

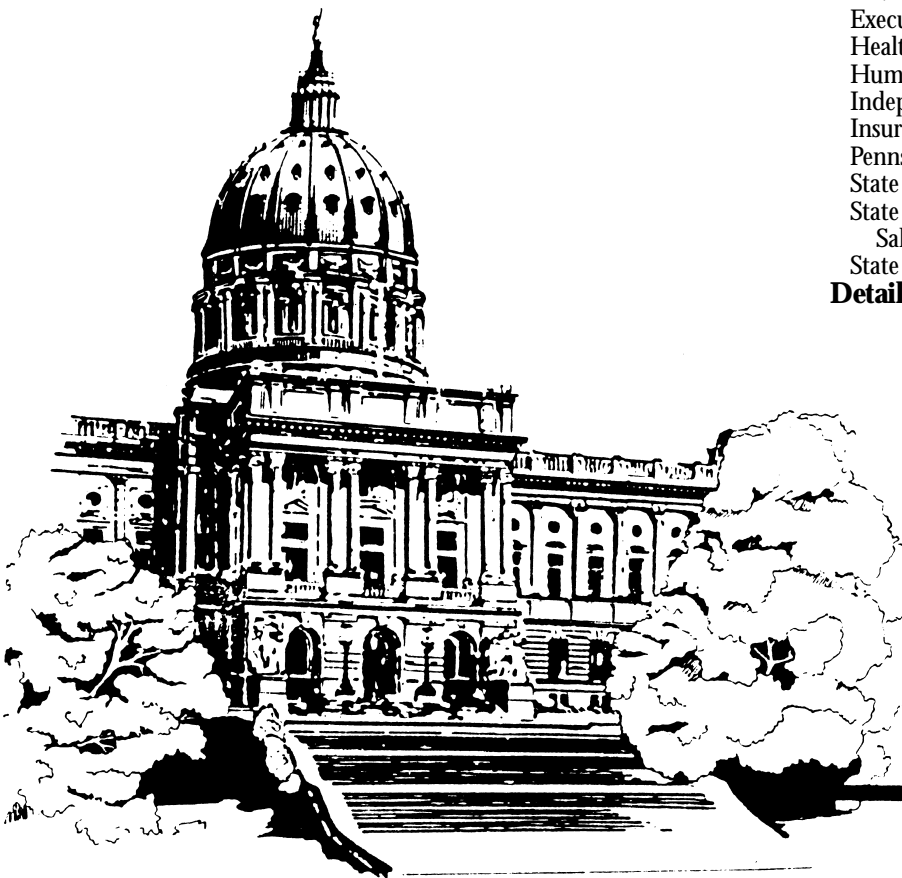
PENNSYLVANIA BULLETIN

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Department of Agriculture
Department of Banking
Department of Conservation and Natural Resources
Department of Environmental Protection
Department of General Services
Department of Health
Department of Transportation
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Environmental Quality Board
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Independent Regulatory Review Commission
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Pennsylvania Public Utility Commission
State Board of Nursing
State Board of Vehicle Manufacturers, Dealers and
Salespersons
State Employees' Retirement Board

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**Latest Pennsylvania Code Reporter
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No. 375, February 2006

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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.

4 Pa. Code (Administration)		55 Pa. Code (Public Welfare)	
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1021	709	Adopted Rules	
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126	715	Adopted Rules	
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31 Pa. Code (Insurance)		ART. IV	384
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255 Pa. Code (Local Court Rules)

Unclassified	189, 388, 512
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THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1300, 1350, 1400 AND 1480]

Designation of Chapters 1300, 1350, 1400 and 1480

The rules of civil procedure currently in Chapter 1300, Subchapters A—E, which appear at 231 Pa. Code pages 1300-1—1300-8.8 and 1300-9—1300-16, serial pages (136389)—(136404), (255251)—(255254) and (227319)—(227322), are being divided into separate chapters to more accurately reflect the subject matter of the rules. The new chapters are as follows.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1300. ARBITRATION

Subchapter A. COMPULSORY ARBITRATION

- Rule
- 1301. Scope.
 - 1302. List of Arbitrators. Appointment to Board. Oath.
 - 1303. Hearing. Notice.
 - 1304. Conduct of Hearing. Generally.
 - 1305. Conduct of Hearing. Evidence.
 - 1306. Award.
 - 1307. Award. Docketing. Notice. Lien. Judgment. Molding the Award.
 - 1308. Appeal. Arbitrators' Compensation. Notice.
 - 1309. Parties to Appeal.
 - 1310. Discontinuance.
 - 1311. Procedure on Appeal.
 - 1311.1. Procedure on Appeal. Admission of Documentary Evidence.
 - 1312. Form of Oath. Award and Notice of Entry of Award.
 - 1313. Form of Notice of Appeal.
 - 1314. Suspension of Acts of Assembly. Abolition of Practice and Procedure under Repealed Statutes.

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

- Rule
- 1326. Definitions. Scope.
 - 1327. Confirming Arbitration Award.
 - 1328. Motion to Confirm Arbitration Award as an Original Proceeding.
 - 1329. Civil Action to Compel Arbitration. Motion to Confirm Arbitration Award as Ancillary to a Civil Action.
 - 1330. Notice Required by Rule 1329(d)(1). Form.
 - 1331. Notice Required by Rules 1328(b) and 1329(e)(2). Form.

CHAPTER 1350. FORMS

- Rule
- 1351. Form of Writ of Summons.
 - 1352. Form of Writ of Summons in Action of Ejectment.
 - 1353. Notice of Hearing for Seizure of Property.
 - 1354. Form of Writ of Seizure.
 - 1355. Abrogated, Effective October 5, 1971.

- 1356. (Rescinded).
- 1357. (Rescinded).
- 1361. Form of Notice to Plead.

CHAPTER 1400. ACTS OF ASSEMBLY

Subchapter A. ACTS OF ASSEMBLY NOT SUSPENDED

- Rule
- 1401. (Rescinded).
 - 1402. (Rescinded).
 - 1403. (Rescinded).
 - 1404. (Rescinded).
 - 1405. (Rescinded).
 - 1406. (Rescinded).
 - 1407. (Rescinded).
 - 1408. (Rescinded).
 - 1409. (Rescinded).
 - 1410. (Rescinded).
 - 1411. (Rescinded).
 - 1412. (Rescinded).

Subchapter B. ACTS OF ASSEMBLY SUSPENDED

- Rule
- 1451. (Rescinded).
 - 1452. (Rescinded).
 - 1453. (Rescinded).
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 - 1455. (Rescinded).
 - 1456. (Rescinded).
 - 1457. (Rescinded).
 - 1458. (Rescinded).
 - 1459. (Rescinded).
 - 1460. (Rescinded).
 - 1461. (Rescinded).
 - 1461.1. (Rescinded).
 - 1462. (Rescinded).

CHAPTER 1480. ABOLITION OF SPECIAL ACTIONS

- Rule
- 1480. Domestic Attachment. (Rescinded).
 - 1481. Civil Arrest Before Judgment. (Rescinded).

[Pa.B. Doc. No. 06-214. Filed for public inspection February 10, 2006, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1930]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 78

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

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

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, April 28, 2006 directed to:

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

By the Domestic Relations
 Procedural Rules Committee

NANCY P. WALLITSCH, ESQ.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.7. Status Conference.

At any time in the proceedings, the court, the court's designee or the master, sua sponte or upon application of any party, may hold a status conference, in person or by any other means permitted by these rules, with counsel or with counsel and the parties in order to review the case status and expedite the litigation.

[Pa.B. Doc. No. 06-215. Filed for public inspection February 10, 2006, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5]

Order Promulgating New Rules 567, 568, and 569, and Amending Rules 119 and 573; No. 338 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the January 27, 2006 promulgation of new Pa.Rs.Crim.P. 567 (Notice of Alibi Defense), 568 (Notice of Defense of Insanity or Mental Infirmary; Notice of Expert Evidence of Mental Condition) and 569 (Examination of Defendant by Mental Health Expert(s)), and amended Rules 119 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings) and 573 (Pretrial Discovery and Inspection). These changes establish uniform procedures governing the examination of the defendant by mental health experts, and provide for separate rules addressing notice of either alibi or of a defense of insanity or mental infirmity and expert evidence of mental condition. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 27th day of January, 2006, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 31 Pa.B. 2549 (May 19, 2001) and 31 Pa.B. 2554 (May 19,

2001) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 770), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) New Rules of Criminal Procedure 567, 568, and 569 are promulgated; and

(2) Rules of Criminal Procedure 119 and 573 are amended, all in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2006.

Mr. Justice Nigro did not participate in the decision of this matter.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 119. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.

(A) The court or issuing authority may use two-way simultaneous audio-visual communication at any criminal proceeding except:

- (1) preliminary hearings;
- (2) **proceedings pursuant to Rule 569(A)(2)(b);**
- (3) trials;

[(3)] (4) * * *

[(4)] (5) * * *

[(5)] (6) * * *

* * * * *

Comment

* * * * *

The paragraph (A)[(4)](5) reference to revocation hearings addresses *Gagnon* II-type probation (*Gagnon v. Scarpelli*, 411 U. S. 778 (1973)) and parole (*Morrissey v. Brewer*, 408 U. S. 471 (1972)) revocation hearings, and is not intended to prohibit the use of two-way simultaneous audio-visual communication in hearings to determine probable cause (*Gagnon* I).

Official Note: New Rule 118 adopted August 7, 2003, effective September 1, 2003; renumbered Rule 119 and Comment revised June 30, 2005, effective August 1, 2006; **amended January 27, 2006, effective August 1, 2006.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the January 27, 2006 amendments adding Rule 569 proceedings as a proceeding for which ACT may not be used published with the Court's Order at 36 Pa.B. 700 (February 11, 2006).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART F. Procedures Following Filing of Information

Rule 567. Notice of Alibi Defense.

(A) NOTICE BY DEFENDANT

A defendant who intends to offer the defense of alibi at trial shall file with the clerk of courts not later than the time required for filing the omnibus pretrial motion provided in Rule 579 a notice specifying an intention to offer an alibi defense, and shall serve a copy of the notice and a certificate of service on the attorney for the Commonwealth.

(1) The notice and a certificate of service shall be signed by the attorney for the defendant, or the defendant if unrepresented.

(2) The notice shall contain specific information as to the place or places where the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses whom the defendant intends to call in support of the claim.

(B) FAILURE TO FILE NOTICE

(1) If the defendant fails to file and serve the notice of alibi as required by this rule, the court may exclude entirely any evidence offered by the defendant for the purpose of proving the defense, except testimony by the defendant, may grant a continuance to enable the Commonwealth to investigate such evidence, or may make such other order as the interests of justice require.

(2) If the defendant omits any witness from the notice of alibi, the court at trial may exclude the testimony of the omitted witness, may grant a continuance to enable the Commonwealth to investigate the witness, or may make such other order as the interests of justice require.

(C) RECIPROCAL NOTICE OF WITNESSES

Within 10 days after receipt of the defendant's notice of defense of alibi, or within such other time as allowed by the court upon cause shown, the attorney for the Commonwealth shall file and serve upon defendant's attorney, or the defendant if unrepresented, written notice of the names and addresses of all witnesses the attorney for the Commonwealth intends to call to disprove or discredit the defendant's claim of alibi.

(D) FAILURE TO FILE RECIPROCAL NOTICE

(1) If the attorney for the Commonwealth fails to file and serve a list of its witnesses required by this rule, the court may exclude any evidence offered by the Commonwealth for the purpose of disproving the alibi defense, may grant a continuance to enable the defense to investigate such evidence, or may make such other order as the interests of justice require.

(2) If the attorney for the Commonwealth omits a witness from the list of its witnesses required by paragraph (C), the court at trial may exclude the testimony of the omitted witness, may grant a continuance to enable the defense to investigate the witness, or may make such other order as the interests of justice require.

(E) CONTINUING DUTY TO DISCLOSE

If prior to or during trial a party learns of an additional witness whose identity, if known, should have been included in the notice furnished under paragraphs (A) or (C), the party promptly shall notify the other party's attorney, or if unrepresented, the party, of the existence and identity of such additional witness.

(F) FAILURE TO CALL WITNESSES

No adverse inference may be drawn against the defendant, nor may any comment be made concerning the defendant's failure to call available alibi witnesses, when such witnesses have been prevented from testifying by

reason of this rule, unless the defendant or the defendant's attorney shall attempt to explain such failure to the jury.

(G) IMPEACHMENT

A defendant may testify concerning an alibi notwithstanding that the defendant has not filed notice, but if the defendant has filed notice and testifies concerning his or her presence at the time of the offense at a place or time different from that specified in the notice, the defendant may be cross-examined concerning such notice.

Comment

This rule, which is derived from paragraphs (C)(1)(a), (c)—(g), and (D) of Rule 573 (Pretrial Discovery and Inspection) and was made a separate rule in 2006, sets forth the notice procedures when a defendant intends to raise an alibi defense at trial.

The reference in paragraph (A) to Rule 579 (Time for Omnibus Pretrial Motion and Service) contemplates consideration of the exceptions to the time for filing set forth in Rule 579(A).

The notice-of-alibi provision is intended to comply with the requirement of *Wardius v. Oregon*, 412 U.S. 470 (1973), by the inclusion of reciprocal disclosure responsibilities placed upon the Commonwealth in paragraph (C). See also *Commonwealth v. Contakos*, 455 Pa. 136, 314 A.2d 259 (1974).

Any motion under this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

See Rule 576(B)(4) and Comment for the contents and form of the certificate of service.

Official Note: Adopted January 27, 2006, effective August 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of new Rule 567 governing notice of alibi defense published at 36 Pa.B. 700 (February 11, 2006).

Rule 568. Notice of Defense of Insanity or Mental Infirmity; Notice of Expert Evidence of a Mental Condition.

(A) NOTICE BY DEFENDANT

(1) Notice of Defense of Insanity or Mental Infirmity

A defendant who intends to offer at trial the defense of insanity or mental infirmity shall file with the clerk of courts not later than the time required for filing an omnibus pretrial motion provided in Rule 579 a notice of the intention to offer the defense of insanity or mental infirmity, and shall serve a copy of the notice and a certificate of service on the attorney for the Commonwealth.

(a) The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented.

(b) The notice shall contain specific available information as to the nature and extent of the alleged insanity or mental infirmity, the period of time that the defendant allegedly suffered from such insanity or mental infirmity, and the names and addresses of witnesses, expert or otherwise, whom the defendant intends to call to establish such defense.

(2) Notice of Expert Evidence of Mental Condition

A defendant who intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing (1) on the issue of guilt, or (2) in a capital case, on the issue of punishment, shall file with the clerk of courts not later than the time required for filing an omnibus pretrial motion provided in Rule 579 a notice of the intention to offer this expert evidence, and shall serve a copy of the notice and a certificate of service on the attorney for the Commonwealth.

(a) The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented.

(b) The notice shall contain specific available information as to the nature and extent of the alleged mental disease or defect or any other mental condition, the period of time that the defendant allegedly suffered from such mental disease or defect or any other mental condition, and the names and addresses of the expert witness(es) whose evidence the defendant intends to introduce.

(B) FAILURE TO FILE NOTICE

(1) If the defendant fails to file and serve a notice of insanity or mental infirmity defense, or a notice of expert evidence of a mental condition as required by this rule, the court may exclude entirely any evidence offered by the defendant for the purpose of proving the defense, except testimony by the defendant, may grant a continuance to enable the Commonwealth to investigate such evidence, or may make any other order as the interests of justice require.

(2) If the defendant omits a witness from the notice of insanity or mental infirmity defense or a notice of expert evidence of a mental condition, the court at trial may exclude the testimony of the omitted witness, may grant a continuance to enable the Commonwealth to investigate such evidence, may grant a continuance to enable the Commonwealth to investigate the witness, or may make any other order as the interests of justice require.

(C) RECIPROCAL NOTICE OF WITNESSES

Within 10 days after receipt of the defendant's notice of the insanity or mental infirmity defense, or notice of expert evidence of a mental condition, or within such other time as allowed by the court upon cause shown, the attorney for the Commonwealth shall file and serve upon defendant's attorney, or the defendant if unrepresented, written notice of the names and addresses of all witnesses the attorney for the Commonwealth intends to call to disprove or discredit the defendant's claim of insanity or mental infirmity, or mental disease, defect, or other mental condition.

(D) FAILURE TO SUPPLY RECIPROCAL NOTICE

(1) If the attorney for the Commonwealth fails to file and serve a list of its witnesses as required by this rule, the court may exclude any evidence offered by the Commonwealth for the purpose of disproving the insanity or mental infirmity defense, may grant a continuance to enable the defense to investigate such evidence, or may make such other order as the interests of justice require.

(2) If the attorney for the Commonwealth omits a witness from the list of its witnesses required by this rule, the court at trial may exclude the testimony of the omitted witness, may grant a continuance to enable the defense to investigate the witness, or may make such other order as the interests of justice require.

(E) CONTINUING DUTY TO DISCLOSE

If prior to or during trial a party learns of an additional witness whose identity, if known, should have been included in the notice furnished under paragraphs (A) or (C), the party shall promptly notify the other party's attorney, or if unrepresented, the other party, of the existence and identity of such additional witness.

(F) FAILURE TO CALL WITNESSES

No adverse inference may be drawn against the defendant, nor may any comment be made concerning the defendant's failure to call available witnesses with regard to the insanity or mental infirmity defense, when such witnesses have been prevented from testifying by reason of this rule, unless the defendant or the defendant's attorney shall attempt to explain such failure to the jury.

Comment

This rule, which is derived from paragraphs (C)(1)(b), (c)—(f), and (D) of Rule 573 (Pretrial Discovery and Inspection) and was made a separate rule in 2006, sets forth the notice procedures when a defendant intends to raise a defense of insanity or mental infirmity, or introduce evidence relating to a mental disease or defect or any other mental condition at trial.

The reference in paragraph (A) to Rule 579 (Time for Omnibus Pretrial Motion and Service) contemplates consideration of the exceptions to the time for filing set forth in Rule 579(A).

See Rule 569 (Examination of Defendant by Mental Health Expert) for the procedures for the examination of the defendant by the Commonwealth's expert when the defendant provides notice of an intention to raise a defense of insanity or mental infirmity or an intention to introduce expert evidence concerning his or her mental condition.

Any motion under this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

See Rule 576(B)(4) and Comment for the contents and form of the certificate of service.

Official Note: Adopted January 27, 2006, effective August 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of new Rule 568 governing notice of insanity or mental infirmity defense and notice of expert evidence of a mental condition published at 36 Pa.B. 700 (February 11, 2006).

Rule 569. Examination of Defendant By Mental Health Expert.

(A) EXAMINATION OF DEFENDANT

(1) BY AGREEMENT

(a) The defendant, defendant's counsel, and the attorney for the Commonwealth may agree to an examination of the defendant by the mental health expert(s) designated in the agreement.

(b) The agreement shall be in writing and signed by the defendant, defendant's counsel, and the attorney for the Commonwealth, or made orally on the record.

(c) Unless otherwise agreed, the mental health expert(s) promptly shall prepare a written report stating the subject matter, the substance of the facts relied upon, and a summary of the expert's opinions and the grounds for each opinion.

(2) BY COURT ORDER

(a) Upon motion of the attorney for the Commonwealth, if the court determines the defendant has provided notice of an intent to assert a defense of insanity or mental infirmity or notice of the intention to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant pursuant to Rule 568, the court shall order that the defendant submit to an examination by one or more mental health experts specified in the motion by the Commonwealth for the purpose of determining the mental condition put in issue by the defendant.

(b) When the court orders an examination pursuant to this paragraph, the court on the record shall advise the defendant in person and in the presence of defendant's counsel:

(i) of the purpose of the examination and the contents of the court's order;

(ii) that the information obtained from the examination may be used at trial; and

(iii) the potential consequences of the defendant's refusal to cooperate with the Commonwealth's mental health expert(s).

(c) The court's order shall:

(i) specify who may be present at the examination; and

(ii) specify the time within which the mental health expert(s) must submit the written report of the examination.

(d) Upon completion of the examination of the defendant, the mental health expert(s), within the time specified by the court as provided in paragraph (A)(2)(c)(ii), shall prepare a written report stating the subject matter, the substance of the facts relied upon, and a summary of the expert's opinions and the grounds for each opinion.

(B) DISCLOSURE OF REPORTS BETWEEN PARTIES

(1) The mental health experts' reports shall be confidential, and not of public record.

(2) Any mental health expert whom either party intends to call to testify concerning the defendant's mental condition must prepare a written report. No mental health expert may be called to testify concerning the defendant's mental condition until the expert's report has been disclosed as provided herein.

(3) The court shall set a reasonable time after the Commonwealth's expert's examination for the disclosure of the reports of the parties' mental health experts.

(C) PROTECTIVE ORDERS

Upon a sufficient showing, the court may at any time order that the disclosure of a report or reports be restricted or deferred for a specified time, or make such other order as is appropriate. Upon motion of any party, the court may permit the showing to be made in camera.

(D) SANCTIONS FOR NON-COMPLIANCE

At any time during the course of the proceedings, upon motion or sua sponte, if the court determines there has been a failure to comply with this rule, the court may order compliance, may grant a continuance, or may grant other appropriate relief. Upon motion, any hearing to determine if there has been a failure to comply may be held in camera and the record sealed until after disposition of the case.

(E) This rule does not apply to competency proceedings.

Comment

This rule establishes the procedures for the examination of the defendant by a mental health expert(s) retained by the prosecution pursuant to an agreement by the parties, see paragraph (A)(1), or a court order, see paragraph (A)(2).

"Mental Health Expert," as used in this rule, includes a psychiatrist, a licensed psychologist, a physician, or any other expert in the field of mental health who will be of substantial value in the determination of the issues raised by the defendant concerning his or her mental condition.

Examination of Defendant

Paragraph (A)(1) is intended to encourage the defendant, defendant's counsel, and the attorney for the Commonwealth to agree to an examination of the defendant by the Commonwealth's mental health expert(s).

When the defendant, defendant's attorney, and the attorney for the Commonwealth agree that the defendant will be examined under this rule, at a minimum, the agreement should specify the time, place, and conditions of the examination, who may be present during the examination, and the time within which the parties will disclose the reports of their experts.

For the procedures when the Commonwealth files a motion pursuant to paragraph (A)(2)(a), see Rules 575 (Motions and Answers), 576 (Filing and Service by Parties), 577 (Procedures Following Filing of Motion).

It is intended that the examining mental health expert(s), whether appointed pursuant to the agreement of the parties or a Commonwealth's motion, have substantial discretion in how to conduct an examination. The conduct of the examination, however, must conform to generally recognized and accepted practices in that profession. Therefore, the examination of the defendant may consist of such interviewing, clinical evaluation, and psychological testing as the examining mental health expert(s) considers appropriate, within the limits of non-experimental, generally accepted medical, psychiatric, or psychological practices.

Nothing in this rule is intended to limit the number of examining experts the defense may use, nor is it to be construed as a limitation on any party with regard to the number of other expert or lay witnesses they may call to testify concerning the defendant's mental condition.

The court is required in paragraph (A)(2)(b) to inform the defendant, in person on the record, about the request for a compelled examination. See Rule 118 (Use of Two-Way Simultaneous Audio-Video Communication in Criminal Proceedings). The court is to explain that the examination is being conducted at the request of the attorney for the Commonwealth and that the purpose of the examination is to obtain information about defendant's mental condition. In addition, the court should explain the procedures for the examination that are included in the court's order as set forth in paragraph (A)(2)(b), and explain the potential consequences of the defendant's failure to cooperate with the examination.

Paragraph (A)(2)(d) requires that the examining mental health expert(s) promptly prepare a written report and sets forth the minimum contents of that report. It is intended that the scope of the mental health expert's report be limited in the court's order to matters related to the defendant's mental condition at the time put into issue by the defendant.

Disclosure of Reports

After the examination of the defendant by the Commonwealth's mental health expert(s) is completed and the mental health expert's report has been prepared, the defendant and the Commonwealth are required in paragraph (B) to disclose the reports that are made by any experts either party intends to call to testify concerning the defendant's mental condition. The reports must be in writing, and should comply with the content requirements in paragraph (A)(2)(d). An expert witness cannot testify until the report is disclosed as provided in paragraph (B)(2) and (3). There may be situations in which the court would have to call a short recess to permit the expert to complete a written report and to give the parties an opportunity to review the report, such as when a mental health expert(s) is observing the defendant during the trial and will be called to testify on these observations.

When the parties agree to the examination, the time for the disclosure of the reports should be set by the agreement of the parties. The agreement should permit adequate time to review the reports and prepare for the proceeding. If the parties cannot agree, in cases proceeding pursuant to court order under paragraph (A)(2), the court should set the time for the disclosure of reports, which should afford the parties adequate time to review the reports and prepare for the proceeding.

Establishing a reasonable time frame and providing for the reciprocal disclosure are intended to further promote the fair handling of these cases. In no case should the disclosure occur until after the defendant has been examined by the Commonwealth's mental health expert(s) and the mental health expert(s) has prepared and submitted a written report. When the defendant intends to introduce an expert's psychiatric findings at the penalty phase of a death penalty case only, the disclosure may not take place until the penalty phase. See *Commonwealth v. Sartin*, 561 Pa. 522, 751 A.2d 1140 (2000) (the results of any examinations of the defendant by a Commonwealth's expert must be sealed "until such time as the penalty phase commences and the defendant declares his intent to present his own psychiatric evidence in mitigation.")

There may be cases in which, although proceeding pursuant to a court order, the parties, with the court's approval, agree to an earlier time for disclosure consistent with the purposes of this rule. This rule would not preclude such an agreement.

The procedures in paragraph (C) are similar to the existing procedures for protective orders in Rule 573(F).

Use of Information Obtained Under This Rule

Information obtained from the examination of a defendant by a Commonwealth's expert is not to be disclosed or used except as permitted by case law, which is evolving. See, e.g., *Commonwealth v. Santiago*, 541 Pa. 188, 662 A.2d 610 (1995), *Commonwealth v. Morley*, 545 Pa. 420, 681 A.2d 1254 (1996), *Commonwealth v. Szuchon*, 548 Pa. 37, 693 A.2d 959 (1997), *Commonwealth v. Karenbauer*, 552 Pa. 420, 715 A.2d 1086 (1998), and *Commonwealth v. Sartin*, 561 Pa. 522, 751 A.2d 1140 (2000).

See the Pennsylvania Rules of Evidence concerning the admissibility of the experts' reports and information from any examinations of the defendant by an expert.

Sanctions

The sanctions authorized by paragraph (D) may be imposed on any person who has failed to comply with any of the provisions of this rule, including the attorney for the Commonwealth, the defendant, defendant's counsel, or an expert.

When the defendant has refused to cooperate in the examination by the Commonwealth's mental health expert(s), before imposing a sanction, the court should consider whether the defendant's failure to cooperate (1) was intentional, (2) was the result of the defendant's mental illness, and (3) will have an adverse and unfair impact on the Commonwealth's ability to respond to the defendant's claim. The court also should consider whether ordering the defendant to resubmit to the examination would result in the defendant's cooperation. See ABA Criminal Justice Mental Health Standards, Std. 7-3.4(c), for examples of possible sanctions to impose on a defendant.

Mental Health Procedures Act

Section 7402 (Incompetence to Proceed on Criminal Charges and Lack of Criminal Responsibility as Defense) of the Mental Health Procedures Act, 50 P.S. § 7402, prescribes, *inter alia*, procedures for conducting court-ordered examinations of a defendant when the defendant's competency is an issue. The procedures in Section 7402 related to competency are distinct from the procedures set forth in this rule.

Official Note: Adopted January 27, 2006, effective August 1, 2006.

Committee Explanatory Reports:

Final Report explaining the provisions of new Rule 569 governing the examination of the defendant by mental health experts published with the Court's Order at 36 Pa.B. 700 (February 11, 2006).

Rule 573. Pretrial Discovery and Inspection.

* * * * *

(C) DISCLOSURE BY THE DEFENDANT

[(1) MANDATORY:

(a) Notice of Alibi Defense:

A defendant who intends to offer the defense of alibi at trial, within the time required for filing the omnibus pretrial motion under Rule 579, shall file with the clerk of courts notice specifying the intention to claim the defense of alibi, and a certificate of service on the attorney for the Commonwealth. The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented. Such notice shall contain specific information as to the place or places where the defendant claims to have been at the time of the alleged offense and the names and addresses of witnesses whom the defendant intends to call in support of such claim.

(b) Notice of Insanity Defense or Mental Infirmity Defense:

A defendant who intends to offer at trial the defense of insanity, or a claim of mental infirmity, within the time required for filing an omnibus pretrial motion under Rule 579, shall file with the clerk of courts notice specifying the intention to claim the defense of insanity or of mental infirmity, and a certificate of service on the attorney for the Commonwealth. The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented. Such notice shall contain specific available information as to the nature and extent of the alleged insanity or claim of mental infirmity, the period of time that the defendant allegedly suffered from such insanity or men-

tal infirmity, and the names and addresses of witnesses, expert or otherwise, whom the defendant intends to call at trial to establish such defense.

(c) Disclosure of Reciprocal Witnesses:

Within 7 days after service of notice of alibi defense or of insanity or claim of mental infirmity defense, or within such other time as allowed by the court upon cause shown, the attorney for the Commonwealth shall disclose to the defendant the names and addresses of all persons the Commonwealth intends to call as witnesses to disprove or discredit the defendant's claim of alibi or of insanity or mental infirmity.

(d) Failure to File Notice:

If the defendant fails to file and serve notice of alibi defense or insanity or mental infirmity defense as required by this rule, or omits any witness from such notice, the court at trial may exclude the testimony of any omitted witness, or may exclude entirely any evidence offered by the defendant for the purpose of proving the defense, except testimony by the defendant, or may grant a continuance to enable the Commonwealth to investigate such evidence, or may make such other order as the interests of justice require.

(e) Failure to Supply Reciprocal Notice:

If the attorney for the Commonwealth fails to file and serve a list of its witnesses as required by this rule, or omits any witness therefrom, the court at trial may exclude the testimony of any omitted witness, or may exclude any evidence offered by the Commonwealth for the purpose of disproving the alibi, insanity, or mental infirmity defense, or may grant a continuance to enable the defense to investigate such evidence, or may make such other order as the interests of justice require.

(f) Failure to Call Witnesses:

No adverse inference may be drawn against the defendant, nor may any comment be made concerning the defendant's failure to call available alibi, insanity, or mental infirmity witnesses, when such witnesses have been prevented from testifying by reason of this rule unless the defendant or the defendant's attorney shall attempt to explain such failure to the jury.

(g) Impeachment:

A defendant may testify concerning an alibi notwithstanding that the defendant has not filed notice, but if the defendant has filed notice and testifies concerning his or her presence at the time of the offense at a place or time different from that specified in the notice, the defendant may be cross-examined concerning such notice.

(2) DISCRETIONARY WITH THE COURT:

(a)] (1) * * *

[(i)] (a) * * *

[(ii)] (b) the names and addresses of eyewitnesses whom the defendant intends to call in its **[case in chief] case-in-chief**, provided that the defendant has previously requested and received discovery under paragraph (B)(2)(a)(i).

[(b)] (2) * * *

* * * * *
Comment
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See Rule 576(B)(4) and Comment for the contents and form of the certificate of service.

See Rule 569 (Examination of Defendant by Mental Health Expert) for the procedures for the examination of the defendant by the mental health expert when the defendant has given notice of an intention to assert a defense of insanity or mental infirmity or notice of the intention to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant.

Included within the scope of paragraph (B)(2)(a)(iv) is any information concerning any prosecutor, investigator, or police officer involved in the case who has received either valuable consideration, or an oral or written promise or contract for valuable consideration, for information concerning the case, or for the production of any work describing the case, or for the right to depict the character of the prosecutor or investigator in connection with his or her involvement in the case.

Pursuant to paragraphs (B)(2)(b) and (C)(2)[(b)], the trial judge has discretion, upon motion, to order an expert who is expected to testify at trial to prepare a report. However, these provisions are not intended to require a prepared report in every case. The judge should determine, on a case-by-case basis, whether a report should be prepared. For example, a prepared report ordinarily would not be necessary when the expert is known to the parties and testifies about the same subject on a regular basis. On the other hand, a report might be necessary if the expert is not known to the parties or is going to testify about a new or controversial technique.

* * * * *

[The notice-of-alibi provision of this rule contained in paragraph (C)(1)(a) is intended to comply with the requirement of *Wardius v. Oregon*, 412 U. S. 470 (1973), by the inclusion of reciprocal disclosure responsibilities placed upon the Commonwealth in paragraph (C)(1)(c). See also *Commonwealth v. Contakos*, 314 A.2d 259 (Pa. 1974). The provision requiring a notice of insanity defense, paragraph (C)(1)(b), has not previously been included in these rules, but the safeguards surrounding them have been made identical to those protecting the defendant under the notice-of-alibi provision.

See Rule 576(B)(4) and Comment for the contents and form of the certificate of service.]

Paragraph (C)(1), which provided the requirements for notice of the defenses of alibi, insanity, and mental infirmity, was deleted in 2006 and moved to Rules 567 (Notice of Alibi Defense) and 568 (Notice of Defense of Insanity or Mental Infirmity).

* * * * *

Official Note: Present Rule 305 replaces former Rules 310 and 312 in their entirety. Former Rules 310 and 312 adopted June 30, 1964, effective January 1, 1965. Former Rule 312 suspended June 29, 1973, effective immediately. Present Rule 305 adopted June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or

information is filed on or after January 1, 1978; Comment revised April 24, 1981, effective June 1, 1981; amended October 22, 1981, effective January 1, 1982; amended September 3, 1993, effective January 1, 1994; amended May 13, 1996, effective July 1, 1996; Comment revised July 28, 1997, effective immediately; Comment revised August 28, 1998, effective January 1, 1999; renumbered Rule 573 and amended March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; Comment revised March 26, 2004, effective July 1, 2004; **amended January 27, 2006, effective August 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

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Final Report explaining the January 27, 2006 changes to paragraph (C) deleting the notice of defenses of alibi, insanity, and mental infirmity published with the Court's Order at 36 Pa.B. 700 (February 11, 2006).

FINAL REPORT¹

New Pa.Rs.Crim.P. 567, 568, and 569, Amendments to Pa.Rs.Crim.P. 119 and 573

Notice of Defenses; Examination of Defendant by Mental Health Expert(s)

On January 27, 2006, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Pa.Rs.Crim.P. 567 (Notice of Alibi Defense), 568 (Notice of Defense of Insanity or Mental Infirmity; Notice of Expert Evidence of Mental Condition) and 569 (Examination of Defendant by Mental Health Expert(s)), and amended Rules 119 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings) and 573 (Pretrial Discovery and Inspection). These changes establish uniform procedures governing the examination of the defendant by mental health experts, and provide for separate rules addressing notice of either alibi or of a defense of insanity or mental infirmity and expert evidence of mental condition.

I. INTRODUCTION

In 1996, the Supreme Court decided *Commonwealth v. Morley*, 545 Pa. 420, 681 A.2d 1254 (1996), holding, *inter alia*, that "where the defendant has raised a defense based on mental infirmity, the defendant may not refuse to allow the Commonwealth psychiatrist to examine him or her on the basis that it violates the defendant's privilege against self-incrimination." In view of this opinion and several other similar cases,² the Committee agreed that the Rules of Criminal Procedure should provide uniform procedures for a defendant's examination by the Commonwealth's mental health expert(s), noting that uniformity in this area is important both to safeguard the defendants' rights and for the efficient administration of the criminal justice system. The Committee also agreed the new procedures would apply at any stage of the proceedings when the defendant has provided notice of an intent to assert a defense of insanity or mental infirmity or notice of the intention to introduce expert

evidence relating to a mental disease or defect or any other mental condition of the defendant. In addition, the new rule provides for the examination of the defendant either by agreement of the parties or by order of the court.

When developing the uniform procedures for the examination of a defendant by a mental health expert, the Committee examined Rule 573 (Pretrial Discovery and Inspection), as well as the Federal Rules of Criminal Procedure and similar rules in other jurisdictions. As part of that examination, we noted that, unlike the Pennsylvania Rules, the Federal Rules and many other jurisdictions have separate rules setting forth the defendant's requirements for giving notice of defenses, in particular alibi and insanity, rather than combining the notices in the discovery rule. The Committee concluded from its review of F.Rs.Crim.P. 12.1 (Notice of Alibi) and 12.2 (Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition) and the other jurisdictions' rules that the federal approach makes sense and provides a clearer distinction between discovery procedures and notice procedures.

The following discussion is divided into two sections: Section (A) explains the separate rules governing the notice of alibi and notice of insanity or mental infirmity currently in Rule 573 and Section (B) explains the procedures governing examinations of the defendant by mental health experts. The new rules have been numbered Rules 567, 568, and 569, the first rules in Chapter 5, Part F (Procedures Following the Filing of Information).

II. NEW RULES 567 AND 568

(A) Discussion of Rules 567 and 568

Except as otherwise noted below, new Rules 567 and 568 carry over verbatim the text of Rule 573(C)(1). The Committee used the opportunity of moving this text into separate rules to make some editorial and technical changes, as well as some changes that make the notice rules clearer.

Rules 567(A) and 568(A)(1) carry over the provisions from Rule 573(C)(1)(a) and (b) respectively. The Committee has reorganized the wording and broken the paragraph into subparagraphs dealing with (1) signing and filing the notice, and (2) the contents of the notice. In addition, because the defendant should give this notice as early as possible rather than after the arraignment as currently provided in Rule 573(C)(1) and Rule 579, the rules have been modified to provide for the filing of the notices to be "no later than the time required for filing the omnibus pretrial motion provided in Rule 579." In response to concerns whether the exceptions to the time for filing the omnibus pretrial motion enumerated in Rule 579 applied to the notice rules' time limits, both Comments include explanations that the reference in paragraph (A) to the Rule 579 time requirements contemplates consideration of the exceptions to the time for filing set forth in Rule 579.

Rule 568(A)(2), which is new to Pennsylvania procedure and is comparable to Federal Criminal Rule 12.2(b), adds the requirement that a defendant who intends to introduce expert evidence relating to a mental disease or defect or any other mental condition must provide notice of this intention. As explained more fully below in the discussion of new Rule 569, this new notice provision is required as one of the triggers for a Rule 569 examination of the defendant.

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

² See, e.g., *Commonwealth v. Santiago*, 541 Pa. 188, 662 A.2d 610 (1995), *Commonwealth v. Karenbauer*, 552 Pa. 420, 715 A.2d 1086 (1998), and *Commonwealth v. Sartin*, 561 Pa. 522, 751 A.2d 1140 (2000).

For purposes of organizational clarity, the order of paragraphs (C)(1)(c) and (d) when moved from Rule 573 has been reversed. Therefore, in the new notice rules, the defendant's notice requirement is followed by the procedures governing the defendant's failure to give the notice. See Rules 567(B) and 568(B). Similarly, the provisions for the Commonwealth to give notice of the names of witnesses he or she intends to call to disprove or discredit the defendant's claim, Rules 567(C) and 568(C), will be followed by the procedures governing the Commonwealth's failure to give the notice, Rules 567(D) and 568(D).

In addition to the reorganization of these paragraphs, paragraph (C) concerning the Commonwealth's obligation to give notice has been modified. First, the title of the paragraph has been changed from "Disclosure of Reciprocal Witnesses," Rule 573(C)(1)(c), to "Reciprocal Notice of Witnesses" to more accurately represent the content of the provision and tie it to the purpose of the rule. In addition, the time within which the Commonwealth must give the notice has been increased from 7 days to 10 days. The 10-day time limit is in conformity with other time limits in the Criminal Rules and is more realistic. Finally, the provision in Rule 573(C)(1)(c) has been changed from "disclosure to the defendant" to "shall serve . . . written notice of the names and addresses. . . ." Requiring these notices to be in writing avoids the confusion that sometimes arises when there is only oral notice.

The provisions in Rule 573(C)(1)(d) and (e), now Rules 567(B) and (D) and 568(B) and (D), have been reorganized into subparagraphs. The first subparagraph sets forth the sanctions for failing to file and serve the notice. The second subparagraph sets forth the sanctions for omitting a witness' name from the notice. Although many of the suggested sanctions are the same for both types of failure to comply, the rules are clearer with the provisions separated.

Rules 567(E) and 568(E) are taken from Rule 573(D). Although Rule 573(D) is not specifically included in the notice section of Rule 573, there is a continuing duty to disclose witnesses whom the party intends to call in the notice context.

The first paragraph of the Comments to Rules 567 and 568 provide a history of the source of the new rules, cross-referencing Rule 573. In addition, the Rule 567 Comment carries over the Rule 573 Comment provision citing *Wardius v. Oregon*, 412 U. S. 470 (1973), and the Rule 568 Comment includes a cross-reference to the new examination rule, Rule 569.

(B) *Conforming changes to Rule 573*

Rule 573 has been amended by deleting the alibi and insanity notice provisions in Rule 573(C)(1)(a)-(g) and the corresponding Comment provision concerning notice of alibi to conform with the new rules. The paragraph (C)(2) caption "Discretionary with the Court" has been deleted as unnecessary now that all of the mandatory section under paragraph (C) has been deleted.

III. NEW RULE 569

(A) *Discussion of rule*

(1) *Examination of Defendant by Agreement*

Recognizing the benefits for the defendant and to the criminal justice system of a less adversarial process for determining whether a case is appropriate for the examination of the defendant by a mental health expert, and of encouraging cooperation among legal professionals and mental health professionals in these cases, new Rule 569

includes a procedure for an examination by the agreement of the parties.³ To make it clear that obtaining the agreement of the parties is the preferable procedure, these procedures for the agreement of the parties are set forth first. See paragraph (A)(1).

Paragraph (A)(1)(a) provides that the agreement designate the mental health expert. If the parties agree to have the defendant examined, the parties also should have the ability to agree to and designate the examining mental health expert, rather than leave that decision to the judge.

Other than requiring the parties to designate the mental health expert in the agreement, the rule requirements for the agreement are minimal, giving the parties discretion about how much detail they want to put in the agreement. The Comment sets forth the minimum contents that should be provided in the agreement as an aid to the parties in preparing their agreement.

Paragraph (A)(1)(b) requires the agreement to be in writing, and either signed by the defendant, defendant's counsel, and the attorney for the Commonwealth, or made orally on the record. The rule specifies "defendant, defendant's counsel, and the attorney for the Commonwealth" instead of "parties" to emphasize that the defendant and the defendant's attorney have to agree. There was some concern about the requirement that the defendant sign the agreement, because when mental condition is the issue, some defendants would not understand the nature of the agreement, or would not sign the agreement because of their mental condition. Notwithstanding these concerns, the requirement for the defendant's signature has been included, because, if a defendant is so mentally ill that he or she does not know what he or she is doing, then you would not have an agreement, and the parties would have to proceed by obtaining a court order. Furthermore, if the attorneys agree, but the defendant does not have the capacity to agree, the attorneys could file a stipulated motion explaining to the court the reasons for the defendant's failure to sign the agreement.

Paragraph (A)(1)(c) requires the mental health expert promptly to prepare a report of the examination unless the parties otherwise agree, thereby providing the parties with the option to set forth in the agreement the time for the report to be prepared, the contents of the report, and any other report-related matters. However, the rule makes it clear that, unless the agreement provides otherwise, the expert must prepare a standard report and this must be done promptly after the completion of the examination. The general type of information to include in the report set forth in the rule are similar to the provisions of Rule 573(B)(2)(b).

(2) *Examination of Defendant By Court Order*

Paragraph (A)(2) of Rule 569 establishes the procedures for court-ordered examinations when the parties do not agree to an examination of the defendant.

The triggering mechanism for a court-ordered examination is the defendant's notice of the intention to raise issues related to the defendant's mental condition. In researching this issue, the Committee learned that many jurisdictions provide for the procedure to be triggered at the earliest possible time affording the Commonwealth's expert the ability to examine the defendant in these cases at the time closest to the actual commission of the crime, which is beneficial to all parties. In addition, a number of

³ This procedure for the agreement of the parties is consistent with what appears to be the approach being followed in some judicial districts in Pennsylvania, as well as in other jurisdictions.

jurisdictions follow the procedures set forth in Federal Rule of Criminal Procedure 12.2 that uses the notice of an insanity defense or the notice of expert evidence of a mental condition as the triggering mechanisms for an examination of the defendant.⁴ Agreeing that the best approach for new Rule 569 would be a combination of these different jurisdictions' procedures, the Committee incorporated into paragraph (A)(2)(a) that before ordering an examination, the court must determine that the defendant "has provided notice of an intent to assert a defense of insanity or mental infirmity or notice of the intention to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant." Because the notice provisions are distinct from the examination procedures in the Criminal Rules, in addition to the Rule 569(A)(2)(a) provisions concerning when the examination by a Commonwealth expert would be authorized, the new concept of "notice of an intention to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on either (1) the issue of guilt or (2) the issue of punishment in a capital case" has been added to new Rule 568, and a cross-reference to Rule 568 is included in Rule 569(A)(2)(a).

Paragraph (A)(2)(a) requires the attorney for the Commonwealth to file a motion requesting an order for the examination and to designate in the motion the mental health expert(s) he or she has selected for the examination. The court must determine whether the defendant has given notice pursuant to Rule 568. If the judge determines the defendant has given notice, the judge must order the examination. The Rule 569 Comment includes cross-references Rules 575 (Motions and Answers), 576 (Filing and Service by Parties), and 577 (Procedures Following Filing of Motion) as a reminder that when a motion is filed pursuant to this paragraph, the procedures in these motions rules apply.

Paragraph (A)(2)(b) requires the judge to advise the defendant on the record about the examination, and to explain that the information received in the examination may be used at trial and the potential consequences for failing to cooperate in the examination. The rule requires the judge to advise the defendant both in person and in the presence of counsel. Although there has been a recent expansion of the use of advanced communication technology (ACT) for the conduct of criminal proceedings, the Committee felt strongly, given the nature of the proceeding involving an individual with a potentially serious mental illness or other mental conditions, it is imperative that the defendant appear in person rather than via ACT. Having the judge speak to the defendant in person in these cases will ensure the defendant understands what is going on, as well as emphasize for the defendant the nature of the examination and the importance of coopera-

tion.⁵ These requirements also are explained in the eighth paragraph of the Comment.

Paragraph (A)(2)(c) sets forth the required contents of the court's order. The order must indicate who may be present at the examination. The Committee agreed this was the judge's decision, rather than the decision of one of the parties or the mental health expert. By leaving the decision to the judge on a case-by-case basis, we intend to accommodate other persons besides counsel, such as a parent if the issue is a juvenile decertification hearing. See paragraph (A)(2)(c)(i). In addition, the judge in his or her order must establish the time frame for the submission of the expert's written report.

Paragraph (A)(2)(d), which is similar to paragraph (A)(1)(c) with regard to what the expert must include in the report, requires the expert to prepare a written report within the time specified in the order.

(3) *Disclosure of Reports Between Parties*

Paragraph (B) sets forth the procedures governing the disclosure of all reports of all mental health experts either party intends to call to testify. The Committee debated at length the issues related to the public's access to the experts' reports, concluding, as set forth in paragraph (B)(1), that the reports are confidential and should not be public records.

Paragraph (B)(2) and the Comment make it clear that any mental health expert who will be called to testify must prepare a written report. The rule also prohibits an expert who has not prepared a report as required by the rule from being called to testify. The Committee included in the Comment a suggestion that, in the appropriate situation, such as when the expert is observing the defendant during the trial, the court would have to call a short recess to permit the expert to complete a report before the expert would be permitted to testify.

Paragraph (B)(3) makes it clear that the court must set the time for the disclosure of reports, and the time must be a reasonable time *after* the Commonwealth's expert's examination. In developing this provision, the Committee considered whether this rule provision would conflict with *Commonwealth v. Sartin*, 561 Pa. 522, 751 A.2d 1143 (2000). We concluded the requirement that the judge set a reasonable time for disclosure was broad enough to encompass *Sartin*. However, to ensure the lower courts understand the application of this general disclosure requirement to the specifics of *Sartin*, a reference to *Sartin* has been added to the Comment explanation of the disclosure provisions of the rule; the explanation makes it clear that in death penalty cases in which the defendant only intends to introduce evidence of mental condition at the penalty phase, the disclosure is restricted until the penalty phase.

The Comment also explains that the parties in their agreement may set the time for disclosure, but if they cannot agree to the time, the court should set the time. In setting the time for disclosure, the parties or court should afford adequate time for the parties to review the reports and prepare for the proceeding. The Comment includes a proviso that even when proceeding pursuant to a court order, the parties may agree to an earlier time for disclosure consistent with the rule.

⁵ The Committee also noted there will not be many of these proceedings, so requiring the defendant to appear in person is not going to present an undue burden on the system.

⁴ Federal Rule of Criminal Procedure 12.2 provides, *inter alia*,

(a) *Notice of an Insanity Defense.* A defendant who intends to assert a defense of insanity, or a claim of mental infirmity, at the time of the alleged offense shall provide notice as set forth in Rule 573(C)(1)(b) (Notice of Insanity Defense or Mental Infirmity Defense).

(b) *Notice of Expert Evidence of a Mental Condition.* If a defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on either (1) the issue of guilt or (2) the issue of punishment in a capital case, the defendant, no later than the time required for filing an omnibus pretrial motion under Rule 579, shall file with the clerk of courts notice specifying the intention to introduce expert evidence, and a certificate of service on the attorney for the Commonwealth. The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented.

(c) *Mental Examination.*

(B) If the defendant provides notice under paragraph (a), the court, upon the motion of the attorney for the Commonwealth, shall order the defendant to be examined under 18 U.S.C. § 4242. If the defendant provides notice under Rule 12.2(b) the court may, upon the government's motion, order the defendant to be examined under procedures ordered by the court.

Another issue considered by the Committee was the Commonwealth's expert's access to information other than the defendant's experts' reports, such as school records or certain test results. The Committee agreed not to address this in the rule, observing that the Commonwealth may ask the defendant to provide this information, and if the defendant does not comply, the Commonwealth may request the court to order the defendant to comply.

(4) *Protective Orders*

Paragraph (C) is similar to the provisions in Rule 573(F) (Protective Orders). After a lengthy discussion concerning public access to the reports, and whether portions of the reports could be sealed or the hearing on the protective order request be held in camera, the Committee agreed there may be cases when this would be appropriate to protect the parties and should be permitted.

(5) *Sanctions for Non-compliance*

Paragraph (D) (Sanctions for Non-compliance) is similar to Rule 573(E) (Remedy). Paragraph (D) has a more general application than Rule 573(E), so, as explained in the Comment, the court may impose sanctions on counsel, the defendant, or an expert for non-compliance with any provisions of Rule 569. The rule permits the court to hear a motion on sanctions in camera, and requires that the hearing be on the record.

(6) *Use of Information Obtained Under the Rule*

The Committee considered at length how to address the use of information obtained under the rule. We noted the law addressing the use of information obtained from the Commonwealth's mental health expert's examination of the defendant is evolving and the permitted uses are not fully defined. In view of this, the Committee agreed that citing to the relevant case law in this area in the Comment would be helpful to the bench and bar.

(7) *Mental Health Procedures Act*

As the Committee developed new Rule 569, we reviewed the provisions of the Mental Health Procedures Act, 50 P.S. § 7101 et seq. The Act sets forth the procedures for determining competency issues, as well as limited procedures concerning the lack of criminal responsibility as a defense. The Committee concluded that new Rule 569 does not apply in the context of competency proceedings under the Act. Accordingly, paragraph E specifically states that the rule does not apply to competency proceedings.

Because the statutory provisions concerning lack of criminal responsibility may be construed as applying to cases that would come within the scope of Rule 569, to avoid any confusion, the Comment makes it clear that the rule and Act are distinct with regard to competency, but with regard to the lack of criminal responsibility of the defendant, the rule takes precedence.

(B) *Conforming Change to the Comment to Rule 573 (Pretrial Discovery and Inspection) and to Rule 119 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings)*

The Rule 573 Comment has been revised by the addition of a cross-reference to new Rule 569.

Rule 119 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings) has been amended by the addition of the Rule 569 hearings to the list of proceedings in which ACT may not be used.

[Pa.B. Doc. No. 06-216. Filed for public inspection February 10, 2006, 9:00 a.m.]

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Notice of Public Hearing on the Proposed Public Access Policy Concerning Electronic Case Records of the Unified Judicial System

The Administrative Office of Pennsylvania Courts' Public Access Ad Hoc Committee (Committee) will conduct a public hearing on March 2, 2006, regarding the proposed public access policy concerning electronic case records of the Unified Judicial System (proposed policy). Chief Justice Emeritus Stephen A. Zappala will preside.

On September 17, 2005, the proposed policy was published for a 60-day public comment period (See 35 Pa.B. 5097 (September 17, 2005) or <http://www.pabulletin.com/secure/data/vol35/35-38/1709.html>). In light of the comments received, the Committee is especially interested in receiving the views of individuals and organizations with regard to the following issues:

1. Whether electronic case record information concerning preconvictions should be available to the public?
2. Whether providing electronic case record information that contains a party's full date of birth will sufficiently ensure that the "right" party is matched with the "right" case?
3. What specific amendments should be made to Section 6.00 (Correcting Data Errors) to delineate the procedure that an individual must follow to correct an error in an electronic case record?

The hearing will begin at 9 a.m. on March 2, 2006, at the Commonwealth Court Courtroom 1, Irvis Office Building, 5th Floor, Harrisburg, PA.

Persons interested in testifying shall register by February 22, 2006, that they would like to participate by e-mail at publicaccesscomments@pacourts.us or by contacting Cynthia Screen at (215) 560-6300, Ext. 6236. Prior to the hearing, the person will receive a time for testimony. Comments should be limited to 10 minutes, but the Committee welcomes written submissions. Persons who are unable to attend the hearing but are interested in providing their views may do so by e-mail or by mailing comments no later than February 27, 2006 to:

David S. Price, Esq.
Chair, Public Access Ad Hoc Committee
Administrative Office of Pennsylvania Courts
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
publicaccesscomments@pacourts.us

ZYGMONT A. PINES,
Court Administrator of Pennsylvania

[Pa.B. Doc. No. 06-217. Filed for public inspection February 10, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Michael David Rostoker having been disbarred from the practice of law in the Commonwealth of Massachusetts by Order of the Supreme Judicial Court of Massachusetts, Suffolk County, entered July 6, 2005, the Supreme Court of Pennsylvania issued an Order on January 26, 2006, disbaring Michael David Rostoker from the Bar of this Commonwealth, retroactive to March 24, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 06-218. Filed for public inspection February 10, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 261a]

Hazardous Waste Management System; Proposed Exclusion for Identification and Listing of Hazardous Waste

The Environmental Quality Board (Board) amends Chapter 261a (relating to identification and listing of hazardous waste) to read as set forth in Annex A. In response to a petition to delist from MAX Environmental Technologies, Inc. (MAX), the final-form rulemaking delists treated Electric Arc Furnace Dust (EAFD), treated at the hazardous waste treatment facility operated by MAX located in Yukon, PA, from the lists of hazardous wastes.

This order was adopted by the Board at its meeting of October 18, 2005.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact D. Richard Shipman, Chief, Division of Hazardous Waste Management, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-6239; or Kurt Klappkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website at www.dep.state.pa.us.

C. *Statutory Authority*

The final-form rulemaking is being made under the authority of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101—6018.1003). 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 carry out the provisions of the SWMA.

D. *Background of the Amendments*

A delisting petition is a request to exclude waste from the list of hazardous wastes under the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C.A. §§ 6901—6986) and the SWMA. Under 40 CFR 260.20 and 260.22 (relating to general; and petitions to amend part 261 to exclude a waste produced at a particular facility), which are incorporated by reference in §§ 260a.1 and 260a.20 (relating to incorporation by reference, purpose, scope and applicability rulemaking petitions), a person may petition the United States Environmental Protection Agency (EPA) or a state administering an EPA-approved hazardous waste management program to remove waste or the residuals resulting from effective treatment of a waste from a particular generating facility from hazardous waste control by excluding the waste from the lists of hazardous wastes in 40 CFR 261.31 and

261.32 (relating to hazardous wastes from non-specific sources; and hazardous wastes from specific sources). Specifically, 40 CFR 260.20 allows any person to petition to modify or revoke any provision of 40 CFR Parts 260—266, 268 and 273. A person is provided the opportunity to petition to exclude a waste on a “generator specific” basis from the hazardous waste lists under 40 CFR 260.22. Under the Commonwealth's hazardous waste regulations in § 260a.20, petitions are to be submitted to the Board in accordance with the procedures established in Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy) instead of the procedures in 40 CFR 260.20(b)—(e).

Effective November 27, 2000, the Department received approval from the EPA under RCRA to administer the Commonwealth's hazardous waste management program instead of the RCRA regulations. As part of that program approval and delegation, the Department and the Board are authorized to review and approve petitions for delisting of waste.

In a delisting petition, the petitioner shall show that waste generated at a particular facility does not meet any of the criteria for which the EPA listed the waste as set forth in 40 CFR 261.11 (relating to criteria for listing hazardous waste) and the background document for the waste. In addition, a petitioner shall demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity and toxicity) and present sufficient information for the agency to decide whether factors other than those for which the waste was originally listed warrant retaining it as a hazardous waste.

On November 3, 2003, MAX submitted a delisting petition under § 260a.20 and 40 CFR 260.20 and 260.22, which are incorporated by reference in the hazardous waste regulations. The petition seeks to exclude from the lists of hazardous wastes in 40 CFR 261.32, the residues resulting from the effective treatment of EAFD conducted at the MAX Yukon facility. EAFD is listed as a hazardous waste in 40 CFR Part 261 (relating to identification and listing of hazardous waste) and bears waste code K061. EAFD/K061 is defined in 40 CFR 261.32 in the iron and steel industry group as “emission control dust/sludge from the primary production of steel in electric arc furnaces.”

The petition submitted by MAX provides: (1) descriptions and schematic diagrams of the proposed EAFD treatment system; (2) detailed chemical and physical analyses of the residuals resulting from treatment of samples of EAFD at the MAX Yukon facility; and (3) the results of modeling, using the EPA's Delisting Risk Assessment Software (DRAS) modeling software, to evaluate the risk posed to human health and the environment if the proposed delisted material was to be placed in a Subtitle D residual waste landfill, even assuming that the liner system of the landfill were to fail in containing that material.

The Department has carefully and independently reviewed the information in the petition submitted by MAX. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA), as reflected in section 222 of the HSWA (42 U.S.C. § 6921(f)) and 40 CFR 260.22(d)(2)—(4).

The Department believes that this information demonstrates that the residues resulting from treatment of EAFD meeting the acceptance criteria identified in the petition which are treated at the MAX Yukon facility in accordance with the treatment protocols described in the petition and satisfy the delisting criteria in 40 CFR 260.22. The data reviewed by the Department shows that residues resulting from treatment of EAFD at the MAX Yukon facility no longer meet the criteria for which it was originally listed as hazardous waste K061. The data further demonstrate that the treated EAFD residuals do not possess hazard characteristics of ignitability, corrosivity, reactivity or toxicity as defined by RCRA. Finally, the data submitted in the petition, coupled with modeling using the EPA's DRAS model, show that treated EAFD residuals do not pose a threat to human health or the environment when disposed of in a RCRA Subtitle D/Pennsylvania Class I residual waste landfill.

Accordingly, the final-form rulemaking provides for a conditional delisting of EAFD that has been treated at the MAX Yukon facility. Under the conditions of the delisting, MAX must dispose of the treated EAFD residuals in a RCRA Subtitle D/Pennsylvania Class I residual waste landfill, which has groundwater monitoring and which is permitted to manage residual waste. The exclusion is valid for a maximum annual rate of 300,000 cubic yards per year. Any amount exceeding this volume would not be delisted under this exclusion. The conditional exclusion will require that MAX maintain operational controls and protocols to assure that the treated waste continuously meets the applicable treatment standards.

In January and May 2004, the Department briefed the Solid Waste Advisory Committee (SWAC) on the hazardous waste delisting petition submitted by MAX. On September 16, 2004, the Department presented draft proposed regulations to the SWAC for input. The SWAC recommended that the draft regulations be forwarded to the Board for consideration as a proposed rulemaking. The proposed rulemaking was published at 34 Pa.B. 6421 (December 4, 2004) with a 30-day public comment period. The SWAC was briefed on the comments received during the public comment period, and the regulatory change made as a result of the comments, at its July 14, 2005, meeting. Questions posed by members of the SWAC related to how the petitioner's data was analyzed, whether the exclusion was site and company specific and what precautions are in place to ensure waste treated from a specific generator under the delisting will not vary significantly over time. Department representatives and the petitioner satisfactorily addressed these questions, and the Committee endorsed the final rulemaking for consideration by the Board.

E. Summary of Changes to the Proposed Rulemaking

One change has been made to the text of the proposed rulemaking. This change results in a greater assurance that potential environmental or human health problems will not occur due to disposal of MAX's delisted treatment residues. The change lowers the levels of chemical constituents in the leachate from a facility where the delisted material has been disposed that will trigger investigative action. The more stringent trigger level is not more burdensome for MAX. It does not require any additional testing of leachate or groundwater. It only requires that MAX notify the Department in the event that routine testing of the leachate or groundwater produces results that exceed the delisting limits. The Department then has the responsibility of determining if any increased level of action or concern is necessary. The lower trigger levels are consistent with Federal delisting reopener levels.

F. Summary of Comments and Responses on the Proposed Rulemaking

During a 30-day public comment period, the Department received comments from five commentators. Based on the comments received, one change has been made to the text of the proposed rulemaking described in Section E.

Other issues raised by the commentators included a concern that this final-form rulemaking will result in recoverable metals being disposed rather than recovered at a metals recovery facility and challenges relative to the merits of the technical information provided by MAX in support of its delisting request, as well as the Department's review. Since continually fluctuating market conditions determine what levels of metals in waste are economically recoverable, the Department does not believe it is appropriate to include provisions in a regulation that define what wastes should be disposed and what should be recycled. It is best that this matter be handled under the Department's waste management hierarchy and acceptance procedures included in MAX's hazardous waste management permit. As far as the challenges to the technical merit of MAX's request and the Department's review procedure, the Department followed National delisting procedure protocols established by the EPA and has consulted with EPA Region III staff in the development, acceptance and review of this delisting request.

G. Benefits, Costs and Compliance

Benefits

The final-form rulemaking will provide for treatment and disposition of EAFD, providing services to the steel-making operations that produce EAFD. The steel industry in this Commonwealth and across the country is changing to remain competitive, and one of the major changes has been the increased use of the electric arc furnaces and associated air pollution control equipment to capture EAFD generated in the steel-making process. One important feature of the electric arc furnaces is the recycling of a significant percentage of scrap steel. This method produces steel at reduced costs and provides greater environmental protection than other steel-making processes. In the last decade, the use of electric arc furnaces has increased in the United States to become the major method of steel production. As a result, EAFD is now the largest single hazardous waste produced in the United States. This is not a sign of environmental detriment, but rather the result of efforts across the industry to capture and sequester the metallic compound by-products resulting from steel making through more efficient pollution control devices. New electric arc furnaces are expected to be built in this Commonwealth. The proposed delisting of the residuals resulting from effective treatment of EAFD will assist steel-making operations by providing a cost-effective alternative for management of their wastes—by converting it from a hazardous waste to a nonhazardous residual waste that can be managed in an environmentally responsible manner in permitted residual waste facilities.

Compliance Costs

MAX will be required to comply with the conditions set forth in the delisting regulation, including testing and recordkeeping requirements. However, the delisting of the residuals resulting from treatment of EAFD should result in an overall reduced waste management cost to the steel-making industry that would utilize the treatment services being offered by MAX.

Compliance Assistance Plan

The final-form rulemaking should not require any educational, technical or compliance assistance efforts. The Department has and will continue to provide manuals, instructions, forms and website information consistent with the final-form rulemaking. In the event that assistance is required, the Department's Central Office will provide it.

Paperwork Requirements

The final-form rulemaking creates some new paperwork requirements to be satisfied by MAX to demonstrate ongoing compliance with the conditions of the delisting regulation. The paperwork requirements are consistent with the protocols suggested by MAX as part of its delisting petition.

H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials or the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. For this final-form rulemaking, the Department would require no additional pollution prevention efforts. The Department already provides pollution prevention educational material as part of its hazardous waste program.

I. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 22, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6421, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on January 4, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 5, 2006, and approved the final-form rulemaking.

K. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 34 Pa.B. 6421.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 261a, are amended by adding § 261a.32 and Appendix IXa to read as set forth in Annex A.

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

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

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

(e) This order shall take effect immediately.

KATHLEEN A. MCGINTY,
Chairperson

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

Fiscal Note: Fiscal Note 7-393 remains valid for the final adoption of the subject regulation.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter D. LISTS OF HAZARDOUS WASTES

§ 261a.32 Hazardous wastes from specific sources.

In addition to the requirements for lists of hazardous wastes incorporated by reference in 40 CFR 261.32 (relating to hazardous waste from specific sources), the solid wastes listed in Appendix IXa (relating to wastes excluded under 25 Pa. Code § 260a.20 and 40 CFR 260.20 and 260.22) are excluded under §§ 260a.1 and 260a.20 (relating to incorporation by reference, purpose, scope and applicability; and rulemaking petitions).

APPENDIX IXa. WASTES EXCLUDED UNDER 25 Pa. Code § 260a.20 AND 40 CFR 260.20 AND 260.22.

Table 2a. Wastes Excluded from Specific Sources

<i>Facility</i>	<i>Address</i>	<i>Waste Description</i>
Max Environmental Technologies, Inc.	233 Max Lane Yukon, PA 15698	<p>Electric arc furnace dust (EAFD) that has been treated on site by MAX Environmental Technologies, Inc. (MAX) at a maximum annual rate of 300,000 cubic yards per year and disposed of in a Permitted Resource Conservation and Recovery Act Subtitle D/ Pennsylvania Class 1 residual waste landfill that has groundwater monitoring.</p> <p>(1) <i>Delisting Levels:</i></p> <p>(i) The constituent concentrations measured in either of the extracts specified in paragraph (2) may not exceed the following levels (mg/L): Antimony-0.206; Arsenic-0.0094; Barium-21; Beryllium-0.416; Cadmium-0.11; Chromium-0.60; Lead-0.75; Mercury-0.025; Nickel-11.0; Selenium-0.58; Silver-0.14; Thallium-0.088; Vanadium-21.1; Zinc-4.3.</p> <p>(ii) Total mercury may not exceed 1 mg/kg.</p> <p>(2) <i>Verification Testing:</i></p> <p>(i) On a batch basis, MAX must analyze a representative sample of the waste using the following:</p> <p>(A) The Toxicity Characteristic Leaching Procedure (TCLP) , test Method 1311 in "Test Methods for Evaluating Solid Waste. Physical/Chemical Methods." EPA publication SW-846, as incorporated by reference in 40 CFR 260.11.</p> <p>(B) The TCLP as referenced above with an extraction fluid of pH 12 ±0.05 standard units.</p> <p>(C) SW-846 Method 7470 for mercury.</p> <p>(ii) The constituent concentrations measured must be less than the delisting levels established in paragraph (1).</p> <p>(3) <i>Changes in Operating Conditions:</i></p> <p>(i) If any of the approved EAFD generators significantly changes the manufacturing process or chemicals used in the manufacturing process or MAX significantly changes the treatment process or the type of chemicals used in the treatment process, MAX must notify the Department of the changes in writing.</p> <p>(ii) MAX must handle wastes generated after the process change as hazardous until MAX has demonstrated that the wastes continue to meet the delisting levels set forth in paragraph (1) and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced and MAX has received written approval from the Department.</p> <p>(4) <i>Data Submittals:</i></p> <p>(i) MAX must submit the data obtained through routine batch verification testing, as required by other conditions of this rule or conditions of the permit, to the Pennsylvania Department of Environmental Protection Southwest Region, 400 Waterfront Drive, Pittsburgh, Pennsylvania 15222.</p> <p>(ii) The data from the initial full scale batch treatments following permit modification and construction of the treatment unit shall be submitted to the Department as it becomes available and prior to disposal of those batches.</p> <p>(iii) The data submission frequency can be modified by the Department upon demonstration that the treatment method is effective.</p> <p>(iv) All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).</p> <p>(v) MAX must compile, summarize, and maintain on site for a minimum of 5 years records of operating conditions and analytical data. MAX must make these records available for inspection.</p> <p>(5) <i>Reopener Language:</i></p>

Facility

Address

Waste Description

(i) If, at any time after disposal of the delisted waste, MAX possesses or is otherwise made aware of any data for any of the approved disposal facilities (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste indicating that any constituent identified in paragraph (1) is at a level in the leachate higher than the delisting level established in paragraph (1), or is at a level in the groundwater higher than the specific facility action levels, then MAX or the disposal facility must report such data, in writing, to the Regional Director of the Pennsylvania Department of Environmental Protection Southwest Region within 10 days of first possessing or being made aware of that data.

(ii) Based on the information described in subparagraph (i) and any other information received from any source, the Regional Director will make a preliminary determination as to whether the reported information requires Department action to protect human health or the environment. Further action may include suspending or revoking the exclusion or other appropriate response necessary to protect human health and the environment.

(iii) If the Regional Director determines that the reported information does require Department action, the Regional Director will notify MAX in writing of the actions the Regional Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing MAX and/or the approved disposal facility with an opportunity to present information as to why the proposed Department action is not necessary or to suggest an alternative action. MAX and/or the approved disposal facility shall have 30 days from the date of the Regional Director's notice to present the information.

(iv) If after 30 days MAX and/or the approved disposal facility presents no further information, the Regional Director will issue a final written determination describing the Department actions that are necessary to protect human health or the environment. Any required action described in the Regional Director's determination shall become effective immediately, unless the Regional Director provides otherwise.

[Pa.B. Doc. No. 06-219. Filed for public inspection February 10, 2006, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

[25 PA. CODE CH. 1021]

Practice and Procedure

The Environmental Hearing Board (Board) amends Chapter 1021 (relating to practice and procedure). The final-form rulemaking modifies the rules of practice and procedure before the Board by implementing improvements in practice and procedure.

The Board approved the final-form rulemaking at its August 22, 2005, meeting.

Effective Date

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

Contact Person

For further information, contact William T. Phillip IV, Secretary to the Board, 2nd Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. If information concerning this notice is required in an alternative form, William Phillip IV may be contacted at the previous number. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Statutory Authority

The final-form rulemaking is promulgated under section 5 of the Environmental Hearing Board Act (act) (35 P. S. § 7515), which empowers the Board to adopt regulations pertaining to practice and procedure before the Board.

Comments and Revisions to the Proposed Rulemaking

The Board received comments on the proposed revisions from the Independent Regulatory Review Commission (IRRC), Department of Transportation (DOT) and the Citizens for Pennsylvania's Future (PennFuture). The comments were discussed by the Board and by its Procedural Rules Committee (Rules Committee). Responses to the comments are as follows.

Rule 1021.2. Definitions.

IRRC suggested clarifying the proposed amendment to the definition of "Department" by specifically listing the "other boards, commissions or agencies whose decisions are appealable to the Environmental Hearing Board."

Response

The Board elected to keep the definition somewhat flexible to reflect possible changes in its source of jurisdiction. For instance, the previous definition referenced the "Department of Environmental Resources." In 1995, the Department of Environmental Resources was broken into two separate agencies and the names were changed to the Department of Environmental Protection (DEP) and De-

partment of Conservation and Natural Resources (DCNR). The Board clearly has jurisdiction over appeals of actions of the DEP. It is believed the Board also has jurisdiction over appeals of actions of the DCNR, though this question has not been definitively answered. In addition, in 1993, the legislature gave the Board jurisdiction over appeals of actions of the State Conservation Commission. Because of these and other possible changes in jurisdiction that may occur over time, the boards, commissions or agencies over whose appeals the Board has jurisdiction are not static. Therefore, the Board felt it would be difficult if not impossible to specifically reference all boards, commissions or agencies over which it has jurisdiction without having to continually revise its regulations.

Rule 1021.32. Filing.

The proposed amendment to this rule, which would have allowed the formal filing of documents in the Board's Pittsburgh office, has not been submitted for final rulemaking at this time due to staffing concerns. In the past, the Board has permitted the "informal filing" of documents, other than notices of appeal and complaints, at the Pittsburgh office, whereby parties may hand deliver documents to the Board's Pittsburgh office. In these cases, the Pittsburgh office notifies the Harrisburg office of the receipt of a document and the Harrisburg office enters the document into the docket. The Board will continue this practice and may revisit the issue of establishing a formal filing system in the Pittsburgh office in the future.

Rule 1021.34. Service by a party.

PennFuture opposed the proposed amendment to Rule 1021.34, which would require that service be made by either same day or overnight delivery if filing is made in this manner. PennFuture expressed a concern that the proposed amendment would impose unnecessary expense on all parties, and particularly pro se litigants, and would discourage electronic filing (e-filing).

Response

The intent behind the amendment was not to allow any party to gain a tactical advantage or to impose an undue burden on any party; rather, the purpose behind the amendment was to allow opposing counsel the courtesy of receiving a document at approximately the same time the Board does. For example, there have been a number of occasions when the Board has received a petition or motion, such as a request for an extension, by either same day or overnight delivery and has scheduled a conference call with all parties to the appeal, only to discover that opposing counsel have not received a copy of the petition or motion because it is being sent to him by regular mail.

The Code of Civility provides that a party who serves a paper on a court should deliver the paper to other parties at substantially the same time and by the same means as the document is filed with the court. Code of Civility, II.14. Thus, this amendment is simply a codification of what is already required by the Code of Civility.

If a party finds that it involves too much expense to serve counsel by an overnight delivery service, the party has the option of delivering the document in person, faxing it or simply filing the document by regular mail, thereby avoiding the requirement of serving it on opposing counsel in an expedited fashion.

The amendment does not affect e-filing since the e-filing of a document effects electronic service on opposing counsel. When parties e-file a document, opposing counsel are sent an electronic notice by the Board advising them of the e-filing.

PennFuture's comment points out, however, that the wording of the amendment should be clarified. The proposed amendment appeared to require that parties must serve documents by overnight mail and may not deliver them in person, when a filing is made in person or by overnight delivery. This was not the intent of the amendment. Therefore, the amendment has been rewritten to make it clear that the purpose of the amendment is to ensure that parties are served no later than the following day whenever a document is filed by overnight mail or hand delivery.

Rule 1021.51. Commencement, form and content.

IRRC suggested deleting the proposed comment and cross-referencing Rules 1021.21 and 1021.22 (relating to representation of parties; and notice of appearance) in subsection (i). This recommendation was adopted.

Rule 1021.53. Amendments to appeal or complaint.

Both IRRC and DOT commented on this rule, opposing the proposed amendment to the standard for amending a notice of appeal or complaint. They felt that the proposed amendment unfairly shifted the burden of proof to the nonmoving party to show that undue prejudice would result from an amendment. Additionally, DOT raised a concern that the amendment would hinder the speedy resolution of litigation, thereby interfering with construction deadlines. IRRC also raised a concern that the proposed amendment went against the precedent established in *Pennsylvania Game Commission v. Department of Environmental Resources*, 509 A.2d 877 (Pa. Cmwlth. 1986), as noted in the proposed comment.

Response

The Board elected to change the standard for amendment of an appeal from one of "good cause," specifically enumerated in the rule, to one of "no undue prejudice" subject to the Board's discretion to be more in line with civil practice in the courts of common pleas. The standard for allowance of an amendment in civil court is one of "no undue prejudice." Under the previous standard, it was virtually impossible for a party to amend its appeal after the initial 20-day amendment as of right period had passed. The Board felt it was not good practice to have a standard that was virtually impossible to meet. The Board also recognized that an amendment very early in the appeal period may not be prejudicial, while the same amendment later in the litigation process could very well be prejudicial. For that reason, the decision as to whether a proposed amendment would result in prejudice to the opposing parties must be left to the discretion of the Board, rather than setting forth a rigid standard in the rule.

The *Game Commission* case was based on a reading of Rule 1021.51(e), which states that the Board may agree to hear an objection not raised in the appeal provided that good cause is shown. Because this language is being deleted, the *Game Commission* holding is no longer applicable.

As to DOT's concern that the amendment will weaken the opposing party's interest in a speedy resolution of the litigation, one of the factors that will be considered in determining whether an amendment is prejudicial will be whether it will result in a delay of the proceedings. In the

alternative, DOT asked the Board to state that any expansion of the litigation is per se prejudicial. Such a statement would swallow the rule since there may be times when an amendment will expand what is in the case. The question is not whether the case will be expanded but whether the expansion at that stage of the proceeding is prejudicial. This will be determined on a case-by-case-basis. An expansion 21 days after an appeal has been filed may not be prejudicial, whereas the same expansion closer to the trial may be problematic.

DOT and IRRC raise an important concern that the burden seemingly shifts to the responding party under the new standard. The rule will clarify that the burden is on the moving party to demonstrate there is no undue prejudice to the opposing parties. Nonetheless, the Board recognizes there will be some shifting of the burden to the responding party to show that it will unduly suffer prejudice if the amendment is permitted. However, even under the previous rule there was some burden on the responding party under subsection (b)(3) to show it would suffer undue prejudice if an amendment were allowed.

Rule 1021.54. Prepayment of penalties.

The Board had proposed adding a comment to Rule 1021.54 regarding the procedure followed for the handling of prepaid penalties. IRRC recommended deleting the comment and adding a statement to the rule that prepaid penalties are to be placed in an escrow account. In considering IRRC's recommendation, the Rules Committee reviewed Rule 1021.54 and a majority of the Rules Committee members determined that it did not meet the requirements of the statutes mandating the prepayment of penalties since those statutes appeared to require that the escrow account be handled by DEP and not the Board. A majority of the Rules Committee recommended deleting the rule and the proposed comment, and the Board agreed with the recommendation.

Rule 1021.91. Motions.

No comments were received on the proposed amendments to Rule 1021.91.

Rule 1021.94. Dispositive motions other than summary judgment motions.

No comments were received on the proposed amendments to Rule 1021.94.

Rule 1021.94a. Summary judgment motions.

Both IRRC and PennFuture recommended incorporating the text of the proposed comment to Rule 1021.94a into the actual rule itself. The Rules Committee considered PennFuture's and IRRC's comments and agreed that the second sentence of the proposed comment should be added to subsection (d). However, the Rules Committee recommended keeping the first sentence of the proposed comment as a comment, rather than adding it to the rule, since it was not procedural. The Board adopted the Rules Committee's recommendations.

Rule 1021.101. Prehearing procedure.

No comments were received on the proposed amendments to Rule 1021.101.

Rule 1021.104. Prehearing memorandum.

PennFuture objected to the proposed amendment to Rule 1021.104(a)(7) requiring parties to submit copies of proposed exhibits along with prehearing memorandum. The existing rule required only that parties submit a list of the proposed exhibits. PennFuture objected on the basis that the proposed amendment would impose unne-

cessary expense on parties and consume additional paper without any apparent benefit.

Response

Although the existing rule requires only the listing of exhibits, a majority of the judges have required parties to submit copies of exhibits with prehearing memoranda and this has been the typical practice of a large number of parties appearing before the Board. Thus, the amendment simply codifies existing practice.

As to PennFuture's concern that the amendment will impose additional expense on parties and result in additional paperwork, that is not the case since parties must otherwise provide copies of exhibits for the Board and opposing counsel at trial. The amendment simply requires that the exhibits be provided to the Board and opposing counsel at the time of the filing of the prehearing memorandum. This results in more efficiency in the distribution of exhibits rather than waiting until the trial.

PennFuture also raised a concern that this requirement would discourage the use of e-filing since the addition of exhibits to the prehearing memorandum would likely result in exceeding the 50-page limit for e-filing. However, exhibits to e-filed documents may be either e-filed or delivered in hard copy by mail or messenger. Therefore, a prehearing memorandum may still be e-filed even if the exhibits are sent by mail or delivered in person.

§ 1021.141. Termination of proceedings.

No comments were received on the proposed amendment to Rule 1021.141, which involved only the correction of a typographical error.

Sunset Date

A sunset date has not been established for these regulations. The effectiveness of the regulations will be evaluated on an ongoing basis by the Board and the Rules Committee.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2107 (April 9, 2005), to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on December 14, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 15, 2005, and approved the final-form rulemaking.

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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The regulations are necessary and appropriate for administration of the act.

Order

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

(a) The regulations of the Board, 25 Pa. Code Chapter 1021, are amended by amending §§ 1021.2, 1021.91, 1021.94, 1021.101, 1021.104 and 1021.141; and by adding § 1021.53a to read as set forth at 35 Pa.B. 2107; and by amending §§ 1021.34, 1021.51 and 1021.53; by adding § 1021.94a; and by deleting § 1021.54 to read as set forth in Annex A.

(b) The Chief Judge and Chairperson of the Board shall submit this order, 35 Pa.B. 2107 and Annex A to the Office of Attorney General and Office of General Counsel as to legality and form as required by law.

(c) The Chief Judge and Chairperson of the Board shall submit this order, 35 Pa.B. 2107 and Annex A to the House Environmental Resources and Energy Committee, the Senate Environmental Resources and Energy Committee and IRRC as required by law.

(d) The Chief Judge and Chairperson of the Board shall certify this order, 35 Pa.B. 2107 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

MICHAEL L. KRANCER,
Chairperson

(Editor's Note: The amendments to §§ 1021.32 and 1021.54, included in the proposal at 35 Pa.B. 2107, have been withdrawn by the Board.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 7072 (December 31, 2005).)

Fiscal Note: Fiscal Note 106-8 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART IX. ENVIRONMENTAL HEARING BOARD
CHAPTER 1021. PRACTICE AND PROCEDURE
DOCUMENTARY FILINGS
FILING AND SERVICE OF DOCUMENTS

§ 1021.34. Service by a party.

(a) Copies of each document filed with the Board shall be served upon every party to the proceeding on or before the day that the document is filed with the Board. Service upon a party represented by an attorney in the matter before the Board shall be made by serving the attorney.

(b) When a document is filed with the Board by overnight delivery or personal service, it shall be served by overnight delivery or personal service on the parties.

(c) In matters involving requests for expedited disposition, service shall be made within the ensuing 24 hours of the time of filing with the Board. For purposes of this subsection, service means actual receipt by the opposing party.

(d) Service of legal documents may be made electronically on a registered attorney by any other registered attorney. The filing of a registration statement constitutes a certification that the registered attorney will accept electronic service of any legal document from any other registered attorney. A registration statement includes the

attorney's name and address, e-mail address, attorney identification number, and a request to register to file and accept service electronically. A registered attorney may withdraw his registration statement for purposes of a specific case if he chooses not to receive electronic service in that case by filing an amendment to the filing party's registration statement.

(e) Subsections (a)—(c) supersede 1 Pa. Code § 33.32 (relating to service by a participant).

FORMAL PROCEEDINGS
APPEALS

§ 1021.51. Commencement, form and content.

(a) An appeal from an action of the Department shall commence with the filing of a written notice of appeal with the Board.

(b) The caption of an appeal shall be in the following form:

ENVIRONMENTAL HEARING BOARD
2nd Floor, Rachel Carson State Office Building
400 Market Street, Post Office Box 8457
Harrisburg, Pennsylvania 17105-8457

JOHN DOE, Appellant
234 Main Street, Smithtown,
Jones County, Pennsylvania 15555
(Telephone (123) 456-7890)

_____ v. Docket No. _____

Commonwealth of Pennsylvania
Department of _____, Appellee

(c) The appeal must set forth the name, address and telephone number of the appellant.

(d) If the appellant has received written notification of an action of the Department, a copy of the action shall be attached to the appeal.

(e) The appeal must set forth in separate numbered paragraphs the specific objections to the action of the Department. The objections may be factual or legal.

(f) When the appeal is from an assessment of a civil penalty for which the statute requires an appellant to prepay the penalty or post a bond, the appellant shall submit to the Board with the appeal a check in the amount of the penalty or an appropriate bond securing payment of the penalty or a verified statement that the appellant is unable to pay. *(Editor's Note: Section 1021.54 dealing with prepayment of penalties has been deleted in this final rulemaking. Section 1021.51(f) should have been amended to reflect this change and will be corrected in future rulemaking.)*

(g) Concurrent with or prior to the filing of a notice of appeal, the appellant shall serve a copy thereof on each of the following:

(1) The office of the Department issuing the notice of Departmental action.

(2) The Office of Chief Counsel of the Department or agency taking the action appealed.

(3) In a third party appeal, the recipient of the action. The service shall be made at the address set forth in the document evidencing the action by the Department or at the chief place of business in this Commonwealth of the recipient.

(h) For purposes of this section, the term “recipient of the action” includes the following:

(1) The recipient of a permit, license, approval or certification.

(2) Any affected municipality, its municipal authority, and the proponent of the decision, when applicable, in appeals involving a decision under sections 5 or 7 of the Sewage Facilities Act (35 P. S. §§ 750.5 and 750.7).

(3) The mining company in appeals involving a claim of subsidence damage or water loss under The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.2).

(4) The well operator in appeals involving a claim of pollution or diminution of a water supply under section 208 of the Oil and Gas Act (58 P. S. § 601.208).

(5) The owner or operator of a storage tank in appeals involving a claim of an affected water supply under section 1303 of the Storage Tank and Spill Prevention Act (35 P. S. § 6021.1303).

(6) Other interested parties as ordered by the Board.

(i) The service upon the recipient of a permit, license, approval or certification, as required by subsection (h)(1), shall subject the recipient to the jurisdiction of the Board, and the recipient shall be added as a party to the third-party appeal without the necessity of filing a petition for leave to intervene under § 1021.81 (relating to intervention). The recipient of a permit, license, approval or certification who is added to an appeal pursuant to this section shall still comply with §§ 1021.21 and 1021.22 (relating to representation of parties; and notice of appearance).

(j) Other recipients of an action appealed by a third party, served as required by subsections (h)(2), (3), (4) or (5), may intervene as of course in the appeal by filing an entry of appearance within 30 days of service of the notice of appeal in accordance with §§ 1021.21 and 1021.22, without the necessity of filing a petition for leave to intervene pursuant to § 1021.81.

(k) The appellant shall provide satisfactory proof that service has been made as required by this section.

(l) Subsections (a) through (k) supersede 1 Pa. Code §§ 35.5—35.7 and 35.9—35.11 (relating to informal complaints; and formal complaints).

§ 1021.53. Amendments to appeal or complaint.

(a) An appeal or complaint may be amended as of right within 20 days after the filing thereof.

(b) After the 20-day period for amendment as of right, the Board, upon motion by the appellant or complainant, may grant leave for further amendment of the appeal or complaint. This leave may be granted if no undue prejudice will result to the opposing parties. The burden of proving that no undue prejudice will result to the opposing parties is on the party requesting the amendment.

(c) These motions shall be governed by the procedures in §§ 1021.91 and 1021.95 (relating to general; and miscellaneous motions) except that the motion shall be verified and supported by affidavits.

(d) If motion to amend is granted, a party may request, in writing, a period of time to conduct additional discovery limited to the issues raised by the amendment. These requests shall specify a period deemed necessary therefor. The Board will act on any such request as its discretion requires.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.5—35.7 and 35.9—35.11 (relating to informal complaints; and formal complaints).

Comment: In addition to establishing a new standard for assessing requests for leave to amend an appeal, this rule clarifies that a nunc pro tunc standard is not the appropriate standard to be applied in determining whether to grant leave for amendment of an appeal, contrary to the apparent holding in *Pennsylvania Game Commission v. Department of Environmental Resources*, 509 A.2d 877 (Pa. Cmwlth. 1986).

§ 1021.54. [Reserved].

MOTIONS

§ 1021.94a. Summary judgment motions.

(a) *Summary judgment motion record.*

(1) A summary judgment motion record must contain the following separate items:

(i) A motion prepared in accordance with subsection (b).

(ii) A supporting brief prepared in accordance with subsection (c).

(iii) The evidentiary materials relied upon by the movant.

(iv) A proposed order.

(2) Motions and responses must be in writing, signed by a party or its attorney, and served on the opposing party in accordance with § 1021.34 (relating to service).

(b) *Motion.* A motion for summary judgment must contain only a concise statement of the relief requested and the reasons for granting that relief. The motion should not include any recitation of the facts and should not exceed two pages in length.

(c) *Brief.* The motion for summary judgment shall be accompanied by a brief containing an introduction and summary of the case, a statement of material facts and a discussion of the legal argument supporting the motion. The statement of material facts must set forth in separately numbered paragraphs a concise statement of each material fact as to which the movant contends there is no genuine issue together with a citation to the portion of the motion record establishing the fact or demonstrating that it is uncontroverted. The citation must identify the document and specify the pages and paragraphs or lines thereof or the specific portions of exhibits relied on.

(d) *Evidentiary materials.* Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment shall accompany the motion and brief and shall be separately bound and labeled as exhibits. Affidavits shall conform to Pa.R.C.P. 76 and 1035.4.

(e) *Proposed order.* The motion shall be accompanied by a proposed order.

(f) *Brief by party in opposition to motion.* Within 30 days of the date of service of the motion, a party opposing the motion shall file a brief containing a responding statement either admitting or denying or disputing each of the facts in the movant's statement and a discussion of the legal argument in opposition to the motion. All material facts in the movant's statement which are sufficiently supported will be deemed admitted for purposes of the motion only, unless specifically disputed by citation conforming to the requirements of subsection (c) demonstrating existence of a genuine issue as to the fact disputed. An opposing party may also include in the responding statement additional facts the party contends are material and as to which there exists a genuine issue. Each fact shall be stated in separately numbered paragraphs together with citations to the motion record. Affidavits, deposition transcripts or other documents relied upon in support of a response to a motion for summary judgment, which are not already a part of the motion record, shall accompany the responding brief.

(g) *Reply brief.* A concise reply brief may be filed by the movant within 15 days of the date of service of the response. Additional briefing may be permitted at the discretion of the presiding administrative law judge.

(h) *Motion for summary judgment.* When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading or its notice of appeal, but the adverse party's response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing there is a genuine issue for hearing. If the adverse party does not so respond, summary judgment may be entered against the adverse party. Summary judgment may be entered against a party who fails to respond to a summary judgment motion.

(i) *Judgment rendered.* The judgment sought shall be rendered forthwith if the motion record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Comment: The statement of material facts in the briefs should be limited to those facts which are material to disposition of the summary judgment motion and should not include lengthy recitations of undisputed background facts or legal context.

[Pa.B. Doc. No. 06-220. Filed for public inspection February 3, 2006, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

[Correction]

Protest Proceedings

An error occurred in the ordering language for the document which appeared at 36 Pa.B. 536, 537 (February 4, 2006).

The correct version of the order is as follows, with ellipses referring to the existing text:

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by adding §§ 19.32—19.38 to read as set forth at 35 Pa.B. 2408; and by amending § 19.3 and adding § 19.31 to read as set forth in Annex A.

* * * * *

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

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 211]

[Correction]

Official Traffic Control Devices

The following sections were inadvertently omitted from the order at 36 Pa.B. 537, 538 (February 4, 2006) which rescinded sections of the regulations contained in Chapter 211:

§§ 211.182—211.190, 211.354a, 211.422a, 211.546a, 211.592b and 211.592c.

[Pa.B. Doc. No. 06-179. Filed for public inspection February 3, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

Pennsylvania Clean Vehicles Program

The Environmental Quality Board (Board) proposes to amend Chapter 126, Subchapter D (relating to new motor vehicle emissions control program). The proposed rulemaking postpones the compliance date from model year (MY) 2006 to MY 2008 and updates definitions in § 121.1 (relating to definitions) for terms that are used in the substantive provisions in Subchapter D. The amendments also propose to clarify the Pennsylvania Clean Vehicles Program (Program) in Subchapter D and to specify in that subchapter a transition mechanism for compliance with the Program.

This proposed rulemaking was adopted by the Board at its meeting of October 18, 2005.

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 Arleen Shulman, Chief, Mobile Sources Section, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3926; or Kristen M. Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website (www.depweb.state.pa.us).

C. Statutory Authority

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

D. Purpose and Background

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

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

The Commonwealth intends to suspend its enforcement of the Program during the rulemaking process. The existing Program will remain part of the Commonwealth's State Implementation Plan (SIP) until this proposed rulemaking is adopted and approved as a revision to the SIP.

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

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

Retaining and updating the California low emission vehicle (LEV) program in this Commonwealth is consistent with the actions of other northeastern states. Maine, Massachusetts, New York and Vermont adopted the California LEV program in the first instance, as did the Commonwealth, but they did not provide the NLEV compliance option like the Commonwealth did. Those states have revised their regulations to incorporate the California Low Emissions Vehicle II (LEV II) provisions. Other northeastern states adopted the California LEV program and the NLEV compliance option in the first instance, like the Commonwealth did. Of those states, Rhode Island and Connecticut both have adopted regulations to implement the California LEV II program and New Jersey, with statutory authority, is proceeding with a rulemaking to incorporate California LEV II.

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

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

Gasoline-powered motor vehicles primarily emit three pollutants: carbon monoxide, volatile organic compounds (VOCs) and oxides of nitrogen (NO_x). Ozone is not directly emitted by motor vehicles, but is created as a result of the chemical reaction of NO_x and VOCs, in the presence of light and heat, to form ozone in air masses traveling over long distances. The formation of ozone is greater in the summer months because of the higher temperatures. About 1/3 of this Commonwealth's ozone-forming pollution comes from motor vehicles.

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

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

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

Shortly after establishment of the OTC, the member states began negotiating with the vehicle manufacturers for cleaner cars to address regional air quality needs. In 1998, the EPA adopted regulations for a voluntary alternative LEV program, called the NLEV program, reflecting these negotiations. Under this alternative LEV program, vehicle manufacturers agreed to manufacture LEVs for 49 states as an alternative to the California LEV program. The Commonwealth and eight other northeastern states, as well as 23 vehicle manufacturers, opted into the NLEV program, effective in the OTC for MY 1999 and outside the OTC for MY 2001.

In the final-form rulemaking published at 28 Pa.B. 5873 (December, 5, 1998), the Commonwealth adopted the Pennsylvania Clean Vehicle Program under section 177 of

the CAA. In the same final-form rulemaking, the Commonwealth adopted the NLEV program as a compliance alternative to the Pennsylvania Clean Vehicle Program. The Pennsylvania Clean Vehicle Program incorporates by reference the LEV program of California as a "backstop" to the NLEV program in the event a vehicle manufacturer opted out of the NLEV program and at the conclusion of the NLEV program. The Pennsylvania Clean Vehicle Program incorporates by reference emission standards for passenger cars and light-duty trucks identical to the low emission standards adopted by California, except that it does not incorporate by reference the California ZEV or emissions control warranty systems statement provisions.

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

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

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

The assessment is now complete. It shows that this Commonwealth will experience more air pollution reduction benefits from regulating light-duty cars and trucks under the California LEV II requirements than under the Federal Tier II requirements.

With the California LEV II program, this Commonwealth will achieve additional VOC and NO_x emission reductions of about 2,850 to 6,170 tons per year of VOCs, 3,540 tons per year of NO_x and 5% to 11% total reduction of six toxic air pollutants (including benzene with 7% to 15% more benefit) by 2025, when full fleet turnover is expected.

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

Consequently, today about 2/3 of the citizens in this Commonwealth live in counties that do not attain the revised ozone standard. Without additional reductions in highway vehicle emissions, reductions will have to be

obtained from industrial, commercial or other consumer sources; these controls may not be as cost-effective as the Program. Therefore, failure to implement the Program would increase the likelihood that this Commonwealth would not achieve and maintain the health-based 8-hour NAAQS for ground level ozone. Furthermore, if the standards are not attained and maintained in nonattainment areas, these areas would be subject to additional requirements that could affect their industrial/commercial facilities. Postponement of the Program from MY 2006 to MY 2008 does not significantly affect long-term air quality and economic benefits.

Copies of the Commonwealth's mobile source modeling consultant's analyses are available from the contact persons in Section B of this preamble.

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

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

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

Therefore, this Commonwealth will realize the benefits of California's greenhouse gas certified vehicles through the Commonwealth's existing requirement that new vehicles have CARB certification. California estimates that the program, when fully phased-in, will provide about a 30% reduction in greenhouse gas emissions from new vehicles required to comply compared to the 2002 fleet. The Department anticipates that this Commonwealth will achieve similar results. California is currently defending its greenhouse gas regulations against legal challenges filed by the auto industry.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking on April 21, 2005, and June 16, 2005. At the June 16, 2005, meeting, the AQTAC recommended that the Board approve the amendments as a proposed rulemaking. On April 27, 2005, the Department consulted with the Small Business Compliance Advisory Committee. As required under section 5(a)(7) of the act, the Department has begun consultations with the Department of Transportation (DOT), and will continue consultations with the DOT during the development of this rulemaking.

This proposed rulemaking is necessary to achieve and maintain the 8-hour ozone NAAQS and to satisfy related CAA requirements. This proposed rulemaking, if approved, will be submitted to the EPA as a revision to the SIP.

E. *Summary of Regulatory Requirements*

This proposed rulemaking deletes the definitions of "debit" and "ZEV—zero-emission vehicle" from Chapter 121 (relating to definitions) because the terms are already defined in the California regulations incorporated by reference in Chapter 126. The proposed rulemaking deletes the definitions of "NLEV" and "NLEV Program" because they are no longer relevant. The proposed rulemaking makes typographical corrections to the definitions of "fleet average" and "LDV—light-duty vehicles" and amends the definition of "offset vehicle." The definition "LDT—light-duty truck" is amended to incorporate a separate definition of "light duty truck" used in § 129.52 (relating to surface coating processes) and, for purposes of this proposed rulemaking, to be consistent with the California program. The separate definition of "light duty truck" is deleted as it is proposed to be incorporated into the definition of "LDT—light-duty truck."

The proposed revisions to Chapter 126, Subchapter D (relating to new motor vehicle emissions control program) amend the title of Subchapter D to reflect the cessation of the NLEV program. The proposed amendments delete the NLEV provisions in §§ 126.401(b) and 126.402 (relating to purpose; and NLEV scope and applicability).

Throughout Subchapter D, cross references to the California regulations are updated, reflecting the 1999 restructuring of California's regulations. These amendments are proposed to make Subchapter D clearer and easier to understand, and to reduce the need for future revisions if California restructures its regulations again. Amendments of this nature are not individually addressed in this preamble.

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

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

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

The proposed amendments to § 126.412(b) change the first model year for which compliance with the NMOG fleetwide average is required, from the model year beginning after December 5, 2000, to MY 2008. Language regarding California's ZEV program is deleted from subsection (b) because CARB moved the ZEV provisions out of the cross referenced section.

Proposed § 126.412(d) specifies the 3-year early-credit earning period within which vehicle manufacturers must come into compliance with the NMOG fleet average.

Proposed amendments to § 126.413(a)(2) (relating to exemptions) clarify the original intent of the section, which is to allow a vehicle dealer to transfer a non-CARB certified new vehicle as long as the vehicle will not ultimately be sold in this Commonwealth as a new vehicle.

The proposed amendment to § 126.413(a)(11) conforms the model year registration cut-off for vehicle exemption with the MY 2008 start date of CARB certification and NMOG fleet average requirements.

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

The Board approved an amendment to the proposed rulemaking at the Board's October 18, 2005, meeting, which appears as new § 126.413(a)(14). This amendment exempts vehicles purchased or leased from an out-of-State dealer by a resident of this Commonwealth for the personal use of the resident and not for immediate resale. The amendment is designed to reflect the intention of the Commonwealth not to deny registration of a non-CARB certified vehicle in this situation. The Board specifically seeks comments on the scope of the exemption, namely, whether the exemption should cover the registration requirement or a broader range of requirements.

Proposed amendments to the motor vehicle testing provisions require vehicle manufacturers to provide CARB testing determinations and findings to the Department upon request. The revised sections are §§ 126.421(b), 126.422(b), 126.423(b), 126.424(b) and 126.425(b).

Section 126.431(b) (relating to warranty and recall) requires each vehicle manufacturer to submit to the Department failure of emission-related components reports. The proposed amendments allow a vehicle manufacturer to submit to the Department copies of the reports the manufacturer submitted to CARB for purposes of compliance with this subsection.

The proposed amendments to § 126.431(c) clarify that any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under the California program shall extend to all motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the recall campaign if sold, leased, offered for sale or lease or registered as a new motor vehicle in California.

New § 126.431(d) provides that any order issued by CARB or enforcement action taken by CARB to correct noncompliance with any provision of Title 13 CCR, which results in the recall of any vehicle under Title 13 CCR, Chapter 2, shall be deemed to apply to all motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the order or enforcement action if sold, leased, offered for sale or lease or registered as a new motor vehicle in California.

Section 126.432(a) (relating to reporting requirements) requires that each vehicle manufacturer submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year in this Commonwealth, for purposes of determining compliance with the Program. The proposed amendments

change the first model year to which this requirement applies from the model year beginning after December 5, 2000, to MY 2008. The proposed amendments to § 126.432 change the term "engine family" to "test group" to conform to California's change in terminology. Proposed subsection (d) requires that compliance with the NMOG fleet average for MYs 2008–2010 be demonstrated following the completion of MY 2010.

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

The Board approved an amendment to the proposed rulemaking at the Board's October 18, 2005, meeting, which appears as new § 126.451 (relating to responsibilities of the Department). This amendment would require the Department to monitor and advise the Board in specific ways of any proposed or final rulemakings under consideration by CARB that amend or modify the California LEV program. This amendment would also require the Department to submit comments to CARB on proposed or final CARB rulemakings. This amendment is designed to ensure that the Board and other residents of this Commonwealth are informed about changes that might occur in the California program and able fully to appreciate the impact of a CARB rulemaking on residents of this Commonwealth. The Board is specifically seeking comment on this proposed amendment.

F. *Benefits, Costs and Compliance*

Benefits

The proposed rulemaking will save the manufacturers, dealers and purchasers of light-duty vehicles and trucks from incurring any additional costs for CARB-certified vehicles for 2 model years. Implementation of the Program in accordance with the proposed rulemaking will contribute to the attainment and maintenance of the health-based ozone NAAQS in this Commonwealth due to emission reductions from the operation of low emission passenger cars and light-duty trucks. The Commonwealth's analyses indicate that, by implementing the California LEV II program under the proposed rulemaking, the Commonwealth will experience emission benefits when compared to the Federal program. By 2025, when full fleet turnover is expected, the California LEV II program will provide an additional 2,850 to 6,170 tons per year of VOCs, 3,540 tons per year of NOx and 5% to 11% more reduction of six toxic air pollutants, including a 7% to 15% additional benefit for benzene, a known carcinogen. The Commonwealth will also realize the benefits of California's greenhouse gas certified vehicles. CARB estimates that the program, when fully phased-in, will provide about a 30% reduction in greenhouse gas emissions from new vehicles required to comply compared to the 2002 fleet.

In addition, CARB predicted that by MY 2016 the operational efficiency savings of vehicles meeting the greenhouse gas requirements, which start in MY 2009, will afford owners an overall cost savings of \$3.50 to \$7 per month, assuming a price of \$1.74 per gallon of gasoline.

Compliance Costs

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

In September 2004, CARB estimated that by MY 2016 the operational efficiency savings of vehicles meeting greenhouse gas requirements will provide vehicle owners an overall cost savings of \$3.50 to \$7 per month, assuming \$1.74 per gallon of gasoline. CARB estimated the greenhouse gas-related initial investment costs, possibly reflected in sticker prices, will start under \$50 per vehicle for MY 2009, be approximately \$350 in 2012 and \$1,000 per vehicle in MY 2016. Vehicle manufacturers disagree with CARB's greenhouse gas estimate, citing initial costs of as much as \$3,000 per vehicle.

The Commonwealth offers rebates to consumers for the initial purchase of hybrid electric vehicles and offers grants to alternative fuel vehicle buyers. These rebates and grants could offset any additional initial costs that might be passed on to consumers under the existing or amended Program. Additionally, CARB-certified vehicles have more robust emissions control systems warranties that can save purchasers additional out-of-pocket repair costs as vehicles age.

Compliance Assistance Plan

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

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

Paperwork Requirements

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

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency

strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This regulation has incorporated the following pollution prevention incentives:

The existing regulations and proposed amendments give vehicle manufacturers the freedom to select technologies that prevent pollution. Similarly, vehicle manufacturers are given the freedom to select exhaust treatment technologies to meet the requirements. Air pollution will be reduced by requiring vehicle manufacturers to produce vehicles that lower emissions at their source. Because California warranties are longer, they also provide incentives for longer-lived vehicles, and thus a potentially lower rate of vehicle scrappage.

H. Sunset Review

These regulations will continue to 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.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 31, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

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

J. 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, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by April 12, 2006. 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 received by April 12, 2006. 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-form rulemaking will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by April 12, 2006. A subject heading of the proposal and a return name and address must be included in each transmission.

K. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this proposed rule-making. The hearings will be held as follows:

March 14, 2006 Department of Environmental Protection
1 p.m. Southwest Regional Office
Waterfront A and B Conference Room
400 Waterfront Drive
Pittsburgh, PA 15222.

March 20, 2006 Department of Environmental Protection
7 p.m. Rachel Carson State Office Building, Room 105
400 Market Street
Harrisburg, PA 17105

March 28, 2006 Marple Township Municipal Building
10 a.m. 227 South Sproul Road
Springfield and Sproul Roads
Broomall, PA 19008

Individuals who would like to present testimony at the hearings must contact Natalie Shepherd, Environmental Quality Board, P. O. Box 8477, Harrisburg, PA, 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness. Witnesses are requested to use this time to summarize their written testimony. Witnesses are requested to submit three written copies of their statement to the hearing chairperson at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the public hearings and require an auxiliary aid, service or other accommodation to participate should contact Natalie Shepherd at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY, Chairperson

Fiscal Note: 7-398. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

[Debit—Fleet average NMOG debits as calculated from the amount that the manufacturer's applicable fleet average NMOG value is above the applicable fleet average NMOG standard, times the applicable production for a given model year.]

* * * * *

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

* * * * *

LDT—light-duty truck—[A]

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

(ii) For purposes of Chapter 126, Subchapter D (relating to [new motor vehicle emissions control program requirements] the Pennsylvania Clean Vehicles Program), a light-duty truck is [any] a motor vehicle, rated at [6,000] 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

LDV—light-duty [vehicles] vehicle—A passenger car or light-duty truck.

* * * * *

[Light duty truck—A motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation or major components of the vehicle, including, but not limited, to chassis, frames, doors and engines.]

* * * * *

[NLEV—National Low Emission Vehicle.

NLEV Program—A voluntary low emission vehicle program specified in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) for light-duty vehicles and light-duty trucks.]

* * * * *

Offset vehicle—A light-duty vehicle which has been certified by California as set forth in the CCR, Title 13, Chapter 1 [, Section 1960].

* * * * *

[ZEV—Zero-Emission Vehicle—A light-duty vehicle which is certified to produce zero emissions of any criteria pollutants under any possible operational modes and conditions. Incorporation of a fuel fired heater does not preclude a vehicle from being certified as a ZEV if the fuel fired heater cannot be operated at ambient temperatures above 40°F the heater is demonstrated to have zero evaporative emissions under any operational modes and conditions.]

CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS

Subchapter D. [NEW MOTOR VEHICLE EMISSIONS CONTROL] PENNSYLVANIA CLEAN VEHICLES PROGRAM

GENERAL PROVISIONS

§ 126.401. Purpose.

* * * * *

(b) [This subchapter allows motor vehicle manufacturers to comply with the voluntary NLEV program described in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), as a compliance alternative to the Pennsylvania Clean Vehicles Program requirements described in §§ 126.411—126.441 and creates the mechanism to meet the requirements of the state opt-in provisions of the NLEV Program.

(c)] * * *

[(d)] (c) * * *

§ 126.402. [NLEV scope and applicability] (Reserved).

[(a) Covered motor vehicle manufacturers as defined in 40 CFR 86.1702 (relating to definitions) that do not opt-out of the NLEV Program as provided under 40 CFR 86.1707 (relating to general provisions; opt-outs) may comply with the NLEV program requirements in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) as an alternative to complying with the Pennsylvania Clean Vehicles Program requirements in §§ 126.411—126.441.

(b) The Commonwealth's participation in the NLEV Program extends until model year 2006, except as provided in 40 CFR 86.1707. If no later than December 15, 2000, the EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 CFR Part 86, Subpart R that apply to new motor vehicles in Model Year 2004, 2005 or 2006, the Commonwealth's participation in the NLEV program extends only until Model Year 2004, except as provided in 40 CFR 86.1707.

(c) For the duration of the Commonwealth's participation in the NLEV Program, manufacturers may comply with the NLEV standards or equally stringent mandatory Federal standards in lieu of compliance with the Pennsylvania Clean Vehicles Program established in §§ 126.411—126.441 or any program, including any mandates for sales of ZEVs adopted by Pennsylvania under section 177 of the Clean Air Act (42 U.S.C.A § 7507) applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in CCR, Title 13, Division 3, Chapter 1, Article 1, Section 1900.

(d) Except as provided in subsections (a) and (c), the Pennsylvania Clean Vehicles Program applies to all new-passenger cars, and light-duty trucks (if

designed to operate on gasoline) sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth starting with the model year beginning after December 5, 2000, and each model year thereafter.

(e) If a covered manufacturer, as defined in 40 CFR 86.1702 (relating to definitions) opts out of the NLEV Program under the EPA NLEV regulations in 40 CFR 86.1707, the transition from the NLEV requirements to the Pennsylvania Clean Vehicles Program or any Pennsylvania Section 177 Program applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR or medium-duty vehicles from 6,001 pounds to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in CCR, Title 13, Division 3, Chapter 1, Article 1, Section 1900, will proceed in accordance with the EPA NLEV regulations in 40 CFR 86.1707.]

PENNSYLVANIA CLEAN VEHICLES PROGRAM

§ 126.411. General requirements.

(a) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth starting with the 2008 model year [beginning after December 5, 2000,] and each model year thereafter.

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

(1) The zero emissions vehicle [sales mandate] percentage requirement in Title 13 CCR Chapter 1, § [1960.1(g)(2) (footnote 9),] 1962.

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

§ 126.412. Emission requirements.

(a) Starting with the model year [beginning after December 5, 2000] 2008, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Starting with the model year [beginning after December 5, 2000] 2008, compliance with the NMOG fleetwide average in Title 13 CCR Chapter 1, § [1960.1(g)(2),] 1961 shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth. [This requirement excludes the percentage requirement for zero emission vehicles included in footnote 9 of Title 13 CCR Chapter 1, § 1960.1(g)(2).]

(c) Credits and debits for calculating the NMOG fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR Chapter 1 [, § 1960.1(g)(2)].

(d) **NMOG fleet average credits generated during the 2008, 2009 and 2010 model years may be applied toward any of the model years 2008 through 2010 for the purpose of demonstrating compliance with subsections (b) and (c).**

(e) New motor vehicles subject to the requirements of this subchapter shall possess a valid emissions control label which meets the requirements of Title 13 CCR Chapter 1[, § 1965, incorporated herein by reference].

§ 126.413. Exemptions.

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

* * * * *

(2) A light-duty vehicle transferred by a dealer to another dealer **for ultimate sale outside of this Commonwealth.**

* * * * *

(11) A light-duty vehicle [**sold after December 5, 2000, if the vehicle was**] registered in this Commonwealth before [**December 5, 2000**] _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*)

* * * * *

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

(14) **A light-duty vehicle purchased or leased from an out-of-State dealer by a resident of this Commonwealth for the personal use of the resident and not for immediate resale.**

* * * * *

APPLICABLE NEW MOTOR VEHICLE TESTING

§ 126.421. New motor vehicle certification testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements [**shall**] **must** be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § [**1960.1**] **1961** as determined by testing in accordance with Title 13 CCR Chapter 2[, §§ **2101—2110, 2150 and 2151, incorporated herein by reference**].

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

§ 126.422. New motor vehicle compliance testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter [**shall**] **must** be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § [**1960.1**] **1961**, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR Chapter 2[, §§ **2101—2110, 2150 and 2151, and incorporated herein by reference**].

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

§ 126.423. Assembly line testing.

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR Chapter 2[, §§ **2061, 2106 and 2107, incorporated herein by reference**].

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

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of [**the**] CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR Chapter 2[, §§ **2061, 2106, 2107 and 2150, incorporated herein by reference**]. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR Chapter 2[, § **2061**] of a statistically significant sample, may substitute for the 100% testing rate **required** in Title 13 CCR Chapter 2[, § **2061**], with the written consent of the Department.

§ 126.424. In-use motor vehicle enforcement testing.

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR Chapter 1, [**§ 1960.1,**] the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR Chapter 2[, §§ **2136—2140, incorporated herein by reference**].

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

* * * * *

§ 126.425. In-use surveillance testing.

* * * * *

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

* * * * *

MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS

§ 126.431. Warranty and recall.

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or

lease or registered in this Commonwealth, shall warrant to the owner that each vehicle [shall] must comply over its period of warranty coverage with [the requirements of] Title 13 CCR Chapter [2] 1, §§ 2035—2038, 2040 and 2041[, incorporated herein by reference].

(b) Each motor vehicle manufacturer shall submit to the Department failure of emission-related components reports, as defined in Title 13 CCR Chapter 2[, § 2144], for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 CCR Chapter 2[, §§ 2141—2149, incorporated herein by reference]. For purposes of compliance with this subsection, a manufacturer may submit copies of the reports submitted to CARB.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under Title 13 CCR Chapter 2, [§§ 2113—2121 must] shall extend to all [new] motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the recall campaign if sold, leased, offered for sale or lease or registered as a new motor vehicle in California.

(d) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any order issued by or enforcement action taken by CARB to correct non-compliance with any provision of Title 13 CCR, which results in the recall of any vehicle pursuant to Title 13 CCR, Chapter 2, shall be deemed to apply to all motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth that would be subject to the order or enforcement action if sold, leased, offered for sale or lease or registered as a new motor vehicle in California.

§ 126.432. Reporting requirements.

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2008 model year [beginning after December 5, 2000], each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each [engine family] test group over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each [engine family] test group for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR Chapter 1[, § 1960.1(g)(2)].

(c) Fleet average reports shall, at a minimum, identify the total number of vehicles, including offset vehicles,

sold in each [engine family] test group delivered for sale in this Commonwealth, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth in relation to total fleet sales.

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

MOTOR VEHICLE DEALER RESPONSIBILITIES

§ 126.441. Responsibilities of motor vehicle dealers.

A dealer may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle has received the certification described in §§ 126.421 and 126.422 (relating to new motor vehicle certification testing; and new motor vehicle compliance testing), and conforms to the following standards and requirements contained in Title 13 CCR Chapter 2, § 2151 [and incorporated herein by reference]:

* * * * *

DEPARTMENT RESPONSIBILITIES

§ 126.451. Responsibilities of the Department.

The Department will do the following:

(1) Monitor and advise the EQB of any proposed or final rulemakings under consideration by CARB or its successor that amend or modify the California Low Emission Vehicle Program.

(2) The Department will:

(i) Prepare a Regulatory Analysis Form to be submitted to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for each proposed or final CARB rulemaking. The Department will complete all relevant provisions of the Regulatory Analysis Form as practical, including a cost/benefit analysis of the proposed or final CARB rulemaking.

(ii) Evaluate the estimated incremental cost to manufacture vehicles that comply with the California Low Emission Vehicle Program compared to the cost to manufacture vehicles that comply with the Federal "Tier II" vehicle emissions regulations, or its successor, promulgated under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) to the extent data is available. This evaluation will be conducted on any proposed or final rulemakings under consideration by CARB or its successor and shall be distributed to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees.

(iii) Submit comments on proposed or final rulemakings to CARB on behalf of the residents of this Commonwealth.

[Pa.B. Doc. No. 06-221. Filed for public inspection February 10, 2006, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the State Employees' Retirement System

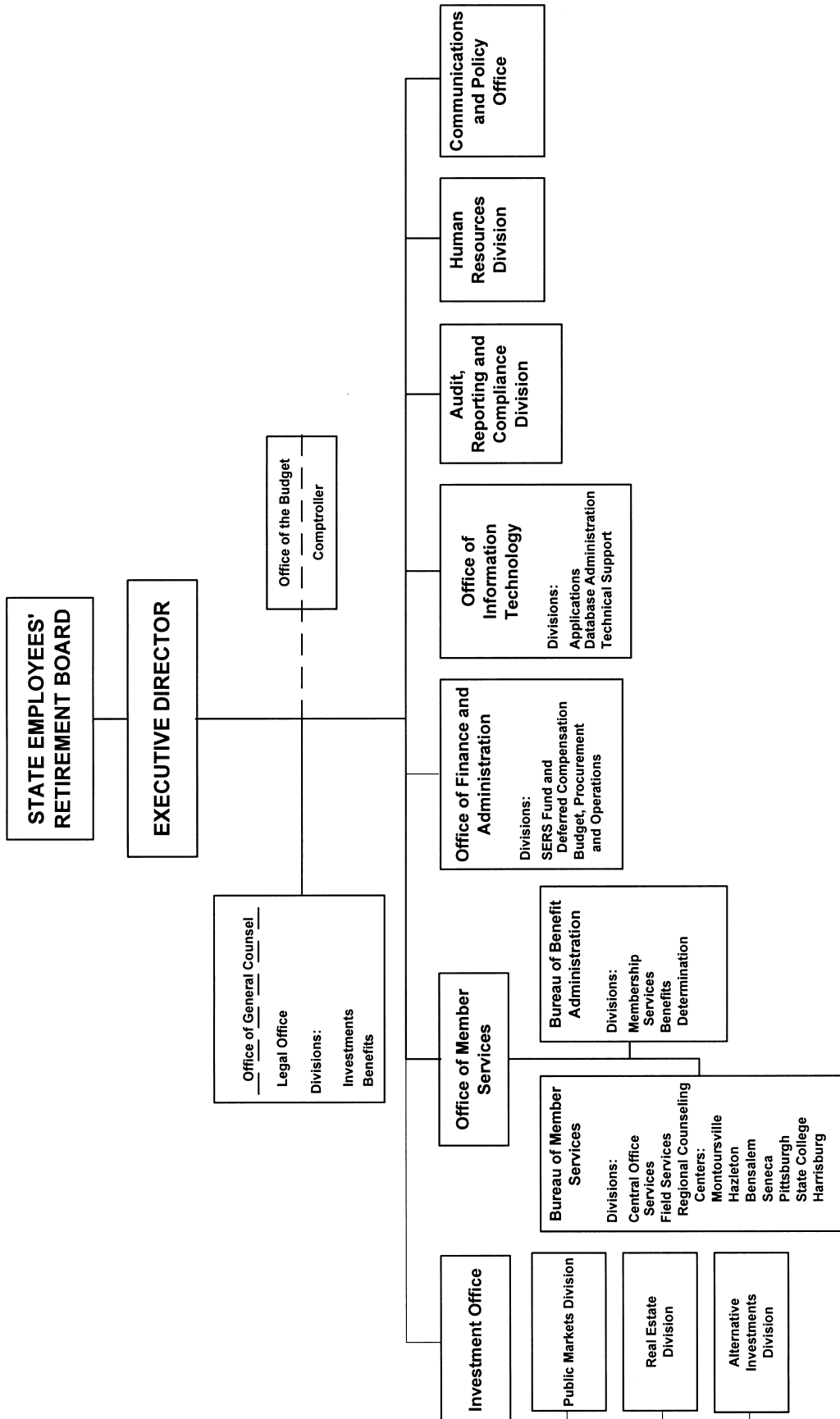
The Executive Board approved a reorganization of the State Employees' Retirement System effective November 21, 2005.

The organization chart at 36 Pa.B. 725 (February 11, 2006) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the (Pennsylvania Code).

[Pa.B. Doc. No. 06-222. Filed for public inspection February 10, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT SYSTEM



NOTICES

DEPARTMENT OF AGRICULTURE

Interstate/International Quarantine Order; Avian Influenza

Whereas, avian influenza is an infectious disease of poultry;

Whereas, avian influenza is designated a "dangerous transmissible disease" of animals under the provisions of the Domestic Animal Law (3 Pa.C.S.A. §§ 2301—2389), at 3 Pa.C.S.A. § 2321(d);

Whereas, the Pennsylvania Department of Agriculture (PDA) has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals in order to exclude, contain or eliminate dangerous transmissible diseases;

Whereas, avian influenza has caused significant loss in the past to the Pennsylvania poultry industry;

Whereas, avian influenza is of particular concern to the entire Pennsylvania poultry industry and may severely limit the market for Pennsylvania product;

Whereas, avian influenza sub-types H5 and H7 are of particular concern due to their potential for developing into a virulent (highly pathogenic) form of disease;

Whereas, avian influenza exists, or is suspected to exist, outside this Commonwealth;

Whereas, the Domestic Animal Law allows (at 3 Pa.C.S.A. § 2329(c)) for the establishment of an Interstate/International Quarantine under the circumstances described above;

Whereas, pursuant to that authority, PDA issued an Interstate/International Quarantine Order addressing avian influenza, effective May 1, 2005; and

Whereas, PDA has since determined it appropriate to issue another Interstate/International Quarantine Order to supplant the referenced May 1, 2005 Order in order to further clarify the testing requirements applicable to poultry flocks.

Now, therefore, the Pennsylvania Department of Agriculture, pursuant to the authority granted it under the Domestic Animal Law and § 1702 of the Administrative Code of 1929 (71 P. S. § 442), orders the establishment of an interstate/international quarantine with respect to the shipment of live poultry into the Commonwealth. The quarantine restrictions are as follows:

1. Poultry will be defined as all domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds, except doves and pigeons, or as otherwise defined, under subpart A of the current version of the National Poultry Improvement Plan (NPIP) and Auxiliary Provisions, and shall be 3 weeks of age or older.

2. Poultry shall only be allowed into the Commonwealth under any of the following circumstances:

a. The poultry originate from a flock that participates in the current version of the National Poultry Improvement Plan and Auxiliary Provisions "U. S. Avian Influenza Clean" program and the shipment is accompanied by a USDA form 9-3 or other approved NPIP form; or

b. The poultry originate from a flock that participates (in good standing) in a state, foreign nation, or foreign provincial-sponsored avian influenza monitoring program and the shipment is accompanied by a document from the state, nation, or province of origin indicating participation. The following requirements must be met to be in good standing: a) The flock must be tested every thirty (30) days; b) The flock must be tested negative for avian influenza for three (3) consecutive months; and c) Poultry must be three (3) weeks of age or older to be tested. The date of sample collection with negative test results for avian influenza (serology, virus isolation, or real-time reverse polymerase chain reaction (RRT-PCR)) must be within forty (40) days of entry into Pennsylvania. The shipment must be accompanied by the test report; or

c. The poultry originate from a flock in which a minimum of thirty (30) birds, three (3) weeks of age or older, were tested negative for avian influenza (serology, virus isolation, or real-time reverse-transcriptase polymerase chain reaction (RRT-PCR)). The date of sample collection must be within thirty (30) days of entry into Pennsylvania and the shipment must be accompanied by the test report. If there are less than 30 birds in the flock, test all birds (RRT-PCR, virus isolation, or serology); or

d. Each individual bird destined for import from a flock not known to be test-positive for avian influenza must be test-negative for avian influenza virus (RRT-PCR or virus isolation only). The date of sample collection must be within thirty (30) days of entry into Pennsylvania and the shipment must be accompanied by the test report; or

e. The poultry originate from a flock that participates in an equivalent testing/surveillance program, as approved by the Pennsylvania State Veterinarian.

3. No poultry from any untested or unmonitored flocks shall have been added to the flock within twenty-one (21) days of movement of birds into Pennsylvania.

4. Poultry from flocks that are serologically positive shall not be imported unless the flock is determined to be free of virus by virtue of a negative virus detection test (virus isolation or RRT-PCR) of oropharyngeal, tracheal and/or cloacal specimens from a minimum of one hundred and fifty (150) birds. If there are less than 150 birds in the flock, test all birds. The date of sample collection must be within 30 days of entry into Pennsylvania and the shipment must be accompanied by the test report.

5. Poultry three (3) weeks of age and older, imported into the Commonwealth, shall meet all other import requirements required under Title 7, Pa. Code.

6. This Order shall not be construed as limiting PDA's authority to establish additional quarantine or testing requirements on imported poultry and/or poultry products.

7. This Order is effective January 24, 2006, and supplants the referenced Interstate/International Quarantine Order of May 1, 2005.

Dennis C Wolff,
Secretary

[Pa.B. Doc. No. 06-223. Filed for public inspection February 10, 2006, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending January 31, 2006.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-26-06	Keystone Nazareth Bank and Trust Company, Bethlehem, and the Trust Company of Lehigh Valley, Allentown Surviving Institution— Keystone Nazareth Bank and Trust Company, Bethlehem	Bethlehem	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-24-06	York Traditions Bank York York County	2305 Susquehanna Trail North York Manchester Township York County	Filed
1-24-06	Graystone Bank Lancaster Lancaster County	3599 Gettysburg Road Camp Hill Cumberland County	Filed
1-26-06	Northwest Savings Bank Warren Warren County	36 West Main Street Rochester Monroe County, NY	Approved
1-27-06	Integrity Bank Camp Hill Cumberland County	6085 Allentown Blvd. Harrisburg Lower Paxton Township Dauphin County	Filed
1-27-06	Integrity Bank Camp Hill Cumberland County	301 Colonial Road Harrisburg Lower Paxton Township Dauphin County	Filed
1-30-06	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	1600 Sumneytown Pike Lansdale Montgomery County	Approved
1-31-06	Embassy Bank for the Lehigh Valley Bethlehem Northampton County	Trexlerstown Marketplace Intersection of Hamilton Boulevard and Mill Creek Road Lower Macungie Township Lehigh County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-30-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 2923 Willow Street Pike Willow Street Lancaster County <i>From:</i> 106 Willow Valley Square Lancaster Lancaster County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-20-06	Standard Bank, PaSB Murrysville Westmoreland County	4951 Cline Hollow Road Murrysville Westmoreland County (Limited Service Facility)	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-224. Filed for public inspection February 10, 2006, 9:00 a.m.]

**DEPARTMENT OF
CONSERVATION AND
NATURAL RESOURCES****Cherry Creek Watershed Conservation Plan**

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Cherry Creek Watershed Conservation Plan (Plan) and is placing the Cherry Creek Watershed and two adjacent watersheds (Mount Minsi and Caledonia Creek Watersheds) covered in the Plan in Monroe County on the Pennsylvania Rivers Conservation Registry (Registry).

The Brodhead Creek Watershed Association submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Cherry Creek (Monroe County) from the headwaters to its confluence with the Delaware River—20.8 square miles.
2. The watershed area of Caledonia Creek (Monroe County) from the headwaters to its confluence with the Delaware River—1.03 square miles.
3. The watershed area of Mount Minsi Creek (Monroe County) from the headwaters to its confluence with the Delaware River—0.69 square mile.

This action becomes effective February 11, 2006. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Brodhead Watershed Association, P. O. Box 339, Henryville, PA 18332, (570) 839-1120 and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are available by contacting the Brodhead Watershed Association.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-225. Filed for public inspection February 10, 2006, 9:00 a.m.]

**Conservation and Natural Resources Advisory
Council Meeting**

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, February 22, 2006, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

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

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-226. Filed for public inspection February 10, 2006, 9:00 a.m.]

Darby Creek Watershed Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Darby Creek Watershed Conservation Plan (Plan) and is placing the Darby Creek Watershed and all tributaries covered in the Plan in Chester, Delaware, Montgomery and Philadelphia Counties on the Pennsylvania Rivers Conservation Registry (Registry).

Darby Creek Valley Association submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Darby Creek (Chester, Delaware, Montgomery and Philadelphia Counties) from the headwaters to its confluence with the Delaware River—77.4 square miles.
2. All tributary streams within the Darby Creek Watershed.

This action becomes effective February 11, 2006. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Darby Creek Valley Association website: www.dcva.org and the Department of Conservation and Natural Re-

sources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are available by contacting the Darby Creek Valley Association.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-227. Filed for public inspection February 10, 2006, 9:00 a.m.]

Lower Crooked Creek Watershed Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Lower Crooked Creek Watershed Conservation Plan (Plan) and is placing the Lower Crooked Creek Watershed and an adjacent watershed (Tub Mill Run Watershed) covered in the Plan in Indiana and Armstrong Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Crooked Creek Watershed Association submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Crooked Creek (Armstrong County) from its confluence with the Plum Creek Watershed in Plum Creek Township, Armstrong County to its confluence with the Allegheny River in Armstrong County—101.8 square miles.
2. All tributary streams within the Lower Crooked Watershed Area (Armstrong and Indiana Counties).
3. The watershed area of Tub Mill Run (Armstrong County) from the headwaters to its confluence with the Allegheny River—1.79 square miles.

This action becomes effective February 11, 2006. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Crooked Creek Watershed Association, P. O. Box 446, Ford City, PA 16626, (724) 783-6692 and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are available by contacting the Crooked Creek Watershed Association.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-228. Filed for public inspection February 10, 2006, 9:00 a.m.]

Tacony-Frankford Creek River Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Tacony-Frankford Creek River Conservation Plan (Plan) and is placing the Tacony-Frankford Creek Watershed and all tributaries covered in the Plan in Philadelphia County on the Pennsylvania Rivers Conservation Registry (Registry).

The Philadelphia Water Department submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Tacony-Frankford Creek (Philadelphia County) from the boundary between Cheltenham Township, Abington Township and Rockledge Borough (Montgomery County) and the City of Philadelphia to its confluence with the Delaware River—29 square miles.
2. All tributary streams within the Tacony-Frankford Creek Watershed.

This action becomes effective February 11, 2006. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Philadelphia Water Department, Office of Watersheds, ARAMark Tower, 5th Floor, 1101 Market Street, Philadelphia, PA 19107-2994, (215) 685-4944 and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are available by contacting the Philadelphia Water Department.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 06-229. Filed for public inspection February 10, 2006, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063461 (Sewage)	Mehoopany Township Supervisors Municipal Building Schoolhouse Hill Road Mehoopany, PA 18629	Wyoming County Mehoopany Township	Little Mehoopany Creek (4G)	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>
PA0040444 Sewage	Pocono Mountain School District P. O. Box 200, School Road Swiftwater, PA 18370	Monroe County Pocono Township	Swiftwater Creek (1E)	Y
PA0060313 Sewage	Clean Treatment Sewage Co. 1065 Highway 315, Suite 102 Wilkes-Barre, PA 18702-6926	Pike County Delaware Township	Dingmans Creek (1D)	Y
PA0008354 Industrial Waste Renewal	Pennsylvania American Water Company 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701	Bridgewater Township Susquehanna County	Snake Creek 04E	Y
PAS212207 IW	Dayton Superior Specialty Corp. Cempro, Inc. 200 East Touhy Avenue Des Plaines, IL 60028	Northampton County Lower Nazareth Township	Monocacy Creek (2C)	Y

Southwest Region: Oil and Gas Management Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0253251, Industrial Waste, SIC, **CNX Gas Co., LLC**, 4000 Brownsville Rd., South Park, PA 15129. This proposed facility is located in Elco Borough, **Washington County**.

Description of Proposed Activity: Application for the treatment of fluids from Coal Bed Methane production.

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>
PA0104558	Ebberts Laundromat 3880 Sandy Creek Road Cochranton, PA 16314	Fairfield Township Crawford County	UNT to French Creek 16-D	Y
PA0103861	Zoccoli MHP R. R. 1 Box 215 Edinburg, PA 16116-9801	Mahoning Township Lawrence County	UNT to Shenango River 20-A	Y
PA0238520	Camp Bucoco Moraine Trails Council BSA 830 Morton Avenue Extension Butler, PA 16001	Slippery Rock Township Butler County	UNT to Slippery Rock Creek 20-C	Y
PA0092185	Peter Rabbit Campground 153 Lilac Lane Slippery Rock, PA 16057	Brady Township Butler County	Big Run 20-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 0248088, Sewage, **Franklin Township**, 55 Scott School Road, Orrtanna, PA 17353. This facility is located in Franklin Township, **Adams County**.

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

The receiving stream, UNT Marsh Creek, is in Watershed 13-D and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for City of Frederick is located on the Monocacy River, approximately 46 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.200 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		60

NOTICES

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Phosphorus	Monitor and Report		
Total Nitrogen	Monitor and Report		
Total Residual Chlorine	0.2		0.68
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)		2,700/100 ml as a geometric average	

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

The EPA waiver is in effect.

Application No. PA 0248011, Industrial Waste, SIC Code 4941, **Reading Area Water Authority (Ames Way Booster Pump Station)**, 815 Washington Street, Reading, PA 19601-3637. This facility is located in Ontelaunee Township, **Berks County**.

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

The discharge is to a storm drainage swale, which is tributary to Schuylkill River in Watershed 3-B. The nearest downstream public water supply intake is the Borough of Pottstown located on the Schuylkill River, approximately 31 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 0.000218 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		6.0 to 9.0 at all times	
Total Residual Chlorine	0.5		1.6

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.

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

PAS608301, Industrial Waste. **Recmix of PA**, 359 North Pike Road, Sarver, PA 16055. This proposed facility is located in Winfield Township, **Butler County**.

Description of Proposed Activity: for existing and new discharges of stormwater associated with industrial activities and stormwater from construction activities.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Allegheny River and New Kensington Municipal Water located approximately 20 miles below point of discharge.

The receiving stream, Little Buffalo Creek, is in watershed 18-F and classified for HQ-TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfalls 001, 002, 004 and 006 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow*			XX
Alkalinity			XX
pH			XX
TDS			XX
TSS			XX
Aluminum			XX
Total Iron			XX
Chromium			XX

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Nickel			XX
Manganese			XX

XX—Monitor and report on monthly DMRs.

*—Discharge shall not occur at these outfalls except from a 25-year 24-hour rain event or greater. Any discharge from these ponds must be measured for the parameters shown, and additional samples must be taken for each day that the discharge continues.

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. 230601, Sewerage, **Concord Township Sewer Authority**, 664 Concord Road, Glen Mills, PA 19342. This proposed facility is located in Concord Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a sanitary sewer extension to service both Maris Grove Campus and Concordville Town Center.

WQM Permit No. 1596411, Amendment, Sewerage, **North Coventry Township Municipal Authority**, 1485 East Schuylkill Road, P. O. Box 833, Pottstown, PA 19464-0833. This proposed facility is located in North Coventry Township, **Chester County**.

Description of Action/Activity: Expansion of existing wastewater treatment plant.

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

WQM Permit No. 2805402, Amendment 06-1, Sewerage, **Quincy Sewer Authority**, 7575 Mentzer Gap Road, Waynesboro, PA 17268. This proposed facility is located in Quincy Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/Operation of the Northern sewer extension to serve the Estates of White Rock.

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

WQM Permit No. 0306201, Industrial Waste, **Cook Vascular, Inc.**, 1186 Montgomery Lane, Vandergrift, PA 15690. This proposed facility is located in Parks Township, **Armstrong County**.

Description of Proposed Action/Activity: Application for installation and operation of groundwater treatment system.

WQM Permit No. 5606402, Sewerage, **Richard Chatak**, 943 Peninsula Drive, Central City, PA 15926. This proposed facility is located in Indian Lake Borough, **Somerset County**.

Description of Proposed Action/Activity: Application for construction and operation of a single-residence sewage treatment plant.

WQM Permit No. 6506401, Sewerage, **Mount Pleasant Municipal Authority**, 653 Main Street, Mount Pleasant, PA 15666. This proposed facility is located in Mount Pleasant Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation new sanitary sewers.

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

WQG Permit No. WQG016122, Sewerage, **Dennis Handley**, 683 Simpson Howell Road, Elizabeth, PA 15037. This proposed facility is located in Elizabeth Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment plant.

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

WQM Permit No. 1606402, Sewerage, **Monroe Township**, 17956 Route 68, Sligo, PA 16255. This proposed facility is located in Monroe Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for a new sewage treatment facility to serve the Village of Williamsburg and the surrounding area.

WQM Permit No. 2506403, Sewerage, **McKean Township**, 9231 Edinboro Road, McKean PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: This project is for modifications to Georgetown Heights Lagoon WWTF.

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

V. Applications for NPDES Waiver 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.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506008	Whiteland Village, LP 508 Brandywine Parkway West Chester, PA 19380	Chester	West Whiteland Township	West Branch Valley Creek (CWF)

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024806002	Ean Sussick & Sons Construction, Inc. Attn: Ean Sussick 724 South Delps Road Bath, PA 18014	Northampton	Plainfield Township	Bushkill Creek HQ-CWF

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025206001	Girl Scouts of Southeastern Pennsylvania P. O. Box 27540 Philadelphia, PA 19118	Pike	Lehman Township	Tributary to Delaware River HQ-CWF

Luzerne County Conservation District: Smith Pond Road, Lehman, PA 18627-0250, (570) 674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024005006	Land View Properties 205 Windsor Way Moscow, PA 18444	Luzerne	Bear Creek Village Borough	Bear Creek HQ-CWF

Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, (570) 253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026406001	Patrick W. Sandone Jr. and Michael P. Sandone 730 Wyoming Ave. Scranton, PA 18509	Wayne	Salem Township	Jones Creek Tributary to West Branch Wallenpaupack Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033605016	Donald R. Kilby 1143 Osceola Road Drumore, PA 17518	Lancaster	Fulton Township	Conowingo Creek HQ-CWF

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

Clearfield Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-8130

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041705003	(ORD Sewer Authority) Osceola Mills, Rush and Decatur Sewer Authority	Clearfield	Osceola Mills Borough and Decatur Township Clearfield County Rush Township Centre County	Moshannon Creek Main Stem Roup Run to Mouth) TSF UNT of Moshannon Creek CWF Trout Run, Basin, Montola Dam to Mouth (Fish and Boat Commission designates Trout Run as wild stream from headwaters to 2.96 km upstream of mouth) HQ-CWF Big Run, Basin CWF Name of Municipal Storm Sewer Operator: Osceola Mills Borough, Clearfield County Receiving Waters: Moshannon Creek TSF

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

Jefferson Conservation District: 1514 Route 28, Brookville, PA 15825, (814) 8419-7463.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI063306001	Department of Transportation, District 10 2550 Oakland Avenue Indiana, PA 15701	Jefferson	Warsaw and Pinecreek Townships	Little Mill Creek HQ-CWF

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact

basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 4606502, Public Water Supply

Applicant **Audubon Water Company**
 Township Lower Providence
 County **Montgomery**
 Responsible Official J. H. Russell
 Type of Facility PWS
 Consulting Engineer Environmental Resources Management
 Application Received Date January 24, 2006
 Description of Action Installation of Wellhead Treatment Equipment at Wells VFCC-2 and VFCC-3 for removal of permanganate from water produced from these wells.

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

Permit No. 2805510, Public Water Supply.

Applicant **Kauffman Community Center**
 Municipality Antrim Township
 County **Franklin**
 Responsible Official Donald Barnhart, Committee Chairperson
 7289 Puritan Drive
 Chambersburg, PA 17601

Type of Facility Public Water Supply
 Consulting Engineer Lance S. Kegerreis, P. E.
 Dennis E. Black Engineering Inc.
 2400 Philadelphia Avenue
 Chambersburg, PA 17201

Application Received Date 11/14/2005
 Description of Action Installation of nitrate treatment system to reduce the elevated nitrate levels in the sources of supply. Treatment will also include softening and UV disinfection.

Permit No. 3605513, Public Water Supply.

Applicant **Berk Tek**
 Municipality Earl Township
 County **Lancaster**

Responsible Official Greg Sisak, Manufacturing Engineering Manager
 132 White Oak Road
 New Holland, PA 17557

Type of Facility Public Water Supply
 Consulting Engineer G. Matthew Brown, P. E.
 ARRO Consulting Inc.
 270 Granite Run Drive
 Lancaster, PA 17601

Application Received Date 11/30/2005

Description of Action Installation of nitrate treatment system to reduce the elevated nitrate levels in the sources of supply. Treatment will also include softening and UV disinfection.

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

Permit No. 4106501, Construction, Public Water Supply.

Applicant **Timberend Estates, Inc.**
 Township or Borough Fairfield Township
 County **Lycoming**
 Responsible Official Jeff Stout, President
 Timberend Estates, Inc.
 528 Ruben Kehrler Road
 Muncy, PA 17756

Type of Facility Public Water Supply—Construction
 Consulting Engineer Britt Bassett, P. E.
 Bassett Engineering
 1440 Broad Street
 Montoursville, PA 17754

Application Received Date January 25, 2006

Description of Action Add a "Birm" filter media to remove iron from the water supply. The Birm media has a catalytic coating that removes iron. The media is regenerated by backwashing.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

WA48-1003B, Water Allocations. **East Allen Township Municipal Authority (EATMA)**, 5340 Nor-Bath Blvd., Northampton, PA 18067, East Allen Township, **Northampton County**. EATMA has submitted a subsidiary water allocation application to renew/increase the amount of water purchased from the City of Bethlehem. The allocation quantity is 250,000 gpd, based on a 30-day average.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

WA 34-19C, Water Allocations. **Mifflintown Municipal Authority**, Juniata County. Authority wishes to withdrawl a daily average of up to 1 mgd from the Juniata River when their existing surface water source is not sufficient to meet demand. The total of 1 mgd would be form the Juniata River or a combination of both sources. Consulting Engineer: John T. Mazich, Uni-Tec Consulting Engineers, Inc. Date Application Received: 12/19/2005.

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.

Atoll Prop., Royersford Borough, **Montgomery County**. Richard Johnson, P. G., RT Env. Svc., Inc., 215 W. Church Road, King of Prussia, PA 19406 on behalf of Joseph Price, Riverfront at Royersford, LP, 721 Dresher Rd., Horsham, PA 19044 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents and other organics. The report is intended to document remediation of the site to meet the Site Specific Standard.

Northeast Regional Field Office: Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Elementis Pigments, Inc., City of Easton, **Northampton County**. Michael Gonshor, Principal Hydrogeologist, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066, has submitted a Notice of Intent to Remediate (on behalf of his client Elementis America Inc., Wyckoffs Mill Road, P. O. Box 700, Hightstown, NJ 08520) concerning the remediation of groundwater found or suspected to have been impacted with lead, VOCs and semi-VOCs as the result of historic petroleum UST releases. The applicant proposes to meet the nonresidential Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future. The continued future use of the site is expected to be for pigment manufacturing operations.

Cohen Residence (338 Porter Street), City of Easton, **Northampton County**. Natalie Hsueh, React Environmental Professional Services Group, 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142, has submitted a Notice of Intent to Remediate (on behalf of Adam Cohen, property owner, and Allstate Insurance, 1200 Atwater Drive, Suite 110, Malvern, PA 19355) concerning the remediation of soil found or suspected to have been impacted by the accidental release of No. 2 home heating oil from an underground storage tank on the property. The applicant proposes to meet the residential Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future. The continued future use of the site is expected to be for residential purposes.

Lafarge Northampton Lot 4, Northampton Borough, **Northampton County**. Eric Pickerill, The RETEC Group, 1726 Cole Blvd., Bldg. 22, Suite 150, Golden, CO 80401, has submitted a Notice of Intent to Remediate (on behalf of his client, William Voshell, Lafarge Corporation, 4000 Town Center, Suite 2000, Southfield, MI 48075) concerning the remediation of soils found or suspected to have been impacted by inorganics (arsenic and lead) and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Site-Specific Standard. The

intended future use of the property will be nonresidential. A summary of the Notice of Intent to Remediate was published in the *East Penn Publishing Group Newspapers* on May 18, 2005.

Sunoco Service Station 0003-2672 (2028 Center Street), Tamaqua Borough, **Schuylkill County**. Marco Droese, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Manor Professional Building, Suite 3, Glenmoore, PA 19343 has submitted a Notice of Intent to Remediate (on behalf of Sunoco, Inc., 1109 Milton Avenue, Syracuse, NY 13204 and Jack Sakusky, J & J Sunoco, 2028 Center Street, Tamaqua, PA 18252) concerning the remediation of soils and groundwater found or suspected to be contaminated with MTBE and unleaded gasoline petroleum products associated with the property's historical use as an auto service station facility. The applicant proposes to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future. The proposed future use of the property will remain as an auto service station.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Expert Tire & Automotive Center—Carlisle, Borough of Carlisle, **Cumberland County**. The EC Group, LLC, 201 East Orchard Street, Hammonton, NJ 08037, on behalf of BFS Retail & Commercial Operations, LLC, 333 East Lake Street, Bloomingdale, IL 60108, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with leaded gasoline from three underground storage tanks that had been closed in place in 1967. The contamination was discovered in September 2003 when the tanks were removed. The applicant seeks to remediate the site to a Statewide Health Standard, and the future use of the property will be commercial.

Community Life Team EMS, City of Harrisburg, **Dauphin County**. EPSYS Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of community Life Team EMS, 1119 South Cameron Street, Harrisburg, PA 17104, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The current and future use of the site will be as an emergency response facility. The applicant seeks to remediate the site to a Statewide Health Standard.

Colonial Petroleum Company, East Manchester Township, **York County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17103, on behalf of York Oil Company, 714 Loucks Mill Road, York, PA 17403, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline. The site will be remediated to a combination of the Site-Specific and Statewide Health Standards.

Thompson Industries Site, City of Lancaster, **Lancaster County**. Blasland, Bouck & Lee, Inc., 500 North Gulph Road, Suite 401, King of Prussia, PA 19406, on behalf of Thompson Industries, 1500 Mittel Boulevard, Wood Dale, IL 60191 and ACE Rents, 720 North Prince Street, Lancaster, PA 17603, submitted a Notice of Intent to Remediate soils and groundwater contaminated with TCE, PCE, VOCs and lead. The applicant intends to remediate the site to a combination of the Statewide Health and Site-Specific Standards. The future use of the property will be industrial.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA.

Robert F. Mitchell Oil Co. (Former), Decatur Township, **Clearfield County**. MM & A, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 on behalf of Carl Wright, 532 Bryn Mawr Ave., Swarthmore, PA 19801 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with gasoline. The applicant proposes to remediate the site to meet the Site-Specific Standard. The site is planned to be redeveloped for a commercial retail business.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Dyna-Craft Industries Inc., Borough of Murrysville, **Westmoreland County**. Joyce M. O'Connor, P. G., Cardinal Resources, Inc., 4326 Northern Pike, Suite, 200, Monroeville, PA 15146 on behalf of Dyna-Craft Industries, Inc., c/o Carsem Incorporated, 17700 Castleton, Suite 383, City of Industry, CA 91748 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with trichloroethene that had been used as a degreaser. The site was used for lead frame stamping starting in 1972 and was operated under various owners. Remediation of the site was initiated in 2003. At that time, 138.5 tons of impacted soil was removed from beneath the floor of the site building. A soil vapor extraction system was installed and operated at the site between 2003 and 2004 to remove residual VOCs present in the soil. Groundwater monitoring is continuing at the site. The site is currently being leased and operated by a manufacturing facility, which has an agreement to purchase the property.

RENEWAL OF RESIDUAL WASTE GENERAL PERMITS

Application for Renewal Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGR061. Thermo-Depolymerization Process, LLC, 460 Hempstead Avenue, West Hempstead, NY 11552. The facility is located on the Philadelphia Navy Yard. General Permit No. WMGR061 for the processing of food processing waste, rendering waste, waste tires, mixed plastics, presorted municipal waste and sewage sludge prior to beneficial use as fuel was issued on October 4, 1999. The application for renewal was found to be administratively complete by Central Office on January 9, 2006.

Persons interested in reviewing the application may contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 101470. Unites States Recycling, Inc., 6101 Tacony St., Philadelphia PA 19135-2998, City of Philadelphia. Application submitted for an increase in the MSW transfer station's MDV from 380 tpd to 2,000 tpd. The application was originally received by the Southeast Regional Office on November 4, 2005.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

40-303-025: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) for reactivation of the Harwood batch asphalt plant and associated air cleaning device in Hazle Township, **Luzerne County**.

66-315-046: The Procter and Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18629) for modification of the No. 1 fan on a paper making machine on Route 87, Washington Township, **Wyoming County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

14-399-016: Spectrum Controls, Inc. (1900 West College Avenue, State College, PA 16801) for construction of a ceramic capacitor manufacturing facility in Ferguson Township, **Centre County**.

47-309-001: United States Gypsum Co. (125 South Franklin Street, Chicago, IL 60606) for construction of a wallboard manufacturing facility in Derry Township, **Montour County**.

53-00001B: Tennessee Gas Pipeline Corp. (1001 Louisiana Street, Houston TX 77002) for construction and operation of a natural gas-fired reciprocating internal combustion engine driven compressor at their Coudersport facility (Station 313) in Hebron Township, **Potter County**.

14-303-008: EBY Paving and Construction, Inc. (1001 East college Avenue, Bellefonte, PA 16823) for construction and operation of oil-fired rotary drum mixer burner in Spring Township, **Centre County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

16-132F: Clarion Boards, Inc. (143 Fiberboard Road, Box 340 Shippenville, PA 16245) for modifications to the scrubber/RTO inlet streams to improve destruction efficiency and evaluate the RTO operation temperature in Paint Township, **Clarion County**. The facility is a Title V facility.

25-053C: Urick Foundry Co. (1501 Cherry Street, Erie, PA 16502) for construction of a new core making system in City of Erie, **Erie 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.

46-0014F: Knoll, Inc. (1235 Water Street, Upper Hanover Township, **Montgomery County**) for installation of a cyclone to remove aluminum and plastic dust on a metal cutting operation in Upper Hanover Township, Montgomery County. This facility is a Major for VOCs. Emissions from operation after the control will be 0.03 ton per year of PM. The Plan approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

23-0001X: Sunoco, Inc. (R & M) (100 Green Street, P. O. Box 426, Marcus Hook, PA 19061-0426) for amendment and replacement of Plan Approval PA-23-0001V and installation of an ammonia injection system for improved efficiency of the electrostatic precipitators and reduction in opacity from the main stack of the FCCU in Marcus Hook Borough, **Delaware County**. The facility is a Title V facility. The company has also decided to not install the Magna Cat system and the associated baghouse approved under PA-23-0001V thereby reducing PM emissions. The ammonia slip limit for the proposed ammonia injection system is 10 ppm, 8.5 pounds per hour and 37.3 tons per year, as a 12-month rolling sum. The company shall keep appropriate records to show compliance. The proposed Plan Approval requires stack tests opacity in percent, ammonia slip in ppm and pounds per hour and the emission rate of PM (total, PM10 and PM2.5) in grains/dscf and pounds per hour.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

35-318-091: Lockheed Martin (459 Kennedy Drive, Archbald, PA 18403) for replacement of existing three old spray booths with three newer more efficient spray booths in Archbald Borough, **Lackawanna County**. The booths are designed to apply a coating on fabricated metal product. Booths will utilize high volume, low pressure spray guns. This spray method complies with the best available technology available technology requirements of 25 Pa. Code § 127.12b. Particulate emissions from the spray booth will be controlled by the use of high efficiency filters having a guaranteed particulate removal efficiency of 95%. Expected particulate emission rate will be less than 0.02 grain/dscf. No changes in VOC emissions are expected from the facility. VOC emissions from the facility will be less than five tpy. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the booths. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

40-317-025: Mission Foods—GRUMA Corp. (15 Elmwood Avenue, Mountaintop, PA 18707) for construction and operation of snack processing operations in Wright Township, **Luzerne County**. The operations will consist of three TT Press lines, two corn tortilla lines containing natural gas fired ovens and a chip line. The

chip line will consists of a three-pass toaster oven, the fryer and a recuperative oxidizer to control emissions from the frying operation. The oxidizer will be operated at an above 1,400°F temperature with a minimum residence time of 0.625 second in combustion chamber of a snack food processing operations. Expected NOx and CO emissions are 7.07 tpy and 5.94 tpy respectively from the combustion sources. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

66-302-008: Deer Park Lumber, Inc. (1301 SR 6E, Tunkhannock, PA 18657) for construction of one 27.4 mmBtu/hr wood fired boiler in Tunkhannock Township, **Wyoming County**. This facility is not a Title V facility. Primary and secondary multiclones will control the particulate matter from the wood fired boiler. Annual emissions from the boiler shall not exceed the following: 26.4 tons of NOx, 3.0 tons of SO₂, 72.1 tons of CO, 24.0 tons of PM and 2.4 tons of VOC. The boiler is subject to NSPS Subpart Dc of the Federal Standards of Performance for Nonmetallic Mineral Processing Plants, 40 CFR 60.40c—60.48c. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05069I: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) for modification of various sources at their storage battery assembly plants in Richmond Township, **Berks County**. The modifications include the following actions: construction of a concasting machine and lead pot controlled by a fabric collector in Plant A2; installation of a replacement fabric collector and HEPA filter in Plant A3 to control pasting and casting operations; construction of additional assembly equipment in Plant A3 controlled by a fabric collector and HEPA filter; construction of a pasting operation in Plant A1 controlled by a fabric collector and HEPA filter; construction of a paste mixing machine in Plant A3 controlled by a fabric collector and HEPA filter; and construction of two lead oxide mills controlled by a cyclone, fabric collector and HEPA filter at the Oxide Plant. The sources are subject to 40 CFR Part 60, Subpart KK, Standards of Performance for New Stationary Sources. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the sources operating within all applicable air quality requirements. The facility is presently covered by the Title V Operating Permit Application No. 06-05069. The plan approval will be incorporated into this application or permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

67-05004J: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) for replacement of the press section of Paper Machine No. 7 in Spring Grove Borough, **York County**. The replacement is expected to increase paper production by approximately 5,000—10,000 tons per year. An emissions increase of 2.1 tons/year of VOCs is expected. The plan approval will include monitoring, recordkeeping and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

41-00062A: Wheeland Lumber Co. (3558 Williamson Trail, Liberty, PA 16930-9065) submitted an application (No. 41-00062A) to the Department of Environmental Protection (Department) for plan approval to construct a wood-fired boiler (Source ID 034) and the installation of two multiclone collectors (IDs C034A and C034B) to control the PM emissions from the boiler at their facility located in Jackson Township, **Lycoming County**.

The Department's review of the information submitted by Wheeland Lumber Company indicates that the proposed boiler and the multiclone collectors will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12. The proposed boiler will also meet all applicable requirements of Subpart Dc of the New Source Performance Standards, 40 CFR Part 60.40c—60.48c. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the wood-fired boiler with the installation of multiclone collectors. Additionally, if the Department determines that the boiler with multiclone collectors are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into the State-only operating permit No. 41-00062 by means an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the NOx emissions from the exhaust of ID C034B associated with Source ID 034 shall not exceed 0.22 lb/mmBtu of heat input and 11.47 tons in any 12-consecutive month period.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the CO emissions from the exhaust of ID C034B associated with Source ID 034 shall not exceed 0.50 lb/mmBtu of heat input and 26.06 tons in any 12-consecutive month period.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the SOx emissions from the exhaust of ID C034B associated with Source ID 034 shall not exceed 0.01 lb/mmBtu of heat input and 0.52 ton in any 12-consecutive month period.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the VOC emissions from the exhaust of ID C034B associated with Source ID 034 shall not exceed 0.013 lb/mmBtu of heat input and 0.68 tons in any 12-consecutive month period.

5. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from the exhaust of ID C034B associated with Source ID 034 shall not exceed 0.20 lb/mmBtu of heat input and 10.42 tons in any 12-consecutive month period.

6. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not emit into the outdoor atmosphere of visible air contaminants so that the opacity of the emission from ID C034B associated with Source ID 034 is equal to or greater than 10% at any time.

7. The permittee shall perform PM and NOx stack tests from the exhaust of ID C034B associated with Source ID 034 within 120 days from the commencement of operation of Source ID 034 to demonstrate compliance with the PM and NOx emission limitations. Additionally, the permittee shall perform opacity readings at the exhaust of ID C034B during the stack tests in accordance with EPA Method 9 to demonstrate compliance with the opacity limitation. Testing is to be done while Source ID 034 is operating at its maximum rate and using reference method test procedures acceptable to the Department.

8. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, IDs C034A and C034B shall be equipped with instrumentation to measure the differential pressure across each collector and shall monitor the differential pressure across each collector on a continuous basis.

9. The permittee shall keep records of the following information for Source ID 034:

a. The test reports used to verify compliance with the NOx and PM emission limitations.

b. The supporting calculations on a monthly basis used to verify compliance with the NOx, CO, SOx, VOC and PM emission limitations in any 12-consecutive month period.

c. The differential pressure across IDs C034A and C034B at least once per day.

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request

10. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID 034 shall be fired on virgin hardwood sawdust and wood chips consisting of green and kiln-dried wood only. No coated or treated wood, laminated wood, particleboard, flakeboard or materials other than kiln-dried wood shall be burned in this boiler.

11. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Each multiclone collector ash discharge system shall remain sealed from the open air at all times except when changing flyash disposal drums. Additionally, the level of accumulated ash in the flyash disposal drum shall be checked daily and the drum shall be emptied prior to becoming full.

12. Upon Department request, the permittee shall provide analyses or samples of the wood burned in Source ID 034.

13. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not operate Source ID 034 without the simultaneous operation of both IDs C034A and C034B.

14. Source ID 034 is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.40c—60.48c. The permittee shall comply with all applicable requirements of this subpart, including any recordkeeping and reporting requirements.

15. Under the requirements of 40 CFR Part 60, Subpart Dc, The permittee shall keep records of the amount of fuel burned in Source ID 034 each day. These records shall be kept for a minimum of 5 years and be presented to the Department upon request.

16. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, this plan approval is issued for the construction of a 11.90 mm/Btu per hour AFS Energy Systems model AFS-250-15WF wood-fired boiler (Source ID 034), the air contaminant emissions from Source ID 034 shall be

17. Controlled by an AFS Energy System Model No. AFS-12-9CYT-2 (ID C034A) and Model AFS-30-6CYT-2 (ID C034B) multiclone collectors. IDs C034A and C034B shall operate in series. Source ID 034 shall be equipped with a PID steam master controller system, which regulates the amount of fuel and air to be fed into the boiler depending upon the steam load. The PID steam master controller system consists of steam pressure transmitter, thermocouples to monitor the exhaust temperature of Source ID 034, and variable frequency drives on the wood screw feed auger and over-fire air injectors.

A copy of the plan approval application and the Department's review are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

10-349B: Recmix of PA, Inc. (359 North Pike Road, Sarver, PA 16056) for installation of a 12.5 mmBtu/hr natural gas Thermal Heater and Aggregate Dryer with a wet scrubber control device for a cement additive operation in the Township of Clinton, **Butler County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval to, for their plant in the Township of Clinton, Butler County. This plan approval will authorize the applicant to install a 12.5 mmBtu/hr natural gas Thermal Heater and Aggregate Dryer with a wet scrubber control device for a cement additive operation. The plan approval will subsequently be incorporated into a State-only Operating Permit at a later date.

Based on the information provided by the applicant and Department's own analysis the NO_x emissions from the fuel combustion will be ~8 tons/yr and the PM₁₀ emissions from the aggregate drying will be less than 1 ton/yr. The operation will be limited to 10 tons/hr for the dryer and 12.5 mmBtu/hr for the thermal heater.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval, No. 10-349B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

33-116B: PW Hardwood, LLC (11424 Route 36, Brookville, PA 15825) Notice is hereby given, under 25 Pa. Code §§ 127.44(a) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant located in the Township of Oliver, **Jefferson County**. This plan approval will authorize the installation of a 9.83 mmBtu wood-fired boiler with a multicyclone control device for PM. The boiler will use green wood as a fuel. The facility has a current State-only Operating Permit. This plan approval will be incorporated into the State-only Operating Permit at a later date.

Based on the information provided by the applicant and the Department's own analysis, the particulate emissions from the installation will be less than 11 ton/yr. Conditions of the plan approval include the following:

- A magnehelic gauge (or equivalent) shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the cyclone collector associated with the boiler. The gauge employed shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within plus or $\pm 2\%$ of full scale reading.
- The taps for the magnehelic gauge shall be checked daily for blockage whenever the process is in operation.
- Daily reading of the magnehelic gauge shall be taken and entered into a facility log whenever the unit is in operation. The log shall be kept onsite and be retained for a period of 5 years.
- The permittee shall notify the Department in writing, within 60 days of initial startup, of the pressure drop range developed across the cyclone collector during shutdown.
- The applicant shall maintain the sources and air cleaning device in accordance with the manufacturer's specifications and consistent with good air pollution control practices.

Anyone wishing to provide Department with additional information they believe should be considered may submit the information to the address that follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address, and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval, No. 33-116B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

42-174E: Rustick LLC (Campbellstown Road, Mt. Jewett, PA 16740), for the installation of an additional enclosed flare (1,500 cfm) in Sergeant Township, **McKean County**. This is a Title V facility. 24-083I: The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source: subject to 40 CFR 60 Subpart WWW

37-023D: Orion Power Midwest, LP—New Castle (2189 SR 168 South, West Pittsburg, PA 16160-0325), for the permanent installation and operation of the selective noncatalytic reduction (SNCR) systems on Units 3—5 as needed to minimize NO_x emissions in Taylor Township, **Lawrence County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source: ammonia slip shall not exceed 10 ppmv at stack conditions when using the SNCR system. Perform an initial stack test to show compliance.

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 Jurdone Brown, Facilities Permitting Chief, (484) 250-5920.

46-00051: Schlosser Steel, Inc. (2641 Township Line Road, Hatfield, PA 19440) for renewal of Title V Operating Permit (46-00051) in Hatfield Township, **Montgomery County**. This facility operates a steel painting operation. The steel painting operation is subject to VOC limits of 15.37 pounds per hour and 67.30 tons per year.

The facility is not subject to the Compliance Assurance Monitoring requirements of 40 CFR Part 64.

Minor changes to the initial Title V Operating permit have been made. The Title V Operating Permit will contain all necessary monitoring, recordkeeping, reporting and work practice requirements to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

54-00054: Commonwealth Environmental Systems (P. O. Box 249, Dunmore, PA 18512) for a Title V Operating Permit for a landfill facility in Foster Township, **Schuylkill County**. The facility sources include: landfill and landfill gas collection system, haul roads, four diesel fuel fired emergency generators, one propane gas fired generator, one propane gas fired treatment plant boiler and one rock crushing plant. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions used to verify compliance with all applicable requirements are included.

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.

38-05008: Rich Maid Cabinetry, LLC (633 West Lincoln Avenue, Myerstown, PA 17067) for operation of a cabinet finishing system in Jackson Township, **Lebanon County**. This is a renewal of the facility's State-only operating permit issued in 2001. All requirements from the previous permit remain in place.

44-03014: Barr Funeral Home, Inc. (120 Logan Street, Lewistown, PA 17044) for operation of a natural gas operated human crematory controlled by a secondary chamber afterburner in Lewistown Borough, **Mifflin County**. This is a non-Title V (State-only) facility. The unit has a rated capacity of 100 pounds per hour. Standard recordkeeping and operating restrictions will be included to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

49-00013: Power Plant Greenhouses, LLC (95 Main Street, Center Moriches, NY 11934) and Kurt Weiss Greenhouses of Pennsylvania, Inc. (Marion Heights Road, Mount Carmel, PA 17832) for the renewal of a State-only Operating Permit for the operation of a greenhouse facility in Mount Carmel Township, **Northumberland County**. Power Plant Greenhouses, LLC owns the respective facility and Kurt Weiss Greenhouses of Pennsylvania, Inc. operates it.

The facility incorporates two 25.1 mmBtu per hour natural gas/propane/No. 2 fuel oil-fired boilers and a 134 horsepower (100 kilowatt) diesel fuel-fired emergency generator. The facility is expected to emit no more than 98.16 tons of SO_x, 30.4 tons of NO_x, 9.22 tons of CO, 2.96 tons of PM including PM₁₀ and .65 ton of VOCs per year.

The permittees have volunteered to accept a restriction on the number of hours the two 25.1 mm/Btu per hour boilers may be fired on No. 2 fuel oil that the facility not be considered a major (Title V) facility for SO_x.

The Department of Environmental Protection (Department) intends to renew State-only Operating Permit 49-00013. The Department intends to incorporate into the renewal conditions requiring compliance with all appli-

cable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as the conditions which are currently contained in State-only Operating Permit 49-00013, with some exceptions, changes and additions.

Conditions currently contained in State-only Operating Permit 49-00013 which will be retained in the renewal include:

1. A condition limiting the total combined facility-wide emissions of SO_x to less than 100 tons in any 12-consecutive month period.

2. Conditions requiring the performance of annual tune-ups on the two 25.1 mmBtu per hour boilers and the maintenance of records of these tune-ups.

3. Conditions limiting the fuel to be fired in the two 25.1 mmBtu per hour boilers to natural gas, propane and No. 2 fuel oil to which no reclaimed or waste oil or other waste materials have been added.

Conditions currently contained in State-only Operating Permit 49-00013 which will not be retained in the renewal include:

1. Conditions limiting the combined VOC emissions from this facility and the adjacent Mt. Carmel Cogen, Inc. cogeneration facility to less than 50 tons in any 12-consecutive month period and requiring the maintenance of records to demonstrate compliance with this limitation.

2. Conditions requiring the permittees to perform a weekly inspection of the facility and to maintain records of these inspections.

Conditions currently contained in State-only Operating Permit 49-00013 which are being retained in the renewal, but changed from the current conditions include:

1. Conditions limiting the operation of each of the two 25.1 mmBtu per hour boilers to no more than 7,600 hours in any 12-consecutive month period which are being changed to limit the operation of each of the two boilers while firing No. 2 fuel oil to no more than 7,600 hours in any 12-consecutive month period.

Conditions which will be incorporated in the renewal, but which are not currently contained in State-only Operating Permit 49-00013 include:

1. Conditions requiring the results of each annual boiler tuneup to be reported to the Department of Environmental within 60 days of completing the tuneup.

2. Conditions limiting the number of hours the emergency generator may be operated to no more than 500 hours in any 12-consecutive month period and requiring the maintenance of records of the number of hours the generator is operated each month.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

S05-017: SunGard Availability Services, Inc. (401 North Broad Street, Philadelphia, PA 19108) for operation of a computer facilities management facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include five 2,036 kW emergency generators.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and

relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Cambria District Mining Office: 286 Industrial Road, Ebensburg, PA 15931, (824) 472-1900.

Permit No. 11940201 and NPDES Permit No. 0212831. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650, permit revision—land use change on InterPower-Alhcon Partners, LP property from pastureland to unmanaged natural habitat in Adams Township, **Cambria County**, affecting 76.9 acres. Receiving streams: UNTs to South Fork of the Little Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received on January 19, 2006.

56930108 and NPDES No. PA0212539. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, transfer of an existing bituminous surface mine (coal refuse reprocessing) from Zubek, Inc., 173 House Coal Road, Berlin, PA 15530 located in Stonycreek Township, **Somerset County**, affecting 86.0 acres. Receiving streams: UNT to Schrock Run and Schrock Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 25, 2006.

NPDES Permit No. PA0109088, Geiger Development Corporation, 1207 Stoystown Road, Friedens, PA 15541, renewal of NPDES Permit, in Somerset Township, **Somerset County**. Receiving stream UNT of Coxes Creek classified for the following use: TSE. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received October 20, 2005. Permit Issued January 25, 2006.

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

65050102 and NPDES Permit No. PA0250830. Bedrock Mines, LP (101 Emerson Ave., Pittsburgh, PA 15215). Application for commencement, operation and reclamation of a bituminous surface mine, located in Washington and Bell Townships, **Westmoreland**

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:

County, affecting 245 acres. Receiving streams: UNTs to Beaver Run, classified for the following use: TSE. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: December 8, 2005.

Knox District Mining Office: White Memorial Building, P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16060101 and NPDES Permit No. PA0258105. Ancient Sun, Inc. (P. O. Box 129, Shippenville, PA 16254). Commencement, operation and restoration of a bituminous surface strip operation in Ashland Township, **Clarion County** affecting 23.0 acres. Receiving streams: two UNTs to Little East Sandy Creek and Little East Sandy Creek to East Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: January 20, 2006.

16980102 and NPDES Permit No. PA0227650. TDK Coal Sales, Incorporated (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface strip operation in Highland Township, **Clarion County** affecting 38.3 acres. Receiving stream: McGourvey Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is the Western Pennsylvania Water Company, Clarion District. Application for reclamation only. Application received: January 23, 2006.

24950102 and NPDES Permit No. PA0227064. Fairview Coal Company (P. O. Box R, Ridgway, PA 15853). Renewal of an existing bituminous surface strip and beneficial use of biosolids operation in Ridgway Township, **Elk County** affecting 105.0 acres. Receiving streams: UNT of Little Mill Creek and Little Mill Creek, classified for the following use: HQ-CWF. The first downstream potable water supply intake from the point of discharge is the Ridgway Reservoir. Application for reclamation only. Application received: January 23, 2006.

24813008 and NPDES Permit No. PA0611301. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous surface strip, auger, clay removal, and use of a co-product operation in Horton and Snyder Townships, **Elk and Jefferson Counties** affecting 458.0 acres. Receiving streams: Coal Hollow Run, Mead Run and Little Toby Creek, classified for the following use: CWF. There are no

potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: January 26, 2006.

10980110 and NPDES Permit No. PA0227889. Fleishner Excavating (350 Lardintown Rd., Sarver, PA 16055). Renewal of an existing bituminous strip operation in Clinton Township, **Butler County** affecting 58.4 acres. Receiving stream: Lardintown Run, classified for the following use: TSF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: January 26, 2006.

10990104 and NPDES Permit No. PA0241644. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Renewal of an existing bituminous surface strip operation in Clay and Center Townships, **Butler County** affecting 68.8 acres. Receiving streams: UNTs to Muddy Creek, classified for the following use: HQ-CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for Reclamation only. Application received: January 26, 2006.

24940101 and NPDES Permit No. PA0211940. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous

surface strip, auger, use of coproduct, and clay removal operation in Horton Township, **Elk County** affecting 133.0 acres. Receiving stream: UNT to Mead Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: January 26, 2006.

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

49663009R4 and NPDES Permit No. PA0594318. Mallard Contracting Co., Inc. (100 Lehigh Avenue, Mt. Carmel, PA 17851), renewal of an existing anthracite surface mine, coal refuse reprocessing and refuse disposal operation in Mt. Carmel and Conyngham Townships, **Northumberland and Columbia Counties** affecting 1,200 acres, receiving stream: Shamokin Creek. Application received January 19, 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	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

45900301C5 and NPDES Permit No. PA0595241. Haines & Kibblehouse, Inc. (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Ross Township, **Monroe County**, receiving stream: Buckwha Creek. Application received January 23, 2006.

7474SM2C6 and NPDES Permit No. PA0124303. (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Upper and Lower Nazareth Townships and Nazareth Borough, **Northampton County**, receiving stream: UNT to Schoeneck Creek. Application received January 23, 2006.

58000826. Betsy D. Groover (R. D. 2 Box 5A, Montrose, PA 18801), Stages I and II bond release for a quarry operation in Jessup Township, **Susquehanna County** affecting 1.0 acre on property owned by Athena Tsokas. Application received January 23, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are

available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E15-751. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Birmingham, Township, Chester County, ACOE Philadelphia District.

To maintain existing twin 36-inch diameter plastic pipe culverts which carry Brinton Run (WWF, MF) under Brandywine Creek Road. The site is located approximately 250 feet northwest of the intersection of Brandywine Creek Road (SR 0100) and Masters Way (West Chester, PA USGS Quadrangle N: 0.5 inch; W: 13.8 inches).

E09-891. Department of Conservation and Natural Resources, Bureau of State Parks, RCSOB P. O. Box 8551, Harrisburg, PA 17105-8551, Bristol Township, Bucks County, ACOE Philadelphia District.

To modify, upgrade, repair, operate and maintain the existing "All Seasons Marina" located within the Neshaminy State Park along the Neshaminy Creek (WWF, MF). The site is located northeast corner or the confluence of the Neshaminy Creek and the Delaware River (Beverly PA-NJ, Quadrangle N: 13.7 inches; W: 4.4 inches).

Work will consist of the following activities:

1. To construct and maintain a total of nine new floating docks, which will create approximately 54 new boat slips. Work will include the installation of approximately 115 piles.

2. To install and maintain a travel lift with two platforms. The support components consist of approximately 48 timber piles for each platform. Approximately 120 linear feet of steel sheet piling will be installed to stabilize the boat loading area. The work will include the dragging of approximately 25 cubic yards of material for the installation of the new piling.

3. To install gravel base on 1.9 acres of area adjacent to the upriver parking area for winter boat storage.

4. To provide in-kind replacement of the downriver channel entrance jetty. To repair the existing bank stabilization at the west bank of the entrance channel and to install a new stone jetty continuing the bank stabilization in to the Delaware River.

5. To install two 6,000-gallon double-lined aboveground gasoline storage tanks.

6. To modify and maintain an existing boat ramp, which leads to a new walkway ramp and to repair associated rock jetties.

7. To install and maintain a 6-foot wide and 395-foot long floating dock adjacent to the travel lift.

8. To install and maintain an access ramp at the northeast corner of the marina to gain entrance to the aforementioned floating dock.

9. To perform maintenance dredging by hydraulic method to restore the marina basin and marina approach way channel to its design operating depth. The dredged material will be directly pumped and disposed to an existing onsite confined upland site with return decant water to the Delaware River. A discharge permit and 401 Water Quality Certification will be issued for disposal area from Water Management Program, Permits Section.

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-484. Hirshland & Company, 1055 West Lakes Drive, Suite 300, Berwyn, PA 19312, in Mount Pocono Borough, Monroe County, United States Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.07 acre of PEM wetlands for the purpose of constructing an entrance road for a proposed commercial development. The project is located on the south side of SR 0940, approximately 0.8 mile east of SR 0314 (Pocono Pines, PA Quadrangle N: 21.8 inches; W: 0.3 inch).

E40-657. Fred Sheaman, R. R. 2, Box 231, White Haven, PA 18661, in Foster Township, Luzerne County, United States Army Corps of Engineers, Philadelphia District.

To maintain fill placed in approximately 1,200 linear feet of channel of an intermittent tributary to Pond Creek (HQ-CWF) and 0.13 acre of PFO wetlands for the construction of the entrance road to White Haven Estates. The project includes two proposed road crossings of the tributary: a 36-inch HDPE culvert along Hillary Drive West and a 48-inch HDPE culvert for a private driveway across the relocated channel across the proposed relocated channel. The project is located on the south side of SR 0940, approximately 0.5 mile east of the intersection of SR 0940 and T-382, and approximately 0.5 mile west of Hickory Hills. (White Haven, PA Quadrangle N: 7.0 inches; W: 11.7 inches).

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

E01-244: Gettysburg National Battlefield Museum Foundation, 6259 Reynolds Mill Road, Seven Valleys, PA 17360-9306 in Cumberland Township, Adams County, ACOE Baltimore District

To construct and maintain: 1) three SLPEP12-inch by 150-foot pipe culverts with energy dissipator, which will impact 0.192 acre of PFO wetlands and 0.150 acre of PEM wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 45", Longitude: 77° 13' 31"; N: 11.3 inches, W: 14.1 inches); 2) fill 0.008 acre of PFO wetlands and 0.010 acre of PEM wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 43", Longitude: 77° 13' 30"; N: 11.3 inches, W: 14.0 inches); 3) a 15-inch by 90-foot SLPEP culvert with energy dissipator, which will impact 0.007 acre of PSS wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 45", Longitude: 77° 13' 27"; N: 11.4 inches, W: 13.9 inches); 4) two 32-foot wide by 68-foot long twin celled

ConSpan bridge with an underclearance of 7 feet with a normal span of, which will impact 0.063 acre of PFO wetlands, an 8-inch sanitary sewer line and a 3-inch water line, which will temporarily impact 0.039 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 41", Longitude: 77° 13' 26"; N: 11.1 inches, W: 13.9 inches); 5) a 48-foot wide by 32-foot ConSpan bridge with an underclearance of 8 feet, which will impact 0.022 acre of PFO wetlands, 4-inch sanitary sewer line, which will temporarily impact 0.008 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 22"; N: 10.8 inches, W: 13.7 inches), 6) fill 0.008 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 27"; N: 10.8 inches, W: 13.9 inches); 7) a 15-inch by 53-foot culvert with energy dissipator, which will impact 0.051 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 27"; N: 10.9 inches, W: 13.9 inches); 8) fill 0.039 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 35", Longitude: 77° 13' 30"; N: 10.8 inches, W: 14.0 inches); 9) fill 0.006 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 30"; N: 10.8 inches, W: 14.0 inches); 10) fill 0.014 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 30"; N: 10.8 inches, W: 14.0 inches); 11) fill 0.016 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 37", Longitude: 77° 13' 36"; N: 10.9 inches, W: 14.3 inches); 12) fill 0.011 acre of PFO wetlands, an 8-inch sanitary sewer line and a 3-inch water line (Gettysburg, PA Quadrangle Latitude: 39° 48' 41", Longitude: 77° 13' 24"; N: 11.1 inches, W: 13.8 inches); 13) a 48-foot wide by 24-foot ConSpan bridge with an underclearance of 5 feet and a 4-inch sanitary sewer line, which will impact 0.040 acre of PFO wetlands (Gettysburg, PA Quadrangle Latitude: 39° 48' 34", Longitude: 77° 13' 32"; N: 10.8 inches, W: 14.1 inches) all impacts are to a UNT to Rock Creek (WWF) and associated wetlands in Cumberland Township, Adams County. The total PFO/PEM/PSS wetland impact is 0.682 acre, which will require mitigation. The applicant proposes to create 1.434 acres of replacement wetlands. All impacts are associated with the construction of road crossings and pedestrian footbridges to access the new Gettysburg National Battlefield Museum and Visitors Center.

E05-334: Bedford Springs Hotel Company, LLC, 5950 Brookshire Lane No. 990, Dallas, TX 75225 in Bedford Township, **Bedford County**, ACOE Baltimore District.

To renovate the existing Bedford Springs Hotel and construct various associated facilities in Bedford Township, Bedford County involving the following:

1. Rehabilitate and maintain an existing two-span pedestrian bridge having a width of 8 feet, normal spans of 50 feet, and an underclearance of 19 feet across Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 22.04 inches, W: 1.01 inches; Latitude: 39° 59' 44.9", Longitude: 78° 30' 25.8").
2. Place and maintain approximately 300 cubic yards of fill along 500 feet of the left floodway of Shobers Run (Rainsburg, PA Quadrangle N: 21.94 inches, W: 1.07 inches; Latitude: 39° 59' 43.7", Longitude: 78° 30' 26.8").
3. Remove an existing 18-inch stormwater outfall and construct and maintain a 36-inch outfall with a 15-foot wide concrete apron in the channel of Shobers Run (Rainsburg, PA Quadrangle N: 21.86 inches, W: 1.18 inches; Latitude: 39° 59' 42.1", Longitude: 78° 30' 29.5").

4. Construct and maintain a 24-inch stormwater outfall with a 15-foot concrete apron in the channel of Shobers Run (Rainsburg, PA Quadrangle N: 22.04 inches, W: 1.01 inches; Latitude: 39° 59' 45.6", Longitude: 78° 30' 25.4").

5. Relocate and maintain a 400-foot reach of a UNT to Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle N: 22.21 inches, W: 1.50 inches; Latitude: 39° 59' 49.0", Longitude: 78° 30' 37.9").

6. Remove an existing 260-foot by 15-inch CMP stream enclosure and construct and maintain a 565-foot by 36-inch SLCPP stream enclosure on a new alignment in a UNT to Shobers Run (Rainsburg, PA Quadrangle N: 21.95 inches, W: 1.40 inches; Latitude: 39° 59' 43.1", Longitude: 78° 30' 29.6").

7. Place and maintain fill in 30 feet of a UNT to Shobers Run (Rainsburg, PA Quadrangle N: 22.09 inches, W: 1.45 inches; Latitude: 39° 55' 46.5", Longitude: 78° 30' 36.5").

8. Construct and maintain a 210-foot by 10-inch SLCPP stream enclosure in a UNT to Shobers Run (Rainsburg, PA Quadrangle N: 21.93 inches, W: 1.21 inches; Latitude: 39° 59' 43.4", Longitude: 78° 30' 30.3").

9. Construct and maintain a 30-foot by 18-inch CMP culvert in a UNT to Shobers Run (Rainsburg, PA Quadrangle N: 21.57 inches, W: 1.42 inches; Latitude: 39° 59' 36.2", Longitude: 78° 30' 35.9").

10. Permanently impact through fill or excavation a total of 0.10 acre of one PSS wetland (Rainsburg, PA Quadrangle N: 21.98 inches, W: 1.39 inches; Latitude: 39° 54' 44.3", Longitude: 78° 30' 35.0") and 1.06 acre of eleven PEM wetlands (Rainsburg, PA Quadrangle N: 21.98 inches, 22.07 inches, 22.11 inches, 22.08 inches, 21.99 inches, 22.02 inches, 21.97 inches, 21.58 inches, 21.63 inches, 21.85 inches, and 22.46 inches, W: 1.39 inches, 1.51 inches, 1.53 inches, 1.61 inches, 1.74 inches, 1.63 inches, 1.57 inches, 1.37 inches, 1.31 inches, 1.18 inches and 0.61 inch; Latitude: 39° 54' 44.3", 39° 59' 46.1", 39° 59' 47.0", 39° 59' 46.5", 39° 59' 44.6", 39° 59' 45.2", 39° 59' 44.2", 39° 59' 36.5", 39° 59' 37.6", 39° 59' 41.8", and 39° 59' 53.9", Longitude: 78° 30' 35.0", 78° 30' 38.0", 78° 30' 38.6", 78° 30' 40.5", 78° 30' 43.9", 78° 30' 41.2", 78° 30' 39.7", 78° 30' 34.6", 78° 30' 32.9", 78° 30' 29.6" and 78° 30' 14.9").

11. Construct and maintain 1.44 acres of PEM and 0.12 acre of PSS replacement wetlands on the left floodway of Shobers Run (Rainsburg, PA Quadrangle N: 20.80 inches, W: 2.60 inches; Latitude: 39° 59' 23.14", Longitude: 78° 31' 5.7").

The project proposes to directly affect 950 linear feet of watercourses, approximately 300 cubic yards of floodway, and 1.16 acres of wetlands. Wetland creation of 1.56 acres is proposed to compensate for wetland impacts.

E36-802: Martin Brothers Builders, 119 Furlow Road, Reinholds, PA 17569-9143 in Brecknock Township, **Lancaster County**, ACOE Baltimore District.

To construct a new residential development known as Millstone Village in Brecknock Township, Lancaster County (Terre Hill USGS Quadrangle, 13.3" N, 1.6" W). The project will involve the proposed relocation of 642 feet of existing stream channel (reducing the proposed channel to 486 feet onsite), one new 12-foot wide by 3.5-foot deep by 60-foot long concrete box culvert, one sanitary sewer line crossing and three stormwater outfalls to the relocated stream channel.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E49-291. City of Sunbury Municipal Authority, 462 S. Fourth St. Sunbury, PA 17801 Outfall, in City of Sunbury, **Northumberland County**, ACOE Baltimore District (Sunbury, PA Quadrangle N: 18.5 inches; W: 6.1 inches).

The permit application is a resubmission of a previous authorized permit E49-236. The current permit application proposes to install a 30-inch outfall in to Shamokin Creek. The intended outfall is to be placed through the City of Sunbury's flood protection levee. There is no intended stream disturbance and the floodway of Shamokin Creek (WWF) is intended to be impacted 1,250 square feet.

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

E10-416, TSC/Cranberry, LLC, 250 Grandview Drive, Fort Mitchell, KY 41017. TSC/Cranberry Commercial Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40° 43' 8.4"; W: 80° 06' 15.6").

To conduct the following activities for the construction of a Tractor Supply Company commercial retail facility along the east side of SR 19 Perry Highway approximately 0.25 mile south of North Boundary Road:

1. To fill a total of 0.56 acre of two wetland areas.
2. To realign two sections for a total of 145 feet of the channel of a tributary to Brush Creek.
3. To construct and maintain a retaining wall and fill within the right floodway of a tributary to Brush Creek for a total distance of approximately 500 feet.
4. To install and maintain a sanitary sewer line crossing of wetlands adjoining the tributary to Brush Creek to connect to the existing Cranberry Township sewer line.

Project proposes creation of 0.65 acre of replacement wetland off site within the flood plain of Brush Creek on property within Thorn Hill Industrial Park located between Commonwealth Drive and I-76 south of Freedom Road.

E42-319, James J. Macfarlane, Double J Resources, Inc. 11 Boylston Street, Bradford, PA 16701. Duffy Estate Lease, in Lafayette Township, **McKean County**, ACOE Pittsburgh District (Cyclone, PA Quadrangle Latitude: 41° 48' 26"; Longitude: 78° 36' 9.6").

To place and maintain fill in 0.04 acre of PEM wetlands and to install and maintain four wetland crossings consisting of three 2-inch diameter plastic pipelines having a temporary impact of 0.07 acre of PEM wetlands and to install and maintain three minor stream crossings impacting approximately 40 linear feet of a UNT to Kinzua Creek (CWF) located approximately 1,400 feet north and east of the intersection of SR 0059 and SR 4003 (Bingham Road). The permittee is required to provide 1.21 acres of replacement wetlands.

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.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0044024 Industrial Waste	Fish and Boat Commission Benner Spring Fish Research Station 1735 Shiloh Road State College, PA 16801-8495	Wayne County Mount Pleasant Township	West Branch Lackawaxen River 01B	Y
PA0008664 (Minor Industrial)	UGI Development Co. 390 Route 11 P. O. Box 224 Hunlock Creek, PA 18621-0224	Luzerne County Hunlock Township	North Branch of Susquehanna River (5B)	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0020591 (Sewage)	Mt. Gretna Authority 101 Chautaugua Drive, Box 322 Mount Gretna, PA 17064	Lebanon County South Londonderry Township	Conewago Creek 7-G	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N
PA0028177 Sewage	McCandless Township Sanitary Authority 418 Arcadia Drive Pittsburgh, PA 15237-5506	Allegheny County McCandless Township	UNT of Pine Creek	Y
PA0203726 Sewage	Jutope Realty, Inc. 120 East Penn Street Uniontown, PA 15401	Somerset County Addison Borough	Chub Run	Y
PA0203891 Sewage	Western Area Career & Technology Center 688 Western Avenue Canonsburg, PA 15317	Washington County Chartiers Township	Chartiers Run	Y
PA0203971 Sewage	Framar, Inc. 424 Jamie Drive Belle Vernon, PA 15012	Westmoreland County Rostraver Township	UNT of Youghiogheny River	Y

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

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

NPDES Permit No. PA0056642, Industrial Waste, **Meenan Oil Company, Inc.**, 83012 Lansdowne Avenue, Upper Darby, PA 19082. This proposed facility is located in Upper Darby Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater runoff from a Petroleum Marketing Terminal into Naylor's Run Creek in Watershed 3G.

NPDES Permit No. PA0012769, Industrial Waste, **Rohm & Haas Chemicals, LLC**, 200 Route 413, Bristol, PA 19007. This proposed facility is located in Bristol Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated process wastewater, noncontact cooling water and stormwater runoff into the Delaware River Estuary Zone 2 in Watershed 2E.

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

NPDES Permit No. PA0247821, Sewage, **ADCIM, LLC, Keller Farm Subdivision**, P. O. Box 3634, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to Rock Creek in Watershed 13-D.

NPDES Permit No. PA0036790, Sewage, **Pfautz Property Holdings, LP**, 101 Pfautz Road, Duncannon, PA 17020. This proposed facility is located in Wheatfield Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Dark Run in Watershed 7-A.

NPDES Permit No. PA0247928, Sewage, **Hopewell Township**, 415 Three Square Hollow Road, Newburg, PA 17240. This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Peebles Run in Watershed 7-B.

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

NPDES Permit No. PA0026271, Sewage, **Meadville Area Sewer Authority**, 984 Water Street, Meadville, PA 16335. This proposed facility is located in City of Meadville, **Crawford County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to French Creek in Watershed 16-D.

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. 4600407, Sewerage, **Candlewyck Estates Homeowner's Association**, 602 East Broad Street, P. O. Box 432, Souderton, PA 18964. This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Action/Activity: Modifications to the existing treatment plant.

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

WQM Permit No. 4005403, Sewerage, **Greater Hazleton Joint Sewer Authority**, P. O. Box 651, Hazleton, PA 18201-0651. This proposed facility is located in West Hazleton Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit. Construction of a new ultraviolet light disinfection system to replace a existing chlorine gas system.

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

WQM Permit No. 0506401, Sewerage, **Jay and Heather Kaufman**, 2395 Dunkard Hollow Road, Alum Bank, PA 15521. This proposed facility is located in West St. Clair Township, **Bedford County**.

Description of Proposed Action/Activity: Construction of a small flow sewage treatment facility to serve their single family residence on Kaufman Road.

WQM Permit No. 0105408, Sewerage, **ADCIM, LLC**, P. O. Box 3634, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of gravity sewer collection system, submersible pump station and extended aeration sewage treatment plant for the Keller Farm Subdivision.

WQM Permit No. 2105405, Sewerage, **Hopewell Township**, 415 Three Square Hollow Road, Newburg, PA 17240. This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a septic tank, Ecoflow STB-650 peat filter and chlorine tablet disinfection system.

WQM Permit No. 3605414, Sewerage, **Salisbury Township**, 5581 Old Philadelphia Pike, Gap, PA 17527. This proposed facility is located in Salisbury Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction / operation of sewerage facilities consisting of the upgrade and expansion of the Salisbury Township Gap Wastewater Treatment Plant to 0.58 mgd.

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

WQM Permit No. 0205414, Industrial Waste, **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225-1496. This proposed facility is located in Neville Township, **Allegheny County**.

Description of Proposed Action/Activity: Construction and operation of a granular activated carbon treatment unit.

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

WQM Permit No. WQG018440, Sewerage, **David Lineman**, 169 Wasser Road, Greenville, PA 16125. This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4305402, Sewerage, **Reorganized Church of Jesus Christ of Latter Day Saints**, 347 Hamburg Road, Transfer, PA 16154. This proposed facility is located in Delaware Township, **Mercer County**.

Description of Proposed Action/Activity: Repairs to existing lagoon treatment system and new outfall for Temple Grove Campground.

WQM Permit No. 2792401, Sewerage Amendment No. 1, **Jenks Township**, 2 Pine Street, P. O. Box 436, Marienville, PA 16239. This proposed facility is located in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: This project is to replace an existing pump station known as the Pattison Avenue Pump Station which serves a portion of the Village of Marienville.

WQM Permit No. 1005408, Sewerage, **Western Butler County Authority**, 607 Market Street, P. O. Box 427, Zelenople, PA 16063. This proposed facility is located in Zelenople Borough, **Butler County**.

Description of Proposed Action/Activity: This project is for a proposed subdivision, Old Hickory Highlands and The Villas of Dutch Creek.

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>
PAI014605003	Turnpike Commission 7000 S. Eisenhower Boulevard P. O. Box 67676 Harrisburg, PA 17106-7676	Montgomery	Upper Merion Township	Schuylkill River (CWF)

Northeast Region: Watershed 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>
PAI024805002	DeLuca Homes 107 Floral Vale Blvd. Yardley, PA 19067	Northampton	Hanover and East Allen Townships	Monocacy Creek HQ-CWF Catasauqua Creek CWF
PAI023905012	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Lehigh	Upper and Lower Macungie Townships	Cedar Creek HQ-CWF
PAI023905006	Balfour Beatty Construction, Inc. 1183 Grange Rd. Wescosville, PA 18106	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045905003	J. Clark Heston 1920 Birchwood Wilmette, IL 60091	Tioga	Clymer Township	Trib. to Baker Branch (trib. to Asaph Run) HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052605004	Tom Shetterly 709 Center Avenue Charleroi, PA 15022	Fayette	Dunbar Township	Morgan Run (HQ-CWF)

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15236, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056303002 Phase 2	South Strabane Township 550 Washington Road Washington, PA 15301	Washington	South Strabane Township	Little Chartiers Creek (HQ-CWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI061005002	Oberg Industries, Brent Thomas 100 Independence Lane Butler PA 16001	Butler	Buffalo Township	Little Buffalo Creek HQ-TSF

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>
Doylestown Township Bucks County	PAG2000905083	North Main Partners, LP Redfield Square Development 71 West court Street Doylestown, PA 18901	Cooks Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township Bucks County	PAG2000905097	Department Conservation and Natural Resources—Neshaminy State Park 3401 State Road Bensalem, PA 19020	Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marple Township Delaware County	PAG2002304031	Allen Coher 400 Reed Road Broomall, PA 19008	Whetstone Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<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>
Bethel Township Delaware County	PAG2002305064	Jack Donald 6 Citation lane Media, PA 19063	West Branch Naamans Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Mahoning Township Carbon County	PAG2001305008	Rick Bjorkman 909 Iron St. Lehighton, PA 18235	Beaverdam Run CWF	Carbon Co. Cons. Dist. (610) 377-4894
Dunmore Borough Lackawanna County	PAG2003506001	Mark Paradise SADG-2, Inc. 100 Colliery Rd. Dickson City, PA 18519-1657	Lackawanna River CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
City of Scranton Lackawanna County	PAG2003506002	Robert Burke 1515 Madison Ave. Dunmore, PA 18512	Lackawanna River CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Mount Joy Township Adams County	PAG2000105030	Michael S. Gillespie Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103-1699	Little Run WWF	Adams County Conservation District 670 Old Harrisburg Rd. Suite 201 Gettysburg, PA 17325 (717) 334-0636
Cumberland Township Adams County	PAG2000105023	James L. Kunkel Gettysburg Country Club 730 Chambersburg Rd. Gettysburg, PA 17325	Willoughby Run WWF	Adams County Conservation District 670 Old Harrisburg Rd. Suite 201 Gettysburg, PA 17325 (717) 334-0636
Logan Township Blair County	PAG2000705018	C & C Associates 702 18th Street Altoona, PA 16602	Mill Run WWF Burgoon Run TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Williamsburg Borough Blair County	PAG2000705019	Williamsburg Borough 305 E. 2nd Street, Williamsburg, PA 16693	Frankstown Branch of Juniata River WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Freedom Township Blair County	PAG2000705021	422 Home Sales, Inc. R. D. 2, Box 316F East Freedom, PA 16637	South Dry Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Hampden Township Cumberland County	PAG2002104034(1)	RB Mechanicsburg Shopping Center RB Mechanicsburg Associates, LP Roger Hirschhorn 810 Seventh Avenue 28th Floor New York, NY 10019	UNT of Trindle Spring Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Silver Spring Commerce Park Cumberland County	PAG2002105048	Silver Spring Commerce Park 195 Associates, LLC Mark Simpson 5015 East Trindle Road Suite 100 Mechanicsburg, PA 17050	Conodoguinet Creek WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hamilton Township Franklin County	PAG2002805085	Eldon Strite West Side Brethren in Christ Church 2665 Lincoln Way West Chambersburg PA 17201	UNT to Back Creek TSF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Amity Township Berks County	PAG2000605100	Walter Greth Greth Development Group P. O. Box 305 Temple, PA 19560	UNT to Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Maidencreek Township Berks County	PAG2000605110	Brendon Field Lara Lynn Limited Partnership 307 June Avenue Blandon, PA 19510	Willow Creek Maidencreek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Cumru Township Berks County	PAG2000605118	Dean Munley American Heritage Communities 72 Bissell Road Lebanon, NJ 08833	UNT to Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Caernarvon Township Berks County	PAG2000605116	Tom Stonerook GVH 2148 Embassy Drive Suite 201 Lancaster, PA 17603	Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Albany Township Berks County	PAG2000606002	Ronald Howell 253 Quaker City Road Kempton, PA 19529	UNT to Maidencreek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Hamburg Borough Berks County	PAR10C4124	Stephen MacLean Department of Transportation Engineering Dist. 5-0 1713 Lehigh Street Allentown, PA 18103	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
College Township Centre County	PAG2001406003	Cory Miller University Area Joint Authority 1576 Spring Valley Rd. State College, PA 16801	Slab Cabin Run CWF	Centre County Consv. Dist. 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817
Potter Township Centre Hall Borough Centre County	PAG2001406001	Dollar General Store Sam McCartney TeeJ Enterprises, LLC 155 Greens Valley Road Centre Hall, PA 16828	UNT to Sinking Creek CWF	Centre Co. Consv. Dist. 414 Holmes Avenue, Suite 4 Bellefonte, PA 16823 (814) 355-6817

<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>
Westover Borough Clearfield County	PAG2001705021	Department of Transportation District 2-0 1924 Daisy St. P. O. Box 342 Clearfield, PA 16830	Chest Ck. CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-8130
Town of Bloomsburg Columbia County	PAG2001904004	The Fields in Bloom, LP 227 Wild Cherry Lane Northumberland, PA 17857	Fishing Ck. CWF	Columbia Co. Consv. Dist. 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Berwick Township Columbia County	PAG2001905017	Berwick Area Little League P. O. Box 65 Berwick, PA 18603-3724	Susquehanna River WWF	Columbia Co. Consv. Dist. 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Lawrence Township Tioga County	PAG2005905010	Trumbull Corp. P. O. Box 98100 Pittsburgh, PA 15527 and Donald Bailey R. R. 1, P. O. Box 752 Westfield, PA 16950	Tioga River WWF	Tioga Co. Consv. Dist. 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801
Beaver County Center Township	PAG2000406003 Replaces: PAR1002491	Joseph Hall 137 Hall Road Aliquippa, PA 15001	UNT to Poorhouse Run (WWF)	Beaver County CD (724) 378-1701
Indiana County White Township	PAG2003205017	John Papal Indiana Area High School 501 East Pike Indiana, PA 15701	Marsh Run (CWF)	Indiana County CD (724) 463-8547
Erie County Washington Township	PAG2002505035	Edinboro Marketplace Tom Gray Travaglini Development Co. 231 Chestnut Street Meadville, PA 16335	UNT Conneautee Creek WWF	Erie Conservation District (814) 825-6403
Erie County City of Erie	PAG2002505039	Hamot Resource Center Warren Springer Hamot Health Foundation 201 State Street Erie, PA 16550-001	Municipal Separate Storm Sewer	Erie Conservation District (814) 825-6403
Elk County Jay Township	PAG2092406001	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	UNT to Kersey Run CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800
Elk County Jay Township	PAG2092406002	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Trout Run CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

*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>
West Pottsgrove Township Montgomery County	PAR230017	Hammond Lead Products 10 S. Grosstown Rd. Pottstown, PA 19464	Schuylkill River 3D Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Chester Township Chester County	PAR230006	Dyneon, LLC 50 Milton Dr. Aston, PA 19014	Baldwin Run 3G Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
New Garden Township Chester County	PAR800014	PE Kramme, Inc. 1685 Baltimore Pk. Avondale, PA 19311	Trout Run 3I Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
East Lackawannock Township Mercer County	PAR808374	Ergon Trucking Inc. P. O. Box 1639 Jackson, MS 39215-1639	UNT Neshannock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadeville, PA 16335-3481 (814) 332-6942

*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>
Hempfield Township Mercer County	PAG049229	David Lineman 169 Wasser Road Greenville, PA 16125	Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadeville, 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>
City of Greensburg Westmoreland County	PAG056154	R. L. Smeltz Oil Company, Inc. 241 Broadview Road P. O. Box 662 New Stanton, PA 15672	Jacks Run to Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Pottstown Borough Montgomery County	PAG080005	Pottstown Borough Authority 100 East High St. Pottstown, PA 19464	Pottstown Borough STP 1269 Industrial Hwy. Pottstown, PA 19464	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970

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. Minor Amendment, Public Water Supply.

Applicant	City of Easton 1 South Third Street Easton, PA 18042
Township	Williams
County	Northampton
Type of Facility	PWS
Consulting Engineer	Gannett Fleming, Inc. James C. Elliott, P. E. P. O. Box 67100 Harrisburg, PA 17106
Permit to Construct Issued	January 19, 2006

Permit No. 2450133, Public Water Supply.

Applicant	Pennsylvania American Water Company (PAWC) Paul A. Zielinski, Director Environmental Management and Compliance 800 West Hersheypark Dr. Hershey, PA 17033
Township	Stroud
County	Monroe
Type of Facility	PWS
Consulting Engineer	N/A
Permit Issue Date	January 25, 2006
Description of Action	Permit transfer of PWS Permit 2450133 from Blue Mountain Lake Associates, LP to PAWC.

Permit No. 3390035, Operations.

Applicant	Lehigh County Authority Aurel M. Arndt General Manager 1053 Spruce Street P. O. Box 3348 Allentown, PA 18106-0348 (610) 398-2503
Township	Lower Milford
County	Lehigh
Type of Facility	Community Water System
Consulting Engineer	N/A
Permit Issue Date	January 23, 2006

Description of Action	PWS operations permit for Beverly Hills Water Company transferred to Lehigh County Authority.
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Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1787501-T1—Operation Public Water Supply.

Applicant	Country Place Mobile Home Park
Township or Borough	Sandy Township
County	Clearfield
Responsible Official	Linda C. Lewis, Partner Country Place Mobile Home Park 207 East Market Street P. O. Box 552 Clearfield, PA 16830
Type of Facility	Public Water Supply-Operation
Consulting Engineer	N/A
Permit Issued Date	1/24/06
Description of Action	Transfer permit from Larry Reed to MOHOP, LP.

Permit No. 1799501-T1—Operation Public Water Supply.

Applicant	Country Place Mobile Home Park
Township or Borough	Sandy Township
County	Clearfield
Responsible Official	Linda C. Lewis, Partner Country Place Mobile Home Park 207 East Market Street P. O. Box 552 Clearfield, PA 16830
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	1/24/06
Description of Action	Transfer permit from Larry Reed to MOHOP, LP.

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

Operations Permit issued to **Barkeyville Municipal Authority**, 1610 Barkeyville Road, Grove City, PA 16127-7904, PWS ID 6610036, Barkeyville Borough, **Venango County**, on January 23, 2006, for the operation of new Well No. 1 as the main source of supply, for the Borough's existing water system, as approved under Construction Permit No. 6103501.

Transfer of Operations Permit issued to **Aristocrat Spring Water, Inc. d/b/a Saegertown Beverages**, Kevin E. Schlosser, 18518 N. Mead Road, Saegertown, PA 16433, PWS ID 6206200, Saegertown Borough, **Crawford County**, on January 27, 2006, for the operation of existing bottled water facilities with the label names Eureka Springs Spring Water and Eureka Springs Distilled Water. This action is approved under Permit No. 6206444-T1.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Milford Township	5831 Kings Highway South P. O. Box 210 Old Zionsville, PA 18068	Lehigh

Plan Description: The approved plan provides for centralized sewer service for the Village of Vera Cruz, located in the Leibert Creek drainage basin. Wastewater from Vera Cruz will be conveyed to the existing Lehigh County Authority's Route 29 collection system. The wastewater will be treated at the City of Allentown's Sewage Treatment Plant. In addition, the plan provides for the creation of a sewage management program to serve all lots utilizing onsite sewage disposal systems. The Department's review has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Howe Township	201 Red Hill Road Newport, PA 17074	Perry

Plan Description: The approved plan revision provides for a new private sewage treatment plant with a treated discharge of 50,000 gpd (125 EDUs) to a UNT of the Juniata River. The proposed facility will serve the Buffalo Crossing Development, a new 1-lot commercial/retail subdivision of 45.79 acres to consist of an anchor store, several smaller retail stores and three restaurants. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bellwood Borough	P. O. Box 96 Bellwood, PA 16617	Blair

Plan Description: Categorical Exclusion

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Authority proposes to enlarge the northern and southern interceptor by pipe bursting in place and the remaining sewers in the Borough will be revitalized by slip lining or by cured-in-place-pipe. All the existing brick manholes will be replaced with new concrete manholes and all the house laterals will be repaired or replaced to within 5 feet of the house. The Department's review of the project and the information received has not identified any significant adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

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.

Atoll Prop., Royersford Borough, **Montgomery County.** Richard Johnson, P. G., RT Env. Svc., Inc, 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Joseph Price, Riverfront at Royersford, LP, 721 Dresher Rd., Horsham, PA 19044 has submitted a Remedial Investigation and Cleanup Plan Reports concerning remediation of site soil and groundwater contaminated with chlorinated solvents and other organics. The reports are intended to document remediation of the site to meet the Site-Specific Standard.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Wilkes-Barre Truck Center, Plains Township, **Luzerne County**. Joseph Ozog, Jr., with Excalibur Group, LLC, 91 Park Avenue, Windber, PA 15963, has submitted a combined Remedial Investigation Report and Final Report (on behalf of his client, Doug Barbacci, Calex Truck Sales, 58 Pittston Avenue, Pittston, PA 18640) concerning the characterization and remediation of soils and groundwater found or suspected to have been contaminated with petroleum hydrocarbons as the result of historic site operations. The reports were submitted to document attainment of both the Statewide Health Standard for soils, and the Site-Specific Standard for groundwater.

Kerr-McGee Avoca Facility, Borough of Avoca, **Luzerne County**. David Kerschner, P. G., KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 has submitted a Final Report (on behalf of Tronox, LLC, P. O. Box 25861, Oklahoma City, OK 73125) concerning the remediation of polycyclic aromatic hydrocarbons and inorganics in site soils. The report was submitted to demonstrate attainment of the Site-Specific Standard through pathway elimination.

Wolfe Residence, Kidder Township, **Carbon County**. Ethan Prout, P. G., ARC, Inc., 1000 West Broad Street, Quakertown, PA 18951 has submitted a Final Report (on behalf of his clients, Mr. and Mrs. Daniel Wolfe, Moseywood Road, Lake Harmony, PA) concerning the remediation of soil impacted by the release of kerosene fuel oil constituents as the result of an accidental release. The report was submitted to demonstrate attainment of the Statewide Health Standard.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Carlisle Mailroom, Borough of Carlisle, **Cumberland County**. Secor International, Inc., 102 Pickering Way, Suite 200, Exton, PA 19341, on behalf of Atlantic Richfield Company, 102 Pickering Way, Suite 200, Exton, PA 19341 and Judith Valentine and John Osborn, Jr., 5249 Strathmore Drive, Mechanicsburg, PA 17050, submitted a Final Report concerning remediation of site soils and groundwater contaminated with gasoline releases from pre-Act 32 underground storage tanks. The report is intended to document remediation of the site to the Statewide Health Standard.

Former Exxon Station 2-0312, City of Altoona, **Blair County**. Groundwater and Environmental Services, Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341, on behalf of Frank Rabbits, Rabbits Auto Repair, 908 East Plank Road, Altoona, PA 16602 and Exxon Mobil Corporation, 7715 Crittenden Street, No. 309, Philadelphia, PA 19118-4421, submitted a combined report, consisting of the remedial investigation, risk assessment, cleanup plan and final report, concerning remediation of site soils and groundwater contaminated with BTEX. The report is intended to document remediation of the site to a combination of the Statewide Health and Site-Specific Standards.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Eckerd Drug, Loyalsock Township, **Lycoming County**. Environmental Standards Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482-0810 on behalf of Glimcher Development Corporation, 150 E. Gay St., Columbus, OH 43215 has submitted a Final

Report concerning remediation of site groundwater contaminated with leaded gasoline, gasoline, and diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Route 51 Plaza, Pleasant Hills Borough, **Allegheny County**. Rodd Bender, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500 Bala Cynwyd, PA 19004, and Joseph Harrick, Penn E & R, Inc., 359 Northgate Drive, Suite 400, Warrendale, PA 15086 (on behalf of Peter Clelland, BT Pleasant Hills, LP, 2600 Philmont Avenue, Huntingdon Valley, PA 19006) has submitted a Remedial Investigation Report/Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons and chlorinated VOCs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Dravo Barge Facility (Former), Neville Township, **Allegheny County**. Mark L. Orzechowski, Civil and Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of John Biseda, Neville Development Company, 104 Broadway Avenue, Carnegie, PA 15106, and John Matig, Frontier Steel, P. O. Box 268, Canonsburg, PA 15317) has submitted a Remedial Investigation Report, Risk Assessment Report, and a Cleanup Plan concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Site-Specific Standard

Dyna-Craft Industries Inc., Borough of Murrysville, **Westmoreland County**. Joyce M. O'Connor, P. G., Cardinal Resources, Inc., 4326 Northern Pike, Suite, 200, Monroeville, PA 15146 on behalf of Dyna-Craft Industries, Inc., c/o Carsem Incorporated, 17700 Castleton, Suite 383, City of Industry, CA 91748 has submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with Trichloroethene that had been used as a degreaser. The site was used for lead frame stamping starting in 1972 and was operated under various owners. Remediation of the site was initiated in 2003. At that time, 138.5 tons of impacted soil was removed from beneath the floor of the site building. A soil vapor extraction system was installed and operated at the site between 2003 and 2004 to remove residual VOCs present in the soil. Groundwater monitoring is continuing at the site. The site is currently being leased and operated by a manufacturing facility, which has an agreement to purchase the property. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

OMG Americas, Sugarcreek Borough, **Venango County**. Marty Knuth, Civil & Environmental Consultants, Inc. 333 Baldwin Road, Pittsburgh PA 15220 on behalf of Fred Duncan, OMG Americas, Two Mile Run Road, P. O. Box 111, Franklin PA 16323 has submitted a Site-Specific Risk Assessment Report concerning remediation of site soil, groundwater and surface water contaminated with lead, heavy metals, solvents, BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standards.

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.

Atoll Prop., Royersford Borough, **Montgomery County**. Richard Johnson, P. G., RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of

Joseph Price, Riverfront at Royersford, LP, 721 Dresher Rd., Horsham, PA 19044 has submitted a Remedial Investigation and Cleanup Plan Reports concerning the remediation of site soil and ground water contaminated with chlorinated solvents and other organics. The Remedial Investigation and Cleanup Plan Reports demonstrated attainment of the Site Specific Standard and were approved by the Department on January 19, 2006.

Palisades High School, Nockamixon Township, **Bucks County**. Curt Erichson, Pennoni Assoc., Inc. 515 Grove St., Haddon Heights, NJ 08035 on behalf of David Keppel, Palisades School Dist., 39 Thomas Free Dr., Kinterville, PA 18930 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 26, 2006.

Alco Ind. Oaks Fac., Upper Providence Township, **Montgomery County**. Peter D. Beyer, P. G., ERM 98 Highland Ave., Oaks, PA 19456 on behalf of John Neilson, Highland Oaks, LLC, 2620 Egypt Rd., Norristown, PA 19403 has submitted a Remedial Investigation, Risk Assessment and Final Reports concerning the remediation of site groundwater contaminated with chlorinated solvents. The Remedial Investigation, Risk Assessment and Final Reports demonstrated attainment of the Site Specific Standard and were approved by the Department on January 24, 2006.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Former Cooper Power Systems—East Stroudsburg Facility, Borough of East Stroudsburg, **Monroe County**. Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 submitted a Final Report (on behalf of Cooper Industries, Inc., P. O. Box 4446, 600 Travis, Suite 5800, Houston, TX 77210-4448 and Robert Deinarowicz, Dein Properties, P. O. Box 431, Stroudsburg, PA 18360) concerning the characterization of groundwater at the site that was suspected or found to be contaminated with VOCs reportedly originating from an unknown offsite source. The report demonstrated attainment of the background standard under Act 2 and was approved on January 24, 2006.

Hodges Rental Property (805 Hudson Street), Forest City Borough, **Susquehanna County**. Phillip Hodges, R. D. 1, Elkview Drive, Forest City, PA 18421 submitted a Final Report concerning the remediation of soils found or suspected to have been contaminated as the result of an accidental release of home heating oil. The report documented attainment of the Statewide Health Standard and was approved on January 20, 2006. The future use of the property will remain as a residential property. The report was submitted within 90 days of the October 25, 2005 release.

Lukman Property, Barrett Township, **Monroe County**. Marty Gilgallon, PA Tectonics, 826 Main Street, Peckville, PA 18452 submitted a Final Report (on behalf of his client, John Lukman, 110 Carriage Hill Drive, Wethersfield, CT 06109) concerning the remediation of soils found to have been impacted by an accidental release of fuel oil No. 2. The report demonstrated attainment of the residential Statewide Health Soil Standard and was approved on January 9, 2006.

Pennsylvania Army National Guard Tamaqua Armory, Rush Township, **Schuylkill County**. Seth Naregood, Sr. Staff Geoscientist, Converse Consultants, 2738 West College Avenue, State College, PA 16801 submitted a Final Report (on behalf of his client, Pennsylvania Army National Guard, Department of Military and Veterans Affairs Environmental Section, c/o Andrew Geist, Fort Indiantown Gap, Annville, PA 17003) concerning the remediation of soil found or suspected to have been impacted by the release of No. 2 fuel oil constituents from a former underground storage tank on the property. The report demonstrated attainment of the residential Statewide Health Standard and was approved on January 11, 2006.

Honeywell Specialty Materials—Pottsville Plant, Norwegian Township, **Schuylkill County**. Dayne Crowley, P. G., MACTEC Engineering and Consulting, Inc., Carnegie Office Park, Bldg. 4, 700 N. Bell Avenue, Suite 2000, Pittsburgh, PA 15106 submitted a combined Remedial Investigation and Final Report (on behalf of his client Honeywell, Inc., 101 Columbia Road, Morristown, NJ 07962-1139) concerning the characterization and remediation of acetone in site soils and groundwater. The reports were submitted in fulfillment of the Site-Specific Standard and were approved on January 6, 2006

Hazleton Oil & Environmental, Banks Township, **Carbon County**. Jeremy Boly, Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518 submitted a Final Report (on behalf of his client. Hazleton Oil & Environmental, 300 South Tamaqua Street, Hazleton, PA 18201) concerning the remediation of site soils and groundwater contaminated with petroleum hydrocarbons. The report demonstrated attainment of the nonresidential Statewide Health Standard and was approved on December 19, 2005.

Kerr-McGee Chemical LLC—Avoca Property, Borough of Avoca, **Luzerne County**. David Kerschner, P. G., KU Resources, Inc., 20 South Linden Street, Duquesne, PA 15110 submitted a Cleanup Plan and a Final Report (on behalf of Kerr-McGee Chemical LLC, P. O. Box 25861, Oklahoma City, OK 73125) concerning the remediation of PAHs and inorganics in site soils. The reports were submitted as part of the Site-Specific Standard through pathway elimination. The Cleanup Plan was approved on June 20, 2005 and the Final Report was approved on December 28, 2005.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Schuylkill River Greenway Association Hazel Street Property, City of Reading, **Berks County**. Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518, on behalf of Schuylkill River Greenway Association, 140 College Drive, Pottstown, PA 19464, submitted a Final Report concerning remediation of site soils and groundwater contaminated with VOCs. The Final Report demonstrated attainment of the non-residential Statewide Health Standard and was approved by the Department on January 30, 2006.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

PPL Gas Utilities-Distillate Release-Roulette, Roulette Township, **Potter County**. PPL Services, 2 North 9th St. GENTW17, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soil contaminated with PCBs. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on January 18, 2006.

L. B. Smith—Bellefonte, Spring Township, **Centre County**. Advantage Engineering, 20 South 36th St., Camp Hill, PA 17701 on behalf of Smith Land & Improvement Corp., 2010 State Road, Camp Hill, PA 17011 has submitted a Final Report concerning the remediation of site groundwater contaminated with No. 2 fuel oil. The Final Report was approved. Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 12, 2006.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Carbon Resources, Inc./Gateway Forest Products Site, Morgan Township, **Greene County**. Scott Whipkey, R.A.R. Engineering Group, Inc., 1135 Butler Avenue, New Castle, PA 16101 (on behalf of Steven Stout, Carbon Resources, Inc., P. O. Box 1512, McMurray, PA 15317) has submitted a Final Report concerning remediation of site soils contaminated with PAHs, creosote and petroleum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 16, 2005.

Dravo Barge Facility (Former), Neville Township **Allegheny County**. Mark Orzechowski, Civil and Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of John Matig, Frontier Steel, P. O. Box 268, Canonsburg, PA 15317, and John Biseda, Neville Development Company, 104 Broadway Avenue, Carnegie, PA 15106 has submitted a Notice of Intent to Remediate, Remedial Investigation Report, Risk Assessment Report, and Cleanup Plan concerning the remediation of site soils contaminated with lead, PCBs and chlorinated solvents. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department on December 19, 2005.

West Elizabeth Lumber Property, West Elizabeth Borough, **Allegheny County**. Timothy S. Evans, American Geosciences, Inc., 3925 Reed Blvd., Suite 400 Murrysville, PA 15668-1848 (on behalf of Michael Hoag, National Industrial Lumber Company, 489 Rosemont Road, North Jackson, OH 44451) has submitted a Final Report concerning remediation of site soil contaminated with inorganics. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on January 18, 2006.

Frankstown Sterrett Plan of Lots—Lot No. 2, City of Pittsburgh, **Allegheny County**. Susan R. Frund, P. G., Michael Baker Jr., Inc., 100 Airside Drive, Moon Township, PA 15108 on behalf of John Coyne, Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219 has submitted Final Report concerning remediation of site soils contaminated with lead and iron above the nonresidential Statewide Health Standards. A nonuse aquifer determination was approved for the site. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 24, 2006.

Aliquippa Tin Mill (Former), City of Aliquippa, **Beaver County**. Jason R. Cashmere, Trant Corporation, 11676 Perry Highway, Wexford Prof. Bldg. 3, Suite 3100, Wexford, PA 15090 (on behalf of Dick Dorothy, C. J. Betters Enterprises, 3468 Brodhead Road, Monaca, PA 15061) has submitted a Baseline Environmental Report concerning remediation of site soil and groundwater contaminated with inorganics, organics, PAHs and PCBs. The Baseline Environmental Report was approved by the Department on October 25, 2005. In order to obtain

cleanup liability protection, the person undertaking the reuse of a Special Industrial Area shall enter into an agreement with the Department, based on the approved Baseline Environmental Report which outlines cleanup liability of the property.

912 Fort Duquesne Boulevard, City of Pittsburgh, **Allegheny County**. Wendy Noe, American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 (on behalf of Cheryl S. Willoughby, 912 Fort Duquesne Boulevard Associates, LP, c/o BGK Properties, 330 Garfield Street, Santa Fe, NM 87501 and Judy Wisniewski Property Holding Business Trust, c/o Legg Mason Real Estate Service, 1600 Market Street, Suite 1310, Philadelphia, PA 19103) has submitted a Final Report concerning remediation of site groundwater contaminated with petroleum hydrocarbons found beneath a 10 story office building and underground. The Final Report demonstrated attainment of the Background Standard and was approved by the Department on October 21, 2005.

Levin Family Partnership, LP, Borough of Monroeville, **Allegheny County**. Richard D. Dworek, Kirkpatrick & Lockhart LLP, Henry W. Oliver Building, 535 Smithfield Street, Pittsburgh, PA 15222-2312 (on behalf of Levin Family Partnership, LP, 301 Fitz Henry Road, Smithton, PA 15479) has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with lead, BTEX and PAHs. The Remedial Investigation Report was approved by the Department on October 4, 2005.

Westinghouse Electric Company Specialty Metals Plant, Derry Township, **Westmoreland County**. William A. Baughman, Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh PA 15235 (on behalf of Dan Wesolowski, Westinghouse Electric Company, R. D. 4, Box 333, Westinghouse Road, Blairsville, PA 15717) has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with lead, heavy metals, BTEX and solvents. The Remedial Investigation Report was approved by the Department on December 15, 2005.

Nu-Brite Chemical Company, Haysville Borough, **Allegheny County**. Steve McGuire, Veolia Water/NA Water Systems, 250 Airside Drive, Moon Township, PA 15108 (on behalf of Andrzej Bernat, Nu-Brite Chemical Company, 2505 Rue de la Metropole, Longueuil, Quebec J4G 1E5) has submitted a Remedial Investigation Report, Risk Assessment Report and a Final Report concerning remediation of site soil and groundwater contaminated with organic solvents, lead and arsenic. The Remedial Investigation Report, Risk Assessment Report and Final Report were disapproved by the Department on June 22, 2005.

BWXT Parks Township Site, Parks Township, **Armstrong County**. Bruce E. Fishman, Ph.D. DABT, RBR Consulting, Inc., 650 Shady Drive, Beaver Falls, PA 15010 (on behalf of James R. Barrett, BWXT Technologies, Inc., Engineering and Technical Services, MC106, Mount Athos Road, Lynchburg, VA 24504-5447) has submitted a Remedial Investigation Report and a Risk Assessment Report concerning remediation of site groundwater contaminated with chlorinated solvents. The Remedial Investigation Report was disapproved on January 4, 2006, and the Risk Assessment Report was disapproved by the Department on December 28, 2005.

Montour Railroad Shops, Borough of Coraopolis, Robinson Township and Moon Township **Allegheny County**. Mark L. Orzechowski, 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of James R. Wilham, Alliance Realty Management, 2425 Sidney Street, Pittsburgh, PA 15203 has submitted a Revised Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with diesel fuel and inorganics includes beryllium, cadmium and nickel. The Revised Remedial Investigation Report was approved by the Department on November 16, 2005.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

General Permit Registration No. WMGR096SE001. GE Betz, Inc., 4636 Somerton Road, Trevoise, PA 19053. Registration for coverage under General Permit No. WMGR096 for the beneficial use of regulated fill as a construction material. The registration was acknowledged by the Southeast Regional Office on January 17, 2006.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 101648. Genesis Autoclave and Transfer Facility, Healthcare Waste Solutions of Pennsylvania, LLC d/b/a Genesis Environmental, 380 Locust Street, McKeesport, PA 15132. Operation of a municipal waste processing facility in the City of McKeesport, **Allegheny County**. Permit renewal is issued in the Regional Office on January 30, 2006.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP5-05-03001: Pennsylvania General Energy Co., LLC (208 Liberty Street, Warren, PA 16365) on January 25, 2006, for Natural Gas Production Facilities under GP5 in Monroe Township, **Bedford County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

GP4-55-126: Brake Technique, Inc. (11 Universal Road, Selinsgrove, PA 17870) on December 16, 2005, to operate a burn off oven under the General Plan Approval and General Operating Permit Application (BAQ-GPA/GP-4), in Penn Township, **Snyder County**.

GP5-17-15: Kriebel Minerals, Inc. (633 Mayfield Drive, Clarion, PA 16255) on November 10, 2005, to operate a compressor engine at their Curwensville compressor site under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5), in Knox Township, **Clearfield County**.

GP5-17-473: Phillips Production Co. (502 Keystone Drive, Warrendale, PA, 15086) on October 13, 2005, to operate a compressor engine at their Brink compressor site under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5), in Chest Township, **Clearfield County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-26-00549: Phillips Production Company (502 Keystone Drive, Warrendale, PA 15086) on January 25, 2006 to operate a natural gas-fired engine and glycol dehydrator at the Adams Compressor Station located in Dunbar Township, **Fayette County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

GP-27-026: PA General Energy—TB-8 (FR 101, Marienville, PA 16329) on January 31, 2006, to install a compressor engine in Howe Township, **Forest County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0115A: Draper-DBS (1803 North Fifth Street, Perkaspie, PA 18944) on January 25, 2006, to operate two spray booths in East Rockhill Township, **Bucks County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

48-313-097: Elementis Pigments, Inc. (1525 Wood Avenue, Easton, PA 18042) on January 20, 2006, to modify a black oxide manufacturing process in Easton, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05069H: East Penn Manufacturing Co., Inc. (Deka Road, P. O. Box 147, Lyon Station, PA 19536) on January 27, 2006, to modify their lead/acid battery assembly facility in Richmond Township, **Berks County**.

21-05042B: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104-1645) on January 24, 2006, to modify an existing hot mix asphalt plant at Silver Spring Quarry in Silver Spring Township, **Cumberland County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

12-399-013A: GKN Sinter Metals, Inc. (15420 Route 120, P. O. Box 493, Emporium, PA 15834) on November 9, 2005, to construct an Abbott Furnace Company draw furnace and a Bernd Fiand induction hardener incorporating two quench stations, and to install a two-stage electrostatic precipitator to control the air contaminant emissions from the draw furnace and induction hardener at the Barton Street Plant in Emporium Borough, **Cameron County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

25-944A: PHB Die Casting (7900 West Ridge Road, Fairview, PA 16415) on January 11, 2006, to install a new aluminum melting/holding furnace with a 9,000 lbs. holding capacity fired by natural gas in Fairview Township, **Erie County**. This is a State-only facility.

42-184G: Keystone Powdered Metal Co. (8 Hanley Drive, Lewis Run, PA 16738) on January 11, 2006, to install one induction heat treater and one gas-fired heat treater in Lewis Run Borough, **McKean County**. This is a State-only facility.

42-197D: M and M Royalty LTD—Irishtown Plant (Route 307, Lewis Run, PA 16738) on January 23, 2006, to modify the 250,000 Btu/hr. Sivalls reboiler to remove the control device at their Irishtown Gas Processing Plant in Lafayette Township, **McKean County**. The facility has a Natural Minor Operating Permit (NM-42-00197).

24-123E: Onyx Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846) on January 19, 2006, to install an additional enclosed ground flare (6,000 cfm) similar in design to the existing flares in Fox Township, **Elk County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0031B: SmithKline Beecham d/b/a GlaxoSmith-Kline (1250 South Collegeville Road, Collegeville, PA 19426) on January 30, 2006, to operate a 2MW No. 2 fuel oil-fired generators in Upper Providence Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

36-03076D: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506) on January 27, 2006, to modify the existing limestone crushing plant at their Weaverland Quarry in East Earl Township, **Lancaster County**. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

55-399-005A: Professional Building Systems (72 East Market Street, Middleburg, PA 17842) on December 28, 2005, to construct and operate a modular home manufacturing facility on a temporary basis until April

27, 2006, in the Borough of Middleburg, **Snyder 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.

32-00385A: CQ Hardwood Finishers, LLC (160 Quality Center Road, Homer City, PA 15748) on January 27, 2006, to construct their hardwood floor finishing line in Burrell Township, **Indiana County**. This plan approval was extended.

04-00033B: Nova Chemicals, Inc. (400 Frankfort Road, PA 15061) on January 30, 2006, to complete construction at the Beaver Valley site in Potter Township, **Beaver County**. This plan approval was extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

10-235A: Sunshine Greenhouse, Inc. (915 Ekastown Road, Saxonburg, PA 16056) on January 30, 2006, to reactivate a 5.7 mmBtu/hr bituminous coal fired boiler in Clinton Township, **Butler County**. This is a State-only facility.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05012: ISG Steelton, LLC (215 South Front Street, Steelton, PA 17113-2538) on January 26, 2006, to operate a steelmaking facility in Steelton Borough, **Dauphin County**. This is a renewal of the Title V operating permit.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.

18-00007: Brodart Co. (500 Arch Street, Williamsport, PA 17705) on September 8, 2005, issued a Title V Operating Permit for their Brodart McElhattan facility in Wayne Township, **Clinton County**. The facility's main sources include two boilers, one hot water heater, two air makeup combustion units, twelve paint booths, wood-working operations, two process ovens, one emergency generator, gluing operations, two solvent parts washers and one welding booth. The Title V operating permit contains all applicable requirements including monitoring, recordkeeping, and reporting conditions.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03065: International Mill Service, Inc. (1155 Business Center Drive, Horsham, PA 19044-3422) on January 23, 2006, for steel slag processing operations in Muhlenberg Township, **Berks County**.

06-03098: Ralph Good, Inc. (306 E. Main Street, P. O. Box 924, Adamstown, PA 19501) on January 23, 2006, for an air quality permit for their potato chip manufacturing facility in Adamstown Borough, **Berks County**.

21-05044: Dairy Farmers of America, Inc. (4825 Old Gettysburg Road, Mechanicsburg, PA 17055-4814) on January 24, 2006, to install a third natural gas/No. 2 oil boiler in Lower Allen Township, **Cumberland County**. This is a renewal of the State-only operating permit.

36-03149: Crimson Fire Aerials, Inc. (1828 Freedom Road, Lancaster, PA 17601-6705) on January 24, 2006, to operate a natural gas heated spray booth controlled by dry filters in East Lampeter Township, **Lancaster County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

49-00044: Bear Gap Stone, Inc. (R. R. 1 Box 138, Quarry Road, Elysburg, PA 17824) on December 7, 2005, issued a State-only Operating Permit for their stone crushing and screening facility in Ralpho Township, **Northumberland County**. The facility's main sources include a primary crusher, secondary crusher, tertiary crusher and associated various material sizing and conveying equipment. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

17-00031: AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650) on October 14, 2005, issued a State Only Operating Permit for their coal processing facility in Lawrence Township, **Clearfield County**. The facility's main sources include a coal processing operation and unpaved site haul roads. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-00021: Mill's Pride—Pennsylvania (P. O. Box 158, 100 Lamoka Road, Sayre, PA 18840) on October 6, 2005, issued a State-only (Synthetic Minor) Operating Permit for their Sayre plant in Athens Township, **Bradford County**. The facility's main sources include two natural gas and wood waste fired boilers, one wood predryer, eighteen wood drying kilns, various woodworking equipment, one wood waste storage silo, a wood finishing operation, veneer pressing operations, two solvent parts washers and two diesel-fired engines. The State-only (Synthetic Minor) operating permit contains all applicable requirements including monitoring, recordkeeping and reporting conditions.

14-00033: Spectra Wood, Inc. (2625 Carolean Industrial Drive, State College, PA 16801) on September 21, 2005, issued a State-only (Natural Minor) Operating Permit for their State College facility in the College Township, **Centre County**. The facility's main sources include 11 natural gas fired combustion units, four surface coating booths, woodworking operations, and various other wood coating operations. The State-only operating permit contains all applicable requirements including monitoring, recordkeeping, and reporting conditions.

49-00052: Butter Krust Baking Co., Inc. (249 North Eleventh Street, Sunbury, PA 17801) on October 6, 2005, issued a State-only operating permit their Northumberland facility in the Borough of Northumberland, **Northumberland County**. The facility's sources include six space heaters, four natural gas fired air make-up units, two natural gas fired air conditioning units, one bread oven, one waterheater, one parts cleaning station and one catalytic oxidizer. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and report conditions.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00159: Somerset County Technology Center (281 Technology Drive, Somerset, PA 15501) for operation of 1 CNB Tri-Fuel boiler model number CNBT-250LW-CA/G, rated at 8.5 mmBtu/hr., equipped with a Breslove separator at Somerset Technology Center in Somerset Township located in **Somerset County**. This is a State-only Operating Permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

10-00273: Superior Adsorbents, Inc. (Route 38, Emlenton, PA 16373-0566) on January 20, 2006, for a Natural Minor operating permit for grinding, screening and repackaging of activated carbon. The facility is near Emlenton, **Butler County**.

43-00319: Sharon Tube Co. (20 Church Street, Wheatland, PA 16161) on January 25, 2006, to operate a cold-draw tube manufacturing process in Wheatland Borough, **Mercer County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.

NO5-010: Graphic Arts, Inc. (4100 Chestnut Street, Philadelphia, PA 19104) on January 25, 2006, to operate a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one boiler and four nonheatset sheetfed lithographic printing presses.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03011: Giles and Yeckley Funeral Home and Crematorium, Inc. (21 Chestnut Street, Mohnton, PA 19540-1926) on January 24, 2006, to operate two human crematories controlled by secondary combustion chambers in Mohnton Borough, **Berks County**. This operating permit was administratively amended due to a change of ownership. This is revision No. 1.

21-05021: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105-2621) on January 26, 2006, to operate a petroleum product storage and loading facility at their Mechanicsburg North Terminal in Silver Spring Township, **Cumberland County**. This operating permit was administratively amended to incorporate Plan Approval 21-05021D. This is revision No. 1.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

41-00035: Dynamic Surface Applications, LLC (373 Village Road, Pennsdale, PA 17756) on December 16, 2005, to operate a Pennsdale highway marking plant which includes a boiler and a BJ mixer formerly owned and operated by Lafarge Road Marking, Inc. in Muncy Township, **Lycoming County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

24-00158: Rosebud Mining Co.—Little Toby Coal Preparation Plant (State Route 219, Helen Mills, PA 17925) on January 23, 2006, to incorporate changes brought about through Plan Approval No. 24-158B in Horton Township, **Elk County**. EPA and public comment periods were addressed during the plan approval and the permit is being administratively amended

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

32980701 and NPDES Permit No. PA0214736, RoxCOAL, Inc. (P. O. Box 149, Friedens, PA 15541), to renew the permit for the Rock Refuse Disposal Area (North Branch) in Green Township, **Indiana County** and related NPDES Permit. No additional discharges. Permit issued January 20, 2006.

17041301 and GP12-17041301-R2, Rosebud Mining Company (301 Market Street, Kittanning, PA 16201), to revise the permit for the Penfield Mine in Huston Township, **Clearfield County** to allow construction and operation of air contamination sources at the coal/coal refuse preparation plant. Permit issued January 23, 2006.

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

32020106 and NPDES No. PA0249271. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, revision of an existing bituminous surface-auger-incident removal of sandstone/shale mine to add 0.4 acre for additional mining of the Upper Kittanning coal seam and a new haul road in Center Township, **Indiana County**, affecting 274.5 acres. Receiving streams: UNT to Yellow Creek; UNTs to Tearing Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 14, 2005. Permit issued: January 20, 2006.

NPDES Permit No. PA0109088, Geiger Development Corporation, 1207 Stoystown Road, Friedens, PA 15541, renewal of NPDES Permit, in Somerset Township, **Somerset County**. Receiving stream: UNT of Coxes Creek classified for the following use: TSF. There are no

potable water supply intakes within 10 miles downstream. NPDES renewal application received October 20, 2005. Permit Issued January 25, 2006.

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

03950105 and NPDES Permit No. PA0201421. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site located in West Franklin Township, **Armstrong County**, affecting 439.0 acres. Receiving streams: Patterson Creek and a UNT to Buffalo Creek. Application received: October 20, 2005. Renewal issued: January 23, 2005.

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

40763204R4. Heavy Media, Inc. (160 Nesbitt Street, Plymouth, PA 18651), renewal of an existing anthracite coal refuse reprocessing operation in Larksville Borough, **Luzerne County** affecting 77.2 acres. Receiving stream: none. Application received August 8, 2005. Renewal issued January 25, 2006.

54763207R4. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite surface mine, coal refuse reprocessing and refuse disposal operation in Mahanoy Township, **Schuylkill County** affecting 25.9 acres. Receiving stream: none. Application received May 6, 2005. Permit issued January 27, 2006.

Noncoal Permits Actions

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

Permit No. 32900301 and NPDES Permit No. PA0598712. Edward C. Griffith Quarrying, Inc., 14472 Route 119 Highway North, Rochester Mills, PA 15771, renewal of NPDES Permit, North and East Mahoning Townships, **Indiana County**. Receiving stream: UNT to Little Mahoning Creek classified for the following use: HQ. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received December 1, 2005. Permit issued January 25, 2006.

Permit No. 4275SM19 and NPDES Permit No. PA0599204. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Spruce Creek and Warriors Mark Townships, **Huntingdon County**. Receiving streams: Little Juniata River, UNTs to Little Juniata River, Gensimore Run classified for the following uses: TSF; WWF and WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received December 2, 2005. Permit issued January 25, 2006.

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

49050801. Fort Boone Campground (8635 State Route 405, Milton, PA 17847), commencement, operation and restoration of a quarry operation in Turbot Township, **Northumberland County** affecting 4.0 acres. Receiving stream: none. Application received June 30, 2005. Permit issued January 23, 2006.

58050842. Patrick Kipar (R. R. 3 Box 179A, Meshoppen, PA 18630), commencement, operation and restoration of a quarry operation in Forest Lake Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received August 29, 2005. Permit issued January 23, 2006.

40052802. Edgar R. Spencer (350 Salem Boulevard, Berwick, PA 18603), commencement, operation and restoration of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres. Receiving stream: none. Application received September 1, 2005. Permit issued January 23, 2006.

58040842. William M. Arnold (R. R. 1 Box 225, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received July 6, 2004. Permit issued January 24, 2006.

58050808. Timothy A. Empet (P. O. Box 12, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received February 28, 2005. Permit issued January 24, 2006.

66052801. Raymond L. Adams (R. R. 1 Box 152, Sugar Run, PA 18846), commencement, operation and restoration of a quarry operation in Falls Township, **Wyoming County** affecting 5.0 acres. Receiving stream: none. Application received June 20, 2005. Permit issued January 24, 2006.

58052808. Joseph Zawisky, LLC (301 Main Street, Browndale, PA 18421), commencement, operation and restoration of a quarry operation in Oakland Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received August 25, 2005. Permit issued January 24, 2006.

58050847. Phillip J. Wood and Mark C. McCarey (R. R. 1 Box 277A, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: none. Application received September 19, 2005. Permit issued January 24, 2006.

7175SM2C4 and NPDES Permit No. PA0124061, Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Washington and Jackson Townships, **Dauphin County**. Receiving stream: Wiconisco and Armstrong Creeks. Application received November 23, 2005. Permit issued January 25, 2006.

13760301C4 and NPDES Permit No. PA0124214, Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Towamensing Township, **Carbon County**. Receiving stream: UNT to Aquashicola Creek. Application received November 28, 2005. Renewal issued January 25, 2006.

6478NC3C4 and NPDES Permit No. PA0123218, Glen-Gery Corporation (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Oxford Township, **Adams County**. Receiving stream: UNT to South Branch Conewago Creek. Application received November 30, 2005. Renewal issued January 26, 2006.

40930301T2 and NPDES Permit No. PA0224472, Meckley's Limestone Products, Inc. (R. R. 1 Box 1682, Herndon, PA 17830), transfer of an existing quarry operation and addition of NPDES discharge for treated mine drainage in Hazle Township, **Luzerne County** affecting 113.5 acres. Receiving streams: Hazle and Big Black Creeks. Application received June 28, 2005. Transfer issued January 26, 2006.

ABANDONED MINE RECLAMATION

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232, (814) 797-1191.

Bond Forfeiture Contract Awarded	BF 499-101.1
Location	Marion Township Butler County
Description	Act 181, Bond Forfeiture Reclamation H & D Coal Company (McIntire Site) Mine Drainage Permit No. 3078BC12
Contractor	Quality Aggregates, Inc. 200 Neville Road Neville Island, PA 15225
Amount	\$111,800.01
Date of Award	January 26, 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.

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

15064102. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Heather Wynd in East Brandywine Township, **Chester County** with an expiration date of January 20, 2007. Permit issued January 23, 2006.

150654103. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Lyndell Pointe in East Brandywine Township, **Chester County** with an expiration date of January 20, 2007. Permit issued January 23, 2006.

22064104. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Quail Hollow in Lower Paxton Township, **Dauphin County** with an expiration date of January 1, 2007. Permit issued January 23, 2006.

46064104. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Kinston Hill II in New Hanover Township, **Montgomery County** with an expiration date of January 20, 2007. Permit issued January 23, 2006.

28064102. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Antrim Meadows in Antrim Township, **Franklin County** with an expiration date of January 7, 2007. Permit issued January 26, 2006.

28064104. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for a basement on Phillippey Road in Antrim Township, **Franklin County** with an expiration date of January 11, 2007. Permit issued January 26, 2006.

28064105. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting for Kolpark Development in Guilford Township, **Franklin County** with an expiration date of January 16, 2007. Permit issued January 26, 2006.

36064109. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Lakes at Donegal Springs in Mt. Joy Township and Mt. Joy Borough, **Lancaster County** with an expiration date of January 30, 2006. Permit issued January 26, 2006.

67064101. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Sage Hill in York Township, **York County** with an expiration date of January 10, 2007. Permit issued January 26, 2006.

01064002. Explosives Experts, Inc. (P. O. Box 879, Sparks, MD 21152), construction blasting at Patriot's Choice in Cumberland Township, **Adams County** with an expiration date of August 31, 2006. Permit issued January 25, 2006.

06064001. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Meadow Brooke Subdivision in Muhlenburg Township, **Berks County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

06064002. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Sunset Knoll Subdivision in Amity Township, **Berks County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

06064003. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Country Club Estates Subdivision in Exeter Township, **Berks County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

06064004. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Rivercrest Subdivision in Muhlenburg Township, **Berks County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

06064005. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Rockledge aka Willow Glen Subdivision in Ontelaunee Township, **Berks County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

36064001. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Hawthorne Ridge Subdivision in Lancaster Township, **Lancaster County** with an expiration date of December 31, 2006. Permit issued January 26, 2006.

46064001. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18020) and Bernard J. Hasara, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting for Oaks Wastewater Treatment Plant Expansion in Upper Providence Township, **Montgomery County** with an expiration date of February 23, 2007. Permit issued January 26, 2006.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E51-215. EMI-PA, Inc., 2081 Stewart Avenue, Hatfield, PA 19440, **Philadelphia City and County**, ACOE Philadelphia District.

To modify, rehabilitate and stabilize Pier 2, along the Schuylkill River at Girard Point, associated with a transfer station for construction materials. The work will include removing portions of the collapsed structure, installing breasting/mooring structures, placing auxiliary steel H-piles, and removing portions of low-deck to be

replaced by high-deck structure, all within the original footprint of the former dock. The project is located approximately 550 feet upstream of Girard Point Bridge along the northeastern bank of the Schuylkill River (Philadelphia, PA USGS Quadrangle N: 3.7 inches; W: 10.2 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E46-978. Montgomery County Planning Commission, One Montgomery Plaza, Suite 201, Norristown, PA 19404, Upper and Lower Providence Townships, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a 55-foot long by 10-foot wide by 2.74-foot high pony trail truss bridge across the Mine Run Creek and its 100-year floodway. This work is associated with a proposed 2.5-mile paved bicycle/pedestrian trail, which connects the Pawlings Road Trailhead of the Schuylkill River Trail with the Lower Perkiomen Park Trailhead of the Perkiomen Trail, as a part of Audubon Trail. The site is located approximately 1,200 feet west of the intersection of Egypt and Mill Run Roads (Collegeville, PA, N: 1.25 inches; W: 9.5 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-431. Robert Ehoff, 4319 Cheltenham, Philadelphia, PA 19124. Bridge Construction, in Asylum Township, **Bradford County**, ACOE Baltimore District (Wyalusing, PA Quadrangle N: 17.95 inches; W: 14.39 inches).

To construct and maintain a 25-foot long by 12-foot wide steel I-beam bridge with wood plank deck and reinforced concrete headwalls and wingwalls in a private driveway over Durrell Creek off Brook Street about 1,500 feet northeast of the intersection of Brook Street with SR 187.

The project will not impact wetlands while impacting about 35 feet of waterway and less than 0.1 acre of earth disturbance. Durrell Creek is a WWF stream. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E26-327. Point Marion Borough, 420 Ontario Street, Point Marion, PA 15474. To construct a boat dock facility in Point Marion Borough, **Fayette County**, Pittsburgh ACOE District. (North Morgantown, PA Quadrangle N: 20.0 inches; W: 4.2 inches and Latitude: 39° 44' 07"—Longitude: 79° 54' 16"). To construct and maintain a boat dock facility, 250 long and 50 feet wide along the right bank of the Monongahela River (WWF) located in Point Marion Community Park on South Main Street in Point Marion Borough.

ENVIRONMENTAL ASSESSMENTS

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

EA36-015: John Yost, 6059 Old Philadelphia Pike, Narvon, PA 17555 in Salisbury Township, **Lancaster County**, ACOE Baltimore District.

To install two grass waterways for stormwater management on a farm located at 6059 Old Philadelphia Pike, Salisbury Township, Lancaster County (Honey Brook USGS Quad, 40° 01' 57" N, 75° 57' 33" W and 5.9 inches N. and 11.78 inches W.). Construction of the waterways will involve approximately 3 acres of land disturbance, and the waterways will convey stormwater to a UNT to Pequea Creek (HQ-CWF).

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

EA26-007. Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA. Morgan Run Site is in Dunbar Township, **Fayette County,** Pittsburgh ACOE District (South Connellsville, PA Quadrangle N: 6.6 inches; W: 6.3 inches and Latitude: 39° 54' 41"—Longitude: 79° 32' 42"). To construct and maintain a passive, acid mine drainage treatment system; to treat the six mine drainage discharges emanating from the Hughes property. The project will affect a reported 0.90 acre of wetland from the construction of the two-system design, which includes wetland treatment system, detention settling ponds, vertical flow pond system and riprap infiltration gallery that discharges to Morgan Run (HQ-CWF). The project is located approximately 2 miles from the intersection of Ohioyle Road and T-529 in Dunbar Township, Fayette County.

SPECIAL NOTICES

Categorical Exclusion

Northeast Regional Office, Water Management Program Manager, 2 Public Square, Willkes-Barre, PA 18711.

Location: Minersville Borough Sewer Authority, 2 East Sunbury Street, Minersville PA 17954

Description: The Pennsylvania Infrastructure Investment Authority (Authority), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Authority proposes a sewer separation project to eliminate combined sewer overflows in a portion of its service area. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

CORRECTION

This notice is to correct the permit number for Stankiewicz Stone, Inc., R. R. 2, Box 147, Kingsley, PA 18826. It was published at 36 Pa.B. 310 (January 21, 2006) with the incorrect permit number of PAR322207. The correct permit number should be PAR212237.

[Pa.B. Doc. No. 06-230. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application Announcement for the 2006 Compost Infrastructure Development Grant Program

Applications for the 2006 Compost Infrastructure Development Grant Program (program) are now available from the Department of Environmental Protection (Department). Under the program, qualified existing and operating for-profit business entities and nonprofit organizations in this Commonwealth will be awarded grants to

increase the quantity of yard and/or food wastes collected and processed in this Commonwealth. The goal of this program is to increase the quantity of organic materials collected and composted to further increase the Commonwealth's recycling rate. Additional consideration will be given to applications that are developed in consultation with the Pennsylvania Recycling Markets Center, (717) 948-6660, www.parmc.org. The Department will accept applications for the Program until 4 p.m. on May 4, 2006.

The municipal waste stream consists of over 30% organic materials that could be recycled and diverted from the waste stream and managed by composting. These organic waste streams, such as yard and food wastes, can become a resource to compost facilities that use these materials as feedstocks. Composting of organic wastes helps to lessen the burden on landfill capacity and creates a beneficial soil conditioner that can be marketed.

Applications for the 2006 program may be obtained by contacting Laura Chambers, Bureau of Waste Management, lchambers@state.pa.us, (717) 783-2388. Applications are also available electronically on the Department's website: www.depweb.state.pa.us (DEP Keywords: Compost, Composting).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-231. Filed for public inspection February 10, 2006, 9:00 a.m.]

Availability of Final General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3)

The Department of Environmental Protection (Department) has finalized the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3). This general permit is limited to the erection, operation and modification of portable nonmetallic mineral processing plants, which are temporarily (no longer 24 months) located at construction sites or which are located at sites for which a valid mining permit or an air quality permit exists for the operation of a nonmetallic mineral processing plant. This general permit is issued in accordance with section 6.1(f) and (g) of the Air Pollution Control Act (35 P. S. § 4006.1(f) and (g)) and 25 Pa. Code §§ 127.514 and 127.631 (relating to general operating permits at Title V facilities; and general plan approvals and operating permits for portable sources).

After publishing the notice of availability of the draft general permit at 35 Pa.B. 4666 (August 13, 2005), a 45-day comment period was provided and written comments were received. A comment and response document has been prepared which summarizes the comments the Department received and the changes that were made in the final general permit. The general permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) is now approved by the Department and available for use by qualifying applicants.

Copies of the general permit documents package and comment and response document can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. Persons with a disability may obtain these documents by contacting the

AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These documents are also available on the Department's website at www.depweb.state.pa.us (DEP Keywords: Air Permits).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-232. Filed for public inspection February 10, 2006, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keyword: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2006.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 362-2192-004. Title: Guidelines for Identifying, Tracking and Resolving Violations for the Land Application of Biosolids. Description: This document provides guidance concerning the implementation and execution of compliance and enforcement activities related to the land application of biosolids. It is issued in accordance with the Department-wide policy entitled "Standards and Guidelines for Identifying, Tracking and Resolving Violations," which was issued on April 6, 2004. Notice of the draft document was provided at 35 Pa.B. 3601 (June 25, 2005), with provision for a 30-day public comment period that concluded on July 25, 2005. The Department received comments on the draft document, which it addressed in a "Comment and Response" document. The final technical guidance is issued under the authority of the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904). Contact: Denise Uzupis, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, deuzup@state.pa.us. Effective Date: February 11, 2006.

DEP ID: 383-4000-002. Title: Guidelines for Identifying, Tracking and Resolving Violations for the Drinking Water Program. Description: This document establishes guidelines for addressing violations in the drinking water program in accordance with the Department-wide policy entitled "Standards and Guidelines for Identifying, Tracking and Resolving Violations," which was issued on April 6, 2004. Notice of the draft document was provided at 35 Pa.B. 3601 (June 25, 2005), with provision for a 30-day public comment period that concluded on July 25, 2005. The Department did not receive any public comments on the draft document during the public comment period. The final technical guidance is issued under the authority of the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) and regulations at 25 Pa. Code Chapter 109 (relating to safe drinking water). Contact: Lisa Daniels, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Drinking Water Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 772-4018, ldaniels@state.pa.us. Effective Date: February 11, 2006.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-233. Filed for public inspection February 10, 2006, 9:00 a.m.]

Remining Financial Guarantee Program; Increase to Financial Guarantee Special Account

The Remining Financial Guarantee Program (program), authorized by the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a) and the regulations promulgated in 25 Pa. Code Chapter 86 (relating to surface and underground coal mining; general), provides low cost bonds to qualified operators who are willing to reclaim abandoned mine lands immediately adjacent to their active mining operations. An operator is limited to a maximum financial guarantee value of 30% of the amount allocated in the Financial Guarantee Special Account (special account) while each permit site is limited to a maximum financial guarantee value of 10%. The special account was initially funded in 1996 with \$800,000, resulting in limits of \$240,000 per operator and \$80,000 per permit.

Since the inception of the program in 1996, Commonwealth coal mine operators have reclaimed 2,117 acres of abandoned mine land, saving the Commonwealth approximately \$12.702 million in reclamation costs. Over 100 Commonwealth mining companies have used the remining incentives provided by the program, indicating that more abandoned mine land could be reclaimed at no cost to the Commonwealth if the maximum financial guarantee limits were raised.

On January 17, 2006, the Department of Environmental Protection (Department) increased the special account allocation to \$1 million due to the success of the program, thereby affecting the maximum bond available to each operator and each permit site. By allocating an additional \$200,000 to the special account, the maximum limits for the program are amended to \$300,000 per operator and \$100,000 per permit, effective January 17, 2006.

For more information on remining financial guarantees, contact the Bureau of Mining and Reclamation, Division of Monitoring and Compliance, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103 or visit the Depart-

ment's website at www.depweb.state.pa.us (DEP Keywords: Mining and Reclamation; then choose "Programs," "Remining Incentives").

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-234. Filed for public inspection February 10, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Aliquippa Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Aliquippa Community Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-235. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Allied Services Institute of Rehabilitation Medicine for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allied Services Institute of Rehabilitation Medicine has requested an exception to the requirements of 28 Pa. Code § 101.31 (relating to hospital requirements).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-236. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Ambulatory Endoscopic Surgical Center of Bucks County for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Ambulatory Endoscopic Surgical Center of Bucks County has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-237. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Ambulatory Endoscopic Surgical Center of Bucks County for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Ambulatory Endoscopic Surgical Center of Bucks County has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-238. Filed for public inspection February 10, 2006, 9:00 a.m.]

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-240. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Berks Center for Digestive Health for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Berks Center for Digestive Health has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-239. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Eastern Pennsylvania Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Eastern Pennsylvania Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-241. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Eastern Pennsylvania Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Eastern Pennsylvania Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Application of Evangelical Ambulatory Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Evangelical Ambulatory Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-242. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Heritage Valley Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Heritage Valley Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-243. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Liberty Eye Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Liberty Eye Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be

reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-244. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Mahoning Valley Ambulatory Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mahoning Valley Ambulatory Surgery Center has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-245. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Schuylkill Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Schuylkill Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other

accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-246. Filed for public inspection February 10, 2006, 9:00 a.m.]

Application of Village Surgicenter of Erie for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Village Surgicenter of Erie has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-247. Filed for public inspection February 10, 2006, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 201.17, 205.33(a) and 205.36(h) (relating to location; utility room; and bathing facilities):

Westmoreland Skilled Care Center
532 West Pittsburgh Street
Greensburg, PA 15601

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

ManorCare Health Services—Williamsport North
300 Leader Drive
Williamsport, PA 17701

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h):

Wesbury United Community
31 North Park Avenue Extension
Meadville, PA 16335

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape, Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-248. Filed for public inspection February 10, 2006, 9:00 a.m.]

Technical Advisories on Provisional Credentialing and Medical Director Sign-Off of Clean Credentialing Files

Under 28 Pa. Code § 9.603 (relating to technical advisories), the Department of Health (Department), Bureau of Managed Care is issuing technical advisories on the Department's interpretation of its regulations at 28 Pa. Code §§ 9.761 and 9.762 (relating to provider credentialing; and credentialing standards) to allow provisional credentialing of health care providers and medical director signoff of clean credentialing files.

Copies of the technical advisories may be obtained by contacting Linda Seip, Nursing Services Consultant, Bureau of Managed Care, Department of Health, Room 912, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120, (717) 787-5193.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Linda Seip at the previously listed address or telephone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 06-249. Filed for public inspection February 10, 2006, 9:00 a.m.]

WIC Program Public Meetings

The Department of Health (Department) announces two public meetings on the following dates at the locations indicated to receive comments and suggestions about the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program).

Thursday, April 20, 2006
10 a.m.—3 p.m.
Allegheny County Health Department
Investment Building, 6th Floor
239 Fourth Avenue
Pittsburgh, PA 15222-1712

Wednesday, April 26, 2006
10 a.m.—3 p.m.
WIC State Agency Office
Health and Welfare Building, Room 610
7th and Forster Streets
Harrisburg, PA 17120

The Department invites comments on all aspects of the WIC Program's operation. General comments on other issues pertinent to the WIC Program are also requested. Persons wishing to give testimony at the public meetings are requested to preregister with the Pennsylvania WIC Program Office by calling Bonnie Mellott at (717) 783-1289. Persons unable to attend are encouraged to submit comments to the Department of Health, Division of WIC, 7th and Forster Streets, Room 610, Health and Welfare Building, Harrisburg, PA 17120. Written comments will be accepted until May 31, 2006.

Written comments and those presented at the meetings will be used in developing the State Plan of Program Operation and Administration for the WIC Program for the 2007 Federal Fiscal Year, which runs October 1, 2006, to September 30, 2007.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) or wish to attend the meeting, preregister or provide comments and require an auxiliary aid service should contact Bonnie Mellott, WIC Education/Outreach Coordinator at (717) 783-1289 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

These meetings are subject to cancellation without notice.

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

[Pa.B. Doc. No. 06-250. Filed for public inspection February 10, 2006, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Allegheny 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 Federal Highway Administration and the Department of Transportation are planning to replace the Dorrington Road Bridge that carries SR 3117 over Robinson Run in Collier Township, Allegheny County.

The bridge is listed on the National Register of Historic Places and, therefore, qualifies as a Section 4(f)/Section 2002 resource. The State Historic Preservation Officer has concurred in a determination of "Adverse Effect" upon the resource.

Based upon studies, there is no feasible and prudent alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation, the Programmatic Section 4(f) Evaluation and the associated Memorandum of Agreement, which includes recordation of the structure in accordance with State level recordation guidelines.

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 the effects.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 06-251. Filed for public inspection February 10, 2006, 9:00 a.m.]

Finding Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation (Department) plans to replace a bridge carrying SR 1026, Section C01 (Clover Mill Road) over Pickering Creek and perform minor widening and improvements to approach roadways in West Pikeland Township, Chester County. The subject project will require use of the Rice/Pennebecker Farm. The Rice/Pennebecker Farm is listed in the National Register of Historic Places. The subject project will impact 0.037 hectare (0.0902 acre) of the Rice/Pennebecker Farm.

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 the effects. To minimize the harm to the section 2002 protected property impacted by the project, stone formliners will be used on the new bridge structure's abutments and parapets.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have

been taken to minimize the effect. No adverse environmental effect is likely to result from the reconstruction of this section of highway.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 06-252. Filed for public inspection February 10, 2006, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Request for Application—Grant Opportunity

The Health Care Cost Containment Council (Council), an independent State government agency, is accepting grant applications for projects that demonstrate the utility of the MedMined Nosocomial Infection Marker™ and related infection prevention technologies in reducing the human and economic cost of hospital-acquired infections. MedMined, Inc. is a leading technology service provider headquartered in Birmingham, AL.

This funding opportunity is available to acute care hospitals in this Commonwealth interested in using MedMined's comprehensive electronic approach to hospital-acquired (nosocomial) infection (HAI) surveillance to identify HAIs hospital-wide, analyze the financial impact of HAI using the hospitals' own cost accounting data and target specific infection prevention interventions. To be eligible for this grant opportunity, acute care hospitals in this Commonwealth must, at a minimum, be in compliance with all data reporting requirements of Act 14. Additional requirements are outlined in the Request for Application (RFA).

A copy of the RFA can be downloaded from the Council's website: www.phc4.org. Questions regarding this RFA should be addressed to Cherie Elias, Director of Administration and Budget, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6787, celias@phc4.org.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 06-253. Filed for public inspection February 10, 2006, 9:00 a.m.]

HUMAN RELATIONS COMMISSION

Public Hearing Opinions

The Human Relations Commission (Commission), under section 7(o) of the Pennsylvania Human Relations Act (act) (43 P. S. § 957(o)), announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)) in the following case:

Aida Armani v. Raya & Haig Salon, PHRC Doc. No. E85465-D (Pennsylvania Human Relations Commission, January 23, 2006)

The respondent was earlier, on June 30, 2004, found liable of unlawful discrimination in the terms and conditions of employment, subjecting the complainant to a hostile work environment and a constructive discharge. The Commission, after holding a hearing on the issue of damages, found appropriate damages of \$156,421 in back pay, \$259.20 in reasonable out-of-pocket expenses and 6% interest on the back pay award until payment is made to the complainant.

Ruling for complainant, 9-0 decision
20 pages

The final order in the previously listed case is subject to appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of an opinion listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page (the number of pages in the opinion is set forth at the end of the case listing), to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Pennsylvania Place, Harrisburg, PA 17101.

The check or money order should be made payable to the "Commonwealth of Pennsylvania." Copies are also available under the Legal section of the Commission's website at www.phrc.state.pa.us.

HOMER C. FLOYD,
Executive Director

[Pa.B. Doc. No. 06-254. Filed for public inspection February 10, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

<i>Final-Omit Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-646	State Board of Auctioneer Examiners Corrective Amendments to Schedule of Fees	1/30/06	03/9/06

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 06-255. Filed for public inspection February 10, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws; John Giaccio, Jr., South Penns, Inc.; Doc. No. SC06-01-21

Notice is hereby given of the Order to Show Cause issued on January 26, 2006, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: 40 P. S. §§ 310.11 and 310.41a and 31 Pa. Code §§ 37.46 and 37.47 (relating to standards for denial of certificate/license; and revocation, suspension, nonrenewal of certificates and licenses).

Respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31

Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathy Culbertson, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-256. Filed for public inspection February 10, 2006, 9:00 a.m.]

Eligible Surplus Lines Insurer List

In accordance with section 1605(b) of The Insurance Company Law of 1921 (40 P. S. § 991.1605(b)), the Insurance Department (Department) hereby publishes the most recent Eligible Surplus Lines Insurer List (list). This list replaces in its entirety the list as of August 16, 2005, published at 35 Pa.B. 4886 (August 27, 2005).

Persons who have questions concerning this notice should contact Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

M. DIANE KOKEN,
Insurance Commissioner

As of Thursday, January 19, 2006

48123	ACE EUROPEAN GROUP LIMITED	100 LEADENHALL STREET LONDON, Great Britain EC3A 3BP
10512	ADMIRAL INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10513	ADRIATIC INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
39908	ALEA LONDON LIMITED	THE CORN EXCHANGE 55 MARK LANE LONDON, Great Britain EC3R7NE
40659	ALEA NORTH AMERICA SPECIALTY INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801-1120
48099	ALLIANZ MARINE & AVIATION VERSICHERUNG AG	GROBER BURSTAH 3 HAMBURG, Germany D-20457
10516	ALLIANZ UNDERWRITERS INSURANCE COMPANY	2350 EMPIRE AVENUE BURBANK, CA 91504-3350
10535	ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10519	AMERICAN EMPIRE SURPLUS LINES INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10520	AMERICAN EQUITY INSURANCE COMPANY	2401 WEST PEORIA AVENUE PHOENIX, AZ 85029
36855	AMERICAN HEALTHCARE SPECIALTY INSURANCE COMPANY	425 W. CAPITOL AVENUE SUITE 1800 LITTLE ROCK, AR 72201
10521	AMERICAN INTERNATIONAL SPECIALTY LINES INSURANCE COMPANY	1400 WEST BENSON BOULEVARD SUITE 315 ANCHORAGE, AK 99503

18146	AMERICAN SAFETY INDEMNITY COMPANY	600 BANK OF OKLAHOMA PLAZA 201 ROBERT S. KERR AVENUE OKLAHOMA CITY, OK 73102
10522	AMERICAN WESTERN HOME INSURANCE COMPANY	600 FIDELITY PLAZA OKLAHOMA CITY, OK 73102
10524	APPALACHIAN INSURANCE COMPANY	1301 ATWOOD AVENUE JOHNSTON, RI 02919-0500
33748	ARCH EXCESS & SURPLUS INSURANCE COMPANY	10306 REGENCY PARKWAY DRIVE OMAHA, NE 68113
10587	ARCH SPECIALTY INSURANCE COMPANY	300 FIRST STAMFORD PLACE STAMFORD, CT 06902
35611	ASPEN SPECIALTY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58502
22348	ASSICURAZIONI GENERALI DI TRIESTE	PIAZZA DUCA DEGLI ABRUZZI, 2 TRIESTE, Italy 34132
22349	ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED	LIBERTY INTERNATIONAL 73 FRONT STREET, 3RD FLOOR HAMILTON, Bermuda HM11
10525	ASSOCIATED INTERNATIONAL INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
41586	ATLANTIC CASUALTY INSURANCE COMPANY	400 COMMERCE COURT GOLDSBORO, NC 27534
10526	AUDUBON INDEMNITY COMPANY	C/O CORPORATION SERVICE COMPANY 506 SOUTH PRESIDENT STREET JACKSON, MS 39201
41562	AXA CORPORATE SOLUTIONS ASSURANCE	4 RUE JULES LEFEBVRE PARIS, France 75009
59554	AXIS SPECIALTY EUROPE LIMITED	MOUNT HERBERT COURT 34 UPPER MOUNT STREET DUBLIN, Ireland
10536	AXIS SPECIALTY INSURANCE COMPANY	ONE STATE STREET SUITE 1700 HARTFORD, CT 06103
10592	AXIS SURPLUS INSURANCE COMPANY	303 WEST MADISON SUITE 500 CHICAGO, IL 60606
22369	BRITISH AVIATION INSURANCE COMPANY LIMITED	FITZWILLIAM HOUSE 10 ST. MARY'S AXE LONDON, Great Britain EC3ABEQ
10528	CANAL INDEMNITY COMPANY	400 EAST STONE AVENUE GREENVILLE, SC 29601
48319	CAPITOL SPECIALTY INSURANCE CORPORATION	1600 ASPEN COMMONS MIDDLETON, WI 53562
48890	CATLIN INSURANCE COMPANY LTD.	CUMBERLAND HOUSE, 6TH FLOOR 1 VICTORIA STREET HAMILTON, Bermuda HM11
10529	CENTENNIAL CASUALTY COMPANY	2200 WOODCREST PLACE SUITE 200 BIRMINGHAM, AL 35209
10531	CENTURY SURETY COMPANY	465 CLEVELAND AVENUE WESTERVILLE, OH 43082
22371	CGU INTERNATIONAL INSURANCE PLC	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
10532	CHUBB CUSTOM INSURANCE COMPANY	C/O CORPORATE SERVICE COMPANY 2711 CENTERVILLE ROAD WILMINGTON, DE 19808-1645

18617	CLARENDON AMERICA INSURANCE COMPANY	224 WEST STATE STREET TRENTON, NJ 08608
10533	COLONY INSURANCE COMPANY	9201 FOREST HILL AVENUE SUITE 200 RICHMOND, VA 23235-6865
10582	COLONY NATIONAL INSURANCE COMPANY	9201 FOREST HILL AVENUE SUITE 200 RICHMOND, VA 23235-6865
10534	COLUMBIA CASUALTY COMPANY	CNA PLAZA CHICAGO, IL 60685
22388	COMMONWEALTH INSURANCE COMPANY	595 BURRARD STREET SUITE 1500 BOX 49115 BENTALL TOWER THREE VANCOUVER, V7X 1G4
37372	CRUM & FORSTER SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 85018
10600	DARWIN SELECT INSURANCE COMPANY	320 WEST CAPITAL STREET SUITE 1000 LITTLE ROCK, AR 72201-3525
37001	DISCOVER SPECIALTY INSURANCE COMPANY	500 WEST MADISON SUITE 2600 CHICAGO, IL 60661
10541	EMPIRE INDEMNITY INSURANCE COMPANY	809 NORTHWEST 36TH STREET OKLAHOMA CITY, OK 73118
10542	ESSEX INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10543	EVANSTON INSURANCE COMPANY	TEN PARKWAY NORTH DEERFIELD, IL 60015
10544	EVEREST INDEMNITY INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10545	EXECUTIVE RISK SPECIALTY INSURANCE COMPANY	82 HOPMEADOW STREET SIMSBURY, CT 06070-7683
10547	FIREMAN'S FUND INSURANCE COMPANY OF OHIO	312 WALNUT STREET SUITE 1100 CINCINNATI, OH 45202
10548	FIRST FINANCIAL INSURANCE COMPANY	528 SOUTH FIFTH STREET SUITE 210 SPRINGFIELD, IL 62701-1822
10549	FIRST MERCURY INSURANCE COMPANY	ONE SOUTH WACKER DRIVE SUITE 2740 CHICAGO, IL 60606
10550	FIRST SPECIALTY INSURANCE CORPORATION	237 EAST HIGH STREET JEFFERSON CITY, MO 65102
18477	GEMINI INSURANCE COMPANY	CORPORATION TRUST CENTER 1209 ORANGE STREET WILMINGTON, DE 19801
10553	GENERAL AGENTS INSURANCE COMPANY OF AMERICA, INC.	115 SOUTHWEST 89TH STREET OKLAHOMA CITY, OK 73139
10552	GENERAL SECURITY INDEMNITY COMPANY OF ARIZONA	3225 NORTH CENTRAL AVENUE PHOENIX, AZ 20559
10554	GENERAL STAR INDEMNITY COMPANY	695 EAST MAIN STREET P. O. BOX 10354 STAMFORD, CT 06904-2354
22411	GENERALI ASSURANCES IARD	7 BOULEVARD HAUSSMAN PARIS, France 75009

10555	GENESIS INDEMNITY INSURANCE COMPANY	316 NORTH FIFTH STREET BISMARCK, ND 58501
44715	GLENCOE INSURANCE LIMITED	RENAISSANCE HOUSE 8 EAST BROADWAY P. O. BOX HM 2527 HAMILTON, Bermuda HM GX
10556	GOTHAM INSURANCE COMPANY	919 THIRD AVENUE 10TH FLOOR NEW YORK, NY 10022
10514	GREAT AMERICAN E & S INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10518	GREAT AMERICAN FIDELITY INSURANCE COMPANY	THE CORPORATION TRUST COMPANY 1209 ORANGE STREET WILMINGTON, DE 19801
10540	GREAT AMERICAN PROTECTION INSURANCE COMPANY	580 WALNUT STREET CINCINNATI, OH 45204
22412	GREAT LAKES REINSURANCE (UK) PLC	UPPER GROUND FLOOR 1 MINSTER COURT MINCING LANE LONDON, Great Britain EC3R7AA
36489	GUILFORD INSURANCE COMPANY	528 SOUTH FIFTH STREET SUITE 210 SPRINGFIELD , IL 62701-1822
10557	GULF UNDERWRITERS INSURANCE COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
44169	HOMELAND INSURANCE COMPANY OF NEW YORK	201 NORTH SERVICE ROAD MELVILLE, NY 11747
10559	HOUSTON CASUALTY COMPANY	13403 NORTHWEST FREEWAY HOUSTON, TX 77040
37373	HUDSON SPECIALTY INSURANCE COMPANY	17 STATE STREET 29TH FLOOR NEW YORK, NY 10004
10560	ILLINOIS EMCASCO INSURANCE COMPANY	717 MULBERRY STREET DES MOINES, IA 50309-3872
10561	ILLINOIS UNION INSURANCE COMPANY	525 WEST MONROE STREET CHICAGO, IL 60631
10562	INDIAN HARBOR INSURANCE COMPANY	CT CORPORATION SYSTEM 314 EAST THAYER AVENUE BISMARCK, ND 58501
10563	INEX INSURANCE EXCHANGE	1 SOUTH WACKER DRIVE SUITE 2720 CHICAGO, IL 60606-4617
45736	INTEGON SPECIALTY INSURANCE COMPANY	500 WEST FIFTH STREET WINSTON-SALEM, NC 27152
28076	INTERNATIONAL INSURANCE CO OF HANNOVER, LTD	L'AVENIR OPLADEN WAY, BRACKNELL BERKSHIRE, Great Britain UK RG12 OPH
10564	INTERSTATE FIRE & CASUALTY COMPANY	33 WEST MONROE CHICAGO, IL 60603
10566	ITT PACIFIC INSURANCE COMPANY	HARTFORD PLAZA HARTFORD, CT 06115
10546	JAMES RIVER INSURANCE COMPANY	52 EAST GAY STREET COLUMBUS, OH 43215
8967	LANDMARK AMERICAN INSURANCE COMPANY	115 S. W. 89TH STREET OKLAHOMA CITY, OK 73139-8501
10567	LANDMARK INSURANCE COMPANY	777 SOUTH FIGUEROA STREET LOS ANGELES, CA 90017

45576	LANTANA INSURANCE LTD.	RENAISSANCE HOUSE 8-12 EAST BROADWAY HAMILTON, Bermuda HM 19
10569	LEXINGTON INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
22415	LIBERTY MUTUAL INSURANCE EUROPE LIMITED	3TH FLOOR, TWO MINSTER COURT MINCING LANE LONDON, Great Britain EC3R 7YE
18457	LIBERTY SURPLUS INSURANCE CORPORATION	175 BERKELEY STREET BOSTON, MA 02117
22416	LLOYD'S (UNDERWRITERS AT)	ONE LIME STREET LONDON, Great Britain EC3M7HA
22417	LONDON AND EDINBURGH INSURANCE COMPANY LIMITED	8 SURREY STREET NORWICH NR1 3NG ENGLAND, Great Britain EC3M5BT
22418	MARINE INSURANCE COMPANY LIMITED	ST. MARKS COURT. CHART WAY HORSHAM, WEST SUSSEX ENGLAND, Great Britain RH 12 1XL
22455	MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED	THE MARKEL BUILDING 49 LEADENHALL STREET LONDON, Great Britain EC3A2EA
10527	MAXUM INDEMNITY COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10570	MONTICELLO INSURANCE COMPANY	1209 ORANGE STREET WILMINGTON, DE 19801
10571	MT. HAWLEY INSURANCE COMPANY	9025 N. LINDBERGH DRIVE PEORIA, IL 61615
10572	NAMIC INSURANCE COMPANY, INC.	3601 VINCENNES ROAD INDIANAPOLIS, IN 46268
10573	NATIONAL FIRE & MARINE INSURANCE COMPANY	3024 HARNEY STREET OMAHA, NE 68131-3580
10574	NAUTILUS INSURANCE COMPANY	7233 E. BUTHERUS DRIVE SCOTTSDALE, AZ 85260
10575	NIC INSURANCE COMPANY	ONE PENN PLAZA 55TH FLOOR NEW YORK, NY 10119-0002
10537	NOETIC SPECIALTY INSURANCE COMPANY	115 SOUTH LASALLE STREET CHICAGO, IL 60603
10576	NORTH AMERICAN CAPACITY INSURANCE COMPANY	650 ELM STREET MANCHESTER, NH 03101-2524
10577	NORTHFIELD INSURANCE COMPANY	1270 OFFICE PLAZA DRIVE WEST DES MOINES, IA 50266
10578	NUTMEG INSURANCE COMPANY	HARTFORD PLAZA HARTFORD, CT 06115
22421	OCEAN MARINE INSURANCE COMPANY LIMITED	ST. HELEN'S 1 UNDERSHAFT LONDON, Great Britain EC3P3DQ
10579	OLD REPUBLIC UNION INSURANCE COMPANY	307 NORTH MICHIGAN AVENUE CHICAGO, IL 60601
10580	PACIFIC INSURANCE COMPANY	CNA CENTER 333 S. WABASH AVENUE CHICAGO, IL 60685
58179	PENN-PATRIOT INSURANCE COMPANY	11 SOUTH 12TH STREET P. O. BOX 1463 RICHMOND, VA 23218
23150	PRINCETON EXCESS AND SURPLUS LINES INSURANCE COMPANY	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808

10583	PROFESSIONAL UNDERWRITERS LIABILITY INSURANCE COMPANY	50 WEST BROADWAY SALT LAKE CITY, UT 84101
22449	QBE INSURANCE (EUROPE) LIMITED	PLANTATION PLACE 30 FENCHURCH STREET LONDON, Great Britain EC3M 3BD
47448	QBE SPECIALTY INSURANCE COMPANY	314 EAST THAYER AVENUE BISMARCK, ND 58501
53074	QUANTA SPECIALTY LINES INSURANCE COMPANY	3500 DEPAUW BOULEVARD SUITE 3050 INDIANAPOLIS, IN 46268
44436	RED MOUNTAIN CASUALTY INSURANCE COMPANY, INC.	100 BROOKWOOD PLACE SUITE 500 BIRMINGHAM, AL 35209
10603	ROCKHILL INSURANCE COMPANY	40 NORTH CENTRAL AVENUE PHOENIX, AZ 85004
10588	ROYAL SURPLUS LINES INSURANCE COMPANY	9 FARM SPRINGS ROAD FARMINGTON, CT 06032
10589	SAFECO SURPLUS LINES INSURANCE COMPANY	SAFECO PLAZA SEATTLE, WA 98185
10590	SAVERS PROPERTY AND CASUALTY INSURANCE COMPANY	700 WEST 47TH STREET KANSAS CITY, MO 64112-1802
10591	SCOTTSDALE INSURANCE COMPANY	ONE NATIONWIDE PLAZA COLUMBUS, OH 43215
44276	SENECA SPECIALTY INSURANCE COMPANY	2999 NORTH 44TH STREET SUITE 250 PHOENIX, AZ 85018-7256
33514	SIRIUS INTERNATIONAL INSURANCE CORPORATION	BIRGER JARISGATAN 57B STOCKHOLM, Sweden SE 113 96
10565	SPECIALTY SURPLUS INSURANCE COMPANY	1 KEMPER DRIVE LONG GROVE, IL 60049-0001
22453	SR INTERNATIONAL BUSINESS INSURANCE COMPANY LIMITED	30 ST. MARY AXE LONDON, Great Britain EC3A8EP
10593	ST. PAUL SURPLUS LINES INSURANCE COMPANY	32 LOOCKERMAN SQUARE Suite L-100 DOVER, DE 19901
38980	STARR EXCESS LIABILITY INSURANCE COMPANY, LTD.	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808
10594	STEADFAST INSURANCE COMPANY	SUITE 202 32 LOOCKERMAN SQUARE DOVER, DE 19901
54486	THROUGH TRANSPORT MUTUAL INSURANCE ASSOCIATION (EURASIA) LIMITED	INTERNATIONAL HOUSE CREECHURCH LANE LONDON, Great Britain EC3A 5BA
10596	TIG SPECIALTY INSURANCE COMPANY	777 ARNOLD DRIVE SUITE 200 MARTINEZ, CA 94553
10597	TRAVELERS EXCESS AND SURPLUS LINES COMPANY	ONE TOWER SQUARE HARTFORD, CT 06183
10598	TUDOR INSURANCE COMPANY	91 COURT STREET KEENE, NH 03431
10599	U. S. UNDERWRITERS INSURANCE COMPANY	316 NORTH FIFTH STREET SIXTH FLOOR BISMARCK, ND 58501
44120	UNITED NATIONAL CASUALTY INSURANCE COMPANY	5253 HOHMAN AVENUE P. O. BOX 1150 HAMMOND, IN 46320

10558	UNITED NATIONAL SPECIALTY INSURANCE COMPANY	411 EAST WISCONSIN AVENUE SUITE 700 MILWAUKEE, WI 53202
58119	USF & G SPECIALTY INSURANCE COMPANY	111 SCHILLING ROAD HUNT VALLEY, MD 21031
52712	VICTORIA INSURANCE COMPANY	2301 E.LAMAR BOULEVARD 5TH FLOOR ARLINGTON, TX 76006
10605	VOYAGER INDEMNITY INSURANCE COMPANY	260 INTERSTATE NORTH CIRCLE NW ATLANTA, GA 30339
10607	WESTCHESTER SURPLUS LINES INSURANCE COMPANY	500 COLONIAL CENTER PARKWAY SUITE 200 ROSWELL, GA 30076
10608	WESTERN HERITAGE INSURANCE COMPANY	6263 N. SCOTTSDALE ROAD SUITE 240 SCOTTSDALE, AZ 85250
10610	WESTERN WORLD INSURANCE COMPANY	91 COURT STREET KEENE, NH 03431
49219	WILSHIRE INSURANCE COMPANY	702 OBERLIN ROAD RALEIGH, NC 27605-0800
52746	WIND RIVER INSURANCE COMPANY, LTD.	VICTORIA HALL 11 VICTORIA STREET P. O. BOX HM 1826 HAMILTON, Bermuda HM HX
10604	XL SELECT INSURANCE COMPANY	735 FIRST NATIONAL BUILDING OKLAHOMA CITY, OK 73102
10611	ZC SPECIALTY INSURANCE COMPANY	400 WEST 15TH STREET SUITE 710 AUSTIN, TX 78701
22461	ZURICH INTERNATIONAL (BERMUDA) LIMITED	WELLESLEY HOUSE 90 PITT'S BAY ROAD P. O. BOX HM 2268 HAMILTON, Bermuda HMJX
22462	ZURICH SPECIALTIES LONDON LIMITED	THE ZURICH BUILDING 90 FENCHURCH STREET LONDON, Great Britain EC3M4JX

[Pa.B. Doc. No. 06-257. Filed for public inspection February 10, 2006, 9:00 a.m.]

Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In June 2005, the Insurance Commissioner (Commissioner) determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 35 Pa.B. 3270 (June 4, 2005). Accordingly, for those insurance coverages that are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

The Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Commissioner is soliciting comments regarding the current export list. Persons may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Commissioner's current export list are invited to submit a written statement within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Corporate and Financial Regulation, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, fax (717) 787-8557, e-mail cbybee@state.pa.us. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-258. Filed for public inspection February 10, 2006, 9:00 a.m.]

Workers' Compensation Security Fund Assessment; Notice No. 2006-01

The Insurance Department (Department) has determined that no contributions will be required for the Workers' Compensation Security Fund (Fund) in 2006 based on 2005 net written premiums.

Section 5(1) of the Workers' Compensation Security Fund Act (act) (77 P.S. § 1059(1)) states ". . . If, due to payment of liabilities or claims, the balance of the fund is reduced below \$500,000,000, the department shall require contributions to maintain the actuarial soundness of the fund and to restore, in a timely manner, the balance of the fund to a level at or above \$500,000,000." As of the evaluation date of December 31, 2005, the balance of the fund was \$505,462,416.68.

Therefore, insurers writing workers' compensation insurance in this Commonwealth will not be required to submit any contributions for the Fund in 2006.

The act may be viewed at www.ncigf.org under Guaranty Fund Laws and the rules and regulations may be viewed at www.pacaode.com Title 31, Chapter 165. Additional information regarding the Fund is located on the Department's website under Liquidations, Rehabilitations, and Special Funds at www.ins.state.pa.us.

No acknowledgement of this notice is required.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-259. Filed for public inspection February 10, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Electric Service

M-00061935. Atlantic City Electric Company. Application of Atlantic City Electric Company for certificates of public convenience evidencing approval under 66 Pa.C.S. Chapter 11 (relating to certificates of public convenience) for transfers of interests in the Keystone Generating Station and the Conemaugh Generating Station and related assets.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 27, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Atlantic City Electric Company

Through and By Counsel: Renee E. Suglia, Esquire, PHI Services Company, Conectiv, 800 King Street, P. O. Box 231, Wilmington, DE 19899

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-260. Filed for public inspection February 10, 2006, 9:00 a.m.]

Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards and Processes for Alternative Energy System Qualification and Alternative Energy Credit Certification; Doc. No. M-00051865

Public Meeting held
January 27, 2006

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

Tentative Order

By the Commission:

The Alternative Energy Portfolio Standards Act of 2004, 73 P.S. §§ 1648.1–1648.8 (the "Act"), requires that a gradually increasing percentage of electricity sold by electric distribution companies ("EDC") and electric generation suppliers ("EGS") to retail customers in Pennsylvania be derived from alternative energy sources. Compliance with the Act is measured in terms of alternative energy credits, which represent one megawatt hour of electricity generated from a qualified alternative energy system. EDCs and EGSs must acquire sufficient alternative energy credits to meet the Tier I and Tier II shares required by the Act consistent with the compliance schedule identified by the Commission in prior Orders. This Tentative Order will propose standards and processes for qualifying alternative energy systems and certifying alternative energy credits.

HISTORY OF THIS PROCEEDING

A review of history of this proceeding provides a useful context for the consideration of the issues to be addressed herein. The Act was signed into law on November 30, 2004, and took effect on February 28, 2005. The Commission was charged with carrying out provisions of this law, and accordingly opened an implementation proceeding at this docket. The Commission has identified a schedule for compliance with the Act and made findings regarding a number of issues. *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. M-00051865 (Order entered March 25, 2005) ("Implementation Order"); *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. M-00051865 (Order entered July 18, 2005) ("Implementation Order II"). In the Implementation Order, the Commission identified a fifteen year reporting schedule that will commence on June 1, 2006. The Commission also held that the Act was in pari materia with the Public Utility Code, and that they would be construed together whenever possible. The reporting schedule was slightly revised in Implementation Order II.

The Commission then focused its efforts and that of the Alternative Energy Portfolio Standards Working Group on developing rules for distributed generation and energy conservation resources, consistent with the timeline mandated by the Act. Standards and proposed regulations on these topics were issued by the Commission during the fall of 2005. *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources*, Docket No. M-00051865 (Order entered October 3, 2005); *Proposed Rulemaking Re Net Metering for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.5, et al.*, Docket Nos. L-00050174 (Order entered November 16, 2005); *Proposed Rulemaking Re Interconnection Standards for*

Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.5, et al., Docket No. L-00050175 (Order entered November 16, 2005).

More recently, the Commission has addressed the designation of an alternative energy credits registry and the recovery of costs by EDCs for compliance with the Act. *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Designation of the Alternative Energy Credits Registry*, Docket No. M-00051865 (Tentative Order entered October 28, 2005). *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. 2807(e)(2), et al.*; Docket No. L-00040169 (Order entered November 18, 2005). The Commission anticipates an active schedule at this docket in the coming months, as various matters, including cost-recovery, the retention of a credit program administrator, etc., are addressed.

DISCUSSION

The Act includes provisions on the standards and processes for qualifying alternative energy systems and certifying alternative energy credits.¹ Because the Act is a complex law, different interpretations have been offered for these provisions. In this Tentative Order the Commission will review the relevant provisions and make tentative findings on the appropriate interpretations. The Commission seeks comments from interested parties on what standards and processes will best ensure the successful implementation of Act 213. Parties may suggest other alternative standards and processes not identified in this Tentative Order. After a review of the comments, the Commission will issue a further order establishing these standards.

A. Legislative Intent Regarding the Act

The Commission is bound by the rules of statutory construction in its interpretation of the Act. 1 Pa.C.S. §§ 1901—1939. Of particular importance is 1 Pa.C.S. § 1921, which provides that legislative intent shall control. Every statute shall be construed, if possible, to give effect to all of its provisions. 1 Pa.C.S. § 1921(a). Additionally, when the words of a statute are free from ambiguity, the letter of the statute is not to be disregarded in pursuit of unstated legislative intent. 1 Pa.C.S. § 1921(b). If the language is ambiguous, an agency may consider a number of other factors, including prior interpretations, the purpose of the statute, legislative history, etc. 1 Pa.C.S. § 1921(c). An agency may make a number of presumptions regarding legislative intent, including that the Pennsylvania General Assembly (“General Assembly”) intends the entire statute to be effective and constitutional, and that public interest is to be favored over the private interest. 1 Pa.C.S. § 1922. Finally, the words and phrases of a statute should be interpreted consistent with their plain and ordinary meaning. 1 Pa.C.S. § 1903.

The Commission’s ability to ascertain the General Assembly’s legislative intent in these matters is complicated because the Act does not contain sections discussing specific declarations of policy. This is in contrast to other recent legislation that the Commission has been charged with carrying out, including the Electricity Generation Customer Choice and Competition Act (“Competition Act”), 66 Pa.C.S. §§ 2801—2812, Alternative Form of

¹ An “alternative energy system” is a facility that produces electricity from an alternative energy source. An “alternative energy credit” is the tradable instrument used for measuring compliance with the Act and equals one megawatt hour of electricity from an alternative energy system. 73 P.S. § 1648.2.

Regulation of Telecommunication Services, Act 183 of 2004, 66 Pa.C.S. §§ 3011—3019, Responsible Utility Customer Protection, Act 2001 of 2004, 66 Pa.C.S. §§ 1401—1418. These laws included express declarations of legislative intent to guide the Commission in its implementation and enforcement of their provisions. 66 Pa.C.S. §§ 1402, 2802, 3011.

In the absence of such policy direction, the Commission will adhere to the rules of statutory construction identified above. The Commission will attempt to construe the Act so that all its provisions are effective, it will avoid the pursuit of unstated legislative intent where the language is clear, and it will interpret statutory provisions consistent with their plain language. 1 Pa.C.S. §§ 1903, 1921(a), 1921(b).

B. Allocation of Agency Responsibilities Regarding Alternative Energy System Qualification and Credit Certification Processes

The successful implementation of the Act 213 will require close cooperation by the Commission and the Pennsylvania Department of Environmental Protection (“DEP”). The overall responsibilities of the Commission and DEP are identified at Section 7 of the Act:

(a) Commission responsibilities.—The commission will carry out the responsibilities delineated within this act. The commission also shall, in cooperation with the department, conduct an ongoing alternative energy resources planning assessment for this Commonwealth. This assessment will, at a minimum, identify current and operating alternative energy facilities, the potential to add future alternative energy generating capacity, and the conditions of the alternative energy marketplace. The assessment will identify needed methods to maintain or increase the relative competitiveness of the alternative energy market within this Commonwealth.

(b) Department responsibilities.—The department shall ensure that all qualified alternative energy sources meet all applicable environmental standards and shall verify that an alternative energy source meets the standards set forth in section 2.

73 P.S. §§ 1648.7(a) and 1648.7(b). The Commission and DEP also are to jointly prepare an annual report to the General Assembly on the status of the alternative energy market, the costs associated with the Act, and recommendations for improvement. 73 P.S. § 1648.7(c).

The Commission concludes that the language of Section 1648.7(a) vests the Commission with the general supervisory, execution and enforcement powers for this Act. The phrase “carry out” can also be found in our general powers at Section 501 of the Public Utility Code, 66 Pa.C.S. § 501(a), “. . . the commission shall have full power and authority, and it shall be its duty to enforce, execute and *carry out*, by its regulations, order or otherwise, all and singular, the provisions of this part.” (Emphasis added).

The Commission has previously addressed the implementation of the Act as it relates to the Public Utility Code. Specifically, we applied the principle of statutory construction known as *pari materia* in the Implementation Order:

Act 213 does not represent an amendment or supplement to the Public Utility Code, 66 Pa. C.S. §§ 101—3316. However, the Public Utility Code and the Act both involve the regulation of electric distribution companies, electric generation suppliers and the sale of electric energy to retail customers in the Commonwealth of Pennsylvania. The Commission notes that Act 213 makes repeated reference to various portions of the Public Utility Code, including 66 Pa.C.S. §§ 511, 1307, 2807, 2812, and 3315. The Act also makes express use of certain definitions found at 66 Pa.C.S. § 2803. As such, the Act and the Public Utility Code are in pari materia and shall be construed together as one statute. See 1 Pa.C.S. § 1932. Therefore, the provisions of the Public Utility Code and its associated regulations will be applied to the implementation and enforcement of the Act, except where prohibited by the express language of Act 213 or necessary implication thereof. Any new regulations adopted by the Commission as part of the implementation of the Act will be codified at Title 52 (pertaining to Public Utilities) of the *Pennsylvania Code*.

Implementation Order, pg. 3. While the Commission has the general enforcement powers for Act 213, the General Assembly did carve out an important role for DEP through Section 1648.7(b):

The department shall ensure that all qualified alternative energy sources meet all applicable environmental standards and shall verify that an alternative energy source meets the standards set forth in section 2.

73 P. S. § 1648.7(b). One could interpret this section as providing that DEP has been assigned the task of qualifying generation facilities for alternative energy status. However, the Commission notes that “qualified” is used as an adjective to describe the alternative energy source and not as a verb to describe DEP’s action or power. This suggests that the task of qualifying resources has been assigned to another party. Accordingly, this provision requires DEP to ensure that qualified facilities are complying with all existing environmental statutes and regulations, and to verify that the standards at Section 1648.2 are adhered to.

The responsibility for qualifying resources has been specifically provided for in Section 1648.3(e), pertaining to the alternative energy credit program administrator:

(1) The commission shall establish an alternative energy credits program as needed to implement this act. This provision of services pursuant to this section shall be exempt from the competitive procurement procedures of 62 Pa.C.S. (relating to procurement).

(2) The commission shall approve an independent entity to serve as the alternative energy credits program administrator. *The administrator shall have those powers and duties assigned by commission regulations. Such powers and duties shall include, but not be limited to the following:*

(i) *To create and administer an alternative energy credits certification, tracking and reporting program. This program should include, at a minimum, a process for qualifying alternative energy systems and determining the manner credits can be created, accounted for, transferred and retired.*

(ii) *To submit reports to the commission at such times and in such manner as the commission shall direct.*

73 P. S. §§ 1648.3(e)(1) and (2) (Emphasis added).

The Commission tentatively concludes that Section 1648.3(e) vests the Commission with the power to promulgate regulations establishing standards and processes for resource qualification and alternative energy credit creation. Final determinations on resource qualification will therefore be made by the Commission or its agent, the program administrator.²

C. DEP’s Role in Qualification of Alternative Energy Systems

As noted in the prior section, the Commission does not conclude that 1648.7(b) should be read to find that DEP adjudicates resource qualification decisions. Rather, DEP is to ensure that alternative energy systems comply with all environmental standards. Additionally, DEP is to “verify” that sources comply with the standards found in Section 2 of the Act, which includes the definitions for the various “alternative energy sources.” 73 P. S. § 1648.2. The Commission interprets this language as directing it to utilize DEP’s expertise in environmental matters as part of the resource qualification process. Two different approaches can be taken: certification of questions of fact and law to DEP; or DEP as the expert witness.

1. Certification of Questions of Fact and Law

An analogy can be made to the Commission and DEP’s shared responsibilities regarding water supply. The Public Utility Code includes a provision that allows the Commission to certify questions of fact to DEP on water purity:

§ 318. Commission to cooperate with other departments

(a) VEHICLE REGISTRATION PLATES.—The Department of Transportation and the commission are hereby authorized and directed to cooperate in the issuance by the Department of Transportation, under the provisions of Title 75 (relating to vehicles), of registration plates for commercial motor vehicles, which will classify and identify motor vehicles operated under certificates or permits issued by the commission, without the necessity of the requirement of separate identification plates in addition to registration plates required under Title 75.

(b) PURITY OF WATER SUPPLY.—*The commission may certify to the Department of Environmental Resources any question of fact regarding the purity of water supplied to the public by any public utility over which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon the determination of such question by the department incorporate the department’s findings in its decision.*

(c) POWERS OF CERTAIN GOVERNMENTAL AGENCIES UNAFFECTED.—Nothing in this part shall be construed to deprive the Department of Health or the Department of Environmental Resources of any jurisdiction, powers or duties now vested in them.

² The Commission and DEP initiated an interim resource qualification process for generators via a Secretarial Letter issued on December 20, 2005. This interim process will continue until final standards are adopted.

66 Pa.C.S. § 318 (Emphasis added)³

The Commission finds that DEP should be utilized in the qualification process in a manner similar, though not necessarily identical, to what Section 318 provides for regarding water purity. When a generator applies for alternative energy status, the program administrator would review the application to determine if sufficient information has been provided, and if the resource is geographically eligible.⁴ The administrator would then refer the question of whether the resource is consistent with the Section 1648.2 definition of "alternative energy source" to DEP. DEP has already released certain technical guidelines on standards for compliance with the "alternative energy source" definition.⁵

Once DEP had completed its review of a particular facility, it would report its findings to the program administrator. Those findings would be incorporated into the administrator's determination of whether a facility was qualified or not. The scope of DEP's findings might vary depending on the application. For municipal solid waste, it appears that the Act is requiring DEP to make a finding of law and fact as to whether such a facility is in compliance with various state and federal environmental laws. The program administrator would probably need to incorporate both these findings in its initial determination. Other determinations are purely fact based. For example, DEP would need to confirm that waste coal came from appropriate waste coal refuse sites and that low-impact hydropower did not adversely impact aquatic systems.

It must be recognized that by certifying a question to DEP, the Commission is delegating some of its authority to another state agency. The program administrator would be bound by DEP's findings of fact or law on a particular application in its initial determination.

2. DEP as Expert Witness

An alternative to certifying questions to DEP would be to utilize them as an expert witness. DEP would offer written or oral testimony as the occasion dictated on whether they thought a particular resource met the Section 1648.2 definition. The difference from the certification approach is that their findings, presented by an expert witness, would not necessarily be incorporated into the determination of the program administrator. If there was some disagreement on a particular point, the administrator would be free to reject DEP's testimony if it found other information to be more persuasive.

The Commission tentatively finds that the certification approach is more consistent with the plain language of the Act. The Act mandates a more prominent role for DEP in the resource qualification process than merely serving as a source of information.

3. Confirmation of Compliance with Environmental Regulations

As noted earlier, DEP is to ensure that all alternative energy facilities comply with all applicable environmental standards. 73 P. S. § 1648.7(b). This raises the issue of whether noncompliance would jeopardize the alternative energy status of the facility. For example, would a waste coal facility that was in violation of air quality standards

³ The Commission may also certify environmental questions to DEP in the context of power plant construction or conversion. 66 Pa.C.S. §§ 517(b), 518(c), 519(c). See also 66 Pa.C.S. § 2802(21).

⁴ DEP is responsible for verifying that the standards "... set forth in Section 2" of the Act are met. 73 P. S. § 1648.7(b). The geographic test is in Section 4 of the Act, not Section 2. 73 P. S. § 1648.4. Accordingly, the Commission finds that the program administrator should determine whether the geographic test is met.

⁵ <http://www.dep.state.pa.us/dep/deputate/pollprev/PDF/Section%202%20Technical%20Guidance%20Final.pdf>

lose its alternative energy status? Or would it simply be subject to the normal fines and penalties available to DEP under its regulations? The Act is not entirely clear on this point.

The Act does provide that failure to comply with environmental standards would result in denial or loss of alternative energy status in at least one instance. The definition of "municipal solid waste" includes the requirement that the facility be in compliance with applicable environmental laws. 73 P. S. § 1648.2. The Commission believes that the General Assembly intended a uniform approach on this issue. Accordingly, we tentatively find that compliance with environmental regulations is a condition for the grant of "alternative energy system" status. Failure to maintain compliance with applicable environmental laws would therefore lead to a loss of qualified status for a facility.

D. Process for Approval and Review of Alternative Energy System Qualification Decisions

After receiving all necessary information, the program administrator would render a decision on alternative energy system qualification. The Commission finds that this initial review process is a paper proceeding only, involving an application form and accompanying documentation. Reasonable notice of applications would be provided to the public.

The administrator's decision on qualification would be subject to appeal and review by the Commission. The most proper analogy is probably that of a staff determination consistent with 52 Pa. Code § 5.44(a):

(a) Unless otherwise provided in this part, actions taken by a subordinate officer, other than a hearing officer, under authority delegated by the Commission may be appealed to the Commission by filing a petition within 10 days after service of notice of the action, unless a different time period is specified in this chapter or in the act.

The Commission would delegate decisions on alternative energy system qualification to the administrator. The administrator's decision would be deemed a final adjudication if it was not appealed to the Commission itself. Interested parties could challenge the determination by filing a petition within 10 days, or another designated time period as may be designated by the Commission, following the decision.

The Commission would then resolve the challenge, either on the pleadings, or after a referral to the Office of Administrative Law Judge ("OALJ") for hearings as may be necessary. A final adjudication by the Commission on resource eligibility could be appealed to the Commonwealth Court, and there defended by the Commission.

E. Maintaining Alternative Energy System Status

A generating facility that has been qualified as an alternative energy system will need to take certain steps to maintain its status. In a Secretarial Letter issued at this docket on December 20, 2005, the Commission established an interim resource qualification process. The attached application identified certain forms that a generator would need to provide on an annual basis to Pennsylvania DEP. Failure to provide this information will result in the loss of alternative energy system status for a generation facility. Material changes in the opera-

tions of a facility (e.g. fuel source, environmental compliance issues) may also result in the loss of alternative energy system status. The Commission will provide a notice and an opportunity to be heard before revoking the alternative energy system status of a facility.

F. The Alternative Energy System Qualification Standard

1. Fuel Source Requirement

Section 1648.2 identifies the energy sources whose use will qualify a generation facility for alternative energy status. These resources are classified as either a Tier I or Tier II resource. They include new and existing sources that rely on the following forms of energy or conservation:

Tier I

- Solar Photovoltaic
- Solar Thermal
- Wind Power
- Low-impact Hydropower (incremental development only)
- Geothermal Energy
- Biomass Energy
- Biologically derived methane gas
- Fuel Cells
- Coal Mine Methane

Tier II

- Large-Scale Hydropower
- Waste Coal
- Demand Side Management/Energy Efficiency
- Distributed Generation Systems
- Municipal Solid Waste (existing facilities only)
- Byproducts of pulping and wood manufacturing
- Integrated Combined Coal Gasification Technology

In order for a facility to qualify for alternative status it must use one of these fuel sources. Section 1648.2 does not provide specific definitions for each of these terms. DEP has developed draft technical guidelines for the fuel source requirement.⁶ It may be appropriate to incorporate these guidelines into the Commission's Act 213 related rulemakings.

2. Geographic Requirement

Applicants for alternative energy system status must also satisfy certain geographic criteria. Section 1648.4 of the Act states:

Energy derived only from alternative energy sources inside the geographical boundaries of this Commonwealth or within the service territory of any regional transmission organization that manages the transmission system in any part of this Commonwealth shall be eligible to meet the compliance requirements of this act.

73 P.S. § 1648.4. Clearly, all facilities located within Pennsylvania satisfy this test. During the course of this implementation proceeding, different interpretations have been advanced for the eligibility of facilities that lie outside Pennsylvania, but within the service territory of a regional transmission organization ("RTO") managing transmission systems in Pennsylvania. There are two entities currently managing transmission systems in Pennsylvania that have been granted RTO status: PJM Interconnection, LLC ("PJM") and the Midwest Independent Transmission System Operator, Inc. ("MISO"). *PJM Interconnection, L.L.C., et al.*, 101 FERC ¶ 61,345 (2002); *Midwest Independent Transmission System Operator, Inc.*, 97 FERC ¶ 61,326 (2001).

⁶ <http://www.dep.state.pa.us/dep/deputate/pollprev/PDF/Section%202%20Technical%20Guidance%20Final.pdf>

PJM manages the transmission systems for the following electric distribution companies: Allegheny Power, Citizens Electric Company, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, PPL Electric Utilities, Inc., UGI Utilities, Inc.—Electric Division, and Wellsboro Electric Company. MISO manages the transmission system of the Pennsylvania Power Company.

Whether the New York Independent System Operator ("NYISO") is an entity that qualifies under Section 1648.4 requires more detailed analysis. Pike Country Power & Light Company ("Pike") is owned by Orange & Rockland Utilities, Inc., a New York electric distribution company that is a member of the NYISO. However, the Commission has been advised by NYISO staff that the NYISO does not manage Pike's transmission system.

However, there are two 345 kV transmission lines that run from the Homer City generation station located in Indiana County, Pennsylvania and into New York. These lines are owned by New York State Electric and Gas ("NYSEG"). According to the transmission agreement between NYISO and New York transmission owners, these two NYSEG lines are under the operational control of NYISO.⁷ Thus, the Commission needs to determine whether NYISO resources would qualify under Section 1648.4

Section 1648.4 specifically used the phrase "regional transmission organization" in determining geographic eligibility. Regional transmission organization is defined by the Act as:

An entity approved by the Federal Energy Regulatory Commission (FERC) that is created to operate and manage the electrical transmission grids of the member electric transmission utilities as required under FERC Order 2000, Docket No. RM99-2-000, FERC Chapter 31.089 (1999) or any successor organization approved by the FERC.

73 P.S. § 1648.2. While the NYISO was granted ISO status by the Federal Energy Regulatory Commission ("FERC") consistent with Order 888, its request for RTO status pursuant to FERC Order 2000 was rejected. *New York Independent System Operator, Inc., et al.*, 96 FERC ¶ 61,059 (2001).

Therefore, an argument can be made that the NYISO is not an RTO within the meaning of the statute, and that resources located within the NYISO cannot qualify. One can argue that the definition of RTOs should not be read to exclude ISOs. The major distinction between ISOs and RTOs relates to governance issues. In terms of operation and management of transmission assets, which the Act appears to focus on, they are very similar. However, the plain language standard we are applying appears to mandate a finding that NYISO located resources do not satisfy the Act's geographic criteria. 1 Pa.C.S. §§ 1903, 1921(b).

Another issue involves the eligibility of facilities located outside of Pennsylvania, but within the service territories of PJM and MISO. One view is that facilities may only be qualified for compliance purposes in the RTO service territories that they are physically located in (sometimes referred to as "MISO to MISO/PJM to PJM"). Therefore, a wind facility located in Wisconsin, which is in MISO, would only qualify for compliance purposes in Penn Power's service territory, because that EDC is also in

⁷ Agreement Between New York Independent System Operator And Transmission Owners, Appendix A-1 http://www.nyiso.com/public/webdocs/documents/regulatory/agreements/nyiso_agreement/nyiso_to_agreement.pdf

MISO. A wind facility located in Maryland, which is in the PJM control area, would qualify for compliance in the service territories of all Pennsylvania EDCs that belong to PJM (i.e., all but Penn Power and Pike County). Because Pike County does not belong to an RTO, out-of-state alternative energy systems in PJM or MISO could not qualify for Pike County under this interpretation.

An argument in favor of this interpretation would stress the following portions in Section 1648.4:

Energy derived *only* from alternative energy sources inside the geographical boundaries of this Commonwealth or within the service territory of any regional transmission organization that manages the transmission system *in any part* of this Commonwealth shall be eligible to meet the compliance requirements under act.

(Emphasis added). The General Assembly's use of the highlighted word "only" could be interpreted to narrowly construe the geographic eligibility limits that follow in this sentence. Specifically, "only" could be linked with the phrase "in any part" to limit energy for compliance purposes from out-of-state resources in MISO and PJM to those portions of the same RTO service territory in Pennsylvania. Thus a facility located in the MISO service territory in Ohio would "only" qualify for alternative energy system status in the Penn Power service territory, as that is the only portion of MISO that is "in any part" of the Commonwealth of Pennsylvania.

The opposing argument is that alternative energy systems physically located within the PJM and MISO service territories meet the geographic eligibility criteria in Section 1648.4.

The plain language of Section 1648.4 could be interpreted as not including a restriction on the geographic eligibility of alternative energy systems located in the service territories of qualifying RTOs. The phrase "in any part of this Commonwealth" could be read as identifying *which RTOs* meet the geographic standard of Section 1648.4, not *which portions* of Pennsylvania may be served by facilities located in those RTOs. Additionally, Section 1648.4 seems to place the emphasis on the physical location of facilities. Specifically, Section 1648.4 speaks of energy "derived" from certain locations (e.g., Pennsylvania or the service territories of RTOs that manage Pennsylvania's transmission system), not where the energy is delivered to. Attempting to read an intra-RTO delivery requirement into Section 1648.4 of the Act may be contrary to its plain language. 1 Pa.C.S. § 1903.

As PJM and MISO are each an RTO that "manages the transmission system in any part of this Commonwealth", all facilities located in these RTO service territories arguably "... shall be eligible to meet the compliance requirements of this act." 73 P.S. § 1648.4. (Emphasis added)⁸.

The Commission is aware of the policy arguments advanced in favor of the more restrictive interpretation. By limiting MISO facilities outside of Pennsylvania to serving only the Penn Power territory, it effectively renders them non-participants in Pennsylvania's alternative energy market. Penn Power only has about 157,000 ratepayers out of roughly 5,518,000 statewide, or about 3%. Therefore, a more restrictive interpretation is advanced based on the belief that Pennsylvania would

accrue significant economic benefits resulting from the construction of more alternative energy systems in Pennsylvania than might otherwise occur.

The Commission makes the following observations on this issue. One, even if MISO facilities are largely excluded from the Pennsylvania market under a more narrow interpretation, this does not guarantee that a large number of alternative energy systems will be built in Pennsylvania. Facilities out-of-state will still qualify to serve better than 95% of the Pennsylvania load if they are located in the PJM service territory, which now includes all of Maryland, Delaware, New Jersey, Virginia, West Virginia, D.C. and large portions of Ohio, North Carolina, Illinois and Indiana. This territory may expand even further in the future, especially given the expected increase in the merger and acquisition of utilities resulting from the recent repeal of the Public Utility Holding Company Act of 1935 pursuant to the Energy Policy Act of 2005.

Two, the geographic qualification test at Section 1648.4 is somewhat suspect under the "Commerce Clause" of the U.S. Constitution. Generally, states may not unduly burden or restrain interstate commerce, which includes the sale of electricity in wholesale markets. Banning some generators from Pennsylvania's alternative energy market on purely geographic criteria could be viewed by some as a violation of the Commerce Clause. We note that the U.S. Supreme Court recently struck down laws in Michigan and New York that allowed direct sales of wine to their residents from in-state wineries, but which prohibited the same practice by out-of-state wineries. *Granholm, et al. v. Heald, et al.*, 125 S. Ct. 1885 (2005). The Supreme Court concluded that the state's actions in protecting local wineries amounted to unconstitutional discrimination against out-of-state competitors. In all but the narrowest circumstances, state laws violate the Commerce Clause if they mandate differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter. *Id.* As we noted earlier, the Commission is to presume that the General Assembly intended the entire statute to be constitutional and effective. 1 Pa.C.S. § 1922. The Commission will therefore attempt to interpret this provision in the way most likely to withstand any constitutional challenge.

Three, the Commission remains obligated to carry out the provisions of the Competition Act. The General Assembly concluded that Pennsylvania's economy and its retail customers would receive economic and financial benefits over the long term from the efficiencies of competitive wholesale energy markets. 66 Pa.C.S. §§ 2802(4), (5), (6), (7). It is a generally accepted that the larger the market for a particular good or service, the more competitive the price for that good service. While the Commission has not yet issued standards on cost-recovery for the Act, we note that these costs are identified "... as a cost of generation supply under 66 Pa.C.S. 2807." 73 P.S. § 1648.3(a)(3). Section 2807(e)(3) of the Public Utility Code, 66 Pa.C.S. § 2807(e)(3) includes a "prevailing market price" standard for energy acquisition by EDCs. In discerning legislative intent, the Commission is to presume that the General Assembly intended the public interest to be favored over the private. 1 Pa.C.S. § 1922. As the costs associated with the Act are to be recovered from Pennsylvania's ratepayers, one could argue that the Act should be interpreted in a way that ensures the most competitive price for alternative energy.

⁸ Under statutory construction precedents, by definition, the word "shall" is mandatory, and accordingly entertains no room to overlook a statute's plain language to reach a different result. *Lake Naomi Club, Inc. v. Monroe County Board of Assessment Appeals*, 782 A.2d 1121 (Pa. Cmwlth. 2001), petition for allowance of appeal denied, 793 A.2d 911 (2002).

Four, the Commission is constrained by the rules of statutory construction in determining legislative intent. As noted earlier in this Tentative Order, the Act does not include a purpose section, a statement of legislative intent, or any declarations of policy. In the absence of such guidance, the Commission will interpret the Act consistent with its plain language. 1 Pa.C.S. § 1903. The plain language of a statute may not be ignored in pursuit of its spirit or unstated legislative intent when its words are clear and free of ambiguity. 1 Pa.C.S. § 1921(b).⁹ The Commission welcomes comments on which interpretation is most consistent with the applicable legal standards.

G. Alternative Energy Credit Certification Standard

After a facility has been qualified for alternative energy system status, the energy it generates is eligible for alternative energy credits. A credit is equal to one megawatt hour of qualified alternative energy generation. 73 P. S. §§ 1648.2 and 1648.3(e)(4)(i). The Act places some additional restrictions on the creation of credits.

One, the same alternative energy may not be used to satisfy both Pennsylvania and another state's alternative or renewable portfolio standard. 73 P. S. § 1648.4. For example, if a facility's alternative energy has already been used to satisfy New Jersey's renewable portfolio standard, it may not also seek certification of a credit for this energy from the Pennsylvania program administrator. Two, the energy must also satisfy what is known as a "delivery requirement." Specifically, the energy associated with an alternative energy system must be delivered to a particular boundary in order to be eligible for credits.

Some parties have expressed concern that EDCs and EGSs may largely satisfy compliance with credits generated from facilities outside of Pennsylvania. They believe that the public interest is better served if new alternative energy facilities are constructed in Pennsylvania to meet the demand for alternative energy. Therefore, they have advanced the interpretation that energy from qualified facilities must meet a delivery requirement in order for credits to be awarded. This delivery requirement can take different forms. As noted in the prior section, the Act includes no policy declarations to guide the Commission on this point. Accordingly, the Commission will interpret the Act consistent with its plain language in reaching a resolution.

Those in favor of a Pennsylvania delivery requirement could cite to Section 1648.3(a), titled "General Compliance and Cost Recovery," which states:

From the effective date of this act through and including the 15th year after enactment of this act, and each year thereafter, the *electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth* shall be comprised of electricity generated from alternative energy sources, and in the percentage amounts as described under subsections (b) and (c).

(Emphasis added). Because of the use of the phrase "sold . . . to retail customers" it could be argued then that compliance is measured in terms of the quantity of energy delivered to retail customers in Pennsylvania. However, Section 1648.3 of the Act goes on to state that:

⁹ Legislative history, including statements of legislators, cannot act as a rationale for contradicting the plain language of a statute. *Golden Triangle News, Inc. v. Corbett*, 702 A.2d 1056 (Pa. Cmwlth. 1997).

An electric distribution company or electric generation supplier *shall comply with the applicable requirements of this section by purchasing sufficient alternative energy credits* and submitting documentation of compliance to the program administrator.

73 P. S. § 1648.3(e)(4)(i) (emphasis added). Compliance is therefore measured in quantities of alternative energy credits. The next section then provides that these credits may be acquired with the energy commodity, or separately through a tradable instrument:

For purposes of this subsection, one alternative energy credit shall represent one megawatt hour of qualified alternative electric generation, *whether self-generated, purchased along with the electric commodity or separately through a tradable instrument* and otherwise meeting the requirements of a commission regulations and the program administrator.

73 P. S. § 1648.3(e)(4)(ii) (Emphasis added). This language does not mean that there is no delivery requirement within the Act. The word "delivers" does appear in the definition for "alternative energy system," which states:

A facility or energy system that uses a form of alternative energy source to generate electricity and delivers the electricity it generates to the distribution system of an electric distribution company or to the transmission system operated by a regional transmission organization.

73 P. S. § 1648.2. As noted earlier in this memorandum, "alternative energy systems" are the generation facilities whose electricity is eligible for alternative energy credits. 73 P. S. § 1648.3(e)(2)(i).

The Commission tentatively finds that this definition may be interpreted to require that electricity from a qualified facility be delivered to a Pennsylvania EDC's distribution system or to a transmission system managed by an RTO that manages a portion of the Pennsylvania transmission system in order to qualify for credits. Therefore, electricity must be delivered to or consumed within either the MISO or PJM control area, or to the Pike County distribution system, in order for an alternative energy credit to be created.¹⁰

There also appear to be certain technical problems with mandating a Pennsylvania delivery standard. Specific electrons produced by a generation facility are not tracked from a generation station across political boundaries or to a physical location. PJM can measure the energy metered into its system from another control area, but it does not track whether an electron from a Wisconsin wind facility is going to a specific retail customer in Pennsylvania or Maryland. The only apparent way to enforce a Pennsylvania delivery requirement would be to require a contract for energy and credits between an out-of-state alternative energy systems and Pennsylvania

¹⁰ This "control area" delivery standard is consistent with what most other jurisdictions have chosen, particularly in PJM and the northeastern United States. Massachusetts only requires that energy be delivered into the ISO-NE control area, as does Rhode Island. 225 C.M.R. § 14.05; R.I. Gen Laws § 39-26-5. New York requires energy to be delivered into the NYISO control area for its RPS. *Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard*, Case 03-E-0188 (September 24, 2004). New Jersey, Maryland, the District of Columbia, and Delaware only require energy to be delivered into the PJM control area to satisfy their RPSs. N.J.A.C. 14:4-8.7; Maryland Public Utilities Code, § 7-701(i)(1) and (2); D.C. Code § 34-1431(10); 26 Del. C. § 352(6). Unlike Pennsylvania, these jurisdictions are served by only one RTO.

EDCs. Yet this interpretation would seem to be contrary to Section 1648.3(e)(4), which provides that compliance can be satisfied by the acquisition of credits, "whether self-generated, purchased along with the electric commodity or *separately* through a tradable instrument." (Emphasis added).

In resolving any apparent conflict between Section 1648.3(a), with its potential in-state delivery requirement, and the definition of "alternative energy system," we look to the rules of statutory construction, particularly Section 1933:

§ 1933. Particular controls general

Whenever a general provision in a statute shall be in conflict with a special provision in the same or another statute, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the special provisions shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be enacted later and it shall be the manifest intention of the General Assembly that such general provision shall prevail

Consistent with 1 Pa.C.S. § 1933, the Commission tentatively finds that the language of Sections 1648.3(e)(4)(i) and (ii), and the definition of "alternative energy system" must be given effect. Namely, compliance may be satisfied by the acquisition of credits separable from the energy. The energy itself need only be delivered to or consumed in the PJM or MISO control areas, or the distribution system of a Pennsylvania EDC in order for a credit to be generated.

The Commission also seeks comments on the issue of matching periods for deliveries. For example, New York has a monthly matching approach for energy delivered into NYISO by external generators. New York also considered strict delivery, quarterly matching, and annual matching during its review of this matter. The Act does not directly address this issue.

H. Health and Safety Standards

The Act identifies one other standard with which facilities must comply. Section 1648.6 states:

The department shall cooperate with the Department of Labor and Industry as necessary in developing health and safety standards, as needed, regarding facilities generating energy from alternative energy sources. The department shall establish appropriate and reasonable health and safety standards to ensure uniform and proper compliance with this act by owners and operators of facilities generating energy from alternative energy sources as defined in this act.

73 P. S. § 1648.6

The Act does not specify in any additional detail what is intended by this provision. Given the reference to the Department of Labor and Industry, the Commission believes that this provision is intended to address worker safety. The language of this section, with phrases like "as needed," strongly suggests that the promulgation of these standards is at the discretion of DEP. Existing standards may therefore be satisfactory.

The Act does not expressly state that resource qualification is contingent on compliance with health and safety standards. The Commission welcomes comments on whether additional standards are needed, and whether facility qualification should be made contingent on com-

pliance. To the extent that compliance is necessary, it may be appropriate to certify these questions to DEP as part of the recommended resource qualification process.

CONCLUSION

The Commission welcomes comments from all interested parties on the issues addressed within this Tentative Order. At the conclusion of the public comment period, the Commission will issue a further order on standards and processes for alternative energy system qualification and alternative energy credit certification; *Therefore,*

It Is Ordered That:

1. Interested persons may submit an original and 15 copies of written comments regarding the issues addressed in this Tentative Order to the Office of Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA, 17105-3265, within 30 days of the publication of this Tentative Order in the *Pennsylvania Bulletin*. A copy of all comments should be forwarded through electronic mail to Carrie Beale at cbeale@state.pa.us.

2. This Tentative Order shall be posted to the Commission's public internet domain, published in the *Pennsylvania Bulletin* and a copy served upon all electric distribution companies, all licensed electric generation suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Pennsylvania Department of Environmental Protection.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-261. Filed for public inspection February 10, 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 March 6, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-00122402. Beverly A. Gaston t/a Bev's Shuttle (2017 Canoe Ridge Road, Rossiter, Indiana County, PA 15772)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Indiana and Jefferson, to points in Pennsylvania, and return.

A-00122403, Folder 2. Mobility Professionals, Inc. t/a Vans-2-Go (1390 Industrial Boulevard, Southampton, Bucks County, PA 18966), a corporation of the Commonwealth—persons, in airport transfer service, from points in Bucks County to the Philadelphia International Airport in the City and County of Philadelphia, and Tincum Township in Delaware County; and the Lehigh Valley International Airport in Lehigh County, and vice versa. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102.

A-00122403. Mobility Professionals, Inc. t/a Vans-2-Go (1390 Industrial Boulevard, Southampton, Bucks County, PA 18966), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Bucks County to points in Pennsylvania, and return. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102.

A-00122341, F. 2. Sandra L. Fox (734 Sharvar Road, Venus, Venango County, PA 16364)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Venango, Clarion and Forest, to points in Pennsylvania, and return.

A-00122392. Wanda Mercado t/a Mercado Van Service (3905 North 7th Street, Philadelphia, Philadelphia County, PA 19140)—persons, in paratransit service, from points in the City and County of Philadelphia, to all State and Federal correctional institutions, located in Pennsylvania, and return.

A-00122340, F. 2. Dennis R. Shields (R. D. 2, Box 59B, Mayport, Jefferson County, PA 16240)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Jefferson, Armstrong, Indiana and Clearfield, to points in Pennsylvania, and return.

Applications 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 household goods as described under each application.

A-00122399. Richard Andrew Eberz t/a EBZ Moving and Storage (224 Hendricks Street, Ambler, Montgomery County, PA 19002)—household goods in use, from points in the County of Montgomery to points in Pennsylvania, and vice versa.

A-00122407. Brandon Dickey and Dwayne Sanners, Copartners t/a A+ Mountain Movers (4141 Glades Pike, Somerset, Somerset County, PA 15501)—household goods in use, from points in the County of Somerset to points in Pennsylvania, and vice versa.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for the transportation of household goods as described under the application.

A-00108084, F. 1, Am-A (Corrected). Joseph Sparacino Movers, Inc. (6 South Keyser Avenue, Taylor, Lackawanna County, PA 18517), a corporation of the Commonwealth, for the amendment to its common carrier certificate, which grants the right, inter alia, to transport,

by motor vehicle, household goods in use, from points in the City of Scranton, Lackawanna County, to other points in Pennsylvania and vice versa: *So As To Permit* the transportation of household goods in use: (1) from points in the City of Scranton, Lackawanna County, and within an airline distance of 3 statute miles of the limits of the said city to other points in Pennsylvania, and vice versa; (2) between points in the City of Pottsville, Schuylkill County, and within 10 miles by the usually traveled highways of the limits of said city and from points in said area to other points in Pennsylvania and vice versa, with right No. 2 subject to the following conditions: a) that no right, power or privilege is granted to pick up household goods, in use, from points on Highway Route 29 between the Borough of Tamaqua and the City of Hazleton; provided however, that the right is granted to pick up in Tamaqua, and b) that no right, power or privilege is granted to pick up household goods, in use, from points on Highway Route 209 between the Boroughs of Nesquehoning and Tamaqua, provided however, that the right is granted to pick up in Tamaqua; and (3) from points in the Borough of Ashland, Schuylkill County, and within 25 miles by the usually traveled highways of the limits of said borough to points in Pennsylvania, and vice versa; which is to be a transfer of the rights authorized under the certificate issued at A-00104113 to Sparacino Brothers, Inc., subject to the same limitations and conditions. *Attorney:* William A. Gray, Esquire, 2310 Grant Building, Pittsburgh, PA 15219.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-262. Filed for public inspection February 10, 2006, 9:00 a.m.]

Telecommunications Service

A-311014F0002AMB. Armstrong Telecommunications, Inc. Application of Armstrong Telecommunications, Inc. to amend its certificate of public convenience to offer, render, furnish or supply telecommunications services for compensation to the public as a competitive local exchange carrier in the service territory of Alltel Pennsylvania, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 27, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Armstrong Telecommunications, Inc.

Through and By Counsel: John F. Povilaitis, Esquire, Matthew A. Totino, Esquire. Ryan, Russell, Ogden and Seltzer, LLP, 800 North Third Street, Suite 101, Harrisburg, PA 17102-2025

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-263. Filed for public inspection February 10, 2006, 9:00 a.m.]

Telecommunications Service

A-311014F0002AMC. Armstrong Telecommunications, Inc. Application of Armstrong Telecommunications, Inc. to amend its certificate of public convenience to offer, render, furnish or supply telecommunications services for compensation to the public as a facilities-based competitive local exchange carrier in the service territory of North Pittsburgh Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 27, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Armstrong Telecommunications, Inc.

Through and By Counsel: John F. Povilaitis, Esquire, Matthew A. Totino, Esquire, Ryan, Russell, Ogden and Seltzer, LLP, 800 North Third Street, Suite 101, Harrisburg, PA 17102-2025

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-264. Filed for public inspection February 10, 2006, 9:00 a.m.]

Transfer by Sale

A-120007F0005 and A-120400. Nido's Ltd., Inc. d/b/a Kaylor Gas Distribution and Andreassi Gas Company. Application of Nido's Ltd., Inc. d/b/a Kaylor Gas Distribution for approval of the transfer by sale 21 customers to Andreassi Gas Company and for Andreassi Gas Company to begin to supply gas service in additional territory.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 27, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Nido's Ltd., Inc., d/b/a Kaylor Gas Distribution and Andreassi Gas Company

Through: Kathleen Foley, President, P. O. Box 24, Meridian Branch, Butler, PA 16001-2898

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-265. Filed for public inspection February 10, 2006, 9:00 a.m.]

XO Communications Services, Inc. Revision to Competitive Local Exchange Tariff Telephone Pa. P.U.C. No. 9 for an End-User Access Recovery Charge; Doc. No. R-00050342

Public Meeting held
January 12, 2006

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

Order

By the Commission:

I. BACKGROUND

Before us is the recommendation of the Staff of the Bureau of Fixed Utility Services (FUS) regarding the Access Recovery Charge (ARC) that has been implemented by XO Communications Services, Inc. (XO or the Company) in its Competitive Local Exchange Service Tariff No. 9.¹ XO operates within the Commonwealth as a competitive local exchange carrier (CLEC).

XO implemented its ARC through a tariff filing that was made on or about February 28, 2005 and became effective on or about April 1, 2005. According to XO this tariff filing was necessitated because of the Federal Communications Commission (FCC) actions in its Triennial Review Remand Order (TRRO).² Despite the informal contacts between the Staff and XO, the ARC has been maintained in the Company's Tariff:

II. COMPANY FILING

XO's ARC was filed under Sections 3.1.0 and 3.33.4 of its Competitive Local Exchange Service Tariff No. 9. The revision states:

The ARC is a monthly surcharge assessed in order to recover materially increased costs resulting from regulations adopted by the Federal Communications Commission in the *Matter of Unbundled Access to Network Elements and Review of the Unbundling Obligations of Incumbent Local Exchange Carriers, (CC Docket 01-388 and WC Docket 04-313)*. The ARC is calculated by application of a percentage to each customer's total monthly recurring charges (MRC's). The ARC percentage to be applied will be determined by the customer's total MRC's on its monthly invoice. The Chart below shows the ARC percentage that will be applied based on the MRC's.

¹ XO Tariff Telephone—Pa P.U.C. No. 9, Sec. 3.1.0., 1st Rev. Page 60, and Sec. 3.34.4, Orig. Page 428.1.

² In the *Matter of Unbundled Access to Network Elements and Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, WC Docket No. 04-313 and CC Docket No. 01-338, (FCC Rel. February 4, 2005), Order on Remand, FCC 04-290.*

<i>Total MRC</i>	<i>Charge Percentage</i>	<i>Total MRC</i>	<i>Charge Percentage</i>
\$0.00—100.00	10.00%	\$7,500.01—10,000.00	2.50%
\$100.01—200.00	9.00%	\$10,000.01—20,000.00	2.20%
\$200.01—400.00	8.00%	\$20,000.01—30,000.00	2.00%
\$400.01—600.00	7.00%	\$30,000.01—40,000.00	1.80%
\$600.01—800.00	6.00%	\$40,000.01—50,000.00	1.60%
\$800.01—1,000.00	5.00%	\$50,000.01—75,000.00	1.40%
\$1,000.01—1,500.00	4.00%	\$75,000.01—100,000.00	1.20%
\$1,500.01.01—2,500.00	3.50%	\$100,000.01—250,000.00	1.00%
\$2,500.01—5,000.00	3.00%	\$250,000.01—500,000.00	0.90%
\$5,000—7,500.01	2.75%	\$500,000.01+	0.80%

III. DISCUSSION

XO was advised that the ARC as a separate line item is not acceptable as per 66 Pa.C.S. § 1509, which states in pertinent part that “All bills shall be itemized to separately show amounts for basic service, Federal excise taxes, applicable State sales and gross receipts taxes.” Likewise, 52 Pa. Code § 53.26(b) states “All rates, charges, and the like, shall be stated, if practicable, in dollars and cents per unit; otherwise in a form reducible to dollar and cents.” The sliding scale surcharge submitted by XO presents discrimination in pricing of basic telephone service because an end user cannot determine the rate for basic service by looking at the Company’s Competitive Local Exchange Tariff. Moreover, the sliding scale surcharge allows one customer to be charged less for basic service than another customer residing in the same exchange. XO was instructed that cost recovery would be more appropriately built into the explicit rate structure.

The related analysis of XO’s ARC indicates that it may be in violation of the statutory requirements at 66 Pa.C.S. §§ 1509 (Billing Procedures) and 1304 (Discrimination in Rates), as well as this Commission’s regulations at 52 Pa. Code § 53.26 (Schedule of Rates). Although the Staff strove to correct a situation that potentially violates applicable statutes and the Commission’s regulations, XO did not receive a more formal notice through the timely suspension and investigation of its ARC tariff filing.

IV. Conclusion

We believe that it would be appropriate to initially refer this matter to the Office of Administrative Law Judge (OALJ) for timely mediation in accordance with our regulations at 52 Pa. Code § 69.392(e). The OALJ Mediator should provide the Commission with a final report on the outcome of the mediation as soon as possible.

In the event that such mediation fails, this matter should be expeditiously referred to an ALJ for a full evidentiary adjudication and the issuance of a recommended decision. In view of the Commission’s Office of Trial Staff (OS) duties under 66 Pa.C.S. § 306(b)(1), a copy of the related Commission Order should be formally served on OTS. *Therefore,*

It Is Ordered That:

1. The matter of XO’s ARC, the related tariff modifications, and the issue of a potential rate refunds be referred to the Office of Administrative Law Judge for a timely mediated resolution in accordance with our regulations at 52 Pa. Code § 69.392(e).

2. The Office of Administrative Law Judge Mediator shall file a report with the Commission on the outcome of the mediation as soon as possible.

3. In the event that mediation fails, this matter will be expeditiously referred to an Administrative Law Judge for formal evidentiary adjudication addressing the outstanding material issued, and for the issuance of a recommended decision.

4. A copy of the related Order be published in the *Pennsylvania Bulletin*.

5. The Secretary of the Commission formally serve a copy of the related Order to the Commission’s Office of Trial Staff.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-266. Filed for public inspection February 10, 2006, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Frances Walter Leonard; Doc. No. 1019-51-05

On October 12, 2005, Frances Walter Leonard, license no. RN-316781-L, of Philadelphia, Philadelphia County was suspended for at least 3 years, retroactive to July 28, 2005, based on the violation of the terms of her Voluntary Recovery Program, Consent Agreement and Board Order.

Individuals may obtain a copy of the adjudication by writing to Carmen L. Rivera, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Nursing (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.

JOANNE L. SORENSEN, RN, MS,
Chairperson

[Pa.B. Doc. No. 06-267. Filed for public inspection February 10, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

March 8, 2006 Cloyd D. Keister 1 p.m.
 (Denial of Disability
 Retirement Benefits)

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 06-268. Filed for public inspection February 10, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

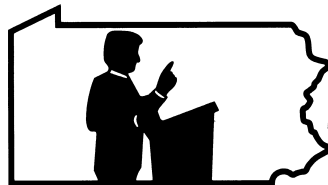
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:) Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

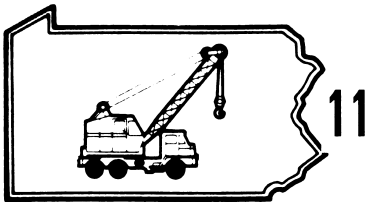
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreasury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

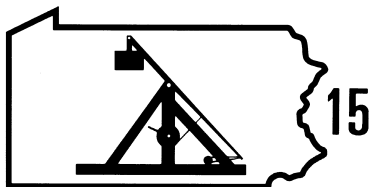
SERVICES



Demolition—Structural Only

RFA The Pennsylvania Health Care Cost Containment Council (PHC4), an independent Pennsylvania state government agency, is accepting grant applications for projects that demonstrate the utility of the MedMined Nosocomial Infection Marker and related infection prevention technologies in reducing the human and economic cost of hospital-acquired infections. MedMined, Inc. is a leading technology service provider headquartered in Birmingham, Alabama. This funding opportunity is available to Pennsylvania acute care hospitals interested in using MedMined's comprehensive electronic approach to hospital-acquired (nosocomial) infection (HAI) surveillance to identify HAIs hospital-wide, analyze the financial impact of HAI using the hospitals' own cost accounting data, and target specific infection prevention interventions. In order to be eligible for this grant opportunity, Pennsylvania acute care hospitals must, at a minimum, be in compliance with all data reporting requirements of Act 14. Additional requirements are outlined in the Request For Application (RFA). A copy of the RFA can be downloaded from the PHC4 website: www.phe4.org.

Department: Health Care Cost Containment Council
Location: Pennsylvania Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101
Duration: One year.
Contact: Cherie Elias, 717-232-8787



Environmental Maintenance Service

12DR2SPC Provide on-call drilling equipment and personnel for soils and geological investigations, as per specifications and special requirements. Period of contract will be July 3, 2006 to June 30, 2007. Location of work will include: Fayette, Greene, Washington and Westmoreland Counties. Bid opening date will be tentatively April 4, 2006 at the District 12 Office, Uniontown, PA.

Department: Transportation
Location: Pa. Department of Transportation, District 12, 825 North Gallatin Avenue Ext., P.O. Box 459, Uniontown, PA 15401
Duration: July 3, 2006 to June 30, 2007
Contact: Robert Hoone, 724-439-7245



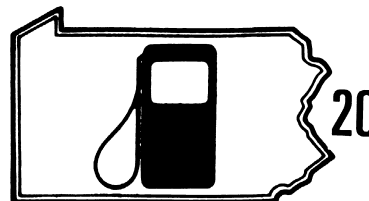
Extermination Services

WNVAL106 Aerial Larvicide application for Mosquito Larvae for Northwestern Pa. Bid opening February 23, 2006, 2:00 p.m.

Department: Environmental Protection
Duration: 1 year
Contact: Bill McDade, 717-783-0486

WNVAL206 Aerial Larvicide application for mosquito larvae for Centre, Clearfield and Columbia Counties - Pennsylvania. Bid opening February 23, 2006 2:00 p.m.

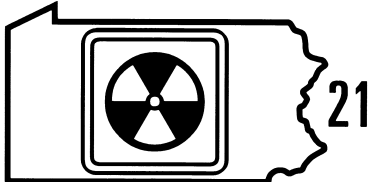
Department: Environmental Protection
Duration: 1 year
Contact: Bill McDade, 717-783-0486



Fuel Related Services

CN00018942 This contract will provide various types of K-100 Fuel Treatment products. The types to be provided will be 55 gallon drums of K-100D fuel treatment, 8 ounce bottles of K100 MG-8 marine fuel, 8 ounce bottles of K100 D-8 fuel treatment, and 32 ounce bottles of K100 D-32. All requests for bid packages must be received by fax at (814) 274-9764 Attn: Andrea Fourness, Clerical Supervisor or by phone at (814) 274-9181 ext. 3013.

Department: Transportation
Location: 101 Locust Street, Coudersport, PA 16915
Duration: This is a one year contract with 2 (two) one year renewal periods.
Contact: Tim Brem, Equipment Mgr., (814) 274-9181



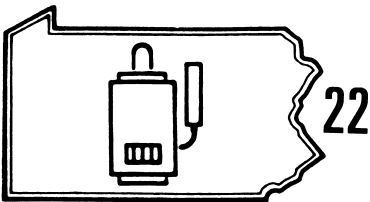
Hazardous Material Services

CN00017470 Pickup and Disposal of Hazardous Waste from various Locations within Somerset County.

Department: Transportation
Location: Somerset Maintenance Office, 1312 North Center Ave., P. O. Box 509, Somerset, PA 15501
Duration: 2/23/06 to 2/22/08
Contact: Mike Knepper, 814/445/7905

RFP2006CHEMSWEEP The vendor will provide pesticide disposal services to the PA Department of Agriculture's CHEMSWEEP Program and provide the PA Department of Environmental Protection with services to operate a hazardous household waste program. The CHEMSWEEP Program is estimated to generate 100,000 pounds of pesticide waste per year. Please e-mail Michael Mesaris at mmesaris@state.pa.us for a copy of the request for proposal. Include your company's name and complete mailing address with your request.

Department: Agriculture
Location: Statewide
Duration: Termination date of Dec. 31, 2009 with two one year options to renew.
Contact: Michael Mesaris, 717-787-5674



HVAC Services

FM 8948 Perform all aspects of duct cleaning to the air distribution system at the Pennsylvania State Police Headquarters Building at 1800 Elmerton Ave., Harrisburg, PA 17110. Work covered shall consist of furnishing all labor, equipment and materials and to perform all operations in connection with the proper cleaning, sanitizing and encapsulating the interior air distribution system.

Department: State Police
Location: Pennsylvania State Police, 1800 Elmerton Ave., Harrisburg, PA 17110
Duration: March 1, 2006 through June 30, 2006
Contact: Helen Fuhrman, 717-705-5952

SSHE 401-BL-824 Printing/Duplicating Shop Work consists of removal of existing DX coil unit, ductwork, diffusers, grilles, piping, valves, capping and sealing existing hydronic piping and installation of a new packaged split air handling unit, with humidification/dehumidification cycle, outdoor air intake hood, dual compressor outdoor air condensing unit, cold water and drain piping, condensate piping, valves insulation, sheet-metal ductwork, accessories, electrical wiring, circuit breakers, conduits and humidity and temperature controls. This is a one prime contract (General - \$55,000 to \$65,000). To obtain a copy of the bid documents submit a \$25.00 (non-refundable) check to Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815. Attn: Diann Shamburg, phone 570-389-4312, fax 570-389-2017. The pre-bid conference and bid due dates will be included in the bid documents.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: 50 calendar days
Contact: Diann Shamburg, 570-389-4312

cn00018970 Maintenance and Repair of HVAC systems at Stockpile 01, Adams County located at PennDOT, 1185 Fairfield Road, Gettysburg, Pa. 17325. All vendors must visit site before the bid opening to be familiar with the type of equipment to be maintained and repaired. Bid Opening - Feb. 17, 2006 at 11:00 a.m.

Department: Transportation
Location: 0810 Adams County, 1185 Fairfield Road, Gettysburg, PA 17325
Duration: 1 year contract with 4 (four) 1-year renewals with mutual consent.
Contact: Helen L Bair, 717-334-3155



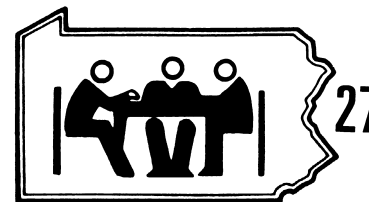
Janitorial Services

CN00018905 Require janitorial services for the office building located at 15187 Renovo Road, Clinton County, Renovo, PA 17761. The office is located on two levels consisting of approximately 5,700 square foot on each floor. Cleaning materials/equipment will be provided by the Bureau of Forestry. Bid opening date: 02/23/2006.

Department: Conservation and Natural Resources
Location: Sproul State Forest District Office, 15187 Renovo Road, Clinton County, Renovo, PA 17764
Duration: Commence upon receipt of purchase order or July 1, 2006, whichever is later, and terminate June 30, 2007. Parties may agree to renew for 4, 1-year term with final termination 06/30/2011. Upon renewal a 3% increase can be requested.
Contact: Steven E. Smith, 717-783-1896

CN00018929 Cleaning and Sanitizing 3 Open Bays as per specifications. For a copy of the bid package please fax your request to 717-861-2932 or e-mail to the address below. Bid opening will be Wednesday, February 15, 2006 at 2:00 PM.

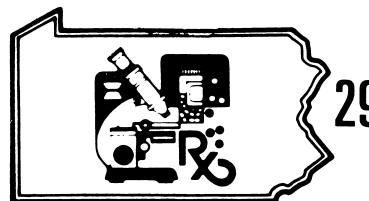
Department: Military Affairs
Location: Field Maintenance Shop No. 29, 1776 Minuteman Lane, State College, PA 16803
Duration: To be completed April 15, 2006
Contact: Glenda Nagle, 717-861-2116



Lodging/Meeting Facilities

CN00018901 Contractor is to provide lodging, breakfast and parking May 14-19, 2006, for approximately 120 employees of the Bureau of State Parks. All rooms are to be single, non-smoking designated rooms. The rooms must be well maintained, appliances, lighting and plumbing must be in good condition and sufficient linens and towels must be provided to accommodate all occupants. A buffet breakfast is to be provided each morning on the premises. Parking must be on the premises or adjacent to the premises. Facility must be within a one (1) mile radius of downtown Erie, Pennsylvania.

Department: Conservation and Natural Resources
Location: Facility must be within a one (1) mile radius of downtown Erie, Pennsylvania
Duration: The contract shall commence upon execution and receipt of the Purchase Order or May 14, 2006 whichever is later and terminate May 19, 2006.
Contact: Gloria Strawser, 717-783-0733



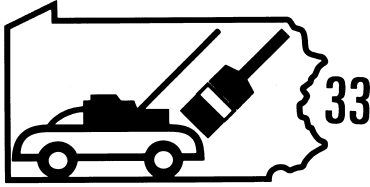
Medical Services

113-0644 Durable medical goods for prevention of wound care. Specifications are available upon request.

Department: Military Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: 03/01/06 - 06/30/2006
Contact: Douglas Young, 412-665-6766

KURFP-0098 Kutztown University has issued a request for proposal (KURFP-0098), seeking qualified Medical Providers to submit proposals to provide Student Health Care and Sports Medicine Services. Interested suppliers should request a RFP Package KURFP-0098, and submit request in writing to Anise Freeman, Purchasing Agent, Kutztown University, Kutztown PA 19530; e-mail: afreeman@kutztown.edu. Phone: 610.683.4774, fax: 610.683.4674. RFP packages will be available from January 30, 2006, to February 13, 2006. Proposals are due no later than 2 p.m., February 22, 2006.

Department: State System of Higher Education
Location: Kutztown University of Pennsylvania, Kutztown, PA
Duration: RFP open through 2/22/06
Contact: Anise Freeman, 610.683.4774



Property Maintenance

cn00018962 This work is for the Dept. of Transportation, along highways for various State Routes in Chester County (Group 6-06-LAM2). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Michael Burkhart, Purchaser, (610-436-1904). Bids are scheduled to be opened on February 8, 2006 at the Chester County Maintenance Office at 11:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT, Districts, District 6, District Bid Page. Then click on the CN number for specified service.

Department: Transportation
Location: Pennsylvania Department of Transportation Engineering District 6-2, 401 Montgomery Ave. West Chester, PA 19380
Duration: 3 Yr. Contract with an option to renew
Contact: Michael Burkhart, 610-436-1907

CN00018967 Services of a contractor, at specifically designated locations, to provide mechanical control of competing vegetation in forested areas of the Commonwealth of Pennsylvania to aid in the establishment of stands of high-value trees by eliminating competing understory vegetation consisting primarily of striped maple and beech brush much of which is larger than 12 feet in height and dense stands of mountain laurel. Bid Opening Date/Time: 2/23/06, 2:00 p.m.

Department: Conservation and Natural Resources
Location: Specified forested areas of the Commonwealth of Pennsylvania.
Duration: Commence upon receipt of purchase order or May 1, 2006, whichever is later and terminate April 30, 2007. Parties may renew contract for up to two 2 additional annual terms with final termination date of 4/30/2009.
Contact: Nancy Weibley, 717-783-4884

CN00018975 This work is for the roadside mowing along highways for various State Routes in Philadelphia County (Group 6-06-LAM5). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Suleica Vazquez, Purchaser (215) 225-1415. Bids are scheduled to be opened on March 9, 2006 at the Philadelphia County Maintenance Office at 11:00 a.m. A pre-bid conference will be held at the county maintenance office on March 1 at 9:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, Penn Dot Districts, District 6, District Bid Page. Then click on CN00018975 for the specified service.

Department: Transportation
Location: 1901 Ruffner Street, Philadelphia, PA 19140
Duration: This request for quote is based on service for a three (3) year period. There will be one (1) option to renew for an additional two (2) year period based on mutual agreement by the contractor and PennDOT. Starting 4/24/2006 to 12/31/2008.
Contact: Suleica Vazquez, 215-225-1415

CN00018971 This work is for the mowing along limited access, state highways in Bucks County. Interested vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and obtain a PA Vendor Number, call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. Bids are scheduled to be opened at the Bucks County Maintenance Office in Doylestown, PA on 2/24/06 at 11:00 AM.

Department: Transportation
Location: Various field locations in Bucks County
Duration: 4/1/06 (pending approval) to 12/31/08 with an option for one renewal or two years
Contact: Scott Bittner, 215-345-6060

CN00018955 This work is for the Mowing and Trash Removal and Disposal for various State Routes in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties. Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Linda Bunt, 610-205-6599. Bids are scheduled to be opened on February 24, 2006 at PennDOT's District 6-0 Office, 4th floor, at 11:00 AM. There will be a Pre-Bid meeting on February 16, 2006, in the King of Prussia District 6 office, Room 404, at 10:00 a.m.

Department: Transportation
Location: Pennsylvania Department of Transportation Engineering District 6-0, 7000 Geerdes Blvd., King of Prussia, PA 19406
Duration: 3 years with an option to renew
Contact: Linda Bunt, 610-205-6784

cn00018961 This work is for the Dept. of Transportation, along highways for various State Routes in Chester County (Group 6-06-2M3). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Michael Burkhart, Purchaser, (610-436-1904). Bids are scheduled to be opened on February 8, 2006 at the Chester County Maintenance Office at 11:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT, Districts, District 6, District Bid Page. Then click on the CN number for specified service.

Department: Transportation
Location: Pennsylvania Department of Transportation Engineering District 6-2, 401 Montgomery Ave. West Chester, PA 19380
Duration: 3 Yr. Contract with an option to renew
Contact: Michael Burkhart, 610-436-1907

cn00018960 This work is for the Dept. of Transportation, along highways for various State Routes in Chester County (Group 6-06-2M4). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Mike Burkhart, Purchaser (610-436-1904). Bids are scheduled to be opened February 8, 2006, at the Chester County Maintenance Office at 11:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT Districts, District 6, District Bid Page. Then click on the CN number for the specified service.

Department: Transportation
Location: Pennsylvania Department of Transportation District 6-2, 401 Montgomery Ave., West Chester, PA 19380
Duration: 3 Yr. Contract with an option to renew
Contact: Michael Burkhart, 610-436-1907

CN00018969 This contract is for the Roadside Mowing Services along highways for various State Routes in Montgomery County (Group 6-06-LAM4). Interested vendors should be registered with the Commonwealth of Pennsylvania vendor program prior to receiving a RFQ-Invitation for Bids. To register and obtain a PA vendor number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and vendor ID number to Steve J Mueller, Purchaser (610) 275-2368. Bids are scheduled to be opened on Wednesday, February 8, 2006 at the Montgomery County Maintenance office at 10:00 a.m.

Department: Transportation
Location: Pennsylvania Department of Transportation Engineering District 6-4, Montgomery County, P. O. Box 350, Markley Street and Johnson Highway, Norristown, PA 19401
Duration: 2 year contract starting 4/1/06 and ending 12/31/08.
Contact: Steve J Mueller, 610-275-2368

CN00018939 This work is for the spraying of herbicides along highways for various State Routes in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties (Group 6-06-HERB). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Louis J. Porrini, Purchaser (610) 205-6909. Bids are scheduled to be opened on February 23, 2006 at the PA Department of Transportation, District 6 Engineering Office, and 7000 Geerdes Blvd., King of Prussia, PA 19406 at 11:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT Districts, District 6, District Bid Page. Then click on the CN number for the specified service. A Pre-Bid Conference will be held on February 15, 2006 at PA Department of Transportation, District 6 Engineering Office, and 7000 Geerdes Blvd., King of Prussia, PA 19406 at 10:00 a.m.

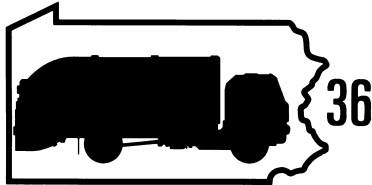
Department: Transportation
Location: Bucks, Chester, Delaware, Montgomery and Philadelphia Counties
Duration: Three (3) years with an option to renew.
Contact: Louis J. Porrini, Purchaser, 610-205-6703

CN00018977 This work is for the roadside mowing along highways for various state routes in Montgomery County (group 6-06-4M2). Interested vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ-Invitation for Bids. To register and to obtain a PA vendor number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and vendor ID number to Steve J Mueller, RPC at 610-270-1520. Bids are scheduled to be opened on February 8, 2006 at the Montgomery County Maintenance Office at 10:00 AM. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT Districts, District 6, District Bid Page. Then click on the CN number for the specified service.

Department: Transportation
Location: Pa. Department of Transportation, Engineering District 6-4 Montgomery County, P. O. Box 350, Markley Street and Johnson Highway, Norristown, PA 19404
Duration: 3 year contract starting 5/1/06 and ending 12/31/08, with an option to renew
Contact: Steve J Mueller, 610-275-2368

CN00018976 This work is for the roadside mowing along highways for various State Routes in Philadelphia County (Group 6-06-ROOS). Interested Vendors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a RFQ- Invitation for Bids. To register and to obtain a PA Vendor Number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and Vendor ID Number to Suleica Vazquez, Purchaser, (215) 225-1415. Bids are scheduled to be opened on March 10, 2006 at the Philadelphia County Maintenance Office at 11:00 a.m. A pre-bid conference will be held at the county maintenance office on March 1, 2006 at 10:00 a.m. Bidding documents can be viewed at www.dot.state.pa.us by clicking on Local and Regional Offices, PennDOT Districts, District 6, District Bid Page. Then click on the CN number for the specified service.

Department: Transportation
Location: Pa. Department of Transportation District 6-5, Philadelphia County Office, 1901 Ruffner Street, Philadelphia, PA 19140
Duration: This request is based on service for a one (1) year period. There will be two (2) options to renew for an additional one (1) year period based on mutual agreement by the contractor and PennDOT.
Contact: Suleica Vazquez, 215-225-1415



Sanitation

CN00018916 Removal of trash and garbage for the State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931, consisting of 30 cu. yd. Institution owned container, 6 cu. yd. and 4 cu. yd. containers provided by the vendor.

Department: Corrections
Location: State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931
Duration: July 1, 2006 to June 30, 2009
Contact: Mary Lou Neverosky, Purchasing Agent, 570/773-2158, Ext. 419

CN 00018937 The contractor shall provide for the removal of trash, kitchen waste and recyclable materials for the Allentown Community Corrections Center, 608-610 Hamilton Mall, Lehigh County, Allentown, Pennsylvania, for the period July 1, 2006 to June 30, 2009. Vendor to request bid package in writing to the purchasing agent of SCI Mahanoy, 301 Morea Road, Frackville, PA 17932, fax (570) 783-2005 or e-mail.

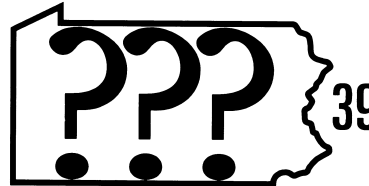
Department: Corrections
Location: Allentown Community Corrections Center, 608-610 Hamilton Mall, Lehigh County, Allentown, PA
Duration: July 1, 2006 to June 30, 2009
Contact: Dawn M. Troutman, Purchasing, (570) 773-2158

CN00018917 Removal of kitchen waste (including liquids) from the State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931 with vendor supplying a 25 cu. yd. sludge container, w/lid (comparable to existing container) on site.

Department: Corrections
Location: State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931
Duration: July 1, 2006 TO June 30, 2009
Contact: Mary Lou Neverosky, Purchasing Agent, 570/773-2158, ext. 419

CN00018904 Require services for solid waste collection and disposal at Ridley Creek State Park, Sycamore Mills Road, Delaware County, Media, PA 19063. Bid Opening Date 02/14/2006.

Department: Conservation and Natural Resources
Location: Ridley Creek State Park, Sycamore Mills Road, Media, PA 19063
Duration: Commence upon receipt of purchase order or 04/01/2006, whichever is later and terminate 12/31/2008. Parties may agree to renew for 1, 2-year term with final termination 12/31/2010. Upon renewal a 3% increase can be requested.
Contact: Steven E. Smith, 717-783-1896



Miscellaneous

CN00018965 SCI-Rockview is seeking bidders for Bronze Globe Valves and Stainless Steel Gate Valves, 2" - 4". Bid packages may be requested via e-mail jpackard@state.pa.us, or fax (814) 355-6026. Vendors who wish to bid must be registered with the Commonwealth Central Vendor Management Unit, in order to be eligible to receive a bid package.

Department: Corrections
Location: SCI-Rockview, State Route, Box A, Bellefonte, PA 16823
Duration: 01/30/06 through 06/30/06.
Contact: Janine E. Packard, PUR AGT 2, 814-355-4874, X425

SU-05-15 Shippensburg University is seeking vendors who are interested in furnishing and installing a Model #VGRC605-6GQD Viking 60" Range (Natural Gas), 12" grill/12" griddle and other various items in support of the range for the Martin House. All interested bidders are encouraged to fax a request for the bid package to (717) 477-1350 or e-mail a request to kmsmit@ship.edu. All responsible bidders are encouraged to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: Delivery no later than March 27, 2006
Contact: Karen Smith, (717) 477-1386

PGC-2863 Agency seeking vendor to supply fully encased elk transmitter collars to the Pennsylvania Game Commission's Bureau of Wildlife Management. A total of 60 collars (3 different models) are required. Collars must be received in mid-March, 2006.

Department: Game Commission
Location: Pennsylvania Game Commission, Division of Automotive and Procurement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797
Duration: From award through March 15, 2006.
Contact: Diane Shultz or Barbara Kline, 717/787-6594

RFP No. 106-R-1939050000 The Department of State, Bureau of Finance and Operations, on behalf of the Bureau of Professional and Occupational Affairs wishes to procure the services of a qualified contractor to administer all aspects of the Professional Health Monitoring Program's forensic toxicology drug screening program.

Department: State
Location: Bureau of Finance and Operations, Room 308 North Office Building, Harrisburg, PA 17120
Duration: Five year, firm fixed-price contract
Contact: Monna J. Accurti, 717-214-4927

CN00018950 Meal delivery system.

Department: Military Affairs
Location: PA Soldiers' and Sailors' Home, 560 East Third Street, Erie, PA 16507
Contact: Rosemarie Rendulic, 814-878-4930

6500-180 Furnish and install Wheel Aligner with Lift Adapter Kit.

Department: Corrections
Location: State Correctional Institution at Retreat, 660 State Route 11, Hunlock Creek, PA 18621
Duration: 03/01/06 - 06/30/06
Contact: Barbara Swiatek, 570-674-2717

CN00018819 Vendor to supply one fiberglass astronomy dome observatory with door in base ring, 15 feet fiberglass observatory with a 37 inch door in base ring including electronic rotation and power supply as manufactured by MMI Corporation, model Polaris-15, and one fiberglass astronomy dome wall ring with door, model P-15 wall ring, or approved equal. Interested vendors must be registered with the Commonwealth and have a registered vendor number. To register and obtain number, call 1-866-775-2868. BID OPENING: February 14, 2006, 2 p.m.

Department: Conservation and Natural Resources
Location: To be delivered to: DCNR Lyman Run State Park, 454 Lyman Run Road, Galeton, PA 16922
Duration: One time purchase
Contact: Naomi Rudisill, 717-783-0749

CN00018651 Requesting proposals for the following services: To provide for the removal, storage and destruction of confidential client records from Headquarters offices and 19 district offices of Philadelphia County Assistance Office. Vendors will need to be registered with the Commonwealth of Pennsylvania Central Vendor Master Unit in order to be awarded a bid. Vendors may register on-line at www.vendor-registration.state.pa.us or by calling the toll free number 1-866-775-2868. Bids may be requested by e-mailing or calling the Purchasing Agent, Danni Wertz at 717-783-5675 or dwerntz@state.pa.us. Please provide the following information when requesting bids: Name of Vendor, Address, Phone Number, Point of Contact (and their phone number) and Vendor Number. All Bids must arrive prior to the Bid opening date and time to be considered, and become property of the Commonwealth once submitted. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendor-registration.state.pa.us or by calling the toll free number 1-866-775-2868. 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. Please provide the following information when requesting bids: Name of Vendor, Address, Phone Number, Point of Contact (and their phone number) and Vendor Number. All Bids must arrive prior to the Bid opening date and time to be considered, and become property of the Commonwealth once submitted.

Department: Public Welfare
Location: Philadelphia CAO, 1400 Spring Garden Street, Philadelphia, PA 19130-4088
Duration: April 1, 2006 through July 1, 2010
Contact: Danni Wertz, 717-783-5675

38273 The annual inspection, maintenance, recharging (as needed), six (6) year maintenance, hydrostatic testing, and repairing (as needed) of all fire extinguishers in university operated facilities is covered. The bi-annual inspection of all kitchen hood systems is also covered.

Department: State System of Higher Education
Location: West Chester University, West Chester, PA
Duration: Due Date for the above referenced RFP is 2/17/06 at 2 p.m. EST.
Contact: Joan Hanby, 610-436-2604

007 Food cart, to be Skydyne No. 641HCSA or Approved Equal. Must have nonodized finish, side to side air flow, moveable top mount and must be able to accommodate trays we are currently using that measure 10 1/2" by 9" by 2 1/2" deep.

Department: Corrections
Location: SCI-Fayette, 50 Overlook Drive, LaBelle, PA 15450
Contact: Judy Cook, 724-364-2200, ext. 1029

RFP 05-07-02 Establish a system of care for Individuals with Special Health Care Needs (ISHCN) by providing the following services on a statewide basis: 1. Community-based and family centered Community Systems Development (CSD) 2. Service Coordination (SC) 3. Resource Mapping (RM) 4. Outreach Services 5. Management for system of care operations. 6. Evaluation. 7. Information Technology, 8. Telecommunications. All flyers and answers to questions will be posted at the end of the actual RFA/RFP. For information regarding programs and services provided by the PA Department of Health, please go to www.health.state.pa.us.

Department: Health
Location: Statewide
Duration: 3 years with 2 - 1 year renewals possible
Contact: Abbey Barwick, 717-214-8133

BOCM06 Bureau of Construction and Materials is soliciting bids for calibration and preventative maintenance (PM) on 37 various types of equipment. A site visitation is required in order to assess all of the equipment to be serviced. Appointment date and time of site visit to be included in bid package. Inquiries can be made either by faxing request to (717-783-5955) or by e-mail to the Purchasing Agent listed below. Vendors, if you're not registered in the Commonwealth's SAP Vendor file, please do so at www.vendorregistration.state.pa.us.

Department: Transportation
Location: BOCM - Materials and Testing Laboratory, 1118 State Street, Harrisburg, PA 17120
Contact: JOANN PRATHER, 717-783-6717

[Pa.B. Doc. No. 06-269. Filed for public inspection February 10, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

