Members of the Marywood University Corporation, for a Certificate of Authority approving the amendment and restatement of the Articles of Incorporation for Marywood University.

In accordance with 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department will act upon the application without hearing, unless within 30 days after the publication of this 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—35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol Gisselquist, Higher Education Specialist (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 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. Duplicate 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 Carol Gisselquist at (717) 787-4448 to discuss how the Department may best accommodate their needs.

GERALD L. ZAHORCHAK, D. Ed.
Secretary

[Pa.B. Doc. No. 06-2524. Filed for public inspection December 23, 2006, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the

Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0082082 (Sew)	Jerry Bolyard 309 Bear Gap Road Clearville, PA 15535-9110	Bedford County Southampton Township	UNT to Lost Run 13-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0028428 Amendment No. 1	Brockway Area Sewer Authority 70 Industrial Park Drive Brockway, PA 15824	Brockway Borough Jefferson County	Little Toby Creek 17-A	Y
PA0221261	Richard A. and Pamela A. Roupe 600 Minard Run Road Bradford, PA 16701	Bradford Township, McKean County	UNT to Minard Run 16-C	Y

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

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

Application No. PA 0036269, Sewage, **Stewartstown Borough Authority**, Six North Main Street, Stewartstown, PA 17363.

Description of activity: The application is for the renewal of an NPDES permit for an increased discharge of treated sewage from a publicly owned treatment works in Hopewell Township, **York County**.

The receiving water, Ebaughs Creek, is in Watershed 7-I and is classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Aberdeen Proving Ground in Maryland is located on Deer Creek, approximately 43 miles downstream. The discharge is not expected to affect the water supply.

The proposed final effluent limits for Outfall 001 based on an annual average flow rate of 0.625 mgd, to become effective 2 years following permit issuance, are:

<i>Parameter</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 ₅				
(5-1 to 10-31)	15	22		30
(11-1 to 4-30)	25	40		50
Total Suspended Solids	30	45		60
Total Phosphorus	2.0			4.0
NH ₃ -N				
(5-1 to 10-31)	3.5			7.0
(11-1 to 4-30)	8.5			17

<i>Parameter</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>
Dissolved Oxygen			minimum of 5.0 at all times	
pH (S.U.)			from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average		
(10-1 to 4-30)		5,300/100 ml as a geometric average		
Total Metals*			Monitor and Report	
Total Nitrogen	Monitor and Report			
Total Kjeldahl Nitrogen	Monitor and Report			
NO ₃ -N + NO ₂ -N	Monitor and Report			
Specific Conductance ((μhos/cm)		Monitor and Report		

* Total Metals include Total Copper, Total Lead, Total Zinc, Total Selenium, Total Silver, Total Mercury, Total Cadmium and Total Antimony.

In addition, annual mass loading limitations of 1,342 lbs/year for Total Phosphorus and 10,740 lbs/year for Total Nitrogen are proposed based on a 2010 projected flow rate of 0.441 mgd.

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

The EPA waiver is in effect.

Application No. PA 0021075, Sewage, **Borough of Myerstown**, 101 East Washington Avenue, Myerstown, PA 17067-1142. This facility is located in Jackson Township, **Lebanon County**.

Description of activity: The application is for an NPDES permit to expand an existing discharge of treated sewage from 1.6 mgd to 2.0 mgd.

The receiving stream, Tulpehocken Creek, is in Watershed 3-C and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Western Berks Water Authority is located on the Tulpehocken Creek, approximately 32 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 2.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	17	37	34
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	5.5		11
(11-1 to 4-30)	16.5		33
Total Phosphorus	1.0		2.0
Total Residual Chlorine	0.34		1.1
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

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

The EPA waiver is not in effect.

Application No. PA 0085065, Industrial Waste, **Process Recovery Corporation**, 2909 Windmill Road, Sinking Spring, PA 19608. This facility is located in Cumru Township, **Berks County**.

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

The receiving stream, Schuylkill River is in Watershed 3-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Pottstown Borough Water and Sewer Authority located on the Schuylkill River, approximately 14 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.025 mgd are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		from 6.0 to 9.0 inclusive	
Total Suspended Solids	Monitor and Report	Monitor and Report	
Total Dissolved Solids	Monitor and Report	Monitor and Report	
Color	Monitor and Report	Monitor and Report	
CBOD ₅	Monitor and Report	Monitor and Report	

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 15222-4745; (412) 442-4000.

PA0005037, Industrial Waste, SIC, 4911, **EME Homer City Generation LP**, 1750 Power Plant Road, Homer City, PA 15748. This application is for renewal of an NPDES permit to discharge treated process water, sewage, cooling water and storm water, from the Homer City Power Station in Center Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, tributaries of Two Lick Creek, Blacklick Creek and Cherry Run, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Buffalo Township Municipal Water Authority, located at Freeport, 57 miles below the discharge point.

Outfall 001: existing discharge, design flow of 2.16 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	1.38				
Free Available Chlorine			0.2	0.5	
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Temperature (°F) (7-1 to 7-31)				84.4	
(8-1 to 6-30)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 003: existing discharge, design flow of 1.45 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 004: existing discharge, design flow of 0.32 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			2.0	4.0	
Manganese			2.0	4.0	
pH	not less than 6.0 nor greater than 9.0				

Outfall 005: existing discharge, design flow of 0.87 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	

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<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 007: existing discharge, design flow of 0.015 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	0.015				
TSS			30		60
CBOD ₅			25		60
Dissolved Oxygen			5.0 (minimum)		
Fecal Coliform					
(5-1 to 9-30) (#/100 ml)			200	1,000	
(10-1 to 4-30) (#/100 ml)			2,000		
TRC			1.4		3.3
pH	not less than 6.0 nor greater than 9.0				

Outfall 008: existing discharge, design flow of 0.016 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	0.016				
TSS			30		60
CBOD ₅			25		50
Dissolved Oxygen			5.0 (minimum)		
Fecal Coliform					
(5-1 to 9-30) (#/100 ml)			200	1,000	
(10-1 to 4-30) (#/100 ml)			2,000		
TRC			1.4	3.3	
pH	not less than 6.0 nor greater than 9.0				

Outfall 011: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

Outfall 012: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

Outfall 014: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	60	

Outfall 015: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30

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Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 016: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 018: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			4	7	
pH	not less than 6.0 nor greater than 9.0				

Outfall 020: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			2	4	
Manganese			2	4	
pH	not less than 6.0 nor greater than 9.0				

Outfall 023: existing discharge, interim limits

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Iron			15	20	30
pH	not less than 6.0 nor greater than 9.0				

Outfall 023: existing discharge, final limits

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			35	70	90
Iron			3.0	6.0	7.0
pH	Not less than 6.0 nor greater than 9.0				

Outfall 027: existing discharge, design flow of 0.179 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30	100	
CBOD ₅			25	50	
Oil and Grease			15	20	

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Temperature (°F)				110	
Beryllium			0.8	1.6	
Lead			0.1	0.2	
Selenium			0.8	1.6	
Boron			Monitor and Report		
MBAS			Monitor and Report		
Osmotic Pressure			Monitor and Report		
TDS			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfall 126 and 226: existing discharges.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Free Available Chloride			0.2	0.5	
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Temperature (°F)					
(1-1 to 1-31)				97	
(2-1 to 2-29)				93	
(3-1 to 6-15)				110	
(6-16 to 6-30)				99	
(7-1 to 7-31)				79	
(8-1 to 8-15)				109	
(8-16 to 10-15)				110	
(10-16 to 11-15)				105	
(11-16 to 11-30)				89	
(12-1 to 12-31)				84	
pH	not less than 6.0 nor greater than 9.0				

Outfalls 006, 013, 017, 019, 021, 022, 024—026, 028 and 029 shall consist solely of uncontaminated storm water.

The EPA waiver is not in effect.

PA0217093, Industrial Waste, SIC, 3315, **Johnstown Wire Technologies, Inc.**, 124 Laurel Avenue, Johnstown, PA 15906. This application is for renewal of an NPDES permit to discharge treated process water, stormwater, untreated cooling water and groundwater from its Johnstown Plant in the City of Johnstown, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Conemaugh River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing downstream potable water supply is Buffalo Township Municipal Authority, located in Freeport, PA, 75.5 miles below the discharge point.

Internal Outfall 613: existing discharge, average flow of 1.44 mgd, Interim Limits.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Total Suspended Solids	375.27	808.07	31	60	75
Oil and Grease	275.97	361.62	26	52	
Cadmium			0.26	0.69	0.86
Chromium			1.71	2.77	3.46
Copper			2.07	3.38	4.23
Lead	3.08	5.96	0.43	0.69	0.86
Nickel			2.38	3.98	4.98
Silver			0.24	0.43	0.54
Zinc	10.56	17.20	1.48	2.61	3.26
Cyanide			0.65	1.20	1.50
Total Toxic Organics				2.13	
Iron			3.5	7.0	8.75
pH	not less than 6.0 nor greater than 10.0				

The EPA waiver is in effect.

Internal Outfall 613: existing discharge, average flow of 1.44 mgd, Final Limits.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	375.27	808.07	31	60	75
Oil and Grease	275.97	361.62	26	52	
Cadmium			0.011	0.022	0.028
Chromium			1.71	2.77	3.46
Copper			0.072	0.144	0.180
Lead	3.08	5.96	0.15	0.30	0.38
Nickel			2.38	3.98	4.98
Silver			0.021	0.042	0.053
Zinc	10.56	17.20	0.62	1.24	1.55
Cyanide			0.65	1.20	1.50
Total Toxic Organics				2.13	
Iron			3.5	7.0	8.75
pH	not less than 6.0 nor greater than 10.0				

Internal Outfalls 615 and 623: existing discharge, flow of varied mgd, emergency overflows, Interim Limits.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	375.27	808.07	31	60	75
Oil and Grease	275.97	361.62	26	52	
Cadmium			0.26	0.69	0.86
Chromium			1.71	2.77	3.46
Copper			2.07	3.38	4.23
Lead	3.08	5.96	0.43	0.69	0.86
Nickel			2.38	3.98	4.98
Silver			0.24	0.43	0.54
Zinc	10.56	17.20	1.48	2.61	3.26
Cyanide			0.65	1.20	1.50
Total Toxic Organics				2.13	
Iron			3.5	7.0	8.75
pH	not less than 6.0 nor greater than 10.0				

Other Conditions: Limits apply only in the case of an emergency overflow.

Internal Outfalls 615 and 623: existing discharge, flow of varied mgd, emergency overflows, Final Limits.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	375.27	808.07	31	60	75
Oil and Grease	275.97	361.62	26	52	
Cadmium			0.011	0.022	0.028
Chromium			1.71	2.77	3.46
Copper			0.072	0.144	0.180
Lead	3.08	5.96	0.15	0.30	0.38
Nickel			2.38	3.98	4.98
Silver			0.021	0.042	0.053
Zinc	10.56	17.20	0.62	1.24	1.55
Cyanide			0.65	1.20	1.50
Total Toxic Organics				2.13	
Iron			3.5	7.0	8.75
pH	not less than 6.0 nor greater than 10.0				

Other Conditions: Limits apply in the case of an emergency overflow.

Outfall 603: existing discharge, average flow of 1.87 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	

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Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Oil and Grease			15		30
Zinc			0.95	1.9	
Nitrate-Nitrite Nitrogen			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Internal Outfall 614: existing discharge, average flow of 0.08 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

Internal Outfall 625: existing discharge, average flow of 0.034 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

Internal Outfall 617: existing discharge, average flow of 0.05 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

Outfalls 601, 602 and 604—607: existing discharge, flow of varied mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

The permittee must complete a Storm Water Pollution Prevention Plan for Outfalls 601—607.

Other Conditions: A Part C Condition requiring a Toxics Reduction Evaluation is included.

PA0094269, Sewage, **James D. Sheridan**, 151 Adams Road, Gallitzin PA 15641. This application is for renewal of an NPDES permit to discharge treated sewage from Sheridan Small Flow STP in Gallitzin Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Clearfield Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American White Deer Treatment Plant located on the Susquehanna River.

Outfall 001: existing discharge, design flow of 0.0004 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Weekly	Maximum Daily	Instantaneous Maximum
Zinc			Monitor and Report		
Nitrate-Nitrite Nitrogen			Monitor and Report		
CBOD ₅	25				50
Suspended Solids	30				60
Fecal Coliform	200/100 ml as a geometric mean				
(5-1 to 9-30)	2,000/100 ml as a geometric mean				
(10-1 to 4-30)	Monitor and Report				
Total Residual Chlorine	Monitor and Report				
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. 1506418, Sewerage, **West Brandywine Township Municipal Authority**, 198 Lafayette Road, Coatesville, PA 19320. This proposed facility is located in West Brandywine Township, **Chester County**.

Description of Action/Activity: Construction and operation of 32,025 gpd capacity plant, subsurface storage basin, pump station and drip irrigation system.

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

WQM Permit No. 0706405, Sewerage, **Jody O. Bradley**, R. D. 1, Box 948, Claysburg, PA 16625. This proposed facility is located in Greenfield Township, **Blair County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage treatment system to serve their single family residence on Pine Hollow Road.

WQM Permit No. 0606408, Sewerage, **Galen Hall Corporation**, 815 Lancaster Avenue, Reading, PA 19607. This proposed facility is located in South Heidelberg Township, **Berks County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of modifications/upgrades to their existing sewage treatment plant.

WQM Permit No. 2182405 Amendment 06-1, Sewerage, Newburg-Hopewell Joint Authority, P. O. Box 128, Newburg, PA 17240. This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the design organic loading to be increased due to the increased capacity of new clarification tanks.

WQM Permit No. 4406401, Sewerage, **Borough of Lewistown**, 2 East Third Street, Lewistown, PA 17044-1799. This proposed facility is located in Lewistown Borough, **Mifflin County**.

Description of Proposed Action/Activity: Seeking approval of a project that involves the realignment of public sanitary sewer including the installation of approximately 157 linear feet of 15-inch gravity sewer and approximately 219 linear feet of 8-inch force main.

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

WQM Permit No. WQG016136, Sewerage, **Kevin Sweger**, 1137 Hunts Ridge, Crescent, PA 15046. This proposed facility is located in Hanover Township, **Beaver County**.

Description of Proposed Action/Activity: Application for construction and operation of a small flow, single residence sewage treatment plant.

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

WQM Permit No. 2006, Sewerage, **Cochranton Borough**, 109 East Adams Street, P. O. Box 66, Cochranton, PA 16314. This proposed facility is located in Cochranton Borough and Wayne Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a new sewage treatment facility.

WQM Permit No. 2406401, Sewerage, **Johnsonburg Municipal Authority**, 520 A Market Street, Johnsonburg, PA 15845. This proposed facility is located in Johnsonburg Borough, **Elk County**.

Description of Proposed Action/Activity: This project is for an upgrade to the Johnson's Run Pump Station and facilities relocation.

WQM Permit No. 1006409, Sewerage, **Slippery Rock Municipal Authority**, P. O. Box 57, 633 Kelly Boulevard, Slippery Rock, PA 16057. This proposed facility is located in Slippery Rock Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a septage receiving station to provide preliminary treatment to protect the existing sewage treatment units and will include a flow meter and card reader to efficiently monitor the septage received.

WQM Permit No. 1006410, Sewerage, **Saxonburg Area Authority**, 420 West Main Street, Saxonburg, PA 16056. This proposed facility is located in Penn Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a 9 lot residential subdivision/development.

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

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

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

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

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI011506095	Peter Rohr 1593 Overlook Place Malvern, PA 19355	Chester	Willistown Township	Crum Creek HQ-CWF
PAI011506096	West Brandywine Township Municipal Authority 198 Lafayette Road Coatesville, PA 19320	Chester	West Brandywine Township	Culbertson Run HQ-TSF Beaver Creek TSF, MF

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

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI023906029	William Weber 5563 Acorn Dr. Emmaus, PA 18049	Lehigh	Upper Milford Township	Leibert Creek HQ-CWF
PAI023905016(1)	Tim Reed Diakon Lutheran Social Ministries 798 Hausman Road Suite 300 Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF
PAI023906030	Byron Ashbrook Brookhaven Dev. 2910 Lindberg Ave. Allentown, PA 18103	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAI023906031	David Posocco Posocco Equities 2610 Walbert Ave. Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF

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

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAS102804R	Fulton Industrial Development Assoc. 201 Lincoln Way W Suite 101 McConnellsburg, PA 17233	Fulton	Ayr Township	Big Cove Creek CWF
PAI030606001	Robeson Woods LP 100 West Lancaster Avenue Wayne, PA 19087	Berks	New Morgan Borough	Hay Creek and UNT to Hay Creek and Schuylkill River EV

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

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI-0610-06-002	Charles S. Bober St. Kilian Parish 212 Hook Street Mars PA 16046	Butler County	Cranberry Township	UNT to Kaufman Run WWF

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. 3506503, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. Jefferson Township Lackawanna County
Responsible Official	Steve Clark Aqua Pennsylvania, Inc. Palmyra Professional Center HCR 6, Box 6040 Hawley, PA
Type of Facility	Public Water System
Consulting Engineer	Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603
Application Received Date	11/16/06
Description of Action	Reconstruction of well 1 and treatment system improvements.

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

Permit No. 6706514, Public Water Supply.	
Applicant	Dillsburg Area Authority
Municipality	Carroll Township
County	York
Responsible Official	Sheldon K. Williams, General Manager P. O. Box 370 98 W. Church St. Dillsburg, PA 17019
Type of Facility	Public Water Supply
Consulting Engineer	William A. LaDieu CET Engineering Services 1240 N. Mountain Road Harrisburg, PA 17112
Application Received:	11/13/2006
Description of Action	Construction of Well No. 7 with a wellhouse and treatment.

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

Permit No. 4496231A5—Construction, Public Water Supply.

Applicant	Dutch Valley Food Company, Inc.
Township or Borough	Sunbury
County	Northumberland
Responsible Official	John T. Lerch Manufacturing & Technical Projects Manager 1000 S. Second Street P. O. Box 471 Sunbury, PA 17801
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Ralph A. Lambert, Jr., P. E. LAR Enterprises 363 West High Street P. O. Box 3489 Gettysburg, PA 17325
Application Received Date	December 8, 2006
Description of Action	Addition of a second source of spring water and revisions to the existing spring water processing system. Also requesting to allow the use of raw water from the existing source.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. Minor Amendment.

Applicant	Pennsylvania-American Water Company City of Scranton Lackawanna County
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Responsible Official	Scott M. Thomas, P. E. PA-AM Water Company 800 Hersheypark Drive Hershey, PA 17033
Type of Facility	Community Water System
Consulting Engineer	NA
Application Received Date	November 29, 2006
Description of Action	Application for repainting and minor repair/maintenance of the 500,000 gallon "Austin Heights-Old Forge" finished water storage tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and

implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Century 21 Vargo Real Estate, Lower Providence Twp, **Montgomery County**. Gilbert J. Marshall, P. G., Marshall Geoscience, Inc. 170 E. First Avenue, Colleagueville, PA 19426 on behalf of Joseph M. and Patricia B. Vargo, Century 21-Vargo Real Estate, 2830 West Main St., Trooper, PA 19403 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by released of leaded gasoline. The future use of the site will remain the unchanged.

Unitgo Rental Services Facility, Bristol Township, **Bucks County**. Peter Millionis, ARCADIS, 6 Terry Drive, Suite, 300, Newtown, PA 18940 on behalf of Craig Eckstein, Lester Block, LLC, 420 Howell St., Bristol, PA 19007 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of other organics. The future use of the site will remain the same.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Saucon Valley Condos, Hellertown Borough, **Northampton County**. Vincent M. Carbone, P. G., HDR Engineering, Inc., 609 Hamilton Mall, The Sovereign Building, Allentown, PA 18101-2111 has submitted a Notice of Intent to Remediate (on behalf of his client, Abraham Atiyeh, Brookside Commercial Construction Co., Inc., 1177 6th Street, Whitehall, PA 18052) concerning the remediation of soils found or suspected to have been impacted by arsenic as a result of historic operations. The applicant proposes to remediate the site to meet the residential Statewide Health Standard. The proposed future use of the site will be for residential housing. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on December 6, 2006.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Roman Salvage Property, Greene Township, **Franklin County**. Skelly & Loy, Inc., 2601 North Front Street, Harrisburg, PA 17110, on behalf of Charles R. Roman, Roman's Army Store, 4369 Sunset Pike, Chambersburg, PA 17201-9601, submitted a Notice of Intent to Remediate site soils contaminated with arsenic. The property was formerly used for salvage and storage of Army surplus materials; future use is a proposed residential development. The applicant is seeking to remediate to both the Site-Specific and Statewide Health Standard.

Former McCoy Electronics Facility, Mercersburg Borough, **Franklin County**. Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380, on behalf of Spirit

Washers, 95 Fox Road, Mercersburg, PA 17236 and Corning, Inc., HP-Me-02-50, Corning, NY 14831, submitted a revised Notice of Intent to Remediate site soils and groundwater contaminated with chlorinated solvents and cobalt. The property was formerly an electronics manufacturing facility and future use will be industrial/commercial. The applicant is seeking to remediate soil to the Statewide Health Standard and groundwater to the Site-Specific Standard.

Small Tube Manufacturing, LLC, Allegheny Township, **Blair County**. Malcolm Pirnie, Inc., 111 South Independence Mall East, Suite 1010, Philadelphia, PA 19106-2518, on behalf of Woverine Tube, Inc., 2100 Market Street NE, Decatur, AL 35609-2202, submitted a Notice of Intent to Remediate site soils contaminated with metals and VOCs. The site is and will remain a copper tube redrawing facility. The applicant is seeking to remediate to the Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Mt. Carmel Former MGP Site, Mt. Carmel Borough, **Northumberland County**, PPL Gas Utilities Corp, 2 North 9th St. (GENTW17), Allentown, PA 18101-1179 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with inorganic compounds, polycyclic aromatic hydrocarbons and other organic compounds. The applicant proposes to remediate the site to meet the Site-Specific Standard. The future use of the property will be unchanged.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for

the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

04-00034C: Engineered Polymer Solutions, d/b/a Valspar Coatings (372 Cleveland Avenue, Rochester, PA 15074) for installation of a new batch processing reactor (K-9) at their Rochester Plant in Rochester Township, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

37-264G: Ellwood Quality Steels Co. (700 Moravia Street, New Castle, PA 16101) for increased production at the Melt Shop facility, in their plant in the city of New Castle, **Lawrence County**. This plan approval is subject to the Prevention of Significant Deterioration requirements for CM.

24-083J: Carbone of America (215 Stackpole Street, St. Marys, PA 15857) for installation of an electric furnace and graphite production line at the St. Marys Plant, in the City of St. Marys, **Elk County**.

43-348A: American Cap Co., LLC (15 Church Street, Wheatland, PA 16161) for construction of an activated carbon monolithic adsorbent process for the semiconductor manufacturing sector in Wheatland Borough, **Mercer County**. This is a State-only 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.

PA-23-0093A: Bryn Hill Industries, Inc. (407 Industrial Park Drive, Yeadon, PA 19050) for relocation and installation of new sources used for the manufacture of urethane foam products to a new facility in Yeadon Borough, **Delaware County**. This facility is a State-only facility. This relocation and installation will not result in

an increase of criteria pollutant emissions from the facility. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0005AB: Merck and Co., Inc. (Sumneytown Pike, West Point, PA 19486) for installation of one portable emergency/peaking diesel-fired generator in Upper Gwynedd, **Montgomery County**. This installation is subject to the Department NSR regulations under 25 Pa. Code § 127.211(b)(1), for de minimis emission increases of NO_x. Seventeen tons of NO_x ERCs will be surrendered to the Department of Environmental Protection (Department) for this project. There are no add-on control devices for this source. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

1. To address the NSR regulations for this source, the permittee shall surrender 17.0 tons of NO_x ERCs to the Department. These ERCs are currently held by the permittee in the Department's ERC registry. This amount includes the de minimis NO_x increases (14.8 tons) times a multiplier of 1.15. The generator shall not start-up until the ERCs are transferred.

2. Air contaminant emissions shall not exceed any of the following:

- (a) Total Hydrocarbons—1.0 g/bhp-hr;
- (b) NO_x—6.9 g/bhp-hr;
- (c) PM—0.4 g/bhp; and
- (d) CO—2.0 g/bhp-hr.

3. Only diesel fuel with 0.05% sulfur or less, by weight, shall be used in the operation of this source.

4. The source shall not operate more than 400 hours in any 12-consecutive month period.

5. The permittee shall monitor the hours of operation using a nonresettable hour meter or Department approved equivalent.

6. The fuel usage and operating time for this source shall be recorded monthly and aggregated on a 12-consecutive month basis.

7. Within 180 days after operation commences for this source, the permittee shall perform a stack test for NO_x and CO to demonstrate compliance with the emission limits above.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

36-05140B: Valley Proteins, Inc. (693 Wide Hollow Road, East Earl, PA 17519) to replace the existing cross-flow air scrubber in their feather process with a new larger cross-flow air scrubber at their existing facility in East Earl Township, **Lancaster County**. This rendering facility is a Title V facility. This facility's emissions will not increase with the new scrubber. Reduced odor emission will result from the increased size of the new scrubber. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 06080: Pearl Pressman Liberty (5th and Poplar Streets, Philadelphia, PA 19123) for installation of a Heidelberg Lithographic printing press. There will be a potential emission increase of 1.2 tons for VOCs for the facility. The plan approval will contain operating and recordkeeping 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. Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Chief, (484) 250-5920.

46-00010: Montenay Montgomery, LTD. (1155 Conshohocken Road, Conshohocken, PA, 19428-1028) for a permit renewal to Title V Operating Permit, 46-00010 in Plymouth Township, **Montgomery County**. No changes have taken place at the facility since the previous permit was last amended on September 22, 2006, and no sources are subject to CAM at this time. The Title V permit renewal will contain monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

19-00001: Magee Rieter Automotive Systems (480 West Fifth Street, Bloomsburg, PA 17815) for renewal of a Title V Operating Permit 19-00001 for an automotive carpet manufacturing facility in the Town of Bloomsburg, **Columbia County**.

The facility incorporates two 77 million Btu per hour No. 4 fuel oil-fired boilers, a 60 million Btu per hour anthracite coal/carpet scrap-fired boiler, an 86.6 million Btu per hour anthracite coal/carpet scrap-fired boiler, three propane/natural gas-fired carpet dryers, three polyurethane foam process lines, 11 solvent parts washers, 13 emergency generators (various fuels—diesel, gasoline, propane and natural gas), a diesel-fired fire pump, 13 small (100,000 Btu per hour each) propane/natural gas-fired space heaters, an 8,000 gallon isocyanate storage tank, two 8,000 gallon polyol storage tanks and a 210,000 gallon fuel oil storage tank.

The PM emissions from each of the two anthracite coal/carpet scrap-fired boilers are controlled by a multiclone collector.

The air contaminant emissions from the facility are not expected to exceed 2,482 tons of SO_x, 75 tons of PM including up to 52 tons of PM₁₀, 256 tons of NO_x, 106 tons of CO, 20 tons of VOCs, 9.99 tons of hydrogen chloride and 11.78 tons of combined HAPs (including hydrogen chloride) per year.

The Department of Environmental Protection (Department) proposes to renew Title V Operating Permit 19-00001. The Department of Environmental Protection intends to incorporate into this renewal all conditions currently contained in Title V Operating Permit 19-00001 with these exceptions, changes and/or additions:

1. A condition has been added to the permit which limits the facility's total combined emissions of hydrogen

chloride or any other single HAP to less than 10 tons in any 12-consecutive month period and the total combined emissions of all HAPs to less than 25 tons in any 12-consecutive month period.

2. A condition has been added to the permit which requires the permittee to develop and submit a fuel analysis plan to the Department within 60 days of permit renewal for the purposes of determining the chlorine content of the fuels used in the facility on a continuing basis. Conditions have also been added requiring the permittee to implement the fuel analysis plan approved by the Department, to maintain records of the chlorine analyses performed pursuant to the approved plan and to submit semi-annual reports of this information to the Department.

3. A condition has been added to the permit requiring all fuel oil fired at this facility to be fuel oil to which no reclaimed or waste oil or other waste materials have been added.

4. Conditions concerning the monitoring of fuel oil sulfur content and the maintenance of records of this information have been modified to eliminate a monitoring option which the Department has determined does not provide the compliance demonstration originally intended and to require the maintenance of more comprehensive records of fuel oil sulfur content.

5. Conditions limiting the facility's two fuel oil-fired boilers to using only No. 4 fuel oil have been modified to also allow the use of No. 2 fuel oil. Conditions specifying the fuel oil sulfur content limit and requiring the maintenance and reporting of records of the amount of fuel oil used in each boiler have also been modified to include the applicable 25 Pa. Code § 123.22 sulfur content limit for No. 2 fuel oil and to require the maintenance and reporting of the amount of each separate type of fuel oil used in the boilers.

6. Conditions were added to the permit requiring the performance of PM and NO_x stack tests on the facility's two anthracite coal/carpet scrap-fired boilers within 12 months of permit renewal and every 3 years thereafter.

7. Conditions addressing the facility's emergency generators have been modified to include several generators installed since the permit was originally issued and also reorganized so that the Source P106 conditions address only those generators which are subject to the 25 Pa. Code §§ 129.91—129.95 Reasonably Available Control Technology requirements and the Source P107 conditions address those generators which are not subject to the respective requirements.

8. A condition requiring the maintenance of records of the vapor pressure of the materials stored in the 210,000-gallon fuel oil storage tank has been replaced with a condition requiring the maintenance of records of the identity of the materials stored in the respective tank. A condition has also been added to the permit restricting the tank to the storage of fuel oil only.

9. Conditions have been added to the permit specifying the applicable 25 Pa. Code § 129.63 requirements for the facility's solvent parts washers.

The proposed Title V operating permit renewal will be submitted to the United States Environmental Protection Agency for approval as a permit issued in accordance with the permit program requirements of 40 CFR Part 70.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

63-00027: Jessop Steel, LLC (100 River Road, Brackenridge, PA 15014) for operation at Washington Specialty Plate in Washington City, Washington County. This is a Title V Renewal.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

28-05041: Jerr-Dan Corp.—Route 11 Wrecker Plant (1080 Hykes Road, Greencastle, PA 17225) for a synthetic minor operating permit in Antrim Township, **Franklin County**. The facility's major sources of emissions include paint booths that primarily emit VOC. This permit is renewal of the Title V permit No. 28-05032 with reduced emissions as a result of modification to the operations. The synthetic minor operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00515: J-LOK Corp. (P. O. Box 187, Cresson, PA 16630) for production of mine bolt resin cartridges in Cresson Township, **Cambria County**. This is a State-only Operating Permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, New Source Review Chief, (814) 332-6940.

37-00268: Commercial Asphalt Supply, Inc. (155 Route 228 W., Valencia, PA 16059-2029) for reissuance of a Synthetic Minor Permit to operate a hot mix asphalt plant in Scott Township, **Lawrence County**. The facility has included a drum mix asphalt plant as a significant source. The facility has taken a throughput restriction of 650, 2,000 tons product per year and 2,640 hours of operational restriction to be a Synthetic minor facility.

61-00180: Vertical Seal Co.—Akers National Roll Co. (Chapman Road, Pleasantville, PA 16341) for reissuance of a Natural Minor Operating Permit to operate steel mill components to original tolerances in Harmony Township, **Forest County**. The facility's primary emission sources include five furnaces used to melt metals, a degreasing operation, a stress relief/heat treat furnace and miscellaneous propane combustion (space heaters).

**COAL AND NONCOAL MINING
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining

which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

32901603 and NPDES Permit No. PA0214507. Tipple Four J, Inc. (P. O. Box 435, Seward, PA 15954). To renew the permit for the Tipple Four J in Armstrong Township, **Indiana County** and related NPDES permit. No additional discharges. Application received: October 31, 2006.

33971301 and NPDES Permit No. PA0215031. AMFIRE Mining Company, LLC (One Energy Place, Suite 2800, Latrobe, PA 15650). To revise the permit for the Dora No. 8 Mine in North Mahoning Township, **Indiana County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 234.6, SCP Acres Proposed 234.6. No additional discharges. Application received: November 13, 2006.

56841608 and NPDES Permit No. PA0213721. PBS Coals, Inc. (1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541). To renew the permit for the Cambria Fuel Preparation Plant in Stonycreek Township,

Somerset County and related NPDES permit. No additional discharges. Application received: June 22, 2006.

56951301 and NPDES Permit No. PA0214850. RoxCOAL, Inc. (P. O. Box 149, Friedens, PA 15541). To renew the permit for the Augustus Mine in Shade Township, **Somerset County** and related NPDES permit. No additional discharges. Application received: October 30, 2006.

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

56060111 and NPDES No. PA0262269. PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541). Commencement, operation and restoration of a bituminous surface mine in Black Township, **Somerset County**, affecting 111.3 acres. Receiving streams: UNT to Coxes Creek/Coxes Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received: November 30, 2006.

Permit No. 56910101 and NPDES No. PA0599077. Paul F. Becker Coal Company (1593 Old Route 22, Duncansville, PA 16653). Permit renewal for reclamation only of a bituminous surface auger mine in Somerset and Stonycreek Townships, **Somerset County**, affecting 120 acres. Receiving streams: UNTs to Kimberly Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: December 4, 2006.

32813001 and NPDES No. PA 0125504. A & T Coal Company (P. O. Box 327, Punxsutawney, PA 15767). Transfer of an existing bituminous surface mine from Twin Brook Coal Company, 410 Franklin St., Clymer, PA 15728 located in Green and Montgomery Townships, **Indiana County**, affecting 244 acres. Receiving streams: Painters Run and UNTs to Cush Cushion Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received: December 4, 2006.

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

03990105 and NPDES Permit No. PA0202592. Seven Sisters Mining Co., Inc. (P. O. Box 300, 200 US Route 22, Delmont, PA 15626). Revision application to change the landuse from forestland to pastureland/land occasionally cut for hay to an existing bituminous surface mine, located in South Bend and Burrell Townships, **Armstrong County**, affecting 206.2 acres. Receiving stream: UNT to Fagley Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: December 1, 2006.

03990107 and NPDES Permit No. PA0202622. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Revision application for a variance to install a stream crossing of a UNT to Limestone Run to an existing bituminous surface mine, located in East Franklin and Washington Townships, **Armstrong County**, affecting 263.8 acres. Receiving streams: UNTs

to Limestone Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application Received: December 6, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17940117 and NPDES No. PA0219916. King Coal Sales, Inc. (P. O. Box 712, Philipsburg, PA 16866). Revision of an existing bituminous surface mine (change in land use) in Morris Township, **Clearfield County**, affecting 141.0 acres. Receiving streams: UNT to Alder Run to West Branch Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received: November 20, 2006.

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

54060104 and NPDES Permit No. PA0224570. Post Mining (698 Fairview Street, Tamaqua, PA 18252-4724). Commencement, operation and restoration of an anthracite surface mining operation in Reilly Township, **Schuylkill County** affecting 165.0 acres, receiving stream: UNTs to Swatara Creek classified for the following use: CWF. Application received: December 5, 2006.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹			
pH ¹		greater than 6.0; less than 9.0	

¹The 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.

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

03860401 and NPDES Permit No. PA0588024. Seven Sisters Mining Co., Inc. (200 Route 22, P. O. Box 300, Delmont, PA 15626-0300). NPDES renewal application for continued operation and reclamation of an existing noncoal surface mine, located in South Bend Township, **Armstrong County**, affecting 160 acres. Receiving stream: Crooked Creek, classified for the following use: WWF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Renewal application receiving: December 4, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water

Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and

other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-488. Department of Conservation and Natural Resources, Bureau of Forestry—Weiser Forest District, 890 SR 0903, Jim Thorpe, PA 18229, in Tunkhannock Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a dry hydrant in Fishing Lake for the purpose of providing water for fire protection. The project is located in Indian Mountain Lakes Development, south of the intersection of North Shore Drive and Crest Drive (Blakeslee, PA Quadrangle N: 0.9 inch; W: 1.6 inches).

E39-472. Lutron Electronics Company, Inc., 7200 Suter Road, Coopersburg, PA 18036-1299, in Upper Saucon Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To modify and maintain a 0.53 acre man-made pond within the Tumblebrook Creek Watershed (CWF) with work consisting of reconfiguring the geometry of the pond while maintaining the approximate size and depth. The activity is associated with the construction of an office building. The project is located on the west side of Suter Road approximately 0.1 mile north of Jacoby Road. (Allentown East, PA Quadrangle N: 3.5 inches; W: 0.2 inch).

E13-156. Reading Blue Mountain & Northern Railroad, One Railroad Boulevard, P. O. Box 218, Port Clinton, PA 19549, in Mahoning and Jim Thorpe Boroughs, **Carbon County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 3-span steel I-beam railroad bridge across the Lehigh River (HQ-CWF) having spans of 120-feet, 150-feet and 150-feet and an unclearance of 40-feet. The project is located within the Lehigh Gorge State Park approximately 1.5 miles upstream of SR 0903 bridge over the Lehigh River. (Nesquehoning, PA Quadrangle N: 22.5 inches; W: 1.2 inches).

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

E07-408. Jeffery Long Property, Jeffrey and Vikki Long, R. D. 1, Box 426, Tyrone, PA 16686, **ACOE Baltimore District**.

To install and maintain a 6-inch diameter by 74-foot long PVC sanitary sewer lateral along Exceptional Value wetland of a UNT to Sandy Run (CWF), resulting in 0.04 acre of temporary wetland impact on the south side of SR 4018 approximately 1,100 feet west of the intersection of SR 4018 and SR 1001 (Bellwood, PA Quadrangle: N: 12.8 inches; W: 12.1 inches; Latitude: 40° 33' 59"; Longitude: 78° 20' 28") in Antis Township, **Blair County**.

E50-238. Adams Pond, James Adams, 37 Clouser Road, Mechanicsburg, PA 17055, **ACOE Baltimore District**.

To place and maintain fill in 0.02 acre of PEM wetland for the purpose of constructing a fire-protection pond located at 526 Dietz Road (Ickesburg, PA Quadrangle: N: 2.8 inches; W: 6.8 inches; Latitude: 40° 25' 17"; Longitude: 77° 20' 47") in Saville Township, **Perry County**. The amount of wetland impact area is less than 0.05 acre and is de minimus.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-499. American Philatelic Research Library, 100 Match Factory Place, Bellefonte, PA 16823. Water Obstruction and Encroachment Permit Application, in Bellefonte Borough, **Centre County**, ACOE Susquehanna River Basin District (Bellefonte, PA Quadrangle N: 6.3 inches; W: 12.7 inches).

To construct and maintain 50-feet of 6-inch PVC dry hydrant in Spring Creek (HQ-CWF) located in the parking area behind the Match Factory Building in Bellefonte Borough, **Centre County**.

E18-415. Rocky A. Snyder, Box 77 Woolrich, PA 17779. Water Obstruction and Encroachment Joint Permit Application, in Dunstable Township, **Clinton County**, ACOE Baltimore District (Lock Haven, PA Quadrangle N: 14.45 inches; W: 3.65 inches).

To construct and maintain a 48" smooth-lined plastic pipe culvert which will be used as an access to a private home, 3.5 miles west of Woolrich on SR 1003. This project proposes to permanently impact 20 linear feet of Little Plum Run, which is designated a HQ-CWF stream and does not propose to impact any jurisdictional wetlands.

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

E03-440. Armstrong County Commissioners, Administration Building, Courthouse Complex, Kittanning, PA 16201. To construct a bridge in North Buffalo Township, **Armstrong County**, Pittsburgh ACOE District. (Worthington, PA Quadrangle N: 9.25 inches; W: 3.25 inches; Latitude: 40° 48' 01"; Longitude: 79° 38' 52"). The applicant proposes to remove the existing structure (County Bridge No. 2) and to construct and maintain a bridge having a span of 86.33 feet with an underclearance of 13.6 feet across the channel of Buffalo Creek (TSF) for the purpose of improving highway safety. The project is located on T-659 (Beatty Mill Road), just east from the intersection of T-314 (Hogg Road) and will impact approximately 40.0 linear feet of stream channel.

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

E25-617A, Erie Yacht Club. Amendment to Remove/Replace Wall, in City of Erie, **Erie County**, ACOE Pittsburgh District (Swanville PA Quadrangle N: 22.2 inches; W: 0.8 inch).

The applicant proposes to amend Permit No. E25-617A which authorized the Erie Yacht Club to make the following improvements to the existing Erie Yacht Club Marina in Presque Isle Bay, Lake Erie at the foot of Ravine Drive approximately 1 mile east of the base of the Presque Isle Peninsula: 1) to dredge 6 areas of the existing marina basin removing a total of approximately 25,000 cubic yards of sediment and shale to establish and maintain bed elevations ranging from 560.0 feet USGS to 564.0 feet USGS; 2) to install and maintain a 370-foot long by 6-foot wide pile anchored floating dock along and parallel to the western side of the western marina jetty; and 3) to remove the a portion of the existing wall in front of the Erie Yacht Club clubhouse and to construct and maintain an approximately 157-foot long steel sheet piling wall with sheet panels each having a height of 10 feet, a width of 6.83 feet, and a thickness of 0.03 feet. The project includes removal of sediment to an elevation approximately 10 feet below the top of the wall and installation of 18.5-foot long pipe piles embedded approximately 8.5 feet into the shale bottom.

The applicant proposes to amend Permit No. E25-617A to make the following improvements to the existing Erie Yacht Club Marina in Presque Isle Bay, Lake Erie at the foot of Ravine Drive approximately 1 mile east of the base of the Presque Isle Peninsula: 1) to dredge 6 areas of the existing marina basin removing a total of approximately 25,000 cubic yards of sediment and shale to establish and maintain bed elevations ranging from 560.0 feet USGS to 564.0 feet USGS; 2) to install and maintain a 370-foot long by 6-foot wide pile anchored floating dock along and parallel to the western side of the western marina jetty; 3) to remove the a portion of the existing wall in front of the Erie Yacht Club clubhouse and to construct and maintain an approximately 157-foot long steel sheet piling wall with sheet panels each having a height of 10 feet, a width of 6.83 feet, and a thickness of 0.03 feet. The project includes removal of sediment to an elevation approximately 10 feet below the top of the wall and installation of 18.5-foot long pipe piles embedded approximately 8.5 feet into the shale bottom; 4) to install and maintain wave attenuators and dead weight anchors, and docks and dead weight anchors off-site or on-shore at the site; 5) to extract existing piles and to construct and maintain new piles to be augered into shale; 6) to removing the existing sailing school dock, bulkhead and embankment; 7) to widen and maintain the "O" dock by placing fill material; 8) to construct and maintain a revetment by placing rip-rap or concrete from existing "O" and "A" docks, to be entirely submerged; and 9) To remove various fixed docks and to construct and maintain floating docks.

Work is proposed to be done on water lots in Presque Isle Bay and not in or on submerged lands of the Commonwealth. This project proposes to impact approximately 0.728 acre of Presque Isle Bay.

E27-080. Marion Lavern and Sandra M. Bechtel, HC 2, Box 21, Tionesta, PA 16353. Bechtel SFTF, in Hickory Township, **Forest County**, ACOE Pittsburgh District (West Hickory, PA Quadrangle N: 10.4 inches; W: 5.9 inches).

The applicant proposes to construct and maintain an outfall structure having a 4-inch diameter outfall pipe (for a 500 gpd single residence sewage treatment facility) above the high water mark within the Federal Scenic River corridor of the Allegheny River approximately 200 feet W of the intersection of SR 62 and SR 3004 (Little Hickory Road). The Allegheny River is a perennial stream classified as a WWF.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-487. Robert S. McGrail-Peasley, 2045 Runville Road, Bellefonte, PA 16823, Berm/bridge/culvert, in Boggs Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 21.07 inches; W: 13.35 inches).

To construct and maintain: 1) 340 foot long by 2 foot wide by 2 foot high earthen berm on the top of the right bank of a UNT to Wild Cat Run for the purpose of protecting an earthen road from flood waters; 2) a wooden pedestrian bridge with a 19-foot clear span and 4-foot underclearance across Wild Cat Run for private use; 3) a 24-inch diameter HDPE culvert with a rock headwall to make a new road crossing near the upstream limit of the earthen berm, located 3,100 feet upstream of the intersection of Gum Stump Road and Runville Road (SR 144) (Bellefonte, PA Quadrangle N: 21.07 inches; W: 13.35 inches) in Boggs Township, Centre County. This project proposes to impact 340 linear feet of the UNT to Wild Cat Run and 5 linear feet of Wild Cat Run that are tributaries to Wallace Run, which is classified as a HQ-CWF and proposes no wetland impacts.

ENVIRONMENTAL ASSESSMENTS

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

EA63-004A Molycorp, Inc., 1217 West Wayne Street, Washington, PA 15301. Request for permit waiver in accordance with 25 Pa. Code § 105.12(a)(16) and 401 Water Quality Certification in Canton Township, **Washington County**, Pittsburgh ACOE District. The applicant proposes to amend an already approved Environmental Assessment (EA63-004), which approved the following activities: permanently impacting 0.71 acre of PEM/PSS wetlands during waste removal an regarding, restoring and stabilizing 800 linear feet of stream bank along Chartiers Creek (WWF), removing an abandoned concrete obstruction in Chartiers Creek (WWF) and constructing and maintaining approximately 2,600 linear feet of temporary sheet piling and earthen berms along the eastern bank of Chartiers Creek (WWF). The amendment requests additional permanent impacts of 0.32 acre of PEM/PSS wetlands during waste removal and to fill 0.13 acre of PFO wetlands to widen an access road. The project is located in the vicinity of Caldwell Avenue, near the Jessop exit from I-70.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30

days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504 and 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

SSIP

<i>Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
06017	PPC Lubricants, Inc. 305 Micro Dr. Jonestown, PA 17038 Attn: David H. Klinger	Butler	Butler and Summit Townships	88 ASTs storing petroleum products	971,000 gallons total
06018	Green Renewable Energy, Ethanol & Nutrition-Holding, LLC 1904 Tollgate Rd. Palm, PA 18070 Attn: Jeffrey L. Dershem	Schuylkill	Frailey and Porter Townships	Six ASTs storing petroleum products	8,930,000 gallons total

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0062464	Pennsylvania American Water Co. 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701	Stroud Township Monroe County	Sambo Creek (1E)	Y
PA0060259 (Minor Sewage)	Tyler Hill Camp 85 Crescent Beach Road Glen Cove, NY 11542	Wayne County Damascus Township	Laurel Lake (1A)	Y
PA-0061506 (Sewage)	Preston Country Market P. O. Box 2 Preston Park, PA 18455	Preston Township Wayne County	UNT to Shehawken Creek (01A)	Y
PA0012823	PPL Martins Creek, LLC Two North Ninth Street Allentown, PA 18101-1179	Lower Mt. Bethel Township Northampton County	Delaware River WWF Watershed 1F	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0086444 (SEW)	Blude Ridge Sportsman Association 3009 Waynesboro Pike Fairfield, PA 17320	Adams County Liberty Township	Miney Branch of Tom's Creek 13-D	Y
PA0083917 (IW)	Edge Rubber 811 Progress Avenue Chambersburg, PA 17201-3257	Franklin County Chambersburg Borough	UNT Conococheague Creek 13-C	Y
PA0083194 (SEW)	HMS Host (Blue Mountain Service Plaza) PA Turnpike/Travel Plazas P. O. Box 8 Middletown, PA 17057	Cumberland County Hopewell Township	Newburg Run 7-B	Y
PA0085014 (SEW)	Conestoga Township P. O. Box 98 Conestoga, PA 17516-9616	Lancaster County Conestoga Township	Pequea Creek 7-K	Y
PA0087378 (IW)	Letterkenny Army Depot One Overcash Avenue Chambersburg, PA 17201	Franklin County Greene Township	Rowe Run 7-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PAS236103 Industrial Waste	Ferro Color & Glass Performance Materials P. O. Box 519 West Wylie Avenue Washington, PA 15301	Washington County Canton Township	Chartiers Creek	Y
PA0217522 Sewage	Municipal Authority of the Borough of Smithton P. O. Box 342 615 Center Street Smithton, PA 15479-0342	Westmoreland County Smithton Borough	UNT of the Youghiogheny River	Y
PA0218855 Sewage	Consol PA Coal Company P. O. Box J Claysville, PA 15323	Washington County East Finley Township	Rocky Run	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0218944 Sewage	Franklin Fayette Sewer Authority P. O. Box 55 Smock, PA 15480	Fayette County Franklin Township	Redstone Creek	Y
<i>Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.</i>				
<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0238651	SMS Millcraft, LLC 671 Colbert Avenue Oil City, PA 16301-2288	City of Oil City Venango County	Allegheny River 16-E	Y
PA0029114	Clintonville Borough Sewer and Water Authority P. O. Box 292 109 Franklin Street Clintonville, PA 16372	Clintonville Borough Venango County	UNT to Scrubgrass Creek 16-G	Y
PA0102628	Henderson Township Municipal Authority 121 Fourth Street Stump Creek, PA 15863	Henderson Township Jefferson County	Mahoning Creek 17-D	Y
PA0103594	Windsor Mobile Home Park 12740 Wetsell Ridge Road Edinboro, PA 16412-1854	Washington Township Erie County	UNT to Little Conneautee Creek 16-A	Y

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

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

NPDES Permit No. PA02248720, Sewage, **Brian Nicodemus**, 6141 Courtland Road, Alum Bank, PA 15521. This proposed facility is located in West St. Clair Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Dunning Creek in Watershed 11-C.

NPDES Permit No. PA0081779, Sewage, **Triple Crown Corporation, Fishing Creek Elementary**, 5351 Jaycee Drive, Harrisburg, PA 17112. This proposed facility is located in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Fishing Creek in Watershed 7-C.

NPDES Permit No. PA0247898, Sewage, **David L. Fite, David Fite Realty**, 103 Fite Way, Suite D, Quarryville, PA 17566. This proposed facility is located in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to South Fork Big Beaver Creek in Watershed 7-K.

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

NPDES Permit No. PA0000183, Industrial Waste, **General Electric—Erie**, 2901 East Lake Road, Erie, PA 16531. This proposed facility is located in Lawrence Park Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to a UNT to Lake Erie in Watershed 15.

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. WQG02460630, Sewerage, **Hickory Veterinary Hospital**, 2303 Hickory Road, Plymouth Meeting, PA 19462. This proposed facility is located in Plymouth Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sewage pump station.

WQM Permit No. 1504417, Sewerage, **Franklin Township**, P. O. Box 118, 20 Municipal Lane, Kemblesville, PA 19347. This proposed facility is located in Franklin Township, **Chester County**.

Description of Action/Activity: Construction and operation of sewage treatment plant.

WQM Permit No. 4606407, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464-1829. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sanitary sewage collection with conveyance to Pine Ford Road pump station.

WQM Permit No. WQG02150631, Sewerage, **Oxford Area Sewer Authority**, 401 East Market Street, P. O. Box 380, Oxford, PA 19363. This proposed facility is located in Oxford Borough, **Chester County**.

Description of Action/Activity: Construction and operation of a sewage pump station.

WQM Permit No. 1500421-I, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Construction and operation of a new gravity collection system, effluent return force main, storage lagoon and spray pump station.

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

WQM Permit No. 0506405, Sewerage, **Brian Nicodemus**, 6141 Courtland Road, Alum Bank, PA 15521. This proposed facility is located in West St. Clair Township, **Bedford County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a single family residence sewage treatment facility with one 1,000 gallon dual compartment septic tank, a gravity dosed peat filter, tablet chlorinator and chlorine contact tank.

WQM Permit No. 667S060, Transfer 1, Sewerage, **Triple Crown Corporation**, 5351 Jaycee Avenue, Harrisburg, PA 17112. This proposed facility is located in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Approval for the transfer of sewerage facilities consisting of an extended aeration plant with polishing pond and disinfection.

WQM Permit No. 6705415, Amendment 06-1, Sewerage, **Jeffrey Garvick, Township Manager**, Penn Township, 20 Wayne Avenue, Hanover, PA 17331. This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of the Whispering Run, High Pointe-North, Maitland Investments and Martins Ridge Sanitary Sewer Extension.

WQM Permit No. 3606404, Sewerage, **David L. Fite, David Fite Realty**, 103 Fite Way, Suite D, Quarryville, PA 17566. This proposed facility is located in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a Dual CA-120 Cromaglass units with equalization and phosphorus precipitation at the Commerce Commons Sewage Treatment Facility.

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

WQM Permit No. 0406201, Industrial Waste, **Ashland, Inc.**, 501 Railroad Street, Rochester, PA 15074. This proposed facility is located in Freedom/Rochester Boroughs, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance to treat stormwater and groundwater from bulk petroleum storage and distribution facilities.

WQM Permit No. 1169401-A3, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901. This existing facility is located in West Taylor Township, **Cambria County**.

Description of Proposed Action/Activity: Permit amendment issuance for installation of an additional circular final clarifier and accompanying return activated sludge pumps and skimming pumps at the Dornick Point STP.

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

WQM Permit No. 2506407 Sewerage, **Amendment No. 1, Washington Township Sewer Authority**, 11800 Edinboro Road, Edinboro, PA 16412. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: Angling wastewater treatment plant expansion and upgrade.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906026	Ken Shinbach 14 East 75th Street New York, NY 10021	Bucks	Tinicum Township	UNT Tinicum Creek (EV)
PAS10G464R	Trammell Crow Development, Inc. 300 Conshohocken State Road Suite 250 Conshohocken, Pa 19428	Chester	East Whiteland Township	Cedar Hollow Run (EV)
PAI011505069	Pulte Homes of PA, LLC 1100 Northbrook Avenue P. O. Box 200 Trevose, PA 19053	Chester	East Brandywine Township	Beaver Creek (TSF-MF) Culbertson Run (HQ-TSF-MF)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506026	Gary A. Hopkins P. O. Box 100 Oxford, PA 19363	Chester	Lower Oxford Township	West Branch Big Elk Creek (HQ-TSF-MF)
PAI011506092	Conard Pyle Company 372 Rosehill Road West Grove, PA 19390	Chester	Penn Township	UNT East Branch Big Elk Creek (HQ-TSF-MF)
PAI012306007	Sposato-Rayer Builders, Inc. 114 Black Bass Lane Media, PA 19063	Delaware	Upper Providence Township	UNT Ridley Creek (HQ-TSF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906012	Lehigh Valley Hospital & Health Network 2 Cedar Crest and I-78 Allentown, PA 18105	Lehigh	City of Allentown Salisbury Township Lower Macungie Township	Little Lehigh Creek 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 & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Concord Township Delaware County	PAG2002306038	DDLMLP 1050 Baltimore Pike Glen Mills, PA 19342	West Branch Chester Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Haverford Township Delaware County	PAG2002306036	School District Haverford Township 1801 Darby Road Havertown, PA 19083	Darby/Cobbs Creeks (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Abington Township Montgomery County	PAG2004606129	Prime Building Group 205 East Mill Road Hatboro, PA 19040	Meadow Brook (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
New Hanover Township Montgomery County	PAG2004606058	Michael Gola 305 Cumbrian Court West Chester, PA 19382	Swamp Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Douglass Township Montgomery County	PAG2004606113	Roger Elias 693 Sunnyside Avenue Norristown, PA 19403	UNT Minister Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG2004606140	Allen A. Myers 1805 Berks Road Worcester, PA 19490	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG2004606131	Danny Jake Corporation 3625 Welsh Road Willow Grove, PA 19090	UNT Stony Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2004606071	Garcia Development, LLC 3001 Eisenhower Driver East Norriton, PA 19403	Tributary Schuylkill River (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG2004605100	Wings Field Preservation Associates 1501 Narcissa Road Blue Bell, PA 19422	Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG2004606056	Girl Scouts of Southeastern PA P. O. Box 27540 Philadelphia, PA	Swamp Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004606134	Jesse Landis 684 Forman Road Souderton, PA 18964	Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Royersford Borough Montgomery County	PAG2004606125	Stephen Freedman 1715 Butler Pike Ambler, PA 19002	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Scott Township Carbondale Township Mayfield Borough Jermyn Borough Lackawanna County	PAG2003506036	William White R. R. 1, Box 432 Olyphant, PA 18447	Rush Brook CWF Tributary to South Branch Tunkhannock Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Salem Township Luzerne County	PAG2004006048	Landstudies, Inc. 1860 Lick Run Rd. Williamsport, PA 17701	North Branch Susquehanna River CWF	Luzerne Co. Cons. Dist. (570) 674-7991
South Whitehall Township Lehigh County	PAG2003906020	Brian Lasage Eastern Industries 4401 Camp Mtg. Rd. Center Valley, PA 18034	Jordan Creek TSF, MF	Lehigh Co. Cons. Dist. (610) 391-9583
Upper Saucon Township Lehigh County	PAG2003906024	Dan Altieri Southern Lehigh Sch. Dist. 5775 Main St. Center Valley, PA 18034	Saucon Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Upper Saucon Township Lehigh County	PAG2003906027	James Roney Saucon Valley CC 2050 Saucon Valley Rd. Bethlehem, PA 18015	Saucon Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Washington Township Lehigh County	PAG2003906030	Rudy Amelio WBP Associates 1348 Hamilton Blvd. Allentown, PA 18102	Trout Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Whitehall Township Lehigh County	PAG2003906033	Andrew Twigger Dunn Twigger Co. 1665 Valley Ctr. Parkway, Suite 110 Bethlehem, PA 18017	Coplay Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Taylor Borough Lackawanna County	PAG2003506038	Robert Cordaro 200 Alamo Ave. Scranton, PA 18503	Keyser Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Greene Township Franklin County	PAG2002806073	Norland Family Practice Paul Klink Downing Field Enterprises 3000 Philadelphia Ave. Chambersburg PA 17201	UNT East Branch of Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAR10M215R	Green Valley Estates ph. III Preston Bellows Creekridge II, LLC 2082 Lincoln Way East Chambersburg PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Letterkenny Township Franklin County	PAG2002806071	Less Than Truckload Fac. Richard Dreistadt U. S. Army Corp of Engineers P. O. Box 1715 Baltimore MD 21203	Conodoguinet Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Hamilton and St. Thomas Townships Franklin County	PAG200280654	John Hart Franklin Co. Comm. 14 N. Main Street Chambersburg PA 17201	Dennis Creek CWF Back Creek TSF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG2002806082	Clyde Fox GF Properties 3326 Carnauti Drive Chambersburg PA 17201	UNT to Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG20028040011	Keith Sunderman S&A Custom Built Homes 2121 Old Gatesburg Road Suite 200 State College PA 16803	UNT to Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG2002805084	Sunset Terrace Bonnie Zehler Franklin Co. Housing Auth. 436 West Washington St. Chambersburg PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
West Hanover Township Dauphin County	PAG2002206074	CJ Pony Parts, Inc. 7481 Allentown Blvd. Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Swatara Township Dauphin County	PAG2002206063	Borough of Middletown Jeffrey Stonehill 60 W. Emaus St. Middletown, PA 17057	Swatara Creek WWF and Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018
Union Township Lebanon County	PAG2003806023	Kenneth Boltz USPFO for Pennsylvania, Fort Indiantown Gap Building 11-12, Service Road Annville, PA 17003	Aires Run and Vesle Run WWF	Lebanon County Conservation District 2120 Cornwall Road, Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
East Hanover Township Lebanon County	PAG2003806028	Kenneth Boltz USPFO for Pennsylvania Fort Indiantown Gap Building 11-12, Service Road Annville, PA 17003	Manada Creek CWF	Lebanon County Conservation District 2120 Cornwall Road, Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
North Londonderry Township Lebanon County	PAG2003806035	Stephen P. Myers The Hershey Company 1025 Reese Avenue P. O. Box 805 Hershey, PA 17033-0805	Spring Creek WWF	Lebanon County Conservation District 2120 Cornwall Road, Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
North Lebanon Township Lebanon County	PAG2003806034	Ben Reigert Restoration Connection, Inc. 987 Valley View Drive New Holland, PA 17557	Little Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road, Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Centre County College Township	PAG2001406023	Fredrick Kissinger Kissinger, Bigatel & Brower Centre Hills Villas 2300 South Atherton Street State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817
Union County East Buffalo Township	PAG2006006011	Cristian Faust 138 Arbutas Park Road Bloomsburg, PA 17815	UNT to Susquehanna River WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Beaver County Economy Borough and New Sewickley Township	PAG2000406021	Stephen M. Dell Traditions of America 5000 Ritter Road Mechanicsburg, PA 17055	UNT to Crow's Run (WWF) and Tevebaugh Run (WWF)	Beaver County CD (724) 378-1701
Lawrence County Union Township	PAG2003706005	David Chapin Arbor Development Group 19459 Via Del Caballo Yorba Linda CA 92886	UNT Shenango River WWF	Lawrence County Conservation District (724) 652-4512

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Ashland Borough Schuylkill County	PAR112204	ITT Corporation—Goulds Pumps 500 East Centre Street Ashland, PA 17921	Mahanoy Creek	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Mount Pleasant Westmoreland County	PAR216173	Port Augustus Glass Company 1900 Liberty Street Mount Pleasant, PA 15666-1616	Shupe Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Farmington Township Warren County	PAG048417	Teddy R. Babcock R. R. 3, 333A Valentine Run Road Russell, PA 16345	UNT to Rhine Run in Watershed 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Mead Township Warren County	PAG048385	Ronald W. Polzer 13191 Painesville-Warren Road Painesville, OH 44077	UNT to the Allegheny (River) Reservoir in Watershed 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Slippery Rock Township Butler County	PAG049301	Vernon H. Boyer 657 Kiester Road Slippery Rock, PA 16057-3823	Slippery Rock Creek in Watershed 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Warren County	PAG048784	Everett L. Rhoades R. R. 2, Box 41A Sugar Grove, PA 16350-9317	UNT (Hazeltine Hollow Run) to Matthews Run in Watershed 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location & Municipality*

<i>Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
York County Carroll Township	PAG053556	Shillito Oil, Inc. 1014 York Road Dillsburg, PA 17019	UNT to Dogwood Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-8 (SSN)**Facility Location & County/Municipality*

<i>County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Conemaugh Township Indiana County	PAG086114	Mon Valley Sewage Authority P. O. Box 792 Donora, PA 15033	Stanley Auen Farm No. 1	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 2640067, Operations Permit Public Water Supply.

Applicant	Wayne Memorial Long Term Care, Inc. 9 Manor Drive Beach Lake, PA 18405 Damascus Township
County	Wayne
Type of Facility	PWS
Consulting Engineer	N/A
Permit to Operate Issued	12/04/06

Permit No. Minor Amendment Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. Palmyra Professional Building HC 6, Box 6040 Hawley, PA 18428 Barrett Township
County	Monroe
Type of Facility	PWS

Consulting Engineer	Douglas Berg, P. E. Entech Engineering, Inc. P. O. Box 32 Reading, PA 19603
Permit to Construct Issued	12/04/06

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

Permit No. 5005502, Public Water Supply.

Applicant	Borough of Blain
Municipality	Blain Borough
County	Perry
Type of Facility	This permit application is for the construction of a finished water storage standpipe, booster pump station and treatment building. The Pennsylvania Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposed project. The Department hereby approves the Environmental Assessment.

Consulting Engineer	Angelo A. Tesoriero, P. E. GeoSource Engineers 7 Winter Drive Dillsburg, PA 17019-9550
Permit to Construct Issued:	12/14/2005

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

Permit No. 1805501—Operation Public Water Supply.

Applicant	Porter Township Municipal Authority
Township or Borough	Porter Township
County	Clinton
Responsible Official	Karl Walizer, Chairman Porter Township Municipal Authority 216 Spring Run Road, Room 105 Mill Hall, PA 17751
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	December 12, 2006

Description of Action Approval of the proposed optimal corrosion control treatment water quality parameter performance requirements. Permanent operation of the zinc orthophosphate chemical feed system.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act

Plan Location:

Borough or Township	Borough or Township Address	County
Pocono Township	P. O. Box 197 Tannersville, PA 18372	Monroe
Hamilton Township	P. O. Box 285 Sciota, PA 18354	Monroe

Plan Description: The approved plan provides for construction of a pump station in Swiftwater, a Pocono Township Interceptor Sewer, a Hamilton Township Interceptor Sewer, a 2.0 million gallons per day wastewater treatment plant in Pocono Township with tertiary treatment and filtration, and a force main to convey treated effluent to the Brodhead Creek for discharge at a point below the Brodhead Creek Regional Authority Water Plant. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. The approved project will require an NPDES Permit for the proposed effluent discharge. The approved project will require a Water Quality Management Part II Permit for construction and operation of the proposed sewage facilities. Other Departmental permits will be required for construction and encroachment on streams and/or wetlands.

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

Plan Location:

Borough or Township	Borough or Township Address	County
Toboyne Township	R. R. 1, Box 1013 Blain, PA 17006	Perry

Plan Description: The approved plan revision provides for a new 4,200 gpd private community onlot sewage disposal system. The proposed facility will serve the Wildwood Family Campground, a new 76 site seasonal campground on 120 acres with a camp store and a single family residence. Horse Valley Run, a high quality stream, runs through this campground. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

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.

Essington Sunoco Pipeline, Tinicum Township, Delaware County. Lisa Strobridge, Aquaterra Technologies, Inc, 122 S. Chester St., West Chester, PA 19381 on behalf of Brad Fish, Sunoco, Inc., (R & M) P. O. Box 1135 Post Road, Blue Ball Ave., Marcs Hook, PA 19061 has submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Site Specific Standards and Statewide Health Standards.

Thorndale Pumping Station, Thorndale Borough, Chester County. Mike Eberle, Malcolm Primie, Inc., 630 Freedom Business Center, Suite, 203, King of Prussia, 19406 on behalf of Mike Humberger, Pennzoil-Quaker State Co., d/b/a SOPUS Products, 12700 Northborough Drive, 300 E-11, Houston, TX 77067 has submitted a Final Report concerning remediation of site soil contaminated with No. 6 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Northeast Regional Field Office, Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Trexler Plaza, Inc., Upper Macungie Township, Lehigh County. Michael P. Raffoni, GemChem, Inc., P. O. Box 384, Lititz, PA 17543-0384 has submitted a

Final Report (on behalf of his client, Bud Thind, Trexler Plaza, Inc., P. O. Box 307, Fogelsville, PA 18051) concerning the remediation of soils found to be impacted by No. 2 fuel oil as a result of several holes observed along the tank's invert during the removal process. This tank was used to heat an onsite building at this facility. The report was submitted in document attainment of the residential Statewide Health Standard. A summary of the submittal of the Notice of Intent to Remediate and the Final Report was reportedly published in *The Morning Call* on November 13, 2006.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Automotive Service, Inc., Union Township, **Berks County**. Marshall Geoscience, Inc. 170 E. First Avenue, Collegetown, 19426, on behalf of Sandy's Garage, 1682 E. Main Street, Douglassville, PA 19518, submitted a Final Report concerning site soil, sediment and surface water contaminated by No. 2 fuel oil. The report is intended to document remediation of the site to the residential Statewide Health Standard.

Chambersburg Armory, Hamilton Township, **Franklin County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of the Department of Military and Veterans Affairs, Environmental Division, Building 11-19, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Final Report concerning remediation of site soils and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to the residential Statewide Health Standard.

Former ENCO Realty Facility, Reading City, **Berks County**. Whittemore and Haigh Engineering, Inc., 200 Bethlehem Drive, Suite 201, Morgantown, PA 19543, on behalf of QMM Properties, LLC, P. O. Box 350, Shillington, PA 19607-0350, submitted a Remedial Investigation and Final Report concerning remediation of site soils contaminated with VOCs and lead. The reports are intended to document remediation of the site to the Site-Specific Standard.

Swartz Estate, Camp Hill Borough, **Cumberland County**. CQS, Inc., 1061 North Mountain Road, Harrisburg, 17110, on behalf of Robert Pozner, Executor, Swartz Estate, 454 Stevens Avenue, Ridgeway, NJ 17450, resubmitted a Final Report concerning remediation of site soils and ground water contaminated with No. 2 heating oil. The report is intended to document remediation of the site to the residential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Giant Foods, LLC, Lamar Township, **Clinton County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Giant Foods, LLC, 1604 Industrial Dr., Carlisle, PA 17013 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The report was submitted within 90-days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

Lowes of Mill Hall, Bald Eagle Township, **Clinton County**. Converse Consultants, 2738 West College Ave., State College, PA 16801 on behalf of Mill Hall Development, LLC, 121 Prosperous Place, Suite 6-B, Lexington, KY 40065 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Background Standard.

Tyco Electronics Corporation (Formerly AMP Inc.), Selinsgrove Borough, **Snyder County**. Science Applications International Corp., 6310 Allentown Blvd., Harrisburg, PA 17112 on behalf of Tyco Electronics Corp., P. O. Box 68355, Harrisburg, PA 171056-8355 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with solvents. The report is intended to document remediation of the site to meet the Site-specific Standard.

Eileen McArdle Residence, New Berlin Borough, **Union County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Eileen McArdle, 525 Market St., New Berlin, PA 17855 has submitted a Final Report concerning remediation of soil and surface groundwater contaminated with No. 2 heating oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

863 Easton Partners LP, Warrington Township, **Bucks County**. Terrence J. McKenna, P. E., Keating Env., Mgmt., Inc., 123 John Robert Thomas Dr., Exton, PA 19341 on behalf of Philip Hinerman, Esq., Fox Rothschild, LLP, 2000 Mkt. St., 10th Fl., Philadelphia PA 19103 has submitted a Remedial Investigation Report and Final Report concerning the remediation of site soil and groundwater contaminated with PAH's, chlorinated solvents and gasoline. The Remedial Investigation Report and Final Report was approved by the Department on November 8, 2006.

Crozer Chester Medical Center, Upland Borough, **Delaware County**. Matthew Miller, IES Engineers, 1720 Walton Rd., Blue Bell, PA 19422 on behalf of Brain Crimmins, Crozer-Keystone Health System, 100 W. Sproul Rd., Springfield, PA 19064 has submitted a Remedial Investigation Report and Final Report concerning the remediation of site soil and groundwater contaminated with No. 6 fuel oil. The Remedial Investigation Report and Final Report was disapproved by the Department on November 28, 2006.

US Steel Fairless Works Facility, Falls Township, **Buck County**. Francis Adams, Golder Assoc., Inc., 19511 Old Cuthbert Rd., Suite 301, Cherry Hill, NJ 08034 on behalf of Kathy Mayher, United States Steel Corp., 600 Grant St., Pittsburgh, PA 15219 has submitted a Remedial Investigation, Risk Assessment and Final Report concerning the remediation of site soil contaminated with inorganics, solvents and PCB's. The Remedial Investigation, Risk Assessment, and Final Report was approved by the Department on November 30, 2006

Frankford Cleaners, City of Philadelphia, **Philadelphia County**. Peter Granholm Apex Companies, LLC, 15850 Crabbs Branch Way, Suite 200, Rockville, MD 20855 on behalf of Eric Silvers, URSP I, LLC, 121 W. Forsthy St., Suite 200, Jacksonville, FL 32202 has submitted a Remedial Investigation Report and Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Remedial Investigation Report and Final Report was disapproved on December 5, 2006.

Media Station Apts, Upper Providence Township, **Delaware County**. Thomas E. Rodriquez, Blasland, Bouck, & Lee, Inc., 500 N. Gulph Rd., Suite 401, King of Prussia, PA 19406 on behalf of Viera Thilbault, Media Station, LP, 340 Media Station Rd., P. O. Box 973, Media PA 19063 has submitted a Remedial Investigation and Final Report concerning the remediation of site soil and groundwater contaminated with other organics. The Remedial Investigation and Final Report was approved by the Department on December 5, 2006.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Clifford N. Estep Residence, West Manchester Township, **York County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Clifford N. Estep, 2695 Baker Road, York, PA 17404, American Furniture Rental, 490 West Basin Road, New Castle, DE 19720, and Environmental Products and Services of VT, Inc., 5100 Paxton Street, Harrisburg, PA 17111, submitted a Final Report concerning the remediation of site soils contaminated with diesel fuel. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on December 5, 2006.

Creekside Apartments, Lancaster City, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Creekside Apartments, P. O. Box 266, Bausman, PA 17504, submitted a Final Report concerning remediation of groundwater contaminated with No. 2 fuel oil. The property is residential. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on December 7, 2006.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former Koppers Co., Inc., Clinton Township, **Lycoming County**. Key Environmental, Inc., 200 3rd Ave., Carnegie, PA 15106 on behalf of Beazer East, Inc., 1 Oxford Centre, Suite 3000, Pittsburgh, PA 15219 has submitted a Final Report to remediate soil and groundwater contaminated with polynuclear aromatic hydrocarbons, primarily naphthalene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 4, 2006.

PPL-Shinglehouse Check (S-17), Sharon Township, **Potter County**. PPL Services Corp., 2 North 9th Street GENTW17, Allentown, PA has submitted a Final Report concerning remediation of soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 5, 2006.

PPL Crandall Hill Check (P-135), Roulette Township, **Potter County**, PPL Services Corp, 2 North 9th St. GENTW 17, Allentown, PA 18101 has submitted a Final Report to Remediate soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 5, 2006.

PPL-Sharon Station (S-9), Sharon Township, **Potter County**. PPL Services Corp., 2 North 9th Street GENTW17, Allentown, PA has submitted a Final Report concerning remediation of soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 5, 2006.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE GENERAL PERMITS

Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a general permit to operate infectious and chemotherapeutic waste processing facilities.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGI007R001. Penn State Milton S. Hershey Medical Center, 600 Centerview Drive, Hershey, PA 17033-0855. This general permit renewal issued to Penn State Milton S. Hershey Medical Center is for the processing of infectious waste using the Sterile Technology Industries, Inc.'s waste processing (disinfection) technology to be utilized at the site of waste generation. The processing is limited to the grinding, chemical disinfection (sodium hypochlorite) and thermal treatment of infectious waste. The general permit was issued by Central Office on November 27, 2006.

Persons interested in obtaining more information about the general permit may contact the Central Office at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

AQ-SE-0014: Haines & Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) On December 6, 2006, to operate a portable crushing plant in Hilltown Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP7-67-03139: USA Direct, LLC d/b/a Vertis Communications (2901 Blackbridge Road, York, PA 17402) on December 8, 2006, for Sheetfed Offset Lithographic Printing Press under GP7 in Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-03-00231: The Peoples Natural Gas Co. (1201 East 55th Street, Main Building, Cleveland, OH 44103) on December 5, 2006, to construct and to operate one 5 MMCFD Van Gas Technologies dehydration unit, with a Robur chiller train containing a burner rated at 0.4745 mmBtu/hr and one 75 bhp General Motors natural gas-fired engine, as well as to continue to operate one 810 bhp Caterpillar lean burn natural gas-fired compressor engine, model No. G3512 TALE at the Shady Plain Compressor Station in South Bend Township, **Armstrong County**.

GP3-32-00320: Penn Run Quarry No. 2 (456 Weston Road, Penn Run, PA 15765) on December 5, 2006, to operate crushing and screening equipment at their Spruce Mine in Cherry Hill Township, **Indiana 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

66-315-047: The Procter & Gamble Paper Products Co. (P. O. Box 32, Route 87, Mehoopany, PA 18629) on December 6, 2006, to install an air cleaning device to capture emissions from a room ventilation system at their facility in Washington Township, **Wyoming County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0180A: Transicoil Corp. (9 Iron Bridge Drive, Colledgeville, PA 19426) On December 7, 2006, to modify the methanol glass cleaning operation permit in Perkiomen Township, **Montgomery County**.

09-0143A: Naceville Materials (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on December 7, 2006, to operate a scalping screen and conveyors in West Rockhill Township, **Bucks County**.

46-0169A: H and N Packaging, Inc. (92 County Line Road, Colmar, PA 18915) on December 7, 2006, to operate an graphic arts facility in Hatfield Township, **Montgomery County**.

46-0169B: H and N Packaging, Inc. (92 County Line Road, Colmar, PA 18915) on December 7, 2006, to operate five color flexographic printing presses in Hatfield Township, **Montgomery County**.

46-0240: Moyer Packing Co. (P. O. Box 395, Souderton, PA 18964) on December 8, 2006, to operate 29.9 mmBtu/hr heat input boiler in Franconia Township, **Montgomery County**.

23-0038B: DELCORA (100 East Fifth Street, P. O. Box 999, Chester, PA 19016) on December 11, 2006, to operate two venturi scrubber in City of Chester, **Delaware County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

53-0009D: National Fuel Gas Supply Corp. (1100 State Street, Erie, PA 16501) on December 7, 2006, to operate a 4445 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine 1A) on a temporary basis until April 6, 2007, at the Ellisburg Compressor Station in Allegany Township, **Potter County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

32-00059A: Reliant Energy (121 Champion Way, Suite 200, Canonsburg, PA 15317) on December 5, 2006, to complete initial operating permit inspection of Auxiliary Boiler B at their Conemaugh Power Station in West Wheatfield Township, **Indiana County**. This plan approval was extended.

04-00724A: Duke Energy NGL Services, LP (370 17th Street, Suite 2500, Denver, CO 80202) on December 7, 2006, to complete installation of a propane storage and delivery terminal at the Midland Plant in Industry Borough, **Beaver County**. This plan approval was extended.

65-00767A: Westmoreland Waste, LLC (901 Tyrol Boulevard, Belle Vernon, PA 15012) on December 7, 2006, to complete installation of an enclosed flare at the sanitary landfill in Rostraver Township, **Westmoreland County**. This plan approval was extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00030: MSC Engineered Materials and Solutions Group (120 Enterprise Avenue, Morrisville, PA 19067) on December 7, 2006, to renew the manufacturing metal coating and allied services of a facility Title V Operating Permit in Falls Township, **Bucks County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00040: National Label Co. (2025 Joshua Road, Lafayette Hill, PA 19444) on December 7, 2006, to operate the manufacturing commercial printing operation of a Synthetic Minor Operating Permit in Whitmarsh Township, **Montgomery County**.

09-00141: Lower Bucks County Joint Municipal Authority (7811 New Falls Road, P. O. Box 460, Levittown, PA 19058) on December 7, 2006, to operate the manufacturing Sewage Systems of a Synthetic Minor Operating Permit in Bristol Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03031: Custom Design & Manufacturing Company, Inc. (P. O. Box 341, 420 South 3rd Street, Hamburg, PA 19526) on December 5, 2006, to operate a wooden cabinet coating operation known as Quaker Maid Cabinetry in the Hamburg Borough, **Berks County**.

67-03101: Southern Die Casters, Inc. (883 East Tolna Road, P. O. Box 178, Shrewsbury, Pa 17361) on December 11, 2006, to operate their aluminum castings plant in Shrewsbury Township, **York County**. This is a renewal of the State-only operating permit.

67-05110: New York Wire Co. (P. O. Box 1749, York, PA 17405-1749) on December 6, 2006, to operate their weaving facility in the City of York, **York County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00001: Sunoco, Inc. (Delaware Avenue and Green Street, Marcus Hook, PA 19061-0426) on December 6, 2006, a modification to incorporate Item No. 69 from Federal Civil Case No. 05cv02866 that addresses 40 CFR 61, Subpart FF (Benzene Waste NESHAP) for Source 103

in Marcus Hook Borough, **Delaware County**. Sources 87, 88, 89, 92 (all deactivated boilers), 623, 624 and 625 (located in the state of Delaware) have been removed from the permit. Minor Operating Permit Modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

23-00004: Covanta Delaware Valley, L.P. (10 Highland Avenue, Chester, PA, 19013) on December 7, 2006, for a permit renewal to Title V Operating Permit 23-00004 in Chester City, **Delaware County**. The permit modification clarifies three group conditions (Nos. 33, 37 and 40). No changes have taken place at the facility since the previous permit was last issued on June 6, 2006. Minor Modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

23-00069: Trustees of the University of Pennsylvania (500 South Ridgeway Avenue, Glenolden, PA 19036-2307) on December 7, 2006, to operate three boilers and one emergency generator in Glenolden Borough, **Chester County**. This amendment is to address a change of ownership from E. I. Dupont De Nemours & Co. to the Trustees of the University of Pennsylvania. 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.

15-00085: Lincoln University (1570 Baltimore Pike, Lincoln University, PA 19352) on November 30, 2006, for an administrative amendment to State-only operating permit in Lower Oxford Township, **Chester County**. The permit is being amended to incorporate Plan Approval PA 15-0085B for: (a) the modification of the burners of two existing boilers (031, 032) to Low NOx burners equipped with flue gas recirculation; and (b) the installation of a new boiler, Babcock & Wilcox that will be equipped with Low NOx Burners and flue gas recirculation. The amended operating permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

01-05022: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) on December 7, 2006, to operate their Orrtanna fruit processing facility in Hamiltonban Township, **Adams County**. This operating permit was administratively amended to incorporate Plan Approval 01-05022B. This is revision No. 1.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

14-00034: Jostens, Inc. (401 Science Park Road, State College, PA 16803) on December 1, 2006, under the minor operating permit modification requirements of 25 Pa. Code § 127.462, to use different materials and increase material usage rates in a printing press in Ferguson Township, **Centre County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

42-00004: American Refining Group, Inc. (77 North Kendall Avenue, Bradford, PA 16701) on December 6, 2006, to modify Title V Operating Permit Number 42-00004 to incorporate synthetic minor emission limits for

three date eligible sources, so that the facility will fall under the BART (Best Available Retrofit Technology) applicability threshold in the City of Bradford, **McKean County**. The combined NOx, PM10, SOx and VOC emissions from Source ID: 033-Boiler No. 3, Source ID: 034-Boiler No. 4, and Source ID: C301-Refinery Gas Flare, have been limited to no more than 250 tons per year for each pollutant.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

32-00085: PolyVision Corp. (2170 Barr Slope Road, Dixonville, PA 15734) on November 29, 2006, De Minimis emission increase of 660 pounds of VOCs per year resulting from the installation of a lamination line at the Dixonville Plant in Green Township, **Indiana County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

Permit No. 11960109 and NPDES No. PA0234320. Paul F. Becker Coal Company, (1593 Old Route 22, Duncansville, PA 16635). Permit renewal for reclamation only of a bituminous surface and auger, mine in Elder Township, **Cambria County**, affecting 27.0 acres. Receiving stream: UNT to Brubaker Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: November 13, 2006. Permit issued: December 4, 2006.

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

65060101 and NPDES Permit No. PA0250856. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in South Huntingdon Township, **Westmoreland County**, affecting 23.2 acres. Receiving streams: UNT to Youghiogheny River. Application received: January 30, 2006. Permit issued: December 7, 2006.

02-05-03 and NPDES Permit No. PA0250899. Kerry Coal Company (R. D. 2, Box 2139, Wampum, PA 16157). Government Financed Construction Contract issued for reclamation of approximately 10.1 acres of abandoned mine lands located in the City of Pittsburgh, **Allegheny County**. Receiving streams: UNT to Streets Run. Application received: March 23, 2006. Contract issued: December 7, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16850116 and NPDES Permit No. PA0106577. Terry Coal Sales, Inc. (P. O. Box 58, Distant, PA 16223). Renewal of an existing bituminous strip, auger and coal ash disposal operation in Porter Township, **Clarion County** affecting 648.5 acres. This renewal is issued for reclamation only. Receiving streams: UNT to Leisure Run, Leisure Run and Long Run. Application received: July 28, 2005. Permit issued: December 5, 2006.

33910106 and NPDES Permit No. PA0208451. Terry Coal Sales, Inc. (P. O. Box 58, Distant, PA 16223). Renewal of an existing bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 195.0 acres. This renewal is issued for reclamation only. Receiving streams: Two UNTs to Foundry Run and Foundry Run. Application received: June 2, 2006. Permit issued: December 5, 2006.

33890122 and NPDES Permit No. PA0207705. Terry Coal Sales, Inc. (P. O. Box 58, Distant, PA 16223). Renewal of an existing bituminous strip and auger operation in Knox, Oliver and Rose Townships, **Jefferson County** affecting 200.0 acres. This renewal is issued for reclamation only. Receiving streams: UNT to Lick Run and Lick Run. Application received: May 6, 2005. Permit issued: December 5, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17910130 and NPDES No. PA0206784. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Permit renewal for reclamation only of a bituminous surface mine in Penn Township, **Clearfield County**, affecting 191.7 acres. Receiving streams: Daily Run, Curry Run and UNT to Poplar Run. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2006. Permit issued: October 16, 2006.

17910132 and NPDES No. PA0206814. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Permit renewal for reclamation only of a bituminous surface mine in Penn Township, **Clearfield County**, affecting 128.4 acres. Receiving streams: Muddy Run and a UNT to Little Muddy Run. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2006. Permit issued: October 16, 2006.

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

54060102 and NPDES Permit No. PA0224524. Kuperavage Enterprises, Inc. (P. O. Box 99, Middleport, PA 17953). Commencement, operation and restoration of an anthracite surface mine and refuse disposal operation in Blythe Township, **Schuylkill County** affecting 66.0 acres; receiving stream: Bushy Creek. Application received: March 3, 2006. Permit issued: December 4, 2006.

54910205T. Blaschak Coal Corp. (P. O. Box 12, Mahanoy City, PA 17948). Transfer of an existing anthra-

cite coal refuse reprocessing operation in West Mahanoy Township, **Schuylkill County** affecting 12.5 acres; receiving stream: none. Application received: July 13, 2006. Transfer issued: December 5, 2006.

54743208R4 and NPDES Permit No. PA0612219. Ginther Coal Company (P. O. Box 989, Pottsville, PA 17901). Renewal of an existing anthracite coal refuse reprocessing operation in East Norwegian Township, **Schuylkill County** affecting 62.0 acres; receiving stream: Schuylkill River. Application received: January 3, 2005. Renewal issued: December 7, 2006.

Noncoal Permits Actions

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

26060605 and NPDES Permit No. PA0250937. John Joseph (470 Vanderbilt Road, Connellsville, PA 15425). Commencement, operation and reclamation of a noncoal surface mine, located in Jefferson Township, **Fayette County**, affecting 16.6 acres. Receiving streams: UNTs A—D to Little Redstone Creek. Application received: June 29, 2006. Permit issued: December 7, 2006.

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

7975SM4C5 and NPDES Permit No. PA0594270. Edison Quarry, Inc. (25 Quarry Road, Doylestown, PA 18901). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Doylestown Township, **Bucks County**; receiving stream: Neshaminy Creek. Application received: October 20, 2006. Renewal issued: December 4, 2006.

58060813. Daniel S. Warner (R. R. 6, Box 6580, Montrose, PA 18801). Commencement, operation and restoration of a quarry operation in Jessup Township, **Susquehanna County** affecting 5.0 acres; receiving stream: none. Application received: March 6, 2006. Permit issued: December 6, 2006.

7475SM3T and NPDES Permit No. PA0612308. Keystone Cement Company (P. O. Box A, Bath, PA 18014). Transfer of an existing quarry operation and renewal of NPDES Permit for discharge of treated mine drainage in East Allen Township, **Northampton County** affecting 852.7 acres; receiving stream: Monacacy Creek. Renewal Application received June 20, 2006 and Transfer Application received: October 4, 2006. Renewal and Transfer issued: December 7, 2006.

64062803. Keystone Bluestone, Inc. (214 Exchange Street, Susquehanna, PA 18847). Commencement, operation and restoration of a quarry operation in Starrucca Borough, **Wayne County** affecting 5.0 acres; receiving stream: none. Application received: June 8, 2006. Permit issued: December 8, 2006.

66060807. Annita R. Breitweiser (6233 Italy Valley Road, Naples, NY 14512). Commencement, operation and restoration of a quarry operation in Meshoppen Township, **Wyoming County** affecting 4.0 acres; receiving stream: none. Application received: July 6, 2006. Permit issued: December 8, 2006.

48062801. Moore Materials, LLC (615 Moorestown Drive, Bath, PA 18014). Commencement, operation and restoration of a quarry operation in Wind Gap Borough, **Northampton County** affecting 4.92 acres; receiving stream: none. Application received: July 11, 2006. Permit issued: December 8, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

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

21064193. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013-0608). Blasting activity permit issued for single dwelling development in Middlesex Township, **Cumberland County**. Blasting activity permit end date is November 30, 2007. Permit issued: November 28, 2006.

28064180. Warrens Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189). Blasting activity permit issued for residential development in Antrim Township, **Franklin County**. Blasting activity permit end date is November 22, 2007. Permit issued: November 28, 2006.

21064195. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013-1925). Blasting activity permit issued for residential development in North Middleton Township, **Cumberland County**. Blasting activity permit end date is April 15, 2007. Permit issued: December 2, 2006.

28064181. Geological Tech, Inc. (P. O. Box 70, Falling Waters, WV 25419-0079). Blasting activity permit issued for residential development in Washington Township, **Franklin County**. Blasting activity permit end date is December 1, 2007. Permit issued: December 1, 2006.

21064194. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013-1925). Blasting activity permit issued for hospital development in Hampden Township, **Cumberland County**. Blasting activity permit end date is April 15, 2007. Permit issued: December 1, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

42064005. East Resources, Inc. (P. O. Box 426, Mount Jewett, PA 16740). Blasting activity permit for gas and oil exploration in Corydon Township, **McKean County**. This blasting activity permit will expire on August 1, 2007. Application received: November 30, 2006. Application issued: December 4, 2006.

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

36064116. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in East Lampeter Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued: December 4, 2006.

15064131. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Wallace Elementary Center water tank in Wallace Township, **Chester County** with an expiration date of November 29, 2007. Permit issued: December 6, 2006.

36064117. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for Wetherburns Commons in Manheim Township, **Lancaster County** with an expiration date of December 30, 2007. Permit issued: December 6, 2006.

36064118. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in Caernarvon Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued: December 6, 2006.

36064119. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for Florin Hill in Mt. Joy Borough, **Lancaster County** with an expiration date of December 4, 2007. Permit issued: December 6, 2006.

38064136. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507). Construction blasting for Hershey Athletic Fields in North Londonderry Township, **Lebanon County** with an expiration date of December 15, 2007. Permit issued: December 6, 2006.

38064137. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for Fox Ridge Subdivision in South Lebanon Township, **Lebanon County** with an expiration date of December 5, 2007. Permit issued: December 6, 2006.

06064144. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507). Construction blasting for Spring Ridge Commercial Development in Spring Township, **Berks County** with an expiration date of December 31, 2007. Permit issued: December 8, 2006.

360641120. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507). Construction blasting for Lampeter Strasburg High School in West Lampeter Township, **Lancaster County** with an expiration date of December 31, 2007. Permit issued: December 8, 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

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-423. Clearfield County, 203 East Market Street, Clearfield, PA 16830. Burnside Township Road No. 315 (T-315) Bridge Replacement across West Branch Susquehanna River in Burnside Township, **Clearfield County**, ACOE Baltimore District (Burnside, PA Quadrangle N: 7.9 inches; W: 3.2 inches).

To remove an existing structure and construct, operate and maintain a two-span prestressed spread box beam bridge to carry T-315 over West Branch Susquehanna River (WWF). The two-span bridge shall be constructed with a minimum clear span of 170 feet along the roadway centerline and an underclearance of 14.1 feet. Construction of in-stream bridge appurtenances and temporary structures shall be conducted during stream low flow, and dry work conditions by dams and pumping, fluming or diverting stream flow around work areas. The bridge replacement project will permanently impact 0.05 acre of wetlands and 110 feet of stream channel that is located at the western right-of-way of SR 0219, at the intersection of T-315 and SR 0219. This permit also authorizes construction, operation, maintenance and removal of temporary cofferdams, stream diversions and roadway crossings. All temporary structures shall be constructed of clean rock, which is free of fines. Upon project completion, all temporary structures shall be removed with the disturbed areas restored to original contours and elevations. The Department deems the 0.05 acre of wetland permanently impacted by the project as de minimis, and as such, the permittee shall not be required to construct replacement wetland to mitigate the permanent impact.

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

E02-1541. The Borough of Etna, 437 Butler Street, Pittsburgh, PA 15223. To place stream bank stabilization in Etna Borough, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh East, PA Quadrangle N: 21.5 inches; W: 9.35 inches and Latitude: 40° 39' 37"—Longitude: 79° 56' 32"). To place and maintain approximately 180 feet of stream bank stabilization, including approximately 77' of sheet piling, 154 feet of rock lining and a 29' by 20' grout stabilized rock buttress. A temporary stream crossing and removal of deposited debris is also included with this project. The project is located north of Poplar Street near

its intersection with Hofner Street in Etna Borough. The project impacts approximately 180 feet of stream channel.

E02-1544. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. To construct a bridge over the Allegheny River between Harmar Township to the north and Plum Borough to the south in **Allegheny County**, Pittsburgh ACOE District. (New Kensington West, PA Quadrangle N: 8.8 inches; W: 10.2 inches and from Latitude: 40° 32' 56"—Longitude: 79° 49' 25" to N: 4.54 inches; W: 9.8 inches and Latitude: 40° 31' 30"—Longitude: 79° 49' 15"). To remove the existing I-76, four lane, 61 ft total width, multiple span, steel girder and truss bridge having a total length of 2,179 ft, and having a navigational channel normal pool elevation clearance of approximately 70 ft. and to construct and maintain 120 ft. downstream and to the west a six span, twin concrete box girder, six lane, 124 ft. total width replacement bridge having a total length of 2,350 ft. and having a navigational channel normal pool elevation clearance of approximately 88 ft. over the Allegheny River (WWF). In addition, fill and maintain 0.9 acre of PEM wetland; and construct and maintain 660 ft. of 54-inch to 66-inch culvert, which extends the existing stream enclosure located in the upper 200 acres of the Panther Run (WWF) watershed. The Turnpike improvement and relocation project extends 1.53 miles south of the intersection with SR 28.

E11-322. Cambria County Conservation District, 401 Candlelight Drive, Ebensburg, PA 15931. To construct stream channel improvements in Patton Borough, **Cambria County**, Pittsburgh ACOE District. (Hastings, PA Quadrangle N: 2.0 inches; W: 2.8 inches and Latitude: 40° 38' 10"—Longitude: 78° 38' 43"). To construct and maintain a stream channel improvement project, for the purpose of improving fish habitat and to reduce stream bank erosion, by constructing a low flow channel in Chest Creek (CWF), with rock barbs, log vanes and some rock toes and through limited gravel bar removal. The project is located within an approximately 2,100 feet reach of Chest Creek, below the SR 36 Bridge within the limits of an existing flood control project.

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

E43-324, City of Hermitage, 800 North Hermitage Road, Hermitage, PA 16148-3316. Indian Run Stream Restoration, in City of Hermitage, **Mercer County**, ACOE Pittsburgh District (Sharon East, PA Quadrangle N: 41° 13' 52"; W: 80° 26' 45").

To construct and maintain a stream restoration and stabilization project along approximately 1,100 feet of a tributary to Pine Hollow Run (West Branch Pine Hollow Run or Indian Run) (WWF) beginning at SR 62 approximately 1,500 feet southeast of the intersection of SR 62 and SR 18 and extending upstream to Sunset Boulevard.

SPECIAL NOTICES

Public Hearing

The Department of Environmental Protection (Department) Water Management Program will hold a fact finding hearing on the following NPDES permit applications submitted by the Philadelphia Water Department:

1. PA0026689, Northeast Water Pollution Control Plant (WPCP), 210 million gallons/day, 3899 Richmond St., Philadelphia.
2. PA0026671, Southwest WPCP, 200 mgd, 8200 Enterprise Ave., Philadelphia.

3. PA0026662, Southeast WPCP, 112 mgd, 25 Pattison Ave., Philadelphia.

The hearing is scheduled for Tuesday, January 23, 2007, at 7 p.m. at the Fels South Philadelphia Family Center, 2407 South Broad St., Philadelphia, PA 19148. Informational material will be available before the hearing beginning at 6:30 p.m. A snow date of Tuesday, January 30, 2007, will be reserved in the case of severe inclement weather.

The applications pertain to the treatment of municipal sewage at the previously referenced facilities, as well as the discharge of stormwater and combined sewer overflows at various locations to the Delaware River and its tributaries. A copy of the applications are available for review at the applicant's office: Philadelphia Water Department, 1101 Market Street, Aramark Tower, 2nd Floor, Philadelphia, PA 19107, (215) 685-6300.

The hearing was requested for the purpose of increasing public participation as well as for commenting on the technical merits of the applications and the draft permits.

Anyone intending to make a presentation at the hearing should submit written notice to: Regional Manager, Water Management Program, 2 E. Main St., Norristown, PA 19401. The notice should include your name, address and phone number and a brief statement about your presentation. Comments will be limited to 10 minutes per speaker. Where groups are represented, a spokesperson is requested to present the group's concerns. The hearing will not be a question and answer session. Anyone wishing to present written material directly to the Department may do so within 30 days following the hearing.

Public notice of the draft permits was published in the *Pennsylvania Bulletin* on October 21, 2006. Comments received at the hearing will be considered by the Department in completing their review and prior to taking final action concerning the applications.

For further information, contact Sohan Garg, Department of Environmental Resources, Southeast Regional Office, 2 E. Main St., Norristown, PA 19401 or by calling (484) 250-5970.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings or to confirm that the hearing will continue as scheduled, contact Dennis Harney at (484) 250-5819. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Request for Comment and Notice of Public Meeting for Proposed Total Maximum Daily Loads (TMDLs) for the Stump Creek Watershed located in Clearfield and Jefferson Counties

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Stump Creek Watershed located in Clearfield and Jefferson Counties. The meeting will be held on February 7, 2007, beginning at 10 a.m. at the Moshannon District Mining Office on Enterprise Drive in Philipsburg, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 by 4 p.m. on Friday, February 2, 2007. The Department will consider all comments in developing the final TMDL for the Stump Creek Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Stump Creek Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. Three stream segments in the Stump Creek Watershed have been identified as impaired on the 1996 Pennsylvania section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
47922 (5291)	Stump Creek	1.9
47922 (5292)	Stump Creek	1.2
47922 (7215)	Stump Creek	0.8

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Stump Creek Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected in 2004 and 2005 were used to establish the proposed TMDL for the Stump Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Stump Creek Watershed. Written comments must be postmarked by February 23, 2007, and sent to John Mital, Licensed Professional Geologist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the phone number or e-mail address indicated previously.

The proposed TMDL for the Stump Creek Watershed can be accessed through the Department's website at www.dep.state.pa.us by typing "TMDL" in the DEP Keyword field, and clicking GO. Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for Proposed Total Maximum Daily Loads (TMDLs) for the Laurel Branch Run Watershed located in Clearfield County

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Laurel Branch Run Watershed located in Clearfield County. The meeting will be held on February 7, 2007, beginning at 10 a.m. at the Moshannon District Mining Office on Enterprise Drive in Philipsburg, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 by 4 p.m. on Friday, February 2, 2007. The Department will consider all comments in developing the final TMDL for the Laurel Branch Run Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Laurel Branch Run Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Laurel Branch Run Watershed has been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
48023 (5302)	Laurel Branch Run	1.4

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Laurel Branch Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected in 2003 and 2004 were used to establish the proposed TMDL for the Laurel Branch Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Laurel Branch Run Watershed. Written comments must be postmarked by February 23, 2007 and sent to John Mital, Licensed Professional Geologist, Department of Environmental Protection,

Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the phone number or e-mail address indicated previously.

The proposed TMDL for the Laurel Branch Run Watershed can be accessed through the Department's website at www.dep.state.pa.us. (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for Proposed Total Maximum Daily Loads (TMDLs) for East Branch Mahoning Creek Watershed in Clearfield and Jefferson Counties

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the East Branch Mahoning Creek Watershed in Clearfield and Jefferson Counties. The meeting will be held on February 7, 2007, beginning at 10 a.m. at the Moshannon District Mining Office on Enterprise Drive in Philipsburg, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 by 4 p.m. on Friday, February 2, 2007. The Department will consider all comments in developing the final TMDL for the East Branch Mahoning Creek Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the East Branch Mahoning Creek Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the East Branch Mahoning Creek Watershed has been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
47974	East Branch Mahoning Creek	8.0

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow

condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the East Branch Mahoning Creek Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected in 2004 and 2005 were used to establish the proposed TMDL for the East Branch Mahoning Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the East Branch Mahoning Creek Watershed. All written comments must be postmarked by February 23, 2007 and sent to John Mital, Licensed Professional Geologist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the phone number or e-mail address indicated previously.

The proposed TMDL for the East Branch Mahoning Creek Watershed can be accessed through the Department's website at www.dep.state.pa.us. (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for Proposed Total Maximum Daily Loads (TMDLs) for the Proposed Total Maximum Daily Load (TMDL) for UNT 26051 to Trout Run and UNT 26053 to Pine Run in Clearfield County

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run in Clearfield County. The meeting will be held on January 17, 2007, beginning at 10 a.m. at the Moshannon District Mining Office located on Enterprise Drive in Philipsburg, Pennsylvania. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 no later than 4 p.m. on Friday, January 12, 2007. The Department will consider all comments in developing the final TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the UNT 26051 to Trout Run Watershed has been identified as impaired on the 1996 Pennsylvania Section 303(d) list and one stream segment in the UNT 26053 to Pine Run has been identified as impaired on the 2004 Pennsylvania Section 303(d) list as impaired due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26053 (7167)	UNT 26053 to Trout Run	0.4
26051 (20030707-0955-JLR)	UNT 26051 to Pine Run	0.5

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected in 2004 and 2005 years were used to establish the proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds. All written comments must be postmarked by February 23, 2007, and sent to John Mital, Licensed Professional Geologist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the phone number or e-mail address indicated previously.

The proposed TMDL for the UNT 26051 to Trout Run and UNT 26053 to Pine Run Watersheds can be accessed through the Department's website at www.dep.state.pa.us. (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

**Request for Comment and Notice of Public Meeting
for Proposed Total Maximum Daily Loads
(TMDLs) for West Creek in Elk and
Cameron Counties**

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the West Creek

Watershed located in Elk and Cameron Counties. The meeting will be held on January 17, 2007, beginning at 2 p.m. at the Moshannon District Mining Office on Enterprise Drive in Philipsburg, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 no later than 4 p.m. on Friday, January 12, 2007. The Department will consider all comments in developing the final TMDL for the West Creek Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the West Creek Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the West Creek Watershed has been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
25222 (7147)	West Creek	12.0

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the West Creek Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the West Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the West Creek Watershed. All written comments must be postmarked by February 23, 2007 and sent to John Mital, Licensed Professional Geologist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the phone number or e-mail address indicated previously.

The proposed TMDL for the West Creek Watershed can be accessed through the Department's website at www.dep.state.pa.us. (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Submission Deadline for Application for Reimbursement for Certified Host Municipality Inspectors under Act 101 (Section 1102), the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 and Act 108 (Section 304), the Hazardous Sites Cleanup Act of 1988

The Department of Environmental Protection (Department) hereby announces the submission deadline for 2006 Host Municipality Inspector Program Reimbursement Applications as March 31, 2007. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and the Hazardous Sites Cleanup Act (Act 108). Municipalities include cities, boroughs, incorporated towns, townships and home rule municipalities.

Reimbursements are allocated from the Recycling Fund authorized under Act 101 for municipal waste facilities or from the Hazardous Sites Cleanup Fund under Act 108 for hazardous waste facilities. Reimbursements are available to any municipality that has a municipal waste landfill, resource recovery or commercial hazardous waste storage, treatment and disposal facilities located within its geographic borders. Upon application from any host municipality, the Department shall award reimbursements for authorized costs incurred for the salary and expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50% of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If your municipality does not receive but requires an application or if you have any questions about this program, contact the Program Development Section, Department of Environmental Protection, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870 or visit www.depweb.state.pa.us (PA Keyword "Municipal Waste").

The deadline for submitting applications is 4:30 p.m. on March 31, 2007. Applications received by the Department after the deadline will not be considered.

[Pa.B. Doc. No. 06-2525. Filed for public inspection December 22, 2006, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for the Altoona 8-Hour Ozone Nonattainment Area; Public Hearing

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. The Altoona (Blair County) 8-hour Ozone Nonattainment Area has met the health-based National ambient air quality standard for ozone based on 2003—2005 concentrations. Therefore, the Department of Environmental Protection (Department) plans to submit a request to the United States Environmental Protection Agency (EPA) to redesignate this nonattainment area to attainment of the 8-hour ozone national ambient air quality standard (NAAQS). The Department is seeking public comment on the 8-hour ozone redesignation request, the 2002 base year inventory and a State Implementation Plan revision setting forth a Maintenance Plan, which includes the Pennsylvania Clean Vehicles Program, demonstrating that the area can maintain the health-based ozone standard for the next 10 years as required under section 175A(a) of the Federal Clean Air Act (42 U.S.C.A. § 7505a). The Maintenance Plan, once approved by the EPA, will also establish new motor vehicle emission budgets for purposes of transportation conformity.

This proposal is available on the Department's website at www.depweb.state.pa.us (choose "Air Topics") or through the contact persons listed.

The Department will hold a public hearing to receive comments on the proposals on Tuesday, January 23, 2007, at 1 p.m. at the Blair County Courthouse, Conference Room 2B, 423 Allegheny St., Hollidaysburg, PA 16648. Persons wishing to present testimony at the hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495 or yhouse@state.pa.us to reserve a time. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Yvette House at (717) 787-9495 or yhouse@state.pa.us. TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than January 26, 2007. Written comments should be sent to the attention of J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, jhavens@state.pa.us. Use "Altoona Ozone SIP" as the mail addressee or in the subject line.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-2526. Filed for public inspection December 22, 2006, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Ozone for the Harrisburg-Lebanon-Carlisle 8-Hour Ozone Nonattainment Area; Public Hearing

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. The Harrisburg-Lebanon-Carlisle 8-hour Ozone Nonattainment Area has met the health-based National ambient air quality standard for ozone based on 2003–2005 concentrations. Therefore, the Department of Environmental Protection (Department) plans to submit a request to the United States Environmental Protection Agency (EPA) to redesignate this nonattainment area to attainment. The Department is seeking public comment on the 8-hour ozone redesignation request, the 2002 base year inventory and a State Implementation Plan revision setting forth a Maintenance Plan, which includes the Pennsylvania Clean Vehicles Program, demonstrating that the area can maintain the health-based ozone standard for the next 10 years as required under section 175A(a) of the Federal Clean Air Act (42 U.S.C.A. § 7505a). The Maintenance Plan, once approved by the EPA, will also establish new motor vehicle emission budgets for purposes of transportation conformity.

This proposal is available on the Department's website at www.depweb.state.pa.us (choose "Air Topics") or through the contact persons listed.

The Department will hold a public hearing to receive comments on the proposals on Tuesday, January 23, 2007, at 1 p.m. at the Rachel Carson State Office Building, 12th Floor, 400 Market Street, Harrisburg, PA. Persons wishing to present testimony at the hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, yhouse@state.pa.us to reserve a time. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Yvette House at (717) 787-9495 or yhouse@state.pa.us. TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than January 26, 2007. Written comments should be sent to the attention of J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, jhavens@state.pa.us. Use "Harrisburg SIP" as the mail addressee or in the subject line.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-2527. Filed for public inspection December 22, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Angelos Manoloudis Electric, Inc., and Angelos Manoloudis, individually	753 Crystal Drive Pittsburgh, PA 15228	12/7/2006

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-2528. Filed for public inspection December 22, 2006, 9:00 a.m.]

Notice to All Pennsylvania Workers' Compensation Insurers and Self-Insured Employers

On November 9, 2006, Governor Edward G. Rendell signed into law Act 147 (Act 147). As a part of Act 147, the Legislature amended the language in section 306(h) of the Workers' Compensation Act (act) (77 P. S. § 583). This notice is being provided to make individuals aware of this amendment and to their your cooperation to timely implement its provisions.

Beginning on January 1, 2007, Act 147 increases the payment under section 306(h) of the act on eligible claims to \$100 per week, extends the entitlement to this payment to any person receiving compensation under section 306(a), (c)(23) or 307 of the act for an injury occurring prior to August 31, 1993, and removes claims under section 306(b) of the act from eligibility for this entitlement. Although Act 147 modifies the class and amount of section 306(h) payments, it does not change the payment mechanism for these claims. Section 306(h) payments are still to be reimbursed in advance by the Commonwealth during fiscal years where appropriations are made for these reimbursements.

Therefore, the Bureau is requesting that all insurers and self-insured employers submit a listing (by means of electronic media or paper) of all pre-August 31, 1993, claims on which compensation is to be paid under section 306(a), (c)(23) or 307 of the act, in an amount less than \$100 per week as of January 1, 2007, containing the following particulars: (1) Bureau code; (2) name of the claimant; (3) Social Security number; (4) claimant's date of birth; (5) date of injury; (6) name of employer; (7)

Insurer claim number; and (8) Current Weekly Compensation Rate. Insurers and self-insured employers who have no pre-August 31, 1993 claims on which compensation is to be paid under section 306(a), (c)(23) or 307 should so advise the Bureau.

Provide this information (listing of pre-August 31, 1993, claims or notification of no such claims) to the Bureau by January 22, 2007.

It is preferred that this information be submitted by means of electronic media using the spreadsheet and transmittal instructions located at www.dli.state.pa.us. Click on the "Workers Comp/SWIF" link found at the bottom right-hand corner of the page, and then on the "Bureau of Workers' Compensation" link. Scroll down to Announcements and click on the link titled, "Act 147 Spreadsheet."

Individuals who prefer to submit the information on paper, a listing should be submitted to the Bureau by mail to Terry Titus, Statistical Information Services Section, Claims Management Division, Bureau of Workers' Compensation, 1171 South Cameron Street, Room 103, Harrisburg, PA 17104.

Further information regarding this notice may be obtained by contacting the Bureau at (717) 772-3702 or ra-li-bwc-helpline@state.pa.us.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-2529. Filed for public inspection December 22, 2006, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$100,000 Pot O' Gold Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$100,000 Pot O' Gold.

2. *Price:* The price of a Pennsylvania \$100,000 Pot O' Gold instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania \$100,000 Pot O' Gold instant lottery game ticket will contain one play area. The play symbols and their captions, printed in black ink, located in the play area are: Chest symbol (CHEST), Coins symbol (COINS), Wallet symbol (WALLET), Money Bag symbol (MNYBAG), Money symbol (MONEY), Castle symbol (CASTLE), Diamond symbol (DMND), Gold symbol (GOLD), Pipe symbol (PIPE), Cabbage symbol (CABBAGE), Mushroom symbol (MSHROM), Piggy Bank symbol (PIGBNK), Leprechaun symbol (LEPCH), Pot O' Gold symbol (PTGOLD), Leprechaun Hat symbol (LEPHAT) and Rainbow symbol (RNBOW). The play symbols and their captions, printed in green ink, located in the play area are: Chest symbol (CHEST), Coins symbol (COINS), Wallet symbol (WALLET), Money Bag symbol (MNYBAG), Money symbol

(MONEY), Castle symbol (CASTLE), Diamond symbol (DMND), Gold symbol (GOLD), Pipe symbol (PIPE), Cabbage symbol (CABBAGE), Mushroom symbol (MSHROM), Piggy Bank symbol (PIGBNK), Leprechaun symbol (LEPCH), Leprechaun Hat symbol (LEPHAT), Rainbow symbol (RNBOW) and a Four Leaf Clover symbol (4LCLVR).

4. *Prize Symbols:* The prize symbols and their captions, located in the 12 "PRIZE" areas are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$2,000 (TWO THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$2,000 and \$100,000. The player can win up to 10 times on the ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania \$100,000 Pot O' Gold instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$100,000 (ONEHUNTHO) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$2,000 (TWO THO) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$2,000.

(c) Holders of tickets with a Four Leaf Clover (4LCLVR) play symbol, with the symbol and caption printed in green ink, and a prize symbol of \$500 (FIV HUN) appearing in the "PRIZE" area to the right of that Four Leaf Clover (4LCLVR) play symbol, on a single ticket, shall be entitled to a prize of \$2,000.

(d) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$1,000 (ONE THO) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$500 (FIV HUN) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$400 (FOR HUN) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets with a Four Leaf Clover (4LCLVR) play symbol, with the symbol and caption printed in green ink, and a prize symbol of \$100 (ONE HUN) appearing in the "PRIZE" area to the right of that Four Leaf Clover (4LCLVR) play symbol, on a single ticket, shall be entitled to a prize of \$400.

(h) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$100 (ONE HUN) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets with a Four Leaf Clover (4LCLVR) play symbol, with the symbol and caption printed in green ink, and a prize symbol of \$25\$ (TWY FIV) appearing in the "PRIZE" area to the right of that Four Leaf Clover (4LCLVR) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$50\$ (FIFTY) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$40\$ (FORTY) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$40.

(l) Holders of tickets with a Four Leaf Clover (4LCLVR) play symbol, with the symbol and caption printed in green ink, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "PRIZE" area to the right of that Four Leaf Clover (4LCLVR) play symbol, on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$25\$ (TWY FIV)

appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$25.

(n) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$20\$ (TWENTY) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets with a Four Leaf Clover (4LCLVR) play symbol, with the symbol and caption printed in green ink, and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "PRIZE" area to the right of that Four Leaf Clover (4LCLVR) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(p) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(q) Holders of tickets with a Pot O' Gold (PTGOLD) play symbol, and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "PRIZE" area to the right of that Pot O' Gold (PTGOLD) play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Find A Pot O' Gold (PTGOLD) Symbol, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 3,600,000 Tickets</i>
\$5	\$5	10	360,000
\$5 x 2	\$10	60	60,000
\$10	\$10	20	180,000
\$5 x 4	\$20	600	6,000
\$5 w/4 LEAF CLOVER	\$20	150	24,000
\$20	\$20	120	30,000
\$5 x 5	\$25	120	30,000
\$25	\$25	120	30,000
\$5 x 8	\$40	600	6,000
\$10 x 4	\$40	600	6,000
\$10 w/4 LEAF CLOVER	\$40	600	6,000
\$40	\$40	300	12,000
\$5 x 10	\$50	600	6,000
\$10 x 5	\$50	600	6,000
\$25 x 2	\$50	600	6,000
\$50	\$50	300	12,000
\$10 x 10	\$100	2,000	1,800
\$20 x 5	\$100	2,000	1,800
\$25 w/4 LEAF CLOVER	\$100	1,000	3,600
\$100	\$100	750	4,800
\$40 x 10	\$400	30,000	120
\$100 w/4 LEAF CLOVER	\$400	15,000	240
\$400	\$400	10,000	360
\$50 x 10	\$500	24,000	150
\$100 x 5	\$500	24,000	150
\$500	\$500	12,000	300
\$500 x 2	\$1,000	60,000	60
\$1,000	\$1,000	120,000	30
\$500 w/4 LEAF CLOVER	\$2,000	120,000	30
\$2,000	\$2,000	120,000	30
\$100,000	\$100,000	360,000	10

4 LEAF CLOVER (4LCLVR) = Win 4 times the prize shown to the right of that symbol.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$100,000 Pot O' Gold instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$100,000 Pot O' Gold, prize money from winning Pennsylvania \$100,000 Pot O' Gold instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$100,000 Pot O' Gold instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$100,000 Pot O' Gold or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-2530. Filed for public inspection December 22, 2006, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Cameron County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation (Department) is planning the replacement of two bridges within Elk State

Forest carrying Wykoff Run Road (SR 2001) over Laurel Draft and White Oak Draft in Gibson Township, Cameron County.

The project is considered an Environmental Document in accordance with Act 120, The Administrative Code of 1929.

The project will require the acquisition of 0.30 acre from the 200,000 acre Elk State Forest. Both bridges are located within the Quehanna Wild Area of the Elk State Forest, a Section 2002 resource. Acquisition of land from the Elk State Forest property will constitute a use of the Section 2002 resource.

Based upon studies, there is no prudent and feasible alternative to the proposed action.

The environmental, economic, social and other effects of the proposed project as enumerated in Section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize effects.

RICHARD H. HOGG, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 06-2531. Filed for public inspection December 22, 2006, 9:00 a.m.]

FISH AND BOAT COMMISSION

2007 List of Native Species for Purposes of 58 Pa. Code Chapter 79

Under 58 Pa. Code § 79.1 (relating to definitions), which will go into effect on January 1, 2007, the Fish and Boat Commission (Commission) is publishing the following list of reptile and amphibian species and subspecies, where applicable, that the Commission has determined are native species for purposes of 58 Pa. Code Chapter 79 (relating to reptiles and amphibians). (See 36 Pa.B. (December 23, 2006).) The Commission's regulations define "native species" as a reptile or amphibian species or subspecies, where applicable, that has not been introduced into this Commonwealth and occurs historically within the boundaries of this Commonwealth. The Commission's regulations go on to state that the Commission will from time to time publish in the *Pennsylvania Bulletin* a list of reptile and amphibian species and subspecies, where applicable, that it has determined to be native species.

<i>Scientific Name</i>	<i>Common Name</i>	<i>PA Status</i>
<i>Acris crepitans crepitans</i>	Northern Cricket Frog	S
<i>Agkistrodon contortrix</i>	Northern Copperhead	S
<i>Ambystoma jeffersonianum</i>	Jefferson Salamander	S
<i>Ambystoma maculatum</i>	Spotted Salamander	A
<i>Ambystoma opacum</i>	Marbled Salamander	S
<i>Ambystoma tigrinum</i>	Tiger Salamander	X
<i>Aneides aeneus</i>	Green Salamander	T
<i>Apalone mutica mutica</i>	Midland Smooth Softshell	X
<i>Apalone spinifer spinifera</i>	Eastern Spiny Softshell	S
<i>Bufo americanus americanus</i>	Eastern American Toad	A
<i>Bufo fowleri</i>	Fowler's Toad	S
<i>Carphophis amoenus</i>	Worm Snake	S

Scientific Name	Common Name	PA Status
<i>Chelydra serpentina</i>	Snapping Turtle	A
<i>Chyrsemys picta marginata</i>	Midland Painted Turtle	A
<i>Chyrsemys picta picta</i>	Eastern Painted Turtle	A
<i>Clemmys guttata</i>	Spotted Turtle	S
<i>Clonophis kirtlandii</i>	Kirtland's Snake	E
<i>Coluber constrictor constrictor</i>	Northern Black Racer	A
<i>Crotalus horridus</i>	Timber Rattlesnake	C
<i>Cryptobranchus alleganiensis alleganiensis</i>	Eastern Hellbender	S
<i>Desmognathus fuscus</i>	Dusky Salamander	A
<i>Desmognathus monticola</i>	Seal Salamander	A
<i>Desmognathus ochrophaeus</i>	Mountain Dusky Salamander	A
<i>Diadophis punctatus</i>	Ringneck Snake	A
<i>Elaphe alleghaniensis</i>	Eastern Ratsnake	A
<i>Emys blandingii</i>	Blanding's Turtle	C
<i>Eumeces anthracinus</i>	Northern Coal Skink	S
<i>Eumeces fasciatus</i>	Five-lined Skink	A
<i>Eumeces laticeps</i>	Broadhead Skink	C
<i>Eurycea bislineata</i>	Northern Two-lined Salamander	A
<i>Eurycea longicauda longicauda</i>	Longtail Salamander	A
<i>Glyptemys insculpta</i>	Wood Turtle	S
<i>Glyptemys muhlenbergii</i>	Bog Turtle	E
<i>Graptemys geographica</i>	Map Turtle	S
<i>Gyrinophilus porphyriticus porphyriticus</i>	Spring Salamander	A
<i>Hemidactylum scutatum</i>	Four-toed Salamander	S
<i>Heterodon platirhinos</i>	Eastern Hognose Snake	S
<i>Hyla versicolor</i>	Gray Treefrog	A
<i>Kinosternum subrubrum subrubrum</i>	Eastern Mud Turtle	X
<i>Lampropeltis triangulum triangulum</i>	Eastern Milksnake	A
<i>Liochlorophis vernalis</i>	Smooth Green Snake	S
<i>Necturus maculosus</i>	Mudpuppy	S
<i>Nerodia sipedon sipedon</i>	Northern Water Snake	A
<i>Notophthalmus viridescens viridescens</i>	Eastern Red-spotted Newt	A
<i>Opheodrys aestivus</i>	Rough Green Snake	E
<i>Plethodon cinereus</i>	Redback Salamander	A
<i>Plethodon glutinosus</i>	Slimy Salamander	A
<i>Plethodon hoffmani</i>	Valley and Ridge Salamander	S
<i>Plethodon richmondi</i>	Ravine Salamander	S
<i>Plethodon wehrlei</i>	Wehrle's Salamander	A
<i>Pseudacris crucifer crucifer</i>	Northern Spring Peeper	A
<i>Pseudacris brachyphona</i>	Mountain Chorus Frog	S
<i>Pseudacris feriarum feriarum</i>	Upland Chorus Frog	S
<i>Pseudacris feriarum triseriata</i>	Western Chorus Frog	S
<i>Pseudacris triseriata kalmi</i>	New Jersey Chorus Frog	E
<i>Pseudemys rubriventris</i>	Red-bellied Turtle	T
<i>Pseudotriton montanus montanus</i>	Eastern Mud Salamander	E
<i>Pseudotriton ruber ruber</i>	Northern Red Salamander	A
<i>Rana catesbeiana</i>	Bullfrog	A
<i>Rana clamitans</i>	Green Frog	A
<i>Rana palustris</i>	Pickerel Frog	A
<i>Rana pipiens</i>	Northern Leopard Frog	S
<i>Rana sphenocephala</i>	Coastal Plain Leopard Frog	E
<i>Rana sylvatica</i>	Wood Frog	A
<i>Regina septemvittata</i>	Queen Snake	S
<i>Scaphiopus holbrookii</i>	Eastern Spadefoot	E
<i>Sceloporus undulatus</i>	Northern Fence Lizard	S
<i>Sistrurus catenatus catenatus</i>	Eastern Massasauga	E
<i>Sternotherus odoratus</i>	Stinkpot	A
<i>Storeria dekayi dekayi</i>	Northern Brown Snake	A
<i>Storeria occipitomaculata occipitomaculata</i>	Northern Redbelly Snake	A
<i>Terrepene carolina carolina</i>	Eastern Box Turtle	S
<i>Thamnophis brachystoma</i>	Shorthead Garter Snake	S
<i>Thamnophis sauritus</i>	Eastern Ribbon Snake	S
<i>Thamnophis sirtalis sirtalis</i>	Eastern Garter Snake	A
<i>Virginia pulchra</i>	Mountain Earth Snake	S
<i>Virginia valeriae</i>	Smooth Earth Snake	S

Legend

A=Abundant

C=Candidate Species

E=Endangered Species

S=Species of special concern, rare, not common due to one or more of the following factors: range restriction, population decline, limited distribution, direct threats from habitat alteration, collection

T=Threatened Species

X=Extirpated, no longer occurs in PA

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

[Pa.B. Doc. No. 06-2532. Filed for public inspection December 22, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
57-249	Pennsylvania Public Utility Commission Service Interruption 36 Pa.B. 6303 (October 14, 2006)	11/13/06	12/13/06

Pennsylvania Public Utility Commission Regulation #57-249 (IRRC #2570)

Service Interruption

December 13, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the October 14, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

Section 67.1. General provisions.—Protection of public health and safety; Consistency with other regulations; Reasonableness; Implementation procedure; and Clarity.

Questions

The Pennsylvania Chapter of the National Association of Water Companies (PA-NAWC) and Pennsylvania American Water Company's (PAWC) submitted comments on the proposed regulation that generated the following questions that relate directly to our review criteria.

First, what is the intent of the phrase "affecting the quantity or quality of water delivered to the customers"? For example, would this language require notice if the drinking water was discolored but still safe to drink? What types and levels of change in "quantity or quality" triggers the notice requirement? If there is a drop in pressure, hence a drop in quantity delivered during a certain time period, is that covered by this regulation? How much of a drop in pressure would trigger the required notice?

Second, the PUC noted in the preamble that "a similar DEP [Department of Environmental Protection] regulation defines a 'service interruption' as 'affecting quantity or quality of the water delivered to the customer.'" However, this language is from the existing regulations at 25 Pa. Code § 109.708 which govern notice to the public and DEP before "planned service interruptions" initiated by public water suppliers. Why is this language being used in the proposed amendment to 52 Pa. Code § 67.1 which governs "unplanned service interruptions"? (Emphasis added.)

Reasonable alternatives

Two commentators, PA-NAWC and PAWC, suggested that the proposed regulation should cite other existing DEP regulations relating to notification requirements for public water suppliers. They suggest referencing existing DEP regulations at 25 Pa. Code Chapter 109, Subchapter D (§§ 109.407—109.416 and § 109.701(a)(3)). These regulations require notice in specific situations that relate directly to public health and safety. For example, Sections 109.409(a)(1) and (b)(1) specifically require one hour notice to DEP for violations of the maximum contaminant level for fluoride. Therefore, these portions of Chapter 109 would afford clear and precise implementation of the PUC's policy objectives of protecting consumers of drinking water. Another benefit to using DEP regulations is that water suppliers are already familiar with these provisions. We recommend that the PUC give strong

consideration to referencing existing regulations at 25 Pa. Code §§ 109.407—109.416 and 109.701 to give water suppliers clear direction on when notice will be required.

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-2533. Filed for public inspection December 22, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Coal Mine Compensation Rating Bureau; Workers' Compensation Loss Cost Filing; Rate Filing

On December 7, 2006, the Insurance Department (Department) received from the Coal Mine Compensation Rating Bureau (CMCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of the act of July 2, 1993 (P. L. 190, No. 44). The CMCRB requests an overall 8.8% increase in collectible loss costs, effective April 1, 2007, on a new and renewal basis. Also, the CMCRB has calculated the Employer Assessment Factor effective April 1, 2007 to be 2.22%, as compared to the currently approved provision of 3.03%.

The entire April 1, 2007, loss cost filing is available for review on the Department's website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin".

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-2534. Filed for public inspection December 22, 2006, 9:00 a.m.]

OFFICE OF ATTORNEY GENERAL

[OPINION 2006-2]

Liquor Control Board; Interpretation of Section 498 of the Liquor Code

December 6, 2006

Jonathan Newman, Chairman
Pennsylvania Liquor Control Board
502 Northwest Office Building
Harrisburg, PA 17124-0001

Dear Chairman Newman:

On behalf of the Liquor Control Board, you have requested my opinion as to the proper interpretation of Section 498 of the Liquor Code, 47 P. S. § 4-498. Specifically, you have asked whether Section 498(e)(2) prohibits licensees from advertising alcohol products and prices in community papers, which are locally distributed, paper

advertising media in which, for a fee, businesses may advertise their products and services. Our Opinion assumes that the community paper is not owned, operated or controlled by the licensee advertising in the paper.

Section 498(a) broadly permits licensees "to advertise their products and prices," and section 498(g) broadly defines "advertisement" as "any advertising of alcoholic beverages through the medium of radio broadcast, television broadcast, newspapers, periodicals or other publications, outdoor advertisement, any form of electronic transmission or any other printed or graphic matter, including booklets, flyers or cards, or on the product label or attachment itself." Section 498(e)(2), however, prohibits licensees from "distribut[ing], by mail, personally or through servants, agents or employees, price lists, circulars or handbills off the licensed premises to the general public as a means of advertising liquor, wine or malt or brewed beverages."

By its terms, Section 498(e)(2) prohibits only a "licensee" or a "servant, agent or employee" of a licensee from distributing "price lists, circulars or handbills." The relationships of master-servant, principal-agent, and employer-employee share the essential feature that the former controls the latter. Thus, a licensee who advertises in a community paper that the licensee does not own, operate or control does not violate Section 498(e)(2), which obviates the need to consider whether community papers, which unquestionably are "publications" and "printed matter," are nonetheless, in some general sense or particular context, "price lists, handbills or circulars."

Accordingly, it is our opinion, and you are so advised, that Section 498(e)(2) of the Liquor Code does not prohibit licensees from advertising alcohol products and prices in community papers.

Finally, you are advised that, in accordance with Section 204(a)(1) of the Commonwealth Attorneys Act, 71 P. S. § 732-204(a)(1), you are required to follow the advice set forth in this Opinion and shall not in any way be liable for doing so.

TOM CORBETT,
Attorney General

[Pa.B. Doc. No. 06-2535. Filed for public inspection December 22, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rescission Order

Public Meeting held
November 30, 2006

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

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. Access One, Inc. (2001.0352); Doc. No.
C-20027755, A-310786*

Rescission Order

By the Commission:

On May 23, 2002, Law Bureau Prosecutory Staff filed a formal complaint against Access One, Inc. (the Respon-

dent), an IXC reseller certificated at A-310786, for failure to file its 2000 Annual Report. Subsequently, on October 29, 2002, the Commission entered a default order that sustained the complaint and cancelled Respondent's certificate of public convenience. The notice of the default order was published on November 9, 2002, at 32 Pa.B. 5596.

While Respondent did not file a formal request to rescind the default order, it did file its outstanding 2000 Annual Report on November 26, 2002. We note that this filing was made within the 20 day comment period given in the default order. We also note that Respondent is current in the filing of its annual reports. Moreover, Commission records show that Respondent is current in the payment of its assessments.

In response to Respondent filing its 2000 Annual Report, a rescission order had been prepared for the December 19, 2002 Public Meeting. However, due to administrative oversight, that rescission order was not presented at that December 2002 public meeting. A recent review of Commission records revealed that the October 29, 2002 Default Order was never rescinded. That review, prompted the issuance of the instant order. In an effort to rectify this problem and to update Commission records, we will rescind the default order and reinstate Access One, Inc.'s certificate of public convenience.

However, we caution Respondent that all future annual reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Access One, Inc. and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504.505, 506 and 3301;

Therefore,

It Is Ordered That:

1. The Default Order entered October 29, 2002 at this docket is hereby rescinded.
2. The certificate of public convenience held by Access One, Inc. at Docket No. A-310786 is hereby reinstated.
3. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-2536. Filed for public inspection December 22, 2006. 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 16, 2007. Documents filed in support of the applications are avail-

able for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.

A-00123336. Arwing, Inc. (7846 Route 183, Bernville, Berks County, PA 19506), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in Pennsylvania; which is to be a transfer of all the rights authorized under the certificate issued at A-00118524 to Infinity Limousine, Inc., subject to the same limitations and conditions.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.

A-00121501, F.2, Am-A. Dan Reitz, Inc. t/a Silver Bullet Cab (911 South Brady Street, DuBois, Clearfield County, PA 15801), a corporation of the Commonwealth of Pennsylvania, inter alia—persons, in paratransit service, from points in the City of DuBois, Clearfield County, and points located with an airline distance of 10 statute miles of the limits of said city, to points in Pennsylvania, and return: *So As To Permit* the transportation of personnel of the B & P Railroad Company, in paratransit service, to the facilities of the B&P Railroad Company, in Pennsylvania, and return. *Attorney:* Dwight L. Koerber, Jr., 110 North Second Street, P. O. Box 1320, Clearfield, PA 16830

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Michael J. Alexander t/a Alexander's Delivery; Doc. No. A-00112496C0601

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 Michael J. Alexander, t/a Alexander's Delivery, respondent, maintains his principal place of business at 1119 Fifth Street, Sandusky, OH 17660.
2. That respondent was issued a certificate of public convenience by this Commission on April 11, 1996, at Application Docket No. A-00112496.
3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2003, 2004 and 2005.
4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing

to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00112496.

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

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, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three 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 days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

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, which may include the revocation of your Certificate of Public Convenience.

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.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Ketler Trucking, Inc.; Doc. No. A-00118221C0601

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 Ketler Trucking, Inc., respondent, maintains its principal place of business at 4000 Embassy Parkway, Suite 420, Akron, OH 43333.

2. That respondent was issued a certificate of public convenience by this Commission on January 8, 2002, at Application Docket No. A-00118221 F.2.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2003, 2004 and 2005.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00118221 F.2.

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

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, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three 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 days, the Bureau of Transportation and Safety will

request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

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, which may include the revocation of your Certificate of Public Convenience.

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.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Chemlog Transport Service, LLC; Doc. No. A-00119107C0601

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 Chemlog Transport Service LLC, respondent, maintains its principal place of business at 8 Reservoir Circle, Suite 204, Baltimore, MD 21208.

2. That respondent was issued a certificate of public convenience by this Commission on February 20, 2003, at Application Docket No. A-00119107 F.2.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2003, 2004 and 2005.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00119107 F.2.

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

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, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three 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 days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

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, which may include the revocation of your Certificate of Public Convenience.

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. 06-2537. Filed for public inspection December 22, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #06-181.P, Fuel Oil #2 (Heating Oil), until 2 p.m. on Thursday, January, 11, 2007. 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

December 27, 2006. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-2538. Filed for public inspection December 22, 2006, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.
Kevin T. Gaskins; Doc. No. 1878-45-06**

On November 7, 2006, Kevin T. Gaskins, license no. CO234027L, of Upper Darby, Delaware County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated October 23, 2006, which the Court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Herbert Abramson, Senior Counsel in Charge, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 06-2539. Filed for public inspection December 22, 2006, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
Melissa Molino; Doc. No. 2041-45-2006**

On October 16, 2006, Melissa Molino, of Blakeslee, Monroe County, had her license No. CO-226713-L suspended immediately for failure to pay the \$450 civil penalty imposed by the State Board of Cosmetology (Board), based on her practice of cosmetology on a lapsed license.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 06-2540. Filed for public inspection December 22, 2006, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

**Bureau of Professional and Occupational Affairs v.
Curtis Bryant; Doc. No. 1846-60-06**

On November 3, 2006, Curtis Bryant, license no. MV191874, of York, York County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated October 23, 2006, which the Court issued under section 4355 of the Domestic Relations Code. The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Herbert Abramson, Senior Counsel in Charge, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649.

EDWIN K. GALBREATH, Jr.,
Chairperson

[Pa.B. Doc. No. 06-2541. Filed for public inspection December 22, 2006, 9:00 a.m.]

STATE POLICE

Uniform Crime Reporting Act

On November 29, 2004, Governor Edward G. Rendell signed the Uniform Crime Reporting Act (act) (20 P. S. §§ 20.101, 20.301—20.305 and 20.501—20.509). The act requires all Commonwealth law enforcement agencies to report crime statistics to the State Police on a monthly basis beginning in June 2005. The act also requires the State Police to notify both the Pennsylvania Commission on Crime and Delinquency and the Administrative Office of Pennsylvania Courts when an agency is found not in compliance with the reporting requirements. If the agency fails to submit Uniform Crime Report statistics to the State Police within 50 days, the agency will be ineligible to receive grants administered by the Pennsylvania Commission on Crime and Delinquency and the Administrative Office of the Pennsylvania Courts will withhold all monies collected and distributed under 42 Pa.C.S. Chapter 35, Subchapter E (relating to fines, etc.). Further information about the mandatory reporting requirements is available on the Pennsylvania Uniform Crime Reporting System website, ucr.psp.state.pa.us.

COL. JEFFREY B. MILLER,
Commissioner

[Pa.B. Doc. No. 06-2542. Filed for public inspection December 22, 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



① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

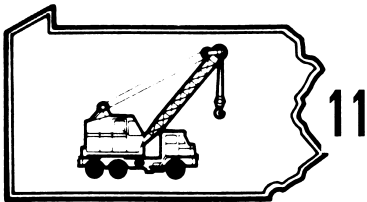
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreasury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

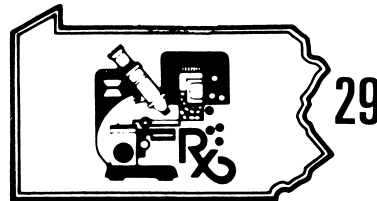
SERVICES



Demolition—Structural Only

067440 Demolition and removal of structures and improvements on 7 parcels for SR1058-HAT project. Bids due 01/18/07 at 3:00 pm will be opened the following morning at 9:00 AM. All bidders must be PennDOT prequalified for building demolition Work Code "B."

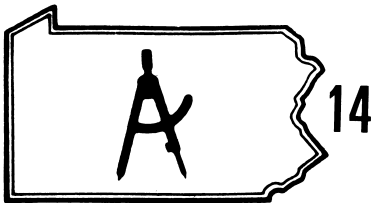
Department: Transportation
Location: Harleysville, PA
Duration: OPEN
Contact: Linda Bunt, 610-205-6784



Medical Services

CN00024173 Contractor shall teach courses to include citizenship, drug and alcohol, stress and anger management, AIDS, single father peer group, while addressing identification of risk factors for re-offending, discussion of Strategies for support to establish and maintain successful community readjustment.

Department: Public Welfare
Location: North Central Secure Treatment Unit, 210 Clinic Road, Danville, PA 17821
Duration: 1/1/07 through 12/31/09
Contact: Nikki Koser, Purchasing Agent, (717) 789-5508



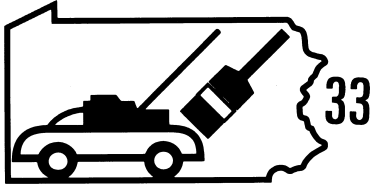
Engineering Services

CN00024188 This contract will be for Pavement Coring and Sampling at various locations within PennDOT Engineering District 1-0. Request bid packages via FAX ONLY to the attention of Amy Judson-Burak @ 814-678-7051. Please include the Bid Number and your SAP Vendor Number.

Department: Transportation
Location: The District consists of Crawford, Erie, Forest, Mercer, Venango and Warren Counties
Duration: This is a one year contract with two 2-yr. renewals
Contact: Amy Judson-Burak, 814-678-7185

CN00024106 Dental Services for patients of Clarks Summit State Hospital. To place a bid, please fax your request to: 570-587-7108 on your company letterhead that includes name, address, telephone and fax numbers, federal ID number and PA State Vendor Number. If you do not have a PA state vendor number, one can be obtained by calling: 866-775-2868 or by registering online at: <http://www.vendorregistration.state.pa.us/> Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: January 1, 2007 through December 31, 2009
Contact: Stanley Rygelski, PA, 570-587-7291



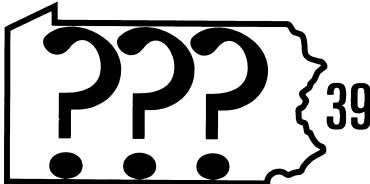
Property Maintenance

CN00024212 Contractor to furnish & install chain link fence, gate and gate operator. Prospective vendors must register with the Integrated Enterprise System (IES) at 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: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: 01/25/2007 - 03/30/2007
Contact: Ms. Bobbie Muntz, PA III, 814-726-4496

SSHE 401-BL-852 Montour Dorm Renovations Work included under this project consists of removing asbestos tiles in all 128 student rooms, removing and disposing of all built-in furniture, painting all dorm rooms, stairwells, hallways, closets, storage rooms, basement laundry and TV room, installing new floor tile, and minor electrical modifications. To obtain a copy of the bid documents submit a \$25.00 (non-refundable) check to Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815, ATTN: Diann Shamburg, phone #570-389-4312, fax #570-389-2017. This will be a two prime contract (General \$235,500 to \$255,000 and Electrical \$27,000 to \$30,000). The pre-bid conference will be held on January 4, 2007 at Bloomsburg University, Montour Residence Hall Recreation Room, Bloomsburg, PA with bids due January 18, 2007 at 1:00 p.m., Bloomsburg University.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: Completion to be July 28, 2007
Contact: Diann Shamburg, 570-389-4312



Miscellaneous

SSHE 401-BL-848 Scranton Commons Gas Piping Work consists of removal of multiple first floor gas piping runs and associated components; addition of multiple gas piping runs throughout the first floor, complete with pressure regulators and associated components, removal and replacement of a secondary gas service meter assembly with pressure regulator and associated piping and components; testing of installed gas system piping and final adjustment of new and existing gas system regulators. Performance testing of an existing utility-owned primary gas service regulator is also included. To obtain a copy of the bid documents submit a \$75.00 (non-refundable) check to Gillan Hartmann, 140 Whitaker Avenue, Mont Clare, PA 19453, ATTN: Kevin Brady, phone #610-935-0101 x235, fax #610-935-7520. The specifications will be available on December 29, 2006. This will be a one-prime contract (Plumbing - \$140,000 - \$160,000). The pre-bid conference will be held on January 9, 2007 at 10:15 am, Bloomsburg University, Scranton Commons Dining Hall, Bloomsburg, PA 17815 with bids due January 24, 2007 at 1:00 PM, Bloomsburg University.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: 100 calendar days
Contact: Kevin Brady, 610-935-0101 X235

SU-06-06 Shippensburg University is seeking a vendor to furnish and install 77 Discharge Air Temperature Sensors in the Franklin Science Center, Shippensburg University. Specifications will be provided with the solicitation. Vendors interested in receiving a bid package must fax a request to Gwyn McCleary, Fax (717) 477-1350; or email a request to: jgmccle@ship.edu. Bids are due January 11, 2007 by 4:00 PM. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: To Be Determined
Contact: Gwyn McCleary, 717-477-1386

CN00024174 Contractor shall provide DTG Digital Garment Printer - The Kiosk, including white ink upgrade, platens, cap attachment, print head, heat press, auto-release pop-up upgrade, teflon sheets.

Department: Public Welfare
Location: Loysville Youth Development Center, 10 Opportunity Drive, Loysville, PA 17047
Duration: Unknown
Contact: Nikki Koser, Purchasing Agent, (717) 789-5508

07760011 The service will consist of repairs, calibration, testing and balancing of combustion control panels. A copy of bid proposal can be obtained by contacting the Purchasing Department at 610-740-3425 or by fax at 610-740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown PA 18109-2498
Duration: 7/1/2006 To 6/30/2011
Contact: Robert Mitchell, 610-740-3425

07760012 To provide for the collecting and disposal of refuse such as general trash, glass, cans and anything of refuse nature that could accumulate at the hospital. A copy of the bid proposal can be obtained by contacting the Purchasing Department at 610-740-3425 or by fax at 610-740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown PA 18109-2498
Duration: 7/1/2007 To 6/30/2011
Contact: Robert Mitchell, 610-740-3425

06-0007 Thaddeus Stevens College of Technology is seeking an Employment Service Provider for a Program Director in Ultrasound Technology. We are a two year technical college located in Lancaster, Pennsylvania.

Department: State
Location: 750 E. King St., Lancaster, PA 17602
Contact: Nancy Froeschle, 717 299-7787

[Pa.B. Doc. No. 06-2543. Filed for public inspection December 22, 2006, 9:00 a.m.]